

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 5th June, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

ASSENT TO BILLS

Mr. Speaker: Hon. Members, I have one Communication to make.

Standing Order No.125 requires the Attorney-General to present to the President within 14 days of receipt from the Clerk of the National Assembly every Bill passed by this House. Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return with the Speaker indicating the time and the date that the Bill was presented to the President. The returns now received indicate that the following seven Bills which were all passed by the National Assembly on various dates were presented by the Attorney-General to His Excellency the President for assent and were all duly assented to as hereunder:-

1. The Kenya School of Government Bill, 2011 passed by the National Assembly on 17th April, 2012 and duly assented to on 9th May, 2012 at 12.00 noon.
2. The Public Service Superannuation Scheme Bill, 2011 passed by the National Assembly on 17th April, 2012 and duly assented to on 9th May, 2012 at 12.00 noon.
3. The Finance Bill, 2011 passed by the National Assembly on 19th April, 2012 and assented to on 27th April, 2012 at 12.00 noon.
4. The Land Registration Bill, 2012 passed by the National Assembly on 25th April, 2012 and duly assented to on 27th April, 2012 at 12.00 noon.
5. The National Land Commission Bill, 2012 passed by the National Assembly on 25th April, 2012 and assented to on 27th April, 2012 at 12.00 noon.
6. The Land Bill, 2012 passed by the National Assembly on 26th April, 2012 and assented to on 9th May, 2012 at 12.00 noon.
7. The Supplementary Appropriation Bill, 2012 passed by the National Assembly on 3rd May, 2012 and assented to on 9th May, 2012 at 12.00 noon.

PAPERS LAID

Report of the 5th Ordinary Session of 2nd Legislature of the Pan-African Parliament (PAP) held in Gauteng Province, South Africa, on 3rd to 14th October, 2011.

(By Mr. Imanyara)

Dr. Monda: Mr. Speaker, Sir, I beg to lay on the Table the Report of the Departmental Committee on Health on alleged irregularities on the rolling out of the civil servants' out-patient medical insurance scheme volumes I and II----

Mr. Outa: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Just before you table the report, Dr. Monda, I hear a point of order from one of the hon. Members. So, you may resume your seat for a moment. I have heard you fully, but let me hear what the point of order is.

POINT OF ORDER

ALTERATION OF RECOMMENDATIONS PREPARED BY COMMITTEE ON HEALTH

Mr. Outa: On a point of order, Mr. Speaker, Sir. I stand to be guided. Last week, you took upon yourself that you will be able to go through this report and the recommendations from the Committee on Health. I raised a very serious concern that, as we were in Naivasha, some of these recommendations had been altered. The last meeting which altered those recommendations was not recorded on HANSARD. Even if you call the HANSARD today, you will find that those changes were made without any record that can be referred to in future. I do not know if after going through those recommendations, you are satisfied that the concerns that I raised were addressed because since then the Committee never met and ironed out those things. You directed that Mrs. Munga should meet with the Committee and come up with proper recommendations because health care is a concern for all of us. We do not really want to table recommendations that are prejudiced on other matters.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Indeed, that is a very weighty issue that the hon. Member has just raised. As you consider to make a ruling, would I be in order to request that this report then should not be tabled until the Chair is satisfied as to the merits and demerits of what has been raised in the hon. Member's point of order? I am saying this because, as soon as this report is tabled, it becomes open to the public. So, if what we are tabling does not reflect what truly took place during the Committee deliberations, it would mean that we would be misleading the public. You will recall that this is not only a topical matter or a matter of great national importance, but also touches on the issue of integrity both at the level of the officers and possibly the Committee.

I beg that you consider that request.

Mr. Olago: On a point of order, Mr. Speaker, Sir. I listened to Mr. Outa as he raised his objection that the contents of the report may have been altered. That objection raises very serious issues, not just on the integrity of the Committee itself, but also on the process of preparing reports and the integrity of the Clerk's Office. The matter is very serious. I kindly urge that, in deciding which way forward, caution should be exercised, so that the report that may not be the correct position of the Committee is not released to

the public. As you do that, there are serious concerns touching on the integrity of the Committees and the integrity of the Office of the Clerk. This should also be addressed.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The Committees of this House are just that; they are just Committees of the House. I am concerned that we are anticipating a report that the House has not had the benefit of seeing. The only way we can have the benefit of seeing and commenting on the same is when the report is properly before the House. The procedure is that the documents have to go to the office of the Speaker for approval. If a document has been approved for laying on the Table of the House, then it should be allowed to be tabled. All those issues that are being canvassed now can be canvassed openly before the full House because it is a Committee of the House.

Mr. Speaker: This matter will have to be brief. I will only take two more.

Mr. Njuguna: Mr. Speaker, Sir, if you will recall, sometime last week, the Chairman of this Committee alerted the House about threats directed at his life. I do not know whether tabling of this document would worsen the threats. It is an issue that needs to be investigated properly. The other observation is that we heard about alterations on this report. We want to understand who initiated these alterations. That is a critical observation.

Mr. Speaker: Hon. Member for Mutito, and that will be the last one!

Mr. K. Kilonzo: Mr. Speaker, Sir, it is clearly becoming very disturbing that when the Chair of a committee stands here to table a report, we see objections coming even before the report is properly before the House to be interrogated. To uphold dignity of this House, we must ensure that when the report comes to the Floor of the House, it has to be tabled first before issues are raised.

Mr. Speaker: Chair of the Committee, do you want to say anything at all before I give directions?

Dr. Monda: Mr. Speaker, Sir, according to your directions on Thursday, last week, you had indicated that you would want time to go through the report and approve its tabling having satisfied yourself that it is procedurally before the House. On Wednesday, last week, we held a meeting to adopt the report. Seven Members out of ten certified and signed that the report is what, indeed, we had deliberated on. We were eight Members present and one Member stepped out. Therefore, seven Members signed and the signatures of the Members of the Committee are in the report that I have just tabled.

Mr. Speaker, Sir, when I look at the paper that I have used to lay this report, I read that it has been approved for tabling. I believe that the writing here came from the Speaker's Office. I do not know whether there are other offices that can approve a report of Parliament other than the highest office of this House which is the Speaker himself. If a Member has reasons to question the report or a paragraph in the report, it should have been recorded as a dissenting voice during the preparation of the report. That did not happen at any point. On the day we were adopting the report---

Mr. Omollo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Member for Uriri! Dr. Monda is responding to a point of order.

Proceed.

Dr. Monda: Mr. Speaker, Sir, seven Members of my Committee signed this Report. The hon. Member has raised the matter that there were changes in the Report. I

would, therefore, have expected, as the Chairman of the Departmental Committee, that the hon. Member should have been present during the last sitting of the Committee for adoption of the Report and air the same views at that sitting, so that the Report was not adopted. It would have been subject of debate before the Committee and before tabling it in the House.

Mr. Speaker, Sir, I stand guided by your direction as to where to go next. Otherwise, as for me and the rest of the Committee Members, our work is done. We are satisfied that we have brought forth a Report with recommendations. It will be the business of this House to go through the Report, satisfy itself, make recommendations, or trash the Report! After all, it is now before the House! I stand guided!

CONSIDERED RULING

PREPARATION OF REPORT BY COMMITTEE COMPLIES WITH STANDING ORDERS

Mr. Speaker: Order, hon. Members! Member for Nyaribari Chache and Chairman of the Departmental Committee on Health, first, allow me to say that the Report is not yet before the House. It is just about to be before the House, but as things stand now, it is not yet before the House.

Hon. Members, I have listened carefully to the arguments presented by the Member for Nyando and supplemented by the Member for Ikolomani who has spoken to integrity and possible alterations as alleged by the Member for Nyando. The Member for Kisumu Town West spoke to the same matters. The Member for Imenti Central argued that the Report is properly prepared, and the Member for Lari wondered whether the tabling of the Report will worsen the threat to the Member for Nyaribari Chache. Finally, the Member for Mutito argued that there is emerging a trend where objections to reports are raised before the reports are tabled. Some of these concerns and submissions I can deal with summarily, beginning with the one by the Member for Mutito.

It is not true that a trend is emerging where objections are raised to reports before they are tabled. As a matter of fact, at all the periods I have presided, this is the first time that I have heard these objections. So, that is not accurate as far as I am concerned.

The second one is by the Member for Lari, who is wondering whether or not the tabling of the Report may worsen the threat to the Member for Nyaribari Chache. I think as representatives of the people of Kenya, once you are elected as a Member of Parliament, you must be prepared to execute your mandate without fear or favour. So, whether or not there is a threat, you must carry on. You must soldier on. I want to tell the Member for Lari that I do not think that is a factor that this House will bear in mind. The threat came and we responded to it. I have tried what I can to ensure that the Member for Nyaribari Chache is protected, including taking additional measures as were necessary.

At any rate, the Member for Nyaribari Chache is a Christian as far as I know; so am I and the majority of us in this House. Seek ye the truth and the truth shall set you free. You cannot die because you say the truth. It will acquit you at any rate. Member for Lari, I think that is dealt with.

The Member for Central Imenti, in fact, I agree with your position. As far as I am concerned, yes, concerns were raised with my office by the Member for Nyando on

Wednesday, 30th May, 2012 to the effect that the Committee's minutes, and maybe resolutions, had, at some point, been altered. I did immediately take action by inviting the Director in charge of Committees, one of our Clerks, Mrs. Consolata Munga, to inquire into the matter and enable her to file a report with my Office at the earliest. This officer dutifully filed a report with my Office on Thursday afternoon. In the same afternoon, the Chairman the Departmental Committee on Health notified me that the final Report of the Committee was ready, and that he would want to table it. However, he drew my attention to their preparedness when I was already in the sitting that afternoon, and I told him that I would not permit the tabling of a Report before I have gone through the routine of looking at the Report and approving the Motion.

Hon. Members, please, note that procedurally, I do not approve a Report, rather I approve the tabling of a Report. In other words, I do not take responsibility for the contents of the Report, but I take responsibility for the constitutionality, legality and correct procedure adopted in preparing the Report. What I do approve and take responsibility for is the Motion. So, after I had looked at the Report, I satisfied myself that it was properly prepared and was in accordance with our Standing Orders. I found, for instance, that the Report in its preparation had complied with Standing Order No.179, which sets out the procedure on how Select Committees will conduct themselves in preparing a report. Among other things, I ascertained that that Report was signed by a majority of the Members of the Committee.

The proviso to Standing Order No.179 says that where a vote on a question is not unanimous, or where adoption of a report is not unanimous, the names of the Members voting for and against the question or declining to vote respectively shall be recorded in the minutes. I ascertained from the Report, as presented to me, that there was no dissent. If there was dissent, then it was not recorded, but the majority had signed it. In those circumstances, as the Speaker, I am satisfied that this Report is properly prepared. I, therefore, direct that the Report be tabled.

(Applause)

Dr. Monda: Mr. Speaker, Sir, for a second time, I beg to lay the following Paper on the Table of the House---

Mr. Speaker: Order, Dr. Monda! That you have already done. Proceed and table the Report.

Dr. Monda: I thank you, Mr. Speaker, Sir, and I stand guided.

(Dr. Monda laid the Report on the Table)

Mr. Speaker: Any other Paper to be tabled?

Mr. Outa: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Nyando! I have already dealt with the issues that you raised. If you want to pursue the matter further and raise a point of order, you must make sure that it complies with our Standing Orders otherwise I am afraid that I will then impose sanctions immediately. So, if you really want to proceed, you may.

Mr. Outa: Mr. Speaker, Sir, would I be in order also to request for the HANSARD of the last meeting because when you are satisfied that there were minutes

and there were dissenting voices, those minutes must also be accompanied by the HANSARD in order to authenticate that all those minutes are synchronized---

Mr. Speaker: Order, Member for Nyando! Could you, please, cite the provision in the Standing Order on which you are relying to say how minutes must be?

Mr. Outa: Mr. Speaker, Sir, I might not be able to do so, but what I am saying is that for---

Mr. Speaker: Order, Member for Nyando! In that case, just refrain yourself. Have some respect for what I have said, because I have cited the relevant part of the Standing Orders. The rest, you can speak to when actually this matter is on the Order Paper.

(Mr. Outa stood up in his place)

Order, Member for Nyando! Just contain yourself! You are not going to assist yourself by appearing as if you are uncomfortable.

Assistant Minister for Education!

The following Papers were laid on the Table:-

Financial Statements of Jomo Kenyatta University of Agriculture and Technology (JKUAT) for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Mr. Mwatela) on behalf of the Minister for Higher Education, Science and Technology)

Annual Report of the Kenya National Commission on Human Rights (KNCHR) for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Mr. Mwatela) on behalf of the Minister for Justice, National Cohesion and Constitutional Affairs)

Financial Statements of Kisii University College for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

Financial Statements of Pwani University College for the year ended 30th June, 2011 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Mr. Mwatela) on behalf of the Minister for Higher Education, Science and Technology)

Financial Statements of the Town Council of Oyugis for the two year-period ended 30th June, 2009 and the certificate thereon by the Auditor-General.

(By the Assistant Minister for Education (Mr. Mwatela) on behalf of the Minister for Local Government)

NOTICE OF MOTION

ADOPTION OF REPORT ON ALLEGED IRREGULARITIES IN CIVIL SERVANTS' MEDICAL SCHEME

Dr. Monda: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Health on the alleged irregularities of the rolling out of the civil servants out-patient medical insurance scheme, volumes I and II, laid on the Table on Tuesday 5th June, 2012.

Mr. Speaker: Next order!

QUESTIONS BY PRIVATE NOTICE

SEARCH FOR NEW *MIRAA* MARKETS FOLLOWING BAN BY NETHERLANDS PARLIAMENT

Mr. M'Mithiaru: Mr. Speaker, Sir, I beg to ask the Minister for Trade the following Question by Private Notice.

(a) Is the Minister aware that *miraa* trade, which forms the backbone of Meru County economy and also earns foreign exchange for Kenya, is undergoing a severe financial crisis because the Parliament of Netherlands has passed a law banning all exports of *miraa* to that country?

(b) Is the Minister further aware that the United Kingdom (UK) is considering passing a similar legislation?

(c) What action is the Government taking to establish new *miraa* markets regionally and internationally as for other cash crops such as coffee and tea?

The Assistant Minister for Trade (Mr. Oyongo Nyamweya): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Netherlands Government banned the importation of *miraa* into that country.

(b) I am not aware of any immediate plans by the UK to pass a similar legislation and ban *miraa*.

(c) The Government is not making any efforts to promote *miraa* regionally or internationally due to the perception by authorities in a number of countries that *miraa* is a drug.

Thank you, Mr. Speaker, Sir.

Mr. M'Mithiaru: Mr. Speaker, Sir, the answer given by the Assistant Minister is very casual. He is not taking the concerns of our community seriously. Knowing that *miraa* is a foreign exchange earner for this country, and considering that the Government seems not to be taking any action to promote this crop, I want to know from him---

(Loud consultations)

Mr. Speaker, Sir, consultations are being held in very high tones. I am not able to communicate.

Mr. Speaker: Order! Order, hon. Members! Let us lower the level of our consultations, so that we can hear the Member for Igembe North.

Proceed, hon. M’Mithiaru.

Mr. M’Mithiaru: Thank you, Mr. Speaker, Sir. The Assistant Minister has said that there is a perception that *miraa* is a drug. Although *miraa* comes from Meru, it is also a crop from Kenya. *Miraa* earns foreign exchange for this country. It is a cash crop. What has the Ministry done, in terms of a research, to ensure that the perception that *miraa* is a drug is corrected? It is also known clearly, even from a report by the United Nations, who did a study and established *miraa* as a relaxant, and not a drug. What has the Ministry done to correct this perception?

Mr. Oyongo Nyamweya: Mr. Speaker, Sir, all I want to inform the hon. Member is that *miraa* is banned in Belgium, Canada, New Zealand, Germany, Switzerland, Denmark, Tanzania and the United Arab Emirates (UAE). *Miraa* is actually a trade commodity, and not a cash crop. There is a difference between cash crop and trade commodity. The Government has encouraged the export of *miraa* to various countries. For example, the Government has helped in the export of *miraa* to Yemen, Somalia and in the Middle East, where it has been accepted. The Government is in the forefront in ensuring that traders---

Mr. Yinda: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House on the difference between cash crops and trade commodities? My understanding is that both are cash crops. So, just like tea, *miraa* is a cash crop. Is he in order?

