

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 11<sup>th</sup> October, 2012

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### PLIGHT OF KENYANS MAIMED AND KILLED BY WILDLIFE

**Mr. Mututho:** Madam Temporary Deputy Speaker, I rise to present a petition on behalf of the many Kenyans who have been maimed and killed by wildlife.

We, the undersigned, being Kenyans, representative of the farmers from Laikipia, Nakuru, Samburu, Taita Taveta, Kajiado and Narok counties dealing with livestock and agricultural farming, seek to bring to the attention of the Government through Parliament that we legally and individually own pieces of land within our counties in areas where human/wildlife conflict has been rampant, greatly affecting our livelihoods over the years where wild animals have perennially attacked and killed or injured both human beings and livestock and destroyed our crops.

Madam Temporary Deputy Speaker, without going through the whole text, the essence of this petition is that the petitioners are praying that it remains very inhuman for the Government to continue compensating at a rate of as low as Kshs15,000 and, usually about Kshs200,000 sometimes. In most cases, no compensation is paid at all. The law needs to be looked into. This House needs to look at the plight of those very many people who suffer every day including today. There are so many farmers who are suffering today. There are so many families which have lost because of wildlife.

The petitioners, therefore, are making the following humble prayer:-

(i) Fast-track the enactment of the proposed Wildlife Bill to address human/wildlife conflict.

(ii) Involve all stakeholders in the process to ensure that all the issues are adequately addressed

(iii) Consider reviewing previous crimes and compensation for livestock killed and agricultural crops destroyed by wild animals with a view of honoring those claims on compassionate grounds.

(iv) Consistently and reliably provide relief food for families living in areas perennially prone to destruction of food crops by wild animals and consider waiving all hospital bills for persons injured by wild animals while awaiting the enactment of the proposed Bills.

We have bodies which are still held in morgues. We have individuals who cannot get adequate medical treatment because they cannot afford to and yet, for anybody who was unfortunate enough to get arrested with even one ear of an antelope, he has been put in jail promptly.

This is the petition.

**Ms. Karua:** Madam Temporary Deputy Speaker, I rise to support the petition. We value our wildlife but we value human beings even more. We must show in the policies and laws that we make that human life is worth more than what we are showing today.

Madam Temporary Deputy Speaker, in all areas bordering game sanctuaries, our people are suffering. It is time that the Executive took this seriously. It should bring the Bill before the House so that we can debate and pass it and end the suffering of our people.

**The Temporary Deputy Speaker (Dr. Laboso):** This debate will not go on for more than five minutes. So, please, just make very brief statements.

Mr. C. Kilonzo, please, proceed.

**Mr. C. Kilonzo:** Madam Temporary Deputy Speaker, likewise, I want to support this very crucial petition. We need to ensure that those who have been attacked by wildlife are fairly compensated. At the same time, we do not want to get rid of our wildlife. A good case is what happened the other day when three lions were killed by the Maasai morans. The only way to discourage that is fair compensation for all the victims, whether it is their crops or individuals affected.

I wish to support.

**Mrs. Noor:** Madam Temporary Deputy Speaker, I wish to support the petition. There are incidents all over the country and in, particular, there was a very painful incident where two Kenyans were attacked by crocodiles in Gababa in Ijara Constituency. Those two ladies were breast feeding when they went to the river to fetch water. They had no identity cards and, therefore, they could not be compensated with the little money that Kenyans are given when they are attacked by wildlife.

I support the petition. I would like to ask the Government to prepare the Bill immediately so that we can save our country and innocent Kenyans. We should also protect our wildlife.

**Mr. Letimalo:** Madam Temporary Deputy Speaker, I support the petition. It is important to know that the petitioners come from pastoral areas. The pastoralists are known for not killing wildlife. In fact, wildlife grazes freely with our livestock. However, we are really concerned about the meagre compensation that the Ministry gives whenever people are killed by wildlife. We are calling upon the Minister to bring the Wildlife Bill so that we will be able to address these concerns.

Secondly, we are equally concerned about arbitrary arrests that are made by wildlife rangers whenever people are suspected to have killed wildlife. It is important that they look for the criminals instead of undertaking massive arrests.

**The Assistant Minister for Education (Mr. Mwatela):** Madam Temporary Deputy Speaker, as we stand here and talk about this petition, the body of one Mwangunga lies in the mortuary, having been killed by a buffalo. The late Mwangunga is going to be buried this Saturday. He hails from my constituency. I, therefore, urge my colleague Minister to expedite the Bill. In any case, before the term of this House expires, let us get the Bill done.

**The Assistant Minister for Roads (Dr. Machage):** Madam Temporary Deputy Speaker, as I support this petition, it is true that people in this country have suffered. There are some animals that are more predominant in some areas. In the lake region, we have many snakes and,

therefore, there are people who get snake bites. As the Bills prepares for compensation, it should also cover medical expenses and hospitalization, free supply of anti-serum and all that is necessary to save lives.

I support.

**Mr. Njuguna:** Madam Temporary Deputy Speaker, Sir, it is fresh in our memories that young women were killed by lions in Laikipia. In Lari Constituency, we also lost a young couple. Therefore