Mr. Speaker: Assistant Minister, let us hear you.

Mr. Oyongo Nyamweya: Mr. Speaker, Sir, whether *miraa* is actually a cash crop or a trade commodity is a matter of opinion. However, the position I hold is that it is a trade commodity. What I am saying is that, in terms of promoting the product where it is acceptable, the Government is helping *miraa* dealers to sell their product there. I have said that the Government is supporting the exportation of *miraa* to Yemen, Somalia and the UK, where it is actually sold. It has not been stopped.

Mr. Imanyara: Mr. Speaker, Sir, just like the Member for Igembe North, I am surprised by the casual manner in which my cousin here, who knows the benefits of this crop to this country, is handling this matter. Every morning, more than 200 vehicles move from Meru to various airports as well as by road to the Coast region, to transport this commodity, which earns this country billions of shillings per year. What steps has the Government taken, specifically with regard to Tanzania, which is a member country of the East African Community, to ensure that the agreement that allows free movement of goods, people and services is adhered to, and that *miraa* is transported to Tanzania and sold there, in line with the Prime Minister’s promise to the people of Meru when he recently visited there – that the Government would take measures to persuade those governments, including the Government of the Netherlands, to lift the ban on *miraa* because it is not known to have killed anybody?

Mr. Oyongo Nyamweya: Mr. Speaker, Sir, in the Netherlands, importation of *miraa* was banned by the Minister for Immigration, and not by the Minister for Health. It is an issue that has to do with immigration that caused the Minister for Immigration in that country to ban importation of *miraa*. The reason as to why *miraa* was banned in the Netherlands is that chewing of *miraa* makes the people who stay there to come together.

In the case of Tanzania, it was the Government of that country which has banned the importation of *miraa*. As a nation, there is nothing that Kenya can do because the authorities in Tanzania treat *miraa* as a drug.

Mr. M'Mithiaru: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Igembe North! Please, relax.

Yes, Member for Kiharu.

Mr. Mwangi: Mr. Speaker, Sir, first of all, the Assistant Minister may have made a mistake by calling our crops “commodities” for export. Any crop that we grow in this country, and which has a market anywhere in the world, can be exported there. However, if the Ministry is not ready to support the growth of the crop, what policy has the Government come up with, so that the farmers who are growing this crop do not waste their energy and resources on the crop? *Miraa* is not only grown in Meru but also in Embu, Mbeere and Murang'a counties.

Mr. Oyongo Nyamweya: Mr. Speaker, Sir, it is true that *miraa* is grown in the Meru region but other cash crops are also grown there. Farmers there grow coffee, tea and bananas. So, if there is a problem in selling *miraa* on the world market, the alternative for farmers in that region is to increase the growth of other cash crops, so that we can continue earning foreign exchange. Coffee and tea also earn this country foreign exchange. So, it is an issue of prioritising and identifying the areas where one needs to concentrate one's efforts.

Mr. Speaker: Last question, Member for Igembe North.

Mr. M'Mithiaru: Mr. Speaker, Sir, the Assistant Minister has said that the Government has taken steps to promote the sale of *miraa* in certain countries but he has also said that *miraa* is a drug. So, what is the Government's position in terms of ensuring that *miraa* is regarded a cash crop, and in ensuring that they promote *miraa* just as they promote tea and coffee?

Mr. Oyongo Nyamweya: Mr. Speaker, Sir, I have said that the Government has not taken any steps because in the countries where we can export *miraa*, the commodity is perceived as a drug and, as I said, there is nothing we can do about it.

Mr. Speaker: Next Question, Member for Nyakach.

KILLING OF MESSRS. FRANCIS ONYANGO
OLOO/MEHTA AYUGI

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

(a) Under what circumstances were Messrs. Francis Onyango Oloo and Mehta Ayugi, who hailed from Kabong'o and East Koguta villages, killed in mid May, 2012?

(b) Have any suspect(s) in connection with the killings been arrested?

(c) What measures will the Minister take to enhance security in the area?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that on 18th April, 2012, at about 1.30 p.m. Mr. Gurach Roba aged 54 years---

Mr. Chachu: On a point of order, Mr. Speaker, Sir. My Question is the next one. It is Question No.2. The Minister is answering my Question.

Mr. Speaker: Order, Mr. Chachu! We have ruled this very many times---

Mr. Chachu: The Minister is answering my Question, Mr. Speaker, Sir!

Mr. Speaker: Order! The Speaker has the discretion to determine how we will conduct business and we have ruled that before.

Proceed, Prof. Saitoti.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I think I too, like the hon. Member, was a bit taken aback.

Mr. Speaker: Proceed, Prof. Saitoti. We have dealt with this before.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I am aware that on 18th April, 2012, at about 1.30 p.m. Mr. Gurach Roba aged 54 years was ferrying livestock---

Mr. Koech: On a point of order, Mr. Speaker, Sir. If you follow what the Minister is doing, you will find that he is actually answering the Question by Mr. Chachu Ganya.

Mr. Speaker: Order! Now I can see why the Member for North Horr was so concerned. Mr. Minister, you are answering Question No.4 by Private Notice. Mr. Minister, we have given directions on this matter many times that the Speaker is at liberty exercising powers vested upon him by Standing Order No.36 to determine which Question comes first, which order comes first and so on and so forth.

So, that you know, the hon. Member for Nyakach lost his father this morning. A few hours ago, he lost his father and we have to set him free to go and begin to make funeral arrangements. That is how this discretion is exercised.

Proceed, Mr. Minister.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I shall proceed to answer the Question.

(a) Police investigations indicate that on 16th May, 2012, at about 9.00 p.m. Mr. Tom Odhiambo alias Mehta was asleep in his house at Genge Village, East Kaguta Sub-Location which is about 20 kilometers from Pap Onditi Police Station when he heard his dogs barking. He walked out to establish the possible problem and he was attacked by a gang of four men. He was shot on the head and chest with arrows and sustained *panga* cuts on both hands. The gangsters escaped under the cover of darkness while the victim was rushed to Alpha Private Hospital where he passed on.

Police visited the scene and commenced investigations vide CR No.604/123/2012, in the case of the late Mr. Onyango Oyoo.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I truly did not want to interrupt the Minister but if I heard you correctly, you announced that the hon. Member had lost his father. Out of the spirit and humanity that is normally expressed in this House, I thought the hon. Minister would have started that way so that we condole the hon. Member first before we go to this other business. Am I in order, therefore, to request the Minister to condole the hon. Member and then proceed to answer the Question because we are losing our patience?

Mr. Speaker: Order! Prof. Saitoti, that is just a challenge to your humane elements.

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I am not averse really. Clearly, from a humane point of view, I would like, of course, to condole the relatives of the two people who died. But I was going to do that slightly much later. I am supposed to answer this Question and I was duly answering it.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Prof. Saitoti who would like to be the President of Kenya was not listening to you because you explained the reasons why Question No.4 was coming before the other two Questions and gave the tragic circumstances. What Mr. Mututho is asking is; would he not in common humanity express condolences to the family that has been bereaved only this morning? The Minister still wants to answer this Question and become President of Kenya.

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): I did invoke my humane feelings over the fact that the hon. Member is bereaved. I did say exactly that.

With that, perhaps I could proceed to answer the Question.

Mr. Speaker: Order, Prof. Saitoti! You are captured on the HANSARD as saying; "Of course, I extend my condolences to the family of the two people who died." In my communication, I said that the Member for Nyakach lost his father this morning. The Member for Nyakach lost his father; not the two persons who may have died in respect of the Question.

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I do clearly and passionately condole the hon. Member. At the same time, I cannot also forget the other people who lost their other two people that I shall be referring to in answering this Question.

(Applause)

Mr. Speaker, Sir, I am happy that the clap signifies approval.

(Laughter)

Mr. Speaker, Sir, I beg to reply.

(a)Mr. Speaker, Sir, police investigation indicate that on 16th May, 2012, at about 9.00 p.m., Mr. Tom Odhiambo alias Mehta was asleep in his house at Genge Village, East Kaguta Sub-location which is about 20 kilometres from Pap Onditi Police Station when he heard his dogs barking.

He walked out to establish the possible problem and he was attacked by a gang of four men. He was shot on the head and chest with arrows and sustained *panga* cuts on both hands. The gangsters escaped under the cover of darkness while the victim was rushed to Alpha Private Hospital where he passed on. Police visited the scene and commenced investigations vide CR No.604/123/2012.

In the case of the late Onyango Oyoo, it is reported that on 18th May, 2012, while asleep in his house at Kabongo Village East Kadiang'a Sub-Location, he heard screams from a neighbour, Elizabeth Oketch, who had been attacked by cattle rustlers. He rushed out to assist but unfortunately, he was shot with an arrow and rushed to Kabongo Mission Hospital where he was pronounced dead on arrival.

The rustlers made away with four heads of cattle. Police visited the scene and commenced investigations vide CR No.604/125/2012.

(b) Since the incidents were reported, police have been able to recover 15 heads of cattle and charge five suspects in court. However, investigations to nail the perpetrators of the two killings are ongoing. We appeal to members of the public to volunteer any information that may assist in the investigation.

(c) Due to increased cases of cattle rustling and attacks on innocent persons, patrols have been enhanced in the affected areas and the environments.

In addition to the enhanced patrols, the following is also being carried out:

(i) The following police patrol bases and Administration Police (AP) camps have been established to curb the menace. They are Holo Anti-Stock Theft Unit (ASTU) Police Camp, Ogoro Police Patrol Base, Malaboli AP Camp, Nyamaroka AP Camp, Sigot AP Camp and Ogoro AP Camp.

(iii) Community policing initiatives have been enhanced to support the efforts of the police to curb the menace.

(iv) Public barazas are being organized through Provincial Administration to sensitize the public on the need to pass information on the suspected criminals in the security personnel.

(v) Joint security meetings between communities living along Kericho and upper Nyakach areas are being organized to share information on the suspected criminals.

Mr. Ochieng: Mr. Speaker, Sir, I have listened to the answer by the Minister. The answer in itself is just a chorus. This is what we have been hearing all along; this is not the first time that my people have been killed. Actually, this should be the 15th death since 2008. However, nobody has ever been arrested for this heinous act, and I believe now that the police have been defeated by this war by cattle rustlers. When does he intend to take the General Service Unit (GSU) to this particular border so as to make sure that there is peace and tranquility in this particular area and flash out the perpetrators of this heinous act?

Prof. Saitoti: Mr. Speaker, Sir, I have stated clearly that already we have established the following camps, which were not there---

Mr. Ochieng: On a point of order, Mr. Speaker, Sir.

Prof. Saitoti: I just want to explain that.

Mr. Speaker: Order, Member for Nyakach! Please, hear the Minister's answer first.

Prof. Saitoti: Mr. Speaker, Sir, as a preface, I have stated that a number of camps have already been established on realization of the security threats which have affected the people. I am working hard to ensure that the GSU team will be sent to that area.

Mr. Koeh: Mr. Speaker, Sir, before I ask the question, I really want to send my condolences to our good Member of Parliament and the people for Nyakach for having lost his father.

The issue of insecurity in our country is of great concern. Just the other day we lost a very prominent businessman in Eldoret. Kenyans are crying and demanding that the Government provides security. Enhancement of patrols is not enough. How is the morale of your staff given that you have not given them proper housing? In my own area the Kibiyet, police officers are living behind shops. What are you doing to ensure that the morale of the security personnel is raised?

Prof. Saitoti: Mr. Speaker, Sir, first of all, let me state clearly that we have faced a number of challenges as far as security is concerned in our country. It is not just internal. There is external threats which come in the form of internal penetration. This is because of two things; one, is because of our porous borders; they are such that quite a number of light weapons and small arms have gotten into this country and have been used by criminals in this country. Two, it is abundantly clear--- I want to say that in spite of that, we are doing the best we can to deal firmly with the terrorists who have thrown a number of grenades aimlessly and without regard for human beings and even the criminals themselves. Notwithstanding that, there is an on-going police reforms It is, indeed, true that this has not moved as fast as I would have wished. Again, it is because of the manner in which the Constitution stipulates the route to be taken. *

Mr. Speaker, Sir, on the matter of morale, I want to say the following. There is much more we could have done in terms of providing decent housing, and ensuring we have sufficient vehicles; we could have done much more in the matter of raising the emoluments for the police. Inadequacy of resources has been a major handicap.

I want to say here, as I have said before, let us also not condemn the security personnel at a time when our country faces major security challenges; that condemnation can only demoralize all security personnel and that will hurt our country.

Mr. Ochieng: Mr. Speaker, Sir, these two young men who lost their lives have left very young children and wives. What is the State going to do in order to make sure that the upbringing of these children is taken care of by the State? These people pay taxes for the Government to take care of their security. Since that is not guaranteed, then what is the Government going to do?

Prof. Saitoti: Mr. Speaker, Sir, I can only request the hon. Member to write to me highlighting the hardship which has been brought about by this matter. We will then examine this case among the other cases.

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

MEASURES TO CURB HIGHWAY BANDITRY ALONG MARSABIT-ISIOLO ROAD

Mr. Chachu: Mr. Speaker, Sir, first, I also want to pass my condolences to Mr. Polyns Ochieng. I also want to commend you for giving his Question priority over mine.

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

(a) Is the Minister aware that a truck owned by M/s Sarimo Cooperative was attacked on 18th April, 2012 and six bullets remain lodged in the body of the truck driver, Mr. Gurach Roba Gaache?

(b) Could the Minister indicate the number of incidents of highway banditry as well as the respective number of people killed, injured along Marsabit-Isiolo road for the last two years?

(c) What measures will the Minister take to curb highway banditry along the road?

The Minister of State for Provincial Administration and Internal Security
(Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that on 18th of April 2012 at about 1.30 p.m., Mr. Guracha Roba, aged 54 years, was ferrying livestock using a lorry Reg. No. KAS 764Q, Mitsubishi Fuso, from North Horr to Nairobi when armed robbers attacked him at Loikarar area within Serolopi Location, 15 kilometers from Serolopi Trading Centre. The driver sustained gunshot wounds and was taken to Archers Post Police Post; a security team was dispatched to the area to pursue the gangsters but no arrest has been made. The case is pending under investigation.

(b) Appended here below is the number of the incidents and the number of people killed and injured since the year 2010. In the case of 2010, there was only one incident; nobody was killed and nobody was injured. In 2011, there were six incidents of attack; fortunately nobody was killed and only one person sustained injuries. Come 2012, we have had nine incidents; two people were killed and five people were injured.

(c) The following measures have been put in place to curb the highway banditry: Additional police officers have been posted to Serolopi Police Post to boost its capacity to police the area; a GSU unit at Merille has also been tasked to patrol the route; Kenya Wildlife Services conservancy scouts in the areas have been incorporated in daily security patrol to help contain the situation; both foot and mobile patrols have been intensified and provision of the armed escort for all vehicles operating along the Isiolo–Marsabit Road is also available.

It has been proposed that mobile network providers boost communication along the route by constructing a base transmission station to enhance reporting of such incidents. Police communication network has been upgraded to link Marsabit South and Samburu East to help co-ordinate security operations in this area.

Mr. Speaker, Sir, plans are underway to establish a new police station at Loglogo and Koris Divisional headquarters. Community policing initiatives have been revitalized; more police officers have been deployed along the hot spot areas of Norbat, Traktar and Kabigarba.

Mr. Chachu: Mr. Speaker, Sir, first, I want to thank the Minister for a comprehensive response. This is the Great North Road linking Cairo to Cape Town. This is a road used by many countries in Sub-Saharan Africa. The Minister said that only nine incidences happened this year but I have done my own investigations which I am happy to table and there are 14 incidences which happened from January this year to date. The latest was on 31st May, 2012 on the eve of *Madaraka* Day when a vehicle belonging to Milako Conservancy was attacked. Every weekend when we leave here to go to our constituencies, we are not sure whether we will make it back safely. There is an incident where an hon. Member for Marsabit North then, in early 1980s was killed by bandits on that road. People are not even traveling through those counties of Marsabit and Isiolo. There are hardly any patrols going on irrespective of what the Minister is saying here. Five people have been killed just this year traveling; strangers taking livestock to Nairobi and other markets and all their animals have been offloaded when we have police officers at Merile and Archers Post. What is this Government doing to ensure security on that Great North Road so that our people can travel freely in this free nation?

Prof. Saitoti: Mr. Speaker, Sir, on the matter of the variance between the figures that the hon. Member has and the ones that I have mentioned here, this is a matter that we can follow up in my office for the purpose of reconciliation. However, like he said, there is provision of armed escort to all vehicles operating along the Isiolo-Marsabit Road.

That is the position I have and if this can be proven to be true, I shall not hesitate to take appropriate action against the police who have offered this information. The next thing that I would like to say is that the Government and the police have done quite a lot and I would like to share information on what the police have done in connection with insecurity in this area.

Following the highway robbery incidents along the route, several suspects have been arrested and arraigned before courts. I want to give five incidences, some of which relate to this particular year. Mr. Mireni Lekamusa aged 24 years was arrested in April 2011 and charged with robbery with violence vide case 721/2011, court file No.229/2011. The case has been finalized and the accused has been sentenced to suffer death by hanging before Senior Resident Magistrate (SRM) Court Isiolo.

Secondly, Itiama Lekoloto aged 26 years was arrested in May 2011 and charged with robbery with violence vide CR721/30/2011, court file No.290/2011. The case was finalized this year and the accused was sentenced to suffer death by hanging. The third is Tipate Lesoloi who was arrested in June 2011 and charged with the offence of robbery with violence and the case was finalized on 14th December, 2011. The accused was sentenced to suffer death by hanging before the Principal Magistrate Court, Maralal. There was also Solomei Lenaipa aged 23 years who was arrested in March 2012 and charged with the offence of robbery with violence and the case is pending hearing before the Principal Magistrate Court in Maralal. There is also Lemetile Lerukaba who was arrested in May this year, only last month, and has been charged with robbery with violence and the murder of Sheikh Amir Golo vide CR521/48.2012, court file No.34/20/4. The case is pending before the Principal Magistrate's Court. I would like to emphasize here that the arrests on Lerukaba in May this year is a major breakthrough for the security---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The Minister is a senior Minister in this Government. He has served in this House for a very long time and he knows the difference between a Ministerial Statement and an answer to a Question. Is he in order to read a Ministerial Statement under the guise of answering a Question?

Mr. Speaker: Minister, that is a genuine challenge!

Prof. Saitoti: Mr. Speaker, Sir, I think this is an issue of perception. I was challenged by the hon. Member to say what the Government is doing and I wanted to demonstrate that, indeed, action in terms of apprehending criminals has been taken and a number of criminals have already been sentenced to death.

Mr. Speaker: Order, Minister! Your way of doing it is obviously not helpful. It is too protracted because if you had addressed the Question properly in the first place, then you would have covered that in your answer to part "c" of the Question. So you do not have to say all that in a supplementary question.

Anybody else interested?

Mr. Letimalo: Mr. Speaker, Sir, Serolipi where this incident took place is actually in Samburu East and I want to appreciate that the Minister has increased the number of security personnel in the newly upgraded Serolipi Police Station. But I wanted to know from the Minister; given the number of incidences that have taken place along that highway, could he consider sending a vehicle to enable the security personnel to mount patrols in the area because they do not have a vehicle up to now?

Prof. Saitoti: Mr. Speaker, Sir, yes and I will do it in the next two weeks. We will have received a number of vehicles and one will go to the Serolipi, among other places.

Mr. M.M. Ali: Mr. Speaker, Sir, I am a regular user of the said highway and I want to say that it poses security problems to all its users. Recently, an Imam from my own constituency died at the same spot that the hon. Member has mentioned. Two weeks ago, a lorry load of cattle was off loaded and no arrests have been made as yet. When we intervene with the local police on the ground, what we are told is almost the same always; that they either do not have vehicles or when one is available, fuel is not readily availed. So, what serious measures is the Minister taking to ensure that the police in that area are well equipped and that they have proper facilities to engage criminals in the area?

Prof. Saitoti: Mr. Speaker, Sir, as I said earlier, we have already ordered a number of vehicles which are on the way. Clearly, the first priority for these vehicles will be the hot spots and the area that the hon. Member has referred to is an identified hot spot. We will continue providing that when we are able to get sufficient resources from the Exchequer in order to make sure that our police are properly equipped. But more important, I will count on hon. Members when the next Budget comes here for review to also assist the Ministry to recruit more police personnel.

Mr. Chachu: Mr. Speaker, Sir, I want to appreciate the fact that the Minister is going to give vehicles to those police stations. It will help to have an effective patrol. I hope that you appreciate the gravity of this problem for the people of Marsabit and Isiolo county to a level where we are no longer taking our students to school in Meru yet there are so many good schools just because the parents are afraid. We have even stopped trading or taking our livestock to markets in Nairobi and that is the backbone of our economy. I have already written to the Departmental Committee in charge of security personally and I want you to defer this Question so that they can do the needful for the people of those two counties. In just five months, 18 incidences have happened and five people have been killed while five others were injured.

In just five months, eclipses have happened and five people were killed and others were injured. I plead with you to refer this Question to the relevant departmental Committee, so that, the issue can be dealt with conclusively and the necessary recommendations are made on this great North Horr, which links Cairo to Cape Town.

Mr. Speaker: Order, Member for North Horr! You caught my eye to ask the last question by way of supplementary question and you have instead asked if I could direct that this matter be referred to the Departmental Committee, which I decline to do. As a matter of fact, we will be managing our business such that we do not, as a matter of cause, refer Questions which have otherwise been answered, to departmental Committees. I am satisfied that this Question has been adequately answered. If there are any outstanding issues, please, follow up with the Minister. You have been supplied with information which can help you to follow up the matter. That is what I direct that you do.

DISTRIBUTION OF ADULTERATED FUEL

(**Mr. Nyamai**) to ask the Minister for Energy:-

(a) Under what circumstances did adulterated fuel from a fuel importer find its way to the Kenya Pipeline Company (KPC) system and the market?

(b) Were the necessary quality tests done on the fuel and if so, could the Minister indicate who did the tests and table the results of the tests?

(c) Who released the fuel to the market, how much of it was released and what is the ministry doing to ensure that this does not happen again and that the super petrol in the market is safe?

Mr. Speaker: Mr. Nyamai not here? The Question is dropped.

(Question dropped)

ORAL ANSWERS TO QUESTIONS

Question No.1306

CONSTRUCTION OF DAM ON KIPKARREN RIVER

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

(a) why the construction of the proposed dam on Kipkarren River by Lake Victoria North Water Service Board, two kilometres from Eldoret Airport, has stalled;

(b) how much money was allocated to the project and how much has been spent so far; and,

(c) when the construction works will commence.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Speaker, Sir, the Question was to be answered by the Ministry of Regional Development Authorities or by our Ministry.

I beg to reply.

(a) The construction of the proposed check dam on Kipkarren River stalled since there was a component of the World Bank funded Western Kenya Community Development and Flood Mitigation Project that was suspended in 2009 due to accountability issues. The World Bank project is implemented under the Ministry of State for Special Programmes and it covers all the districts in western Kenya, namely, Siaya, Bondo, West Pokot, Elgeyo Marakwet, Nandi and Uasin Gishu. In particular, five check dams, namely, Kipkarren, Kua, Sosian, Kivisi and Sirigoi were to be constructed under this component as a means of controlling sediments and for minor irrigation.

(b) The amount of money that was allocated to the project was Kshs5,273,000 and the amount that had been spent before the project stalled was Kshs900,000.

(c) Following corrective measures by the Government, suspension of the project was lifted in May, 2012; just last month. The measures taken include a forensic audit by the Ministry of Finance and the suspected officers were taken to court. Those cases are still going on. All the members of staff of the Western Kenya Community Development and Flood Mitigation Project were sacked and new ones recruited. The construction will, therefore, be retendered and commence in July, 2012, and be completed by October, 2012.

Mr. Koech: Mr. Speaker, Sir, I want to thank the Assistant Minister for answering this Question that has been moved from one Ministry to another. I take note that he is answering on behalf of another Ministry. Listening to the answer to this Question, this was a World Bank funded project. If it was fully implemented, our brothers in Budalangi would not be suffering year in, year out. Because of corruption and misuse, all of these projects have been suspended. I want to confirm that on the project that I am referring to here, almost Kshs1 million has been spent but nothing much has been done. He should take note that no locals were involved even in the simple jobs that were being done there. All the Ministry has done is to sack the staff. What specific action will the Government take, so that any money that is geared towards helping Kenyans is used properly, so that our brothers do not continue suffering as the floods come year in, year out?

Mr. Speaker: Order! Assistant Minister, you may answer the question and restrict yourself to the question. Just answer the question part.

Mr. Waititu: Mr. Speaker, Sir, our Ministry has already taken steps to control the funds. We have taken action against those who were concerned. I promise that in future, no funds will be misappropriated on this particular project from the World Bank.

Ms. Karua: Mr. Speaker, Sir, from the answer, I see that the project is under the Ministry of State for Special Programmes. The policy in water is integrated management of water resources. What is the Assistant Minister doing to ensure that the implementation of the programme comes under the Ministry of Water and Irrigation, so that it is accountable for either the misuse of funds or for funds well used? When is he going to start on the dam at Kipkarren River?

Mr. Waititu: Mr. Speaker, Sir, first and foremost, the suspension of the Project was lifted just last month. Retendering has started and the works will start from next month. It is true that we have had some problems at the district level and the Ministry has instructed the constituencies and the districts to form committees of all the stakeholders, like KERA, so that supervision can be enhanced.

Ms. Karua: On a point of order, Mr. Speaker, Sir. I thank the Assistant Minister for part of the answer, but he failed to answer one component as to whether the project is still under the Ministry of State for Special Programmes or it is with the Ministry of Water and Irrigation under the integrated management of water resources?

Mr. Waititu: Mr. Speaker, Sir, it is still under the Ministry of water and Irrigation.

Mr. Koech: Mr. Speaker, Sir, I want to thank the Assistant Minister, first of all, for having lifted the suspension, so that this project could continue. If you look at the answer, this is supposed to benefit my people through minor irrigation and also to provide a bridge between one side of the land and the other. He indicated that they are going to retender. How long with the retendering take, so that the completion of the project will be as per his answer that the project will be completed by October, 2012? Which Ministry is doing this?

Mr. Waititu: Mr. Speaker, Sir, I confirm that retendering has already started. We expect to complete retendering by next month. I promise that the projects will be completed by October, 2012.

Mr. Speaker: Next Question by Mr. Mwadeghu!

Question No.138

PROJECTS UNDERTAKEN BY KWS IN WUNDANYI CONSTITUENCY

Mr. Mwadeghu asked the Minister for Forestry and Wildlife:-

(a) whether he could provide details of projects which have been undertaken by Kenya Wildlife Service (KWS) in Wundanyi Constituency since 2006 and indicate the respective cost of each project; and,

(b) why KWS has not undertaken the fencing of Tsavo West National Park as planned and when the corporation will undertake the project.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I beg to reply.

(a) The community projects undertaken by the KWS in Wundanyi Constituency since 2006 to date are as follows:-

In 2005/2006, the construction of two classrooms was done in Mlimo Primary School at a cost of Kshs2 million. In 2006/2007, Kishushe Water Pan/Mukuru Dam was constructed at a cost of Kshs1.5 million. In 2007/2008, 100 desks and office chairs and tables were supplied to Kishushe Primary School at a cost of Kshs500,000. During the current financial year, exposure tours were done for community representatives from around Isiolo and Samburu Wildlife conservancies at a cost of about Kshs2,066,000 to various areas where we have established conservancies.

During the same financial year, the 75kilometer fence from Mwakitao to Ndii was begun in November last year and, already, 26 kilometres has been done. Some of the projects that are ongoing and some that we are waiting for funds includes Inchagalato Dam at Muliro area, which will cost about Kshs1.5 million. That particular project will be undertaken jointly by the Ministry of Water and Irrigation and Mbale Water Project. We have earmarked Kshs5 million for that project. We are just waiting for funds from the Treasury, so that we can implement that project before the end of this financial year.

(b) The Kenya Wildlife Service (KWS) does not have plans to ring-fence Tsavo West National Park. However, Kenya Wildlife Service has started to construct fences along the areas that experience a lot of human-wildlife conflict incidents along the park. A 75-Kilometre fence is under construction from Mwakitao to Ndii and, to date, a stretch of 26 kilometres has already been done. It is from Mwakitao towards Kishushe. The whole fence is expected to cost Kshs60 million.

Mr. Mwadeghu: Mr. Speaker, Sir, Kishushe area of Wundanyi Constituency experiences a lot of wildlife and human conflict and we have only one secondary school called Mbela High School. We have, on several occasions, requested KWS to fund that secondary school and, to date, nothing has happened. Could the Minister confirm when they are going to fund that particular secondary school because the students, more often than not, do not attend classes because of fear of elephants?

Mr. Nanok: Mr. Speaker, Sir, you realize that, sometimes, the amount of funds that this House approves to KWS to conduct its operations is so little. It does not match what they normally request. But I guess that is a project that we can be able to consider as funds are available. But for this particular financial year, we have already helped projects that had been initiated by communities on the ground. We are implementing them. We

hope that, as we get additional funding – both internally generated and from the Treasury – we will put into consideration some of the requests from the communities.

Mr. Mungatana: Mr. Speaker, Sir, I do not know what policy KWS has in terms of allocation of projects. But could the Assistant Minister consider allocating more projects to the counties that have given more land to KWS?

Mr. Speaker, Sir, for instance, in Tana River County, there are very few projects which KWS has given and yet, we have given a lot of land in terms of national parks. Could the Assistant Minister consider making it a policy to allocate projects in terms of the land allocated to KWS from various counties?

Mr. Nanok: Mr. Speaker, Sir, I think that is something we can look into. I would also want to urge the hon. Member, when the policy and Bill comes here, let us legislate better so that we can look at that issue and make sure that it is reflected within the policy that this House is going to approve.

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. I have just been listening to the Assistant Minister answering the question that he was asked and this one. He is not being committal. He is just saying: “That is something that we can consider.” Is it not fair for him to say that they are going to consider and then be specific? Is he in order?

Mr. Speaker: Order, Member for Vihiga. I think that question was adequately answered. The Member for Garsen asked whether the Assistant Minister is prepared to consider and he has said yes. Member for Molo!

Mr. Kiuna: Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, what plans do they have, as a Ministry, to harmonize the relationship between the residents bordering various national parks and the wildlife so that they can feel part and parcel of the wildlife conservation, especially those who are living around the Nakuru National Park? Do they have any plans to employ or come up with some projects to assist the people so that they can also feel parcel of the efforts to conserve the wildlife?

Mr. Nanok: Mr. Speaker, Sir, we implement community social responsibility projects to reach out and assist the communities to co-exist with wildlife in quite a number of areas. I believe - although I may not be having the information here now – that in areas surrounding Nakuru National Park, there are certain projects that have been earmarked for the community to benefit. I am aware that last year, I presided over a project that was handing over desks for classrooms that had been constructed by KWS around the park but I do not have the full details now. But this is something which is there. Since the hon. Member is my colleague and a friend of mine, I can share that information with him outside this House.

Mr. Mwadeghu: Mr. Speaker, Sir, in the written answer by the Assistant Minister, they have made a provision of Kshs5 million for Mbale Water Project in the Financial Year 2011/2012. The year is almost coming to an end and that project has not started. Could the Assistant Minister confirm when those funds will be disbursed to undertake the Mbale Water Project?

Mr. Nanok: Mr. Speaker, Sir, we hope we will get those funds during this fourth quarter from the Treasury. As soon as we get the funds, we are going to implement that project. If we do not get the money, then it is going to be a priority in the first phase of the coming financial year.

Mr. Speaker: Next Question by Mr. M.M. Ali.

Question No. 1569

PROVISION OF ELECTRICITY TO SOLOLO DISTRICT

Mr. M.M Ali asked the Minister for Energy:-

- (a) whether he is aware that Sololo District is not connected to electricity;
- (b) why it has taken too long for the power to be connected to the district; and,
- (c) when the same will be done.

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker. Sir, I beg to reply---

Mr. Speaker: Order, Mr. Assistant Minister! Did you get the sanctions imposed on you on 23rd May, 2012 lifted? There were sanctions imposed on your Ministry.

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker, Sir, please, guide me.

Mr. Speaker: Order. It is your duty to acquaint yourself with what transpires in the House. You were directed not to transact any business in the House until the Minister is able to explain himself very adequately. That is why the system is such that almost every Minister had got two Assistant Ministers. The business of the House is very serious and it must be taken with the seriousness that it deserves. The sanctions were imposed on you on 23rd May. What are you doing about it?

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker, Sir, I want to apologize on behalf of myself and my colleagues for not being able to be present to transact the business of the House.

Mr. Speaker, Sir, I want to say that, that is not going to be repeated again. Please allow me to proceed.

Mr. Speaker: Fine! I will accept it but next time, you should do better than that. That is a bit casual. We do not know what was happening to you while you were not here but since you appear to be remorseful, proceed.

The Assistant Minister for Energy (Mr. Magerer): Mr. Speaker, Sir, thank you for the opportunity.

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is no electricity grid network in Sololo District.

(b) Grid power supply to Sololo is to take place through a line from Ethiopia to the district headquarters in Sololo Town. Initially, a diesel generator was to be installed, but that was changed when we were able to secure an agreement with the Government of Ethiopia, so that we can get the supply from the grid.

(c) A sum of US\$487,458 was paid to Ethiopia Power Corporation in January 2012 for the construction of the line on their side. We expect that the supply of electricity to Sololo District will be completed by the end of August, 2012, if there will be no delay on the Ethiopian side.

Mr. M.M. Ali: Mr. Speaker, Sir, I thank the Assistant Minister for the answer although this has been long outstanding. Initially, we were promised in 2009 that Sololo was going to be connected, but this never happened. His answer to part “c” of my

Question is not precise. I am asking him when this will be done. But in his explanation, he says “if there will be no delay on the other side.” Could he be committal that by the end of August, 2012, as he has specified, Sololo will be connected with electricity?

Mr. Magerer: Thank you, Mr. Speaker, Sir. I want to inform the hon. Member that the Ministry of Energy is a very serious Ministry. As I said, by the end of August, 2012, we will have been through with this connection.

Mr. Speaker, Sir, just for the information of the House and the hon. Member, the Government concluded the trade agreements between our two Governments; Ethiopia and Kenya, at the end of November, 2011. So, I do not envisage a situation whereby there will be a delay on either side of the Government, especially on the Ethiopian side. We have been through a lot of negotiations and we have made progress. Also, we have paid the said sum which is almost equivalent to Kshs39 million to the Government of Ethiopia to finance the construction on their side. So, basically, it is only that our Kenyan engineers cannot cross over to do the job, but they have undertaken to do that job.

Mr. Bahari: Mr. Speaker, Sir, I want to thank the Assistant Minister for taking that initiative for cross border power supply. I want him to clarify what it will cost to finally have electricity in Sololo because we are now importing it and the Kenya Rural Electrification Program has certain specific guidelines.

Mr. Magerer: Mr. Speaker, Sir, it will not cost any shilling more than the negotiated figure. When we did our negotiations, we ensured that there was not going to be any difference in terms of the costing when we finally have the power from the Ethiopian side. We are paying at the exact rate that is acceptable to our consumers here in our country.

Mr. Letimalo: Mr. Speaker, Sir, I really want to thank the Ministry because they have really done a lot to connect electricity to mainly the new districts. But my concern here is about the progress of these electricity connections. What is the Ministry doing to enhance or speed up the connection of electricity, specifically to those that are out of the national grid and even those institutions that are meant to benefit from solar energy?

Mr. Magerer: Mr. Speaker, Sir, the Ministry is definitely ensuring that we move fast. As soon as we make up with the connections---. As you know, we are currently operating almost at par in terms of power generation and consumption. I want to report to the House that Kenya is part of what we call the East Africa Power Pool Countries which have agreed to share the electricity generated within all the five countries of the East Africa Community, including Ethiopia, Sudan and Egypt. I want to believe that once we ascertain the amount of electricity that we require, we will definitely connect every other area. We also have a special funding for areas that we need to consider like the northern part of Kenya and other areas where the allocation is not enough. So, we have some affirmative action and the hon. Members knows that very well. When they make requests for such areas to the Ministry and when the funds are available, we share such funds to ensure they are connected with electricity.

Mr. M.M. Ali: Thank you, Mr. Speaker, Sir. While appreciating the Ministry and, indeed, thanking the Ethiopian Government for co-operation in this endeavour, the Assistant Minister has just stated that because of the source being in Ethiopia, our engineers are not able to cross over and work on the connection. In future, just in case some power failure from the source occurs, what steps has he put in place to make sure

that there will be no blackout in Sololo? As he rightly said, our engineers will not cross over to correct the problems.

Mr. Magerer: Mr. Speaker, Sir, as I said, the Kenya Government signed an agreement with the Ethiopian Government. Our own institutions which deal with electricity supply, that is, the Kenya Power and the Rural Electrification Authority together with the Ethiopian Corporation for Power and Lighting before we, as Governments, signed the agreements. We ensured that they made provisions for such emergency services which may occur on either side. We also agreed that if the fault is in either of the countries, each institution within each of the two countries should be able to take the responsibility of ensuring that power is restored.

So, Mr. Speaker, Sir, I want to assure the hon. Member, Mr. M.M. Ali, who is my friend that he does not have to worry. We will ensure that he has lights. We will also ensure that he has enough energy to serve the purpose that is required.

Mr. Speaker: The hon. Member for Gichugu.

Question No.1450

NON-COMPLIANCE WITH CONSTITUTION IN RECRUITMENT
OF CHIEFS IN MOLO DISTRICT

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that all the nine (9) assistant chiefs recruited in Molo District on 23rd April, 2010, were men, contrary to the constitutional requirement of gender inclusivity;

(b) whether he could provide the qualifications and details of all the applicants who qualified and attended interviews; and,

(c) what steps he will take to address the anomaly and what steps will he take to ensure strict adherence to the constitution in all future recruitments countrywide.

Mr. Kiuna: On a point of order, Mr. Speaker, Sir. This Question was asked about two weeks ago. When this Question was asked in this House, the Minister did not give a satisfactory answer and it was referred to the relevant Committee of Equal Opportunity. Would I be in order to seek the indulgence of the Chair----

Mr. Speaker: Order, hon. Member for Molo! I am well aware that this Question was referred to the relevant Committee to investigate. The Committee was ordered to file its report without fail within two weeks, or 14 days. The 14 days were to run from 16th of May, 2012, to Wednesday last week. The Committee has not tabled its report. So, in those circumstances, if the Minister has an answer, I direct that he gives it.

Proceed, Minister!

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: If it is revisiting the same area, I am afraid I will not be too kind.

Proceed, Minister.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, indeed, this particular Question had been answered by my Assistant Minister. Then after further questioning, the Chair did direct, as you have

actually stated here, that the matter should actually be examined by the Committee on Equal Opportunity, which would then report to the House. For that reason, I do not have the answer because we have been waiting for that particular Committee to sit. According to the HANSARD, my Assistant Minister and I were supposed to actually appear before it, so that we can see the manner in which this matter can actually be resolved.

Mr. Speaker: Member for Gichugu, what is your reaction to the Minister's position?

Ms. Karua: Mr. Speaker, Sir, actually, there was a component for the Committee on Equal Opportunity and another one for the Minister. I had specifically asked the Minister to table the qualifications of all the people who were called for interview, because his answer was that the women were not qualified. Therefore, today, the Minister should have been ready to table the qualifications of all the people who had been interviewed and the Committee on Equal Opportunity can go on with the broader question of how the Ministry is implementing the one-third requirement. So, I would be happy to hear the Minister. I have also documents, which I will be tabling, to show that those ladies were qualified.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I would like to say here that, indeed, the invocation of the Committee was that it was going to examine this matter, including matters related to the qualifications. They were also going to be an integral part of that interaction between my Ministry and the Committee, so that the response would have actually been placed here comprehensively. I think that it would be really fair and wise if, indeed, the Committee in question was given extra time to look at this matter, so that we could also put everything there.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I had actually risen to inform the House that most of Members of the Committee on Equal Opportunity, including the Chair and Vice-Chair, were away last week. But the Committee is willing to look at this matter.

Mr. Speaker: You were away last week, which was the second week. Where were you in the first week? You have no explanation, hon. Odhiambo-Mabona.

Minister, did you really prepare to come and deal with this matter? If you prepared, then you would have known that the Committee has not taken any action that you can write home about since 16th May, in which case, you should have prepared to come and answer the Question. This is because the Committee is unable to execute a mandate that falls under it and, indeed, a duty that was specifically referred to it. The Committee does not take over your responsibilities.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I do appreciate your sentiments on this matter. But, clearly, the manner in which we looked at it was that we were going to spend more time with the Committee than it is allowed here, so that we come and enrich the House as far as this matter is concerned. It is true, indeed, that because of that anticipation, the Committee would have actually met with us. The slip, of course, did occur from the fact that there is no answer. But as I said, I was going to make an appeal that, really, the Committee meets and we discuss this matter, because more documentation and others will actually be produced.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. This Minister is well known for taking Parliament lightly. Today, he wants to pretend that he is really a very friendly person to the Committee. Is he in order really to mislead the House that the Committee is going to help him unearth the problem which he created and knows the answers? He has got all the information. Even hon. Martha alone can help us answer this Question. Is he in order?

Mr. Speaker: Order! Order! Minister, I have heard you already and this, obviously, will not progress the matter. I appreciate your predicament and will want to allow another ten days and see if the Committee makes progress.

Member for Gichugu, maybe you will have to bear with that.

Ms. Karua: Mr. Speaker, Sir, I have no quarrel because we really are interested in a serious answer in this matter. But allow me, so that the Minister and the Committee may be guided accordingly, to table before the House the qualifications of Jacinta Waithera, one of the applicants from Molo District, who has an aggregate of C Minus, which was the qualification. There is also Mary Nyangweso Ontwera who has Division III. The requirement was either Division III or C Minus. The third candidate is Josephine Nduta Wanyoike who also has Division III. Those are three ladies, just as an example, so that the Minister does not stand there to say that women were not qualified. They had the minimum qualifications and we have other documents of further post-secondary qualifications. I will table these, so that the Committee and the Minister may have them during those ten days.

(Ms. Karua laid the documents on the Table)

(Mr. Kiuna stood up in his place)

Mr. Speaker: Very well! Hon. Odhiambo-Mabona, I want you to give us an undertaking on behalf of the Committee, since you serve in its memberships, that this report will be available---

Mr. Kiuna: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Molo! You will have to leave for the next 30 minutes. You can come back after 30 minutes. That is a common breach that you really did not have to get into. You have to withdraw from the House for the next 30 minutes and acquaint yourself with the breach.

(Mr. Kiuna withdrew from the Chamber)

Proceed, hon. Odhiambo-Mabona!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, as a Member of the Committee, I give my undertaking that we will complete within ten days.

Mr. Speaker: Fair enough.

Minister, please, monitor the progress that the Committee is making. This is because if you look at the Standing Orders, if there is default on the part of the Committee, there should not also be default on the part of the Ministry.

Hon. Members, we are moving to a point where now we will be very restrained on what matters we refer to Committees. Not every Question has to be referred to a Committee.

What is it, Member for Naivasha?

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I rise so that you can give direction. In the exchange that went on, the Member asserted that most of the Members were out---

Mr. Speaker: Order, Member for Naivasha! On a point of order, that matter is already dealt with and concluded.

(Question deferred)

Member for Kilome!

Question No.1532

STATUS OF INVESTIGATIONS INTO DRUG TRAFFICKING CASES

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

(a) whether he could provide a list of names of persons who have been arrested for drug trafficking from 1980 to 2011, indicating the weight in kilogrammes in respect of each case as well as the status of the investigations into the cases; and,

(b) if he could clarify whether the persons arrested and prosecuted, if any, had bank accounts and, if so, provide details of the bank accounts.

The Minister of State for Provincial Administration and Internal Security

(Prof. Saitoti): Mr. Speaker, Sir, I beg to reply.

(a) I wish to table a list of persons arrested for drug-trafficking from 1980 to 2011.

(Prof. Saitoti laid the document on the Table)

Mr. Speaker, Sir, the list indicates the weight in kilogrammes in each case and status of the investigation. However, some records could not be traced owing to the fact that the Anti-Narcotics Unit was formed in 1993 and some records which were held by the police station have since been destroyed in accordance with the Records Disposal Code Rule stipulated in the subsidiary legislation contained in the Legal Notice No.364/1968 of the Records Disposal Act, Chapter 14 of the Laws of Kenya.

(b) Investigations conducted, did not reveal that any of the above suspects had bank accounts.

Mr. Mwau: Mr. Speaker, Sir, while appreciating the Minister's reply, I would like to point out that he has not favoured me with a list tabled so that I can interrogate his answer.

However, I would like him to respond to the following.

1. How many people were involved in drug trafficking?

2. What is their nationality?
3. ---

Mr. Speaker: Order, the Member for Kilome! Normally, you are supposed to ask one supplementary question. However, we have allowed you two. Mr. Minister, could you respond? Mr. Mwau, you will have another opportunity before we conclude interrogating the Question.

Prof. Saitoti: Mr. Speaker, Sir, the Member is asking how many people are contained in the list that I have tabled, and if, indeed, that is the case we are then looking at a figure of 661.

Mr. Mututho: Mr. Speaker, Sir, it is 19 years since the Kenya Anti-Narcotics Unit was formed according to the Minister's answer. Is it possible that truly within those 19 years, they have not been able to confirm one bank account to include in the Minister's answer? That is even Mpesa.

Prof. Saitoti: Mr. Speaker, Sir, so far, I have not been furnished with bank accounts of any of these people.

Ms. Karua: Thank you, Mr. Speaker, Sir. I just want the Minister to tell the House whether there are cases that are still open and are not concluded in terms of investigations and, therefore, whether the list he has presented to the House is conclusive.

Prof. Saitoti: Mr. Speaker, Sir, if I may go back to the content of the Question, the hon. Member specifically asked me to give a list of persons who have been arrested for drug trafficking from 1980 to 2001. This is what I have done. The document, as you can see, is very voluminous. I can state here that there is information in each one of the 600 cases, first of all, as to the nature of the crime, the type of the drug that was in question and, indeed, exactly what the conclusion of the court was----. If I were to go through these documents here, case by case, and there are some instances where the case is still going on, it will take a very long time.

Mr. Namwamba: Mr. Speaker, Sir, the Minister has previously mentioned names of hon. Members of this House in matters related to this very serious offence. I would like to know whether that list of cases includes any Member of this House; either serving or previous or rather, current or past. That is on the list that he has.

Prof. Saitoti: Mr. Speaker, Sir, this particular document or the list of those who have either been convicted or otherwise does not include any Member of this House. I have not seen any.

Mr. Mwau: Thank you, Mr. Speaker, Sir. Could the Minister provide the nationality of the 600 people and the drugs they were trafficking?

Prof. Saitoti: Mr. Speaker, Sir, I have tabled a document here. This has a desegregation of the nationalities, the types of the drugs and the sentences that were meted out. I said that I can read it but I do not think that it is fair.

Mr. Mwau: On a point of order, Mr. Speaker, Sir. The Minister is refusing to answer the Question! Is it, therefore, in order to request that the Question be rescheduled so that other Members and I have an opportunity to read that voluminous report?

Mr. Speaker: How long do you need to go through this document the Member for Kilome?

Mr. Mwau: Mr. Speaker, Sir, I need one day.

Mr. Speaker: Mr. Minister, I would like to defer this Question to Tuesday, next week to accord the Member for Kilome time to acquaint himself with the document

which you have tabled. The only other supplementary question that will arise, therefore, will be by the Member for Kilome. Other Members will not be allowed to ask further questions. You have had the opportunity, I am afraid.

Hon. Members: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: You may rise on points of order.

(Question deferred)

(Several hon. Members stood up in their places)

Order, hon. Members! As at where we are, we have taken one hour from Business Time. We did this because we spent quite a bit of time on Order No.2 because of the nature of matters raised by the hon. Members on Order No.4. So, we took the liberty to utilize a bit of Business Time. So, I would like to close on Questions. We will defer Questions No.1296, 1362, 1558 and 1293; 50 per cent of those to Thursday, this week and the balance of 50 per cent to Tuesday, next week. They will take precedence over Questions which are otherwise programmed to appear on those respective days.

Question No.1390 will be treated differently because I have indications that there have been discussions between the Member for Naivasha and the Assistant Minister for Transport to the effect that the Minister has asked for two months. However, I have told him that two months in the prevailing circumstances, given the fact that we are quickly moving towards an election, is too long. So, I have directed that he has one month from today. The Question will then reappear on the Order paper. So, both of you, please, note.

We want to take the next Order.

Question No.1296

PROVISION OF ID CARDS TO YOUTHS
IN WAJIR SOUTH CONSTITUENCY

(Question deferred)

Question No.1362

MECHANISMS TO COMPLY WITH GENDER
REQUIREMENT IN PUBLIC SERVICE

(Question deferred)

Question No.1558

IRREGULAR ALLOCATION OF GRANTS TO TWO
DIPLOMA TEACHERS TRAINING COLLEGES

(Question deferred)

Question No.1293

NUMBER OF CADETS RECRUITED
BY KAF IN 2011

(Question deferred)

Question No.1390

COMPENSATION FOR ACCIDENT VICTIMS

(Question deferred)

MINISTERIAL STATEMENTS

PLIGHT OF MAU EVICTEES

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow): Mr. Speaker, Sir, I wish to issue a Ministerial Statement on the plight of Mau evictees as requested by hon. Keter. Before I address issues raised by him, hon. Members will recall that on the 9th of May, 2012, while issuing a statement on the resettlement of Mau Forest evictees that had been asked by hon. Ruto, the hon. Speaker ordered my Minister to visit Majani Mingi Farm. I wish to inform the House that I personally visited the farm LR No.89/32/2 and LR. No.10939/2 known as Majani Mingi Farm in Rongai District, Nakuru County on 30th May, 2012.

The land measuring 5,500 acres had been offered for sale to resettle Internally Displaced Persons (IDPs) and forest evictees. On receipt of the offer, an inter-ministerial technical committee visited the farm on several occasions to assess its suitability. The technical committee had established that parts of the farm are not suitable for resettlement due to low agriculture potential. During my visit, I was accompanied by the technical team and the owner of the land and we extensively toured the farm. Out of the 5,500 acres of the land that was on offer, only 3,100 acres were found suitable for resettlement and which the Government has committed to purchase. The land owner has accepted the Government's offer and the process of hiving off the 3,100 acres is ongoing.

Mr. Speaker, Sir, the Government will resettle the 2007 and 2008 post-election victims along with forest evictees in line with the National Integration Resettlement Programme. The number of households to be resettled on the farm will be determined once planning and survey has been concluded. Leaders from Alko, Embobut and Mau victims will be visiting the farm next week.

It is true that the Government resettled 240 households from the Mau Forest evictees on LR No.3100/1/14/15/16/17/19 and 20 to 22, Chemusian Farm in Kipkabus on 13th April, 2012. On the same day, these households were provided with 150 bags of maize, 100 bags of beans, 50 cartons of vegetable oil, 334 blankets, three water tanks and 305 tarpaulins to last them for a month, awaiting balloting for clothes and construction of houses.

Mr. Speaker, Sir, on 21st May, 2012, the households were provided with additional 150 bags of maize, 50 bags of beans, 30 cartons of vegetable oil and 20 bales of nitropak. The Ministry will continue to provide monthly allocations to these households until their first harvest when they can be food secure. The balloting and showing of plots was delayed due to heavy rainfall experienced in the area making it impossible for the technical staff to access the farm. However, I want to confirm the balloting exercise was concluded on 30th May, 2012 and showing of plots is ongoing and is expected to be finalized by Friday 8th June, 2012.

My Ministry is in the process of procuring building materials and, therefore, construction of houses will commence on 11th June, 2012 where individual forest evictees will be issued with building materials to construct houses under the supervision of the Ministry. Similarly, the Ministry is in the process of constructing two boreholes to provide safe water for domestic use. Further, the Ministry of Agriculture is procuring farm inputs, fertilizers and seeds to be issued to the beneficiaries with a view to making them food secure.

Mr. Speaker, Sir, the Government has established an Inter-Ministerial IDP Resettlement Committee comprising of various ministries; Education, Public Health and Sanitation, Water, Roads, Forestry and Wildlife, Special Programmes, Office of the President, Lands and Agriculture. Each Ministry is tasked to provide services specific to their mandate in areas where IDPs are being resettled on Government land. For instance, schools will be provided by the Ministry of Education while the Ministry of Public Health will address issues relating to medical facilities. These services are part and parcel of the resettlement programme and I want to assure the House that the forest evictees and post election violence victims are receiving similar humanitarian support in the resettlement programme.

Mr. Speaker, Sir, finally, the Government has continued to look for additional land to resettle all forest evictees as soon as possible. Meanwhile, I want to assure the house that all post election violence victims and forest evictees will continue to receive food and any other humanitarian support that they require. My Ministry is constantly liaising with respective Government staff on the ground, particularly the Provincial Administration and the ministry's regional co-ordinators to always monitor and provide reports on requirements of all IDPs. The Minister has on several occasions visited the camps and will continue to visit until they are all resettled.

Mr. Keter: Mr. Speaker, Sir, I wish to thank the hon. Assistant Minister for such an elaborate Ministerial Statement. However, these 240 people were living happily in their houses but the Government burnt their houses and property and, hence, they became IDPs. Could the Assistant Minister clarify why these 240 people are being provided with building materials and the schools and health facilities are being given away to the line ministries and yet the other post election violence victims were built for houses, schools and health facilities and they were given everything? Why the selective application of their treatment in this case and yet they are all the same?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Assistant Minister please clarify if the Ministry has a policy of non-discrimination of any class of IDPs. This is especially because hon. Keter has mentioned the issue of forest evictees as opposed to post election violence victims but there are also issues of discrimination of post election violence victims because I have heard the Assistant Minister speaking of Alko IDPs and

even there are many post election violence IDPs that have not been given the same treatment as other IDPs. So, is there any policy of non-discrimination and, if so, what does it provide?

Mr. Ruto: Mr. Speaker, Sir, we have received various assurances from the same Ministry about the timelines by which they expect to have resettled everybody. At one time last year in August, we were told it would only take two weeks and it came from a very high office. Could the Assistant Minister confirm that these IDPs, forest evictees plus all the post election violence IDPs will be resettled at least before the end of June or July? Could he give us some direction?

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow): Mr. Speaker, Sir, on the issue of constructing houses for the forest evictees, I am afraid that the policy does not allow us to procure for them directly. The money that we got is specifically for building houses for the post-election violence IDPs. The issue of the forest evictees and the integration programme came afterwards. We do not have enough funds for settlement of the forest evictees. So, we will simply be giving them materials, so that they can build their own houses using the artisans from within their group.

On the issue of discrimination, I would like to state that we do not discriminate against anybody. The Ministry was mandated to re-settle the 2008 post-election violence victims. The forest evictees came in afterwards. So, the Ministry accepted to re-settle those forest evictees and some of the IDPs who were within the settlement area, in terms of integrating them within their communities. Therefore, we are providing full housing for those being integrated as a result of the post-election violence. So, the Ministry is building houses specifically for the victims of the post-election violence, and that is the mandate of the Ministry.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to say that they do not have enough funds to cater for those people? I sit in the Departmental Committee on Labour and Social Welfare. We voted for the entire Budget that the Ministry presented before the Committee in financial year 2011/2012. We are now proceeding to financial year 2012/2013 and the Assistant Minister is saying that there is no provision for the settlement of the forest evictees in the Ministry's Budget. So, these people are not being given the same treatment as the post-election violence IDPs. Is it fair for those people to continue suffering with their children as the Government continues to treat them in a very inhuman manner? So, I want the Assistant Minister to clarify that they are not applying the law equally to all Kenyans.

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow): Mr. Speaker, Sir, as I understand, the issue of IDPs is not new in Kenya. We have been having IDPs from 1997 to 2002. It is not the mandate of this Ministry to deal with that category of IDPs. However, we are currently developing a Policy Paper on re-settlement of all categories of IDPs. The Policy Paper has been forwarded to the Cabinet for approval. Once that Policy is availed for us to re-settle all IDPs, I can guarantee the re-settlement of those particular IDPs. Right now, this Ministry is mandated to re-settle the post-election violence IDPs. I do not have any other money with which to do what the hon. Members are asking me to do.

Mr. Ruto: Mr. Speaker, Sir, the Assistant Minister has gone on to say that it is not within the mandate of his Ministry to re-settle the forest evictees. Probably, that

mandate belongs to some other government or what is it? Is he in order to purport to be speaking for a very narrow part of a Ministry yet he is expected to be speaking on behalf of the entire Government when he is here? Could he tell us whose responsibility it is to re-settle the IDPs arising from the forest evictions since it is not his business to do so? Why is he answering this question? Why is he purporting to answer it?

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow): Mr. Speaker, Sir, I did not say that I will not re-settle the forest evictees. I told you that we cannot go beyond 2008. What I said is that the forest evictees and the integration programme, through which we are re-settling the post-election violence IDPs within communities, fall under our mandate. There are categories of IDPs. The forest evictees will be given materials to build their houses. It is only the post-election violence IDPs that the Ministry is building houses for. So, at no time did I say that it is not our mandate, but there are categories.

Mr. Speaker: Order! Order! Assistant Minister, please, just address the House. Avoid listening to the Member for Chepalungu while he is on his seat.

The Assistant Minister, Ministry of State for Special Programmes (Mr. Gabbow): Mr. Speaker, Sir, the hon. Member has asked why there is discrimination. I do not think we are discriminating. We are simply following a set of rules that have been set by the Government. It is a policy that we are following.

An hon. Member: Which policy?

Mr. Speaker: Order, hon. Members! That brings us to the end of the Statements that were to be delivered today. It is now time for requests for Ministerial Statement.

POINTS OF ORDER

TIMELINE FOR DISBURSEMENT OF FPE/SSE FUNDS

Mr. Namwamba: Mr. Speaker, Sir, I wish to seek a Ministerial Statement from the Minister for Education with regard to the looming crisis facing all public primary and secondary schools countrywide following the unprecedented delay in the disbursement of the Free Primary Education (FPE) and Subsidised Secondary Education (SSE) funds. In the Statement, the Minister should address the following:-

(i) give reasons for this delay, which is virtually crippling learning in public primary and secondary schools countrywide;

(ii) give a timeline, which should not go beyond the next seven days, within which all the public schools should expect to receive these funds; and,

(iii) assure this House and the public that there shall be no repeat of such delay in future, and that no students or pupils will be sent away from school on account of lack of Government funds.

Mr. Speaker, Sir, just indulge me to stress the urgency of this Ministerial Statement. Indeed, I filed this request for the Ministerial Statement online while in the middle of an Education Day back in my constituency yesterday. It was out of the outcry from head teachers of both primary and secondary schools that unless this matter is handled by the Ministry as a matter of urgency, we could be witnessing schools closing down across the country. The Kenya National Union of Teachers (KNUT), which

represents teachers, has also indicated that if this matter is not treated as an emergency, they could be calling their teachers out for industrial action as a protest in this matter.

Therefore, I want to seek the indulgence of the Chair that the Government be required to deliver this Ministerial Statement in the shortest time possible.

Thank you.

(Several hon. Members stood up in their places)

Mr. Speaker: Hon. Members, do you want to supplement this matter or something?

Hon. Members: Yes.

Mr. Speaker: You will have to be extremely brief. I will not allow more than a minute for each of you.

I will have the Member for Chepalungu first.

Mr. Ruto: Mr. Speaker, Sir, further to assuring the nation on the delivery of the funds requested for, the same Ministry has not disbursed bursaries to schools as expected. This is part of the same crisis that is developing. We expected the Ministry to disburse about Kshs2 million in my constituency last month but they disbursed only Kshs500,000 to each constituency yet this money is has been provided for in the Budget.

Mr. Mungatana: Mr. Speaker, Sir, there are heads of schools who have gone into arrangements with banks, due to pressure from suppliers; to take loans, so that they can keep the schools afloat. Can the Minister give assurance that they will settle those loans, including the interest that is going to be incurred in those kinds of arrangements?

Mrs. Shebesh: Mr. Speaker, Sir, can the Minister also tell us in the Statement, their position on the over Kshs7 billion owed by the schools to the Kenya Publishers Association in respect of books that have been supplied to schools but which have not been paid for? How does the Ministry intend to deal with that issue?

[Mr. Speaker left the Chair]

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

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, could the Minister also, in the Statement, tell this House how the amount of money that we voted for this purpose in the 2011/2012 financial year has been spent so far?

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

The Assistant Minister for Education (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, this has to be done within seven days. We will give the Ministerial Statement on Thursday, this week.

Mr. Namwamba: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did I hear the Assistant Minister indicate that he needs seven days for this?

The Assistant Minister for Education (Mr. Mwatela): No, no.

The Temporary Deputy Speaker (Mr. Imanyara): Assistant Minister, what did you say?

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I said that it has to be within seven days. So, I was asking that I bring the Statement on Thursday this week.

The Temporary Deputy Speaker (Mr. Imanyara): What is your reaction, hon. Namwamba?

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, while requesting for the Ministerial Statement, I did seek the indulgence of the Chair to just add the detail that I submitted this request online. I submitted this request in the middle of the Bunyala District Education Day in my Budalang'i Constituency after feeling the pressure and the cry, which was so genuine; from the heads of schools, who expect a very firm commitment from the Government as soon as yesterday.

The Assistant Minister must also be aware that the KNUT has already given notice of a looming industrial action over this matter by Thursday. So, if this matter is not resolved by tomorrow, we could be facing industrial action besides children being sent home and schools closing down. This matter is not new. It is a matter that the Ministry is well familiar with. Since this matter is not new; it is not a fresh matter and it is a matter that the Ministry is well familiar with, could the Assistant Minister indulge this House with a response tomorrow? It would not be asking too much for this to be expected tomorrow.

The Assistant Minister for Education (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, if it is limited to the original request of giving reasons, give timeline and no repeat in future, that could be done by tomorrow. However, on how we have expended the amounts voted in the 2011/2012 Financial Year, that may require greater details. That is why I am requesting for Thursday. But---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Assistant Minister! This matter has been in the public domain every single day if you have been reading and following the Press. I am sure your Ministry must be aware of this. Given the notice that has been given, I think it is only fair that you try harder and give the Statement tomorrow afternoon.

The Assistant Minister for Education (Mr. Mwatela): I agree fully, Mr. Temporary Deputy Speaker, Sir. In fact, we are in consultation with the Ministry of Finance. You will understand that this is a matter between the Ministry of Finance and the Ministry of Education. As I am speaking, discussions are going on between the Ministry of Education and---

The Temporary Deputy Speaker (Mr. Imanyara): The more reason the Statement should be made tomorrow. That is what the Chair rules.

The Assistant Minister for Education (Mr. Mwatela): Tomorrow afternoon?

The Temporary Deputy Speaker (Mr. Imanyara): Tomorrow afternoon!

(Applause)

FAILURE BY FINANCE MINISTER TO TABLE ESTIMATES OF REVENUE

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, Article 221 of the Constitution reads:-

“(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.”

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

[Mr. Speaker resumed the Chair]

Mr. Speaker, Sir, on 26th April, 2012, the Minister for Finance did table what we believed were estimates of revenue and expenditure for the 2012/2013 Financial Year. We thought this was in compliance with Article 221 of the Constitution. I have since determined that the Minister only tabled estimates of expenditure. He did not table estimates of revenue.

Mr. Speaker, Sir, the other document which he tabled accompanying the estimates of expenditure was a draft financial statement and budget framework outlook. This is purely a draft, a working document of the Ministry and not a formal document. So, I would ask the Chair to find that the Minister did not meet the constitutional provision. He did not comply with Article 221 of the Constitution which requires that the Minister not only tables the estimates of expenditure but also estimates of revenue for the following financial year, two months before the end of the financial year.

I would ask the Chair to find that the Minister has not complied with that Article, and maybe to get explanation from the Ministry why they have not offered an explanation why they could not comply with Article 221 of the Constitution. What one would have expected was a book of revenue estimates detailing or based on various heads like Pay as You Earn, VAT, income tax on goods and services and all those roughly 14 revenue heads of the Government. So, I would like to ask the Chair to order for the compliance.

Mr. Speaker: You should say; “I ask Mr. Speaker,” because we are in the plenary.

Mr. Mbadi: I am sorry, Mr. Speaker, Sir. I am actually asking Mr. Speaker to order compliance to Article 221.

(Dr. Khalwale stood up in his place)

Mr. Speaker: Fair enough. The Member for Ikolomani, do you want to speak to the same matter?

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

Mr. Speaker: Very well.

Dr. Khalwale: Mr. Speaker, Sir, the same Article 221(2) reads as follows:-

“The estimates referred to in Clause (1) shall-

(a) include estimates for expenditure from the Equalization Fund; and,

(b) be in the form, and according to the procedure, prescribed by an Act of Parliament.”

Mr. Speaker, Sir, I would also like you to guide the House and the Minister as well that since this Act or a Bill to give effect to this Act has never been brought to this

House, he should also be ordered to present this Bill so that we make a formal form in which those estimates shall be presented and provide for the procedure.

Mr. Speaker, Sir, I would also like you to pronounce yourself on the Equalization Fund which we expect that the Minister should also have included.

Mr. Mungatana: Mr. Speaker, Sir, we have had issues in the Budget Committee with the Treasury as far as the revenue Heads are concerned. It appears that there is an attempt to be evasive. Most of the time when we ask them to give clarity on these matters they keep saying that the PSC has sorted out things like that and the same problem goes to the Auditor-General. He has a problem with the differences between the figures that are in the Kenya Revenue Authority, the figures that the CBK gives and the figures that the Minister tables here. So, the issue of revenue is a sensitive matter.

What we expected is compliance not only to Article 221 but also--- There is a general requirement under Article 35 of the Constitution that information that is required to be public should be made public.

If you look at the format of the expenditure books, you will find that it is very clear. There are line expenditures on all items from the Development Vote to the normal recurrent vote. The Minister was very clear, but the other books on revenue were not tabled. Other than this light piece of paper that is actually talked about as a draft, there is nothing else that shows how much money was collected and under which Vote Heads, whether it is Pay as You Earn, VAT and taxes on capital gains. There is nothing that the Minister has shown to this House regarding all these.

Mr. Speaker, Sir, this offends not only Article 221 but also Article 35. We want transparency because we want to know exactly how much money is being collected through taxes in Kenya and how much money goes into expenditure because of the problems we have had with different figures from the CBK, the KRA and what the Minister presents in this House. We do not want this to go on and on as it has been in the past.

Mr. Speaker, Sir, I wholly support that you should order proper compliance by the Minister by presenting proper books before this House so that this House can be properly informed exactly how much revenue we collect in keeping with the Constitution.

Thank you.

Mr. Speaker: The Member for Central Imeni, you want to speak on the same matter?

Mr. Imanyara: Yes, Mr. Speaker, Sir, but specifically on one aspect. This relates to what your own staff do with documents that are supplied by the Government. The principle is one of accountability of the Government to this House; when a document that is marked "draft" is brought to the House and circulated for the benefit of the Members, what should your staff do? What value should be given to a document that is clearly marked, "draft"? Should we act on it? Should the office of the Clerk of the National Assembly accept such documents?

When you are making your ruling on this issue, it is important--- You have had to deal with documents that are signed by personal assistants of Members of Parliament, by junior officers in Ministries and you have made a ruling. More importantly, time has now come for you to give consideration to the issue of circulation of drafts that are

meaningless, because they can be changed any time when the final document is produced.

Mr. Speaker: Order! Member for Central Imenti, was that document by any chance tabled in the House?

Mr. Imanyara: Mr. Speaker, Sir, this is available in Room No. 8 to all Members for collection as is the customary practice when---

Mr. Speaker: But it has not been tabled formally in the House, was it?

Mr. Imanyara: Mr. Speaker, Sir, the Member has information on that.

Mr. Speaker: Member for Gwassi, was it tabled?

Mr. Mbadi: Mr. Speaker, Sir, when I went to Room N. 8 to find out where the Revenue and Expenditure Statements were; this is what I was given as having been tabled by the Minister for Finance. Therefore, my imagination is that this is what was tabled. This is what I have got from Room No. 8.

Mr. Speaker: If it is an imagination, I will be comfortable. However, if that is what was tabled, I am very disturbed.

Mr. Mbadi: Mr. Speaker, Sir, you should be as disturbed as I am. When I asked for the Estimates of Revenue, what I was given was a draft. That is why I got so concerned.

Mr. Speaker: I have heard you. Obviously, matters addressed here are substantial and very grave in their implication and import.

Minister for Justice, National Cohesion and Constitutional Affairs, before I give directions on this matter, which obviously is important for this nation, particularly taking into account where we are coming from as a country---Occasionally you hear statements made by both public servants and State officers that the absorption rate, for example, is 40 per cent. Assume, for example, then that we are collecting revenue of upwards of Kshs650 billion, as I hear it claimed, then what happens to the balance? It is unabsorbed; so, where is it?

Minister, these matters become so critical and I will want to hear the Minister before I give directions. I want to hear him on Thursday.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I will inform the Minister for Finance to be in the House on Thursday. However, we have a conference on Monday relating to the same matter; the issue of absorption is a matter of concern. We will be having a round-table conference with the Prime Minister to address some of these issues. I will alert the Minister to be in the House on Thursday to respond substantively.

Mr. Speaker: Yes, we want to hear the Minister because at the stage where we are, the House is actually looking for information on behalf of the Kenyan public, whom it represents. These documents are called for and mandated to be availed to the Kenyan public through Parliament by the Constitution. So, we will want to hear the Minister's response, largely by way of an account. What is it that is holding him back?

So, Thursday afternoon at 2.30 p.m. and then thereafter I will give directions.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE OF THE
KENYA SCHOOL OF LAW BILL

Mr. Speaker: Hon. Members, before we move to Order No.8, which is the commencement of business, strictly so, I wish to communicate as follows.

The business listed under Order No.10, although expected to have matured, I have been informed by both the Minister for Justice, National Cohesion and Constitutional Affairs and the Departmental Committee that oversees that Ministry that they were both processing amendments to the Bill, and the amendments have not crystallized. So, hon. Members, it would not serve the intended purpose if we were to proceed to transact Order No.10. So, I will stand it down until both the Minister and the Committee are ready.

I have had to bear in mind that last week was a short one and so, we have extended that accommodation. Therefore, Order No.10 is stepped down.

*(The Committee of the Whole House on
the Kenya School of Law Bill was deferred)*

Mr. Speaker: Next Order!

BILLS

First Readings

THE PUBLIC SERVICE COMMISSION BILL
THE TEACHERS SERVICE COMMISSION BILL

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

Next Order.

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(The Minister for Lands on 15.5.2012)

(Resumption of Debate interrupted on 29.5.2012)

Mr. Speaker: Who was on the Floor? Mr. Wamalwa, you were on the Floor and you had a balance of 18 minutes. Please, proceed.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, before I was interrupted I had impressed upon the House the urgency of this Bill, particularly because of some of the commissions that we did put in place pursuant to Agenda 4, such as the Truth, Justice and Reconciliation Commission (TJRC), the National Cohesion and Integration Commission (NCIC) and commissions that are in danger of having their operations paralyzed because of the legal limitations.

Mr. Speaker, Sir, regarding the Vetting of Judges and Magistrates Board, we put it in place to commence the very onerous task of vetting judges and magistrates. Under Section 23 (2) this Board had only three months to vet both the Court of Appeal and High Court Judges. They started on the 23rd of February and had up to the 3rd of May to complete their work; however, so far they have only been able to deal with the Court of Appeal judges. They did vet nine Court of Appeal judges, and recommended that four judges were unsuitable to continue serving. That took a lot of courage and hard work by this Board, led by my learned senior, Chairman Rao.

[Mr. Speaker left the Chair]

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

That took a lot of courage and hard work by this board led my learned senior Chairman, Mr. Rao. It took them several months to just deal with the Court of Appeal only and, as painful as the exercise was, it is the price that we must pay for change. As a nation, we must be prepared as we push through these reforms to ensure that we are able to accomplish what we set out to do to restore public confidence in an institution that is critical in our democracy; the Judiciary, an institution that was in the center of the storm when we had the post-election violence because the public lost confidence in it and though the results were announced at the Kenyatta International Conference Centre (KICC), a few meters away from where the Judiciary is domiciled, we chose not to walk across and enter the court; we chose to go to the streets.

Madam Temporary Deputy Speaker, to restore confidence in the Judiciary, it will not only take the laws we have put in place; it will take commitment and hard work by people who believe in reforms. I was very privileged as the Ministry charged, to have witnessed the launching of the transformative framework of the Judiciary by the Chief Justice, Dr. Willy Mutunga. It is truly a new beginning for the Judiciary. But for the board to continue and to accomplish the remaining task, it is not possible or practical for this to be done within the three months period. As we speak, this board has started vetting the High Court Judges. They have about 44 judges and looking at the amount of time they took to deal with just nine, we will need to give them more time for them to deal with 44 judges and the time has already lapsed. So the proposal we are making to Section 23 is really to extend the time which would still be provided for under Section 23(1); that this must be done within one year and that will still accomplish the purpose for which we passed the law. So we are proposing just deletion of Section 23(2) and this would give them up to next year. We are also proposing that if that period expires before they have accomplished what they have set out to do, they can still come back to the House by way of Motion to ask for an extension of time.

This is one of the proposals we have made in this Bill but the other urgent one is the one for the Truth, Justice and Reconciliation Commission (TKRC). When I was appointed, we had a problem with the TJRC because of the challenges they were facing between the chairman and the commissioners but we challenged them that if they were unable to reconcile their own differences as a Commission, how were they going to reconcile the country which is their core mandate? I wish to congratulate the Chairman,

Mr. Kiplagat and all the commissioners for setting aside their differences for the sake of the country to ensure that they complete their work. They were at the tail end of their mission and they were in the process of preparing a report. This report we are looking forward to, as a nation, we are hoping it will provide the roadmap to healing and reconciliation in our country and their period has expired because under the Act, they were supposed to submit their report to the President by 3rd May. However, with the proposed extension that we are proposing to amend under Section 30, it will have an extension of three months to enable them complete their report. They will also have an option of 45 days for winding up. So we will be asking the House that it is important that we give the TJRC the necessary support to ensure that they complete their work and give this country a roadmap to healing and reconciliation.

This, coincidentally, as we go round this country we know that this country has not healed. We see the politics of hate; the politics of isolation and the politics of demonization in our country. We believe that the time has come for us to reform our politics. The TJRC, in their extended period that we are asking for, is capable of dealing with not just the issues that we have raised but also issues of historical injustices including the issue of the Mombasa Republican Council (MRC) at the Coast. We believe that they had occasion to travel to the Coast and we thank the Speaker for intervening in the MRC matter to direct that the same be handled by two committees of this House. We believe that they should move with speed because the MRC is a ticking time bomb that we need to deal with. We believe the TJRC that had occasion to interview the people of the Coast, to listen to the historical injustices, in their report they will also be able to make appropriate recommendations that will help this nation to go a long way in resolving the ticking time bomb that is the MRC at the Coast.

Madam Temporary Deputy Speaker, we also believe that apart from these other commissions, we have commissions that we have put in place whose time is lapsing in September. We have the case of the National Cohesion and Integration Commission (NCIC) and Dr. Kibunjia has done a commendable job with his Commission. We believe that because of the timing of the expiry of their term, they will need time and we are proposing that there should be a specific provision for reappointment that was lacking in the Act that we passed. We are proposing an amendment to Section 19 to enable reappointment of these commissioners.

Similarly, the Kenya National Commission on Human Rights (KNCHR) which is another commission under my Ministry will have their term expire in November, soon after the NCIC. We are proposing that the Act, which does not provide for commencement of the recruitment process prior to the expiry, be amended so that we can allow through amendment of Section 59 for an earlier commencement of the reappointment process. In fact, we are proposing that if we could allow this process to commence a few months prior to the expiry of the term, then we will be able, as a nation, to have a commission in place. As we go into the general elections, we cannot have an election without a human rights commission. We are aware that during elections, this is the time when abuses of human rights occur and we cannot risk having the term of this commission in November. We believe that only one commissioner will be left. Out of the commissioners who are there, there is only one whose term will expire after November. So the rest will have their terms expire in November and without the provision to allow for recruitment to commence before then, we will have all the commissioners packing

and going home and go through the elections without a commission. The process might take months and the elections being in March and expiry being in November, we might not have a commission in place before the elections. Therefore, we are asking the House to allow for these amendments to provide for a very critical institution that is necessary in the electoral process.

We also have a problem in the Ministry because of two commissions. There has been confusion between two commissions; the KNHRC and the National Gender and Equality Commission (NGEC) which also by the definition of Section 2 includes a component of human rights. We have heard people come to our Ministry thinking that we are the ones responsible for the NGEC when we are only responsible for the KNHRC. Therefore, we are proposing an amendment to ensure that we remove the confusion that has been there. We should amend Section 2 to delete the words “human rights” from the definition of this Commission which would totally make it very clear that this is not part of the KNHRC and it is purely a commission under the Ministry of Gender, Children and Social Development.

Madam Temporary Deputy Speaker, we also have an amendment that we have proposed to Section 112 of the Elections Act with regard to the Independent Electoral and Boundaries Commission (IEBC). We were at pains to come up with a way of ensuring that by-elections are held in Kangema after we lost Mr. Michuki - May the good Lord rest his soul in eternal peace. We have no specific provision in the Act that in essence repeals the National Assembly and Presidential Act, Cap.7. This is a necessary amendment just for purposes of clarity. There are those who have argued that we can go ahead and still carry on the election under the old Act but it is repealed. The Speaker to issue writs without a specific provision - the old Act having been repealed - is one of the issues that we are proposing just for purposes of clarity.

I am urging Members to allow for this amendment, so that we can have a by-election carried out under the old law before the first general election. There are those public servants who have complained about the period within which they need to resign from their positions. We have talked about seven months and they feel greatly disadvantaged that others will do it within three months. They must resign seven months to the election. With the debate that has been going on, we are proposing that we have an amendment to reduce the number of months from seven to five although there are those who have proposed that it should come down to three or four. We leave it to the House. I wish to give the other Members a chance to contribute. This Statute (Miscellaneous Amendments) Bill has very key proposals. Let us support and pass the Bill.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Speaker. I was hoping the Minister will not sit down before clarifying the basis upon which he is congratulating the Chairman of the Truth, Justice and Reconciliation Commission (TJRC), as he did.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, I was very clear that when we had the Commissioners and the Chairman reconcile their differences for the sake of the nation, they provided leadership and I was congratulating the Chairman and the Commissioners for that act of putting the nation before self. They reconciled their differences and are working together to conclude their report. We must appreciate in a nation that we are always divided and fighting over everything. If the Commissioners can provide

leadership and resolve their differences amicably, that is something that we need to commend.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker. It is within the mandate of the Minister to give policy direction to all departments within his Ministry. In view of the fact that this same Commission is supposed to investigate Kiplagat, is he satisfied that this is going to be effective? Is he satisfied that in so doing, it is going to give a sense of reconciliation to the victims; of what Kiplagat is accused of?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, these were some of the concerns that made the Commission disagree for a while and it also ended up in court. The concerns were addressed including the credibility of the process and the integrity of the report. If the law is followed as they are going to do, where any member is adversely touched, the law is very clear that they are excluded from the matter in which there would be conflict of interest. So, the Commissioners agreed that the law must be abided by and wherever the Chairman, Amb. Kiplagat, and any other Commissioner were touched and there was likely to be a conflict of interest, for the sake of the integrity of the process and the credibility of the report, they would be excluded from those proceedings.

So, I want to assure the House that all these concerns were addressed. It took many hours and many issues were sorted out for the sake of the report. Also, the reality was that the Commission as defined under the Act, is the Chairman and the Commissioners. The Commissioners alone could not conclude the report and present it to this House without the Chairman. The Chairman alone without the Commissioners is not a Commission. So, for the sake of completion of their work and providing a roadmap towards healing and reconciliation of this country, they were ready to put aside their differences. I must assure the House that it was not easy. We must commend Kenyans when they put this country first.

Mr. Mungatana: Madam Temporary Deputy Speaker, I needed to make a small contribution in the Second Reading of this Statute Law (Miscellaneous Amendments) Bill, specifically on the Elections Act. There is a grave or rather important proposal that passed, and we have discussed this matter with the Attorney-General, that concerns presidential and deputy presidential candidates. In the original Elections Act, I had proposed at the Committee Stage that the presidential candidate may as well vie for an extra seat, if they so wished. That proposal was rejected by the House, so that the presidential and deputy presidential candidates or their running mates were restricted. They could not be allowed to run, for example, a seat in the House and a seat in State House. So, we settled that one. Then I proposed another amendment which was accepted by all of us unanimously at the Committee Stage. I proposed that for the sake of maintaining capacity within the political leadership, those who will have tried to run for elective positions in high places like the presidency and their running mates, if they should not be successful, their parties should nominate them in their party list. There was a section in the Act that seemed to say that they may not include the deputy president and the president in the party list. The House carried that proposal. We approved the proposal.

However, when the gazetted Act came out, it did not carry that proposal. Consequently, I raised this issue on the Floor of the House and the substantive Speaker then directed the Attorney-General to issue a corrigenda. There is confusion because we

hear from the Clerk's office that, that corrigendum was issued and on the other side, the Attorney-General does not seem to be aware of this. We discussed this matter and we are in consonance that it would be a good opportunity now that the Elections Bill is on the Floor to lay the basis for us to make the corrections, so that it is clear from all sides that when a presidential candidate and their running mates participate or offer themselves for an election and they are not successful, they may be nominated by their respective political parties on their party list, so that we can have more candidates participating in this high office.

I have argued before and I will repeat this argument in this Second Reading that it is important, just like in the corporate world and the Civil Service, that there should be a containment of talent. In the corporate world, people start from being assistant managers to full time managers. They grow and become chief executive officers and they change from one company to another. In the Civil Service, people start as Under-secretaries, they become Directors, Deputy Secretaries and then Permanent Secretaries. They are contained within their system. In politics, when people aspire to high offices, we should not do it like they do in Uganda where if one is running for presidency, he is not only excluded from being nominated, but is also not allowed to run for any other seat.

Madam Temporary Deputy Speaker, what happens is that a presidential candidate who is leading a party that has something like 50 or 60 Members in Parliament is not within the House to raise issues. He then resorts to protests in the streets where he is hammered by police instead of engaging the Government in the House under proper decorum and in a dignified manner.

With the passing of the Constitution, it is very clear to me that you could have a President sitting in the State House but, in fact, he does not have a majority in the House. You could have his worthy opponent who may have lost the presidential election but then, he has a majority in the House, or a conglomeration of political parties that make a majority in the House. In each case then, we will have a cohabitation of sorts. The majority leader in the House will be a person who does not necessarily belong to the president's political party. Then we have proper accountability within the House system. This is, indeed, what the American system has been like. You could have a democrat sitting in the White House but, in the Senate and Congress, the Majority Leader is a Republican. There is always some form of proper accountability. Of course, every president would like a situation where the House Majority Leader and the Senate Majority Leader also come from his or her party.

Madam Temporary Deputy Speaker, what we want is to make sure that people who have aspired to high offices and their political parties perform very well, and they have enough members in the House. They could very well be majority leaders or even minority leaders in the House. They can be nominated so that they can properly participate in the contribution in national building. More important also, you can have some of the politicians, who have been in this business for the last 15, 20 or 30 years. They may not wish to actually contest for their local seats. That is because all their time now is being taken running around for a national seat. Now that we have expressly forbidden them from contesting at their constituency or at the county level, then it is important that those people be given an outright capacity to be nominated by their political parties. Indeed, any person who is a senate majority leader, senate minority

leader, house majority leader, a minority leader of the House or a majority leader of the House is a national leader.

Madam Temporary Deputy Speaker, we should start anticipating those things. It is important for us to create the flexibility that is required. Let us not pass laws that, at the end of it all are exclusive and not inclusive of building up political capacity for this House. Very well, the current sitting President, indeed, had lost two elections. He sat here as Leader of the Official Opposition and made his contributions. He offered himself again, at some point. Then, the Constitution allowed for those kinds of people to sit in the House because they could contest their seats. Now, we are saying those people are not allowed to contest their local seats. Now, why can we not allow them to be nominated? In fact, since we had already passed this, why can we not clarify it once and for all so that political content may be contained in this?

For clarity, we are saying that when we passed the Elections Bill, we did not allow presidential candidates and their running mates to run for seats. That we agreed. But we said that they may be allowed to be nominated. When the Act was gazetted, there was an error and that error has never been corrected. So, this is an opportunity for us to make right what has been a mistake in the Government Printer's Office. It is good for us. It is good for the country and it is good for this nation for purposes of breeding future leaders who will take up this nation.

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

Ms. Karua: Madam Temporary Deputy Speaker, I rise in support of this Bill. But I have a few points that I would like to depart from the Mover and the Seconder. In the Bill for vetting of judges, it is necessary that we extend time. But we cannot give the board a blank cheque on time. I want to adopt what Judge Kriegler of the Kriegler Commission once said. That a meeting lasts as long as the time assigned to it. If we do not allocate a specific time to that vetting board, they will make a career, permanent and pensionable, out of the vetting of judges. Although I agree that, maybe, the time we allocated was not enough, we must also consider the following: Is it for the benefit of the nation to have judicial officials in a state of anxiety for too long? You are waiting to be vetted and you continue to hear cases. Is your mind directed to the cases or to the vetting process? I think that we must be time-bound. We should add no more than six months. This country cannot be in a transition forever. We want the vetting of judges and judicial officers to be completed. But we want the Vetting Board to organize their work in a way that is helpful to Kenyans. Even before a court of law, there are cases you dismiss summarily without hearing. They should be able to see if the allegations---- There are those which are not supported by any evidence, which can be dismissed summarily. But if they are entertained indiscriminately, then even if we give them ten years, they may never finish. So, I am suggesting that strictly six months and no more.

As we begin 2013, when Kenya is expected to have a new Government, a Government pursuant to our Constitution, the Vetting Board should have wound up, finished its work and those serving in the Judiciary should have engaged their best gear to continue with the work.

I am also talking about the Truth, Justice and Reconciliation Commission (TJRC). Let them be given the shortest time possible. The TJRC had announced to the country that they had finished their work and they were embarking on report writing. This is a

body that needs the shortest time possible. Even one month, in my view, will be enough. So, if the Minister is talking of 45 days, it is enough. Sixty days is too much for people who said they were embarking on report writing. At the very most, we should give them between 45 and 60 days. Let us not keep people engaged, when they have, themselves, said with their own mouths that they are ready to wind up. Again, Kenya cannot be in transition forever. They have gone round. They now want to make recommendations on how we should deal with historical injustices. Let them get no more than 60 days.

The amendments to the Political Parties Act and Elections Act, yes, they are necessary. But let us remember as Members of Parliament that we are making these laws not for ourselves, but for posterity. Let us not take this opportunity to encourage party hopping. Let us make the laws stronger and not weaker. I want to suggest that if the Government has good faith for filling the one-third gender requirement, we should have had a proposal here to amend the Political Parties Act and the Elections Act to compel parties to have one-third of their nominees for contesting on the seats as women. This is something which we, as a House, must introduce at a later stage. We must introduce a mechanism overriding the one-third rule. The lip-service of a constitutional amendment now sounds hollow as the election date, which is December, continues to draw near. I will, therefore, be seeking Members' support. If the Minister does not introduce the amendment, then we shall do so ourselves.

On Section 10 of the Elections Act, which is actually doing away literally with the voter's card--- That is because they are saying that if you fail to produce a voter's card, provided your name is on the register, you can vote. I have no quarrel with that. But we must be explicit in that amendment. You must identify yourself sufficiently. If you have no voter's card, you must then have an identity card or a passport to actually show you are the person who is registered to vote. Otherwise, we can have people with similar names messing about. We do not want any chaos introduced into the coming elections.

Article 35 of the Political Parties Act which is dealing with the Registrar of Political Parties is giving the President and the Prime Minister a blank cheque to extend the mechanism to institute the process of bringing in a new Registrar by 21 days. We are already past that time. Why do we want to leave it to the President and the Prime Minister whereas the original law did not give them any mandate to waive? If they start quarrelling, as they sometimes do, we may be stuck forever. Why do we not just count the days which we are late, regularize and give them a further 21 days from the date the amendments are assented to? I am urging the Mover who I take is represented by the Minister for Justice, National Cohesion and Constitutional Affairs, to be time bound. Let us not be vague; vagueness should never be in the law---

Mr. Mungatana: Go to The Hague!

Ms. Karua: The going to The Hague in this one is equal to giving the specific number of days.

(Laughter)

So, indeed, to those who say "Do not be vague," I say amen. Let us not be vague; let us be specific. So, this is something the Minister can count backwards. We will help you and let us have the number of days.

Madam Temporary Deputy Speaker, in Section 17, which is on the Citizenship Act, we again want to give the Minister of State for Immigration and Registration of Persons a blank cheque to register anybody as a citizen. Giving citizenship in Kenya should be an elaborate process. We are seeking to enhance accountability and the Minister should not have discretion to give citizenship to any individual.

(Applause)

This is a matter for a board that should be vetting those who apply for citizenship. I am asking that this clause be democratized; it should not be made too easy for a rent-seeking Minister to sell citizenship. We are making this for posterity; we are not looking at who is there now or who will be there tomorrow. It is a law that can serve us well with whatever type of a person. So, here, we expect that the Minister will heed and bring the necessary amendments or we shall bring them.

Madam Temporary Deputy Speaker, on the KNCHR, I want to laud this amendment which says the procedure for appointing the new commissioners should commence four months before the end of the term. This should be an omnibus clause; it should not just be for the KNHCR. The process for recruiting new people for any commission should commence four months before, so that we do not have the kind of situation we have with the Ethics and Anti-Corruption Commission (EACC), where we have stayed without people in office for the longest time possible, thus giving a field day to corruption and corruption cartels.

Madam Temporary Deputy Speaker, with the Tea Board Act, we are now giving another blank cheque to the President to extend the time of the current board up to the end of this year. I think we did not pass a new Constitution so that we retain the old habits of concentrating power in the hands of the Executive. I say so, as a person seeking to be the next CEO of this large corporation called Kenya.

Dr. Khalwale: Halleluiah!

Ms. Karua: Let us not extend this. If we need to appoint new board members, let them be appointed in the manner prescribed in the Act. Let us not have an amendment giving the President, in an election year, the will to extend the term of the board members. One may start wondering; have they been given the mandate to campaign for a certain shade of opinion? Or why is their term being extended? What is the difficulty in June, 2012, of appointing new board members for the Kenya Tea Board? These are the questions that must be answered, otherwise this clause ought to be rejected by this Parliament.

Madam Temporary Deputy Speaker, on the Constitutional Offices Remuneration Act which is sought to be amended, so that the former Commissioners of the Interim Independent Boundaries Commission (IIBC) may be paid salaries and allowances, we know that they were receiving salaries and allowances and, at that time, there were no requirements that they be paid in a certain way. Salaries were being set by the Ministry of Justice, National Cohesion and Constitutional Affairs, including those for the IIEC. Why are we singling out the IIBC here, that they be paid in a certain way? Unless it is explained to us what difficulties there are on a commission that wound up, we do not want to pass laws that retrospectively add salaries to the date of appointment to people who left when we are unable to add to our Civil Service or, indeed, any public worker

any money. These are questions we are asking. The Statute Law (Miscellaneous Amendments) Bill is a very dangerous creature; it comes to save because it allows you to mend very many laws. But something can be sneaked in here and there and before you know it, you have sold the country in the course of that amendment. I am asking hon. Members; let us be very, very vigilant. We are not refusing to have anybody who has worked for Kenyans to be paid, but there should not be any special perks for anybody that are not applicable to the rest of the people.

Madam Temporary Deputy Speaker, I also want to comment on the Sugar Act. I am amazed that amendments are being brought to the Sugar Act by an Attorney-General who answered my Question in this very House when I raised the issue that judgments of the Sugar Tribunal cannot be enforced because there is no provision allowing them to be executed as judgments of a court of law. It is good that he has brought whatever amendment he has brought; but how come he forgot to include that one of the tribunal? I am asking him now to remember and to include it because sugar-cane farmers have a lot of judgments against the sugar companies, either for arrears of allowances that were deducted and not paid or for monies not paid. All these judgments have come to nothing because they have been unable to compel the sugar companies to pay. May I call on the Minister, therefore, to bring this amendment, failing which we shall bring it ourselves to ensure that in this Statute Law (Miscellaneous Amendments) Bill, we make the judgments of the Sugar Tribunal to be of value to the sugar-cane farmers and to be executed in similar manner to court judgments.

Madam Temporary Deputy Speaker, on the Copyright Act, it is very good to bring amendments. But we want amendments that also help the industry from infringement of copyright and also that help them to receive the money that is taken by the Music Copyright Society, because it does receive payments and royalties, but those royalties do not always reach the artists who have performed. I would urge that a composite amendment does come at this stage, so that we can have the percentage of royalties that must be remitted to the owner of the copyright, just like we did for the coffee farmers, where we said that 80 per cent of the money must go to the farmer and 20 per cent to all the middle men.

In this Copyright Law, I am asking hon. Members to support an amendment to give 80 per cent of all the monies recovered to the copyright owner and only 20 per cent to be shared by everybody else along the line. Our musicians and our artists have remained so poor, yet the quality of their work is so good. Why is the money getting lost in the middle? I am asking the House that this is a matter that we must support. We will not entirely leave it to the Government, just like the Sugar Tribunal; we shall line up amendments for enactment at this stage.

Madam Temporary Deputy Speaker, finally, on the Energy Act, I am seeking an amendment relating to the Energy Regulatory Commission (ERC), which in my view, is a commission to support cartels and those “big fish” in the energy sector, but not to protect the consumer. I would want an amendment – and I am asking the hon. Members to support because I doubt whether the Government will support – to make the work of this regulatory tribunal transparent. It must give the formula and parameters which help them arrive at increasing the cost of energy; whether electricity, diesel or whatever fuel. Recently, they made a raise which was difficult to understand; applying common sense. Then they predicted that in three months time the prices will come down. They did not

give us the formula they arrived at to increase. They appear just to be playing games with the consumer. We are paying so much for lighting our houses and fuel. We are paying more than the countries that use Kenya as a transit point. There is something totally wrong with this commission and I am urging the House to take leadership now.

Madam Temporary Deputy Speaker, the House will look at the Acts that I have not looked at.

Madam Temporary Deputy Speaker, I beg to support, subject to those conditions.

Dr. Khalwale: Madam Temporary Deputy Speaker, I also rise to support The Statute Law (Miscellaneous Amendments) Bill. But my support is hinged on the fact that during the Committee of the whole House, I will endeavour to make several corrections.

Madam Temporary Deputy Speaker, during that time, I will endeavour to restore Section 38 of the Sexual Offences Act, which this Bill is attempting to delete. I will also endeavour to restore the Industrial Court Act, which this Bill is trying to amend but, in the process, almost delete the entire Act. Also, during that stage, I intend to support my colleague who has moved to make amendments to the Elections Act. I believe it is hon. Chanzu.

Madam Temporary Deputy Speaker, these are my reasons: If you look at what the Minister or the Attorney-General, for that matter, was doing, he was using an opportunity of this omnibus exercise to introduce major amendments to our statutes; something which I believe was not the intended purpose for this kind of Bill. If the Minister wants to make amendments to our statutes with far-reaching consequences, then he should bring that Bill on a separate Motion than to include it in the Statute Law (Miscellaneous Amendments) Bill.

Madam Temporary Deputy Speaker, I want to beg the Members of Parliament to realize the import of deleting Section 38 of the Sexual Offences Act. That section reads that any person who makes false allegations against another person to the effect that the person has committed an offence under this Act, is guilty of an offence and shall be liable to punishment equal to that of the offence complained of. In the last Parliament, when we were passing this law, this matter was exhaustively debated. We realized that accused persons or suspects should also enjoy protection in the law. As if it was theory then, it came to pass last week when a 90-year old in Coast Province was accused by a mother of an epileptic girl aged 15. The old man was arrested and taken to court. He could not afford bail and so, he stayed in remand for the entire period of the hearing of the matter. When the matter was heard and determined, after experts were brought in, it was established conclusively that there was no physical violation of this epileptic girl. The court was relying purely on the evidence of the mother. The old man was set free at the age of 90 years and as I speak now, the mother of that epileptic girl is at large, because now the police are looking for her to exercise Section 38. We must retain this section to protect, especially men, because some women have a tendency of using this very sensitive issue of violation to harass suspects.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I think you have heard the hon. Member say that some women have the tendency of using this section to victimize men. As we very well know, sexual offence is not an issue of women alone; there are men who are violated. Unless the hon. Member can give us statistics that show that women use certain sections of the law to victimize men, I, as a woman who sits in this House, is feeling threatened because I do not know if

this hon. Member will start to use those sections against me. It is discriminatory and the hon. Member should not use discriminatory language against women. Is he in order to be using discriminatory language against women?

Dr. Khalwale: Madam Temporary Deputy Speaker, I want to thank hon. Odhiambo-Mabona for pointing out that I forgot to include also the risk that some boys face out of sexual harassment. As for your second concern whether I would use this to harass you, I can assure you that my hands are full of beautiful wives and they would not give me time to waste with you.

(Laughter)

The Temporary Deputy Speaker (Dr. Laboso): Continue, hon. Member!

Dr. Khalwale: Madam Temporary Deputy Speaker, allow me to speak on the intended deletion of the Industrial Court Act. I want to beg the hon. Members that if you look at the Memorandum of Objects and Reasons, the Attorney-General is telling us that the reason he wants to amend the Industrial Court Act is because he wants to harmonize the provisions relating to the court with those obtaining, with respect to other courts within the Judiciary. If this is why the Attorney General wants to amend this, then I am worried that he might not be aware of the provisions of the Constitution in respect of the Industrial Court. In Articles 162(2)(a) and 165(5)(b), the Constitution provides for the description of the Industrial Court. In that Article, if the amendments are carried, they seek to destroy the independence of the Industrial Court as currently constituted and make it a division of the High Court.

Madam Temporary Deputy Speaker, Article 162(2)(a) actually establishes a special independent court to deal with employment and labour relations. In fact, the Industrial Act which gave effect to this particular provision of the Constitution was enacted to give effect to this. The Constitution goes further to stamp the Industrial Court's independence in Article 165(5)(b), which hosts the jurisdiction of the High Court on matters falling within the purview of the Industrial Court.

Madam Temporary Deputy Speaker, the Industrial Court Act of 2011 which Members will remember we debated in this House beyond midnight last year, preserved the intended autonomy by providing for a court that would be headed by the Principal Judge, assisted by the Registrar of the Industrial Court and two Deputy Registrars who report to the Chief Registrar of the Judiciary. We also provided that the Chief Justice would have the overall supervisory jurisdiction over this court. If, as proposed in the amendments, you will abolish the position of the Principal Judge and replace it with the Presiding Judge, you will remove Section 8 which provided for the funding of the court through the Consolidated Fund. You will remove the financial independence of the court after the deletion of Section 8. The moment you do this, you will have removed the Principal Judge and made it part of the High Court, and the effect would be that you have breached the Constitution. You will have made this to be an ordinary court and not a special court as provided for under Article 162(2)(a) of the Constitution of Kenya.

I want to beg Members to see why I am belabouring this point. It is because the Industrial Court, in its present form as exercised under the Industrial Court Act, 2011, makes it the most, as I would say, Wanjiku friendly court in Kenya. An aggrieved individual can approach the High Court directly without the assistance of any lawyer and

argue his own case successfully because of the special simple procedures governing the exercise. These are the Industrial Court procedures and rules. If we amend this Act the way the Minister is proposing, we will subject industrial matters to civil procedure rules which will be subjected to the rule of evidence. In the process, somebody will take the matter to the High Court, he will pay legal fees and when they lose, they will go to the Court of Appeal and pay. If they lose, they will go to the Supreme Court and pay. How many watchmen from Nyatike and how many cooks from Kakamega can afford the fees of lawyers from the High Court to the Court of Appeal and to the Supreme Court? We must be conscious of the fact that justice has got a cost. So, if the Committee of Experts that drafted the Constitution was alive to this and they protected all the cooks who come from Kakamega, all the watchmen who come from Busia and all sugar-cane cutters of Mumias, why do you want to punish them this afternoon? This simply means that a poor worker would never win a case. It should not be lost that whenever a worker approaches a court the person he or she is faced with before the court is the employer and the employer, under normal circumstances, is always richer than the employee. So, they would have a field day. All they would do is to ensure that the matter fails at the High Court and then this man is left stranded because he cannot go to the Court of Appeal or to the Supreme Court.

The other issue I want to raise about the Industrial Act is how it relates to the Labour Convention. The Labour Convention, in fact, No.144 of 1976 provides--- By the way, it has been ratified by Kenya. It provides that each Member of the International Labour Organization (ILO) which ratifies this Convention undertakes to operate procedures which ensure effective consultations with respect to matters concerning the activities of the ILO set out in Article 5, paragraph 1 below between representatives of Government, the employers and the employees.

If this is the case, and since our Constitution provides that once a Convention is ratified by the country, it is part of our law, what this means is that by this Parliament attempting to pass this amendment without proceeding to allow for consultations between the Government, the employer and the employees represented by trade unions, we are in breach of the Constitution. I appeal to the House that we deny this Minister this amendment not because we do not like his proposals but so that he can move in line with the provisions of the Constitution as derived from the International Labour Organization Convention by way of moving to call for a tripartite consultative session between the Government, the Federation of Kenya Employees (FKE) and the Central Organization of Trade Unions (COTU). Once they do that, they will look at this Act collectively and reach a settlement. It is that settlement that we would move to give effect to the intended amendments. Otherwise, to take it upon ourselves because we believe that we know these things, we will be carrying out our mandate but in so doing, somebody might move to court and say that we moved unprocedurally.

The last thing I want to talk about on the Industrial Court is that of the name. It is called "The Industrial Court" because that is how it is provided for internationally. We debated this matter here led by the Chair of the Departmental Committee on Labour and Social Welfare, Madam Sophie, and the House passed, unanimously, that this name should be retained and that it offends no one.

My final point is on the intended amendment by the Minister on the Elections Act. The Minister wants to amend the Elections Act and I want to applaud him for this.

He has seen the weakness in Section 22(1) of the current Elections Act. I want to support this because after going on the ground, we set a very high standard for councillors where we provided that councillors must have a minimum of Form Four education plus some form of post secondary education. That is all very well. We want to move towards that in future but at the back of my mind, I am thinking about this woman and there are very many such women in this country. They are not just limited to Kakamega. For example, a woman leader of *Maendeleo ya Wanawake* who has built a lot of experience, she has been a councillor for five years and does not have that post Form Four education, but this institutional memory; that experience she has picked from serving as a councillor actually makes her a notch higher than even somebody who is a diploma holder. I will be supporting my colleague who wants to propose that, yes, we retain the Minister's amendment but further provide that people who have served as councillors should be given an opportunity to use that service as the equivalent of post secondary education and that they enjoy this window not indefinitely but they use this window for only one term, though an hon. Member is suggesting two terms. That way, we will have embraced the desire of a high standard and we will not have knocked out very good leaders who obtain both in the women world and in the male world.

Madam Temporary Deputy Speaker, as I end this issue of high standards of education, hon. Members I am begging you that we save our councillors. Might it be that we were guided by the principle of self preservation when we did not give such a high standard to Members of Parliament because we are Members of Parliament?

I beg to move with those proposed amendments.

Dr. Otichilo: Madam Temporary Deputy Speaker, I wish to contribute to this Bill. First and foremost, I want to thank the Minister who has brought these amendments. Quite a number of them are very valid and they need to be put in place. I wish to make comments on a few amendments which I find very pertinent and useful for this country.

First and foremost, I want to congratulate the Minister for the first time for introducing an amendment to the Science and Technology Act so that the National Council of Science and Technology (NCST) can be a corporate body. This is extremely important because for many years, science and technology in this country has been relegated to the back seat and this amendment is going to make the NCST a very independent corporate body that will steer science and technology in this country. So, I want to congratulate the Minister for bringing this amendment which is going to see that this country is propelled to higher heights of development through science and technology, and innovation.

Madam Temporary Deputy Speaker, secondly I wish to also thank the Minister for introducing another very important amendment and this is on the Kenya Information and Communications Act of 1998. Vandalism of telecommunication has become very rampant and as we all know, telecommunications has become a very important industry in this country. Information and Communications Technology (ICT) is the one now that is driving this country. Most of the jobs that are being created today are through ICT and because this country has taken a very bold step to improve ICT through the internet and so on, we have many people who are sabotaging this very important endeavour by the Government, whereby people vandalize internet wires and equipment and even underwater cables so that sometimes we run short of having no internet because cables have been vandalized.

So, I want to laud the Minister for bringing these amendments. However, I am not very happy when he says anybody who is caught vandalizing ICT equipment will be liable to a fine not exceeding Kshs10 million. I believe this is very lenient because if you say “liable to a fine not exceeding Kshs10 million”, the judge has latitude to fine this person anything. He can fine him even Kshs1,000 because it is under Kshs10 million. So, I wish to bring an amendment so that this fine is not less than Kshs10 million. This will give a very strong signal and message to these people who are vandalizing our internet facilities because this country without internet cannot create the jobs that are required. So, I wish to note that this is an amendment that should be brought to this Bill.

Madam Temporary Deputy Speaker, I am also very happy when it comes to amendment to the Energy Act of 2006. The Rural Electrification Authority (REA) has done a commendable job in distributing electricity throughout the whole country. For example in Emuhaya today, the coverage is now 92 per cent. However, the biggest problem is vandalism of transformers. All the time the transformers are put in place, immediately people come and vandalise them and, therefore, we have electricity all over the place but the transformers have been vandalized. The current fines to those who vandalize this equipment are very lenient. So, I am very happy that under this amendment, people who vandalize our electricity facilities particularly transformers will be liable to a conviction of life imprisonment. To me, this is good because this is an economic crime and this is what people have been doing with a lot of impunity. So, this is going to send a very strong message and particularly from the information I have and what we have had, the people who vandalize these transformers are the same contractors who are hired to put up the transmission lines and these transformers because an ordinary Kenyan cannot dare climb on an electric post and try to remove a transformer and remove that important oil that is in it. So, it is important that these people should be imprisoned for life.

Madam Temporary Deputy Speaker, I also want to agree with the earlier speakers particularly hon. Martha Karua as concerns the Truth, Justice and Reconciliation Commission. This commission has been collecting information. They have collected enough information. They brought an amendment in this House for us to extend their time and we did and now they cannot come back again and ask for more time. So, I am saying that probably one month is adequate or even less because when they were collecting this information, if they were efficient they should have been writing the report at the same time. That is how report writing and consultancy is done. You do not collect information and then afterwards you sit down and then you start saying: “Now I want to write.” You do these things concurrently. So, I want to agree with the speaker’s earlier that this is important.

Also, on the Political Parties Act, it is important that when we look at the process of recruitment of the Registrar of Parties and the assistant, I think it must be watertight to ensure that everything is done properly. I am also happy with the amendments on the Urban Areas and Cities Act of 2011. They have brought in a number of good amendments which make this Act very appropriate and will be used very well.

Madam Temporary Deputy Speaker, I also want to laud the Minister on the amendments he is bringing on Environment and Land Court Act of 2011. It is important that the definition of “environment” is in line with the Environment Management Coordination Act (EMCA) law because the definition that was provided in this Act is at

variance with the one in EMCA. So, it is important that this is brought out clearly, so that the definition remains one.

Madam Temporary Deputy Speaker, finally, I want to agree with those who have spoken on the amendments to the Elections Act, 2011. It is important that if somebody has no voter's card, he is allowed to vote if his or her name appears on the voters register. However, that person must be able to identify himself or herself. Otherwise, there can be a lot of cheating.

There is also the issue of the nomination rules. I agree with the reduction of the period from six months to three months.

With those remarks, I beg to support.

Mr. Chanzu: Madam Temporary Deputy Speaker, I also want to join my colleagues in supporting these amendments.

As my colleague said earlier, I intend to bring an amendment during the Committee Stage to exempt sitting Members of Parliament and councillors from the requirement of having post secondary school qualification because of the experience they have acquired over time while serving on those capacities. In this case, we are not particularly talking about sitting Members of the current Parliament, but the issues will come during the Committee Stage.

Madam Temporary Deputy Speaker, I am happy about the amendment on the Advocates Act, seeking to change the "Disciplinary Committee" to "Disciplinary Tribunal". While we were debating The Kenya School of Law Bill the other day, the issue of discipline amongst practising lawyers, particularly those in the field, featured prominently. I think when we talk of changing the wording from "committee" to "tribunal"; we are talking of creating a stronger body that will be able to address some of the malpractices that we have seen in the legal profession.

Under the Civil Procedure Act, Cap.21, the Minister is seeking to create a mediation committee for dispute resolution. We know that this is a cheaper way of solving disputes. So, this is a commendable amendment which is going to help in terms of dispute resolution.

Madam Temporary Deputy Speaker, there is also an amendment on the Kenya Literature Bureau Act, where the Minister seeks to extend the mandate of the bureau to enable it to serve orders from outside Kenya. This is also a good amendment because we are widening the scope of the bureau. The bureau will benefit from economies of scale due to increase in orders. It will also have to meet international standards and so on. So, we will have more people publishing through the bureau. This might help us to reduce the cost of books, which has made education very expensive in this country. Another amendment that I find commendable is the one on the Medical Practitioners and Dentists Act, to allow for the publication of medical and dental practitioners in the print or electronic media. This is another commendable amendment because one will have to be approved by the Medical Practitioners and Dentists Board. We have had situations where quacks were practising as medical people. Some of them inject people with water and purport that it is drugs. I think we shall be able to know who is allowed to practise as a medical or dental practitioner when we publish them.

Madam Temporary Deputy Speaker, the other one is the Kenya Red Cross Society Act, Cap.256. We know very well that the Kenya Red Cross Society has played very important roles in our society, particularly in terms of calamities. This amendment is

meant to assign the Society the objectives of offering training in courses related to their activities. This is very useful because we are allowing them not just to come in on *ad hoc* basis, but to train and be equipped so that they are ready for the activities. This is why we talk about preparedness as a country where we have not been prepared to deal with some of the hazards and calamities. I think this is one way of empowering the Kenya Red Cross Society.

The other one is provision for the recognition of the activities of the Society at the national and county level. That is in the same spirit so that they can be recognized. Through that they can also be able to source funding which can help them fund activities aimed at helping Kenyans when they are in bad situations like accidents and so on.

Madam Temporary Deputy Speaker, my colleagues have talked about the Kenya Information and Communications Act which I think is also commendable. The idea of maintaining registers of their customers is important because we have seen some people send messages, some abusive, through phones. If we keep a register of all the people who operate in this business, then it will be easier to track them. The other amendment which I also support is to provide for the making of regulations for registration of subscribers. That is also the same. The Minister can make regulations for registration of these people in a way that we can be able to track them down when the registers are already in place.

The other one we have talked about, and Dr. Otichilo was addressing was the penalties for interference in the telecommunication industry. There was a time when the Royal Media Services made it impossible for other players to operate. I think this is good so that it can deter this kind of behaviour when people fear competition.

On the Energy Act; removal of delimitation on the qualification of persons to be licensed by the commission as electrical contractors, there is no need for those who are supposed to perform the work of contractors to be registered as engineers. This will be businessmen who invest money and can be able to employ engineers. So, I also support that amendment because of that.

We have talked about deterrent penalties for persons who willfully destroy property. The power outages or blackouts we have had are because of interference and vandalism. The hon. Member talked about the contractors alone, but it is not only them. I think it is collusion by even the engineers who work in those companies. So, it is a worthwhile amendment which we should also support.

With those remarks, I beg to support.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we have come to the end of today's sitting. Therefore, the House stands adjourned until Wednesday, 6th June, 2012, at 9.00 a.m.

The House rose at 6.30 p.m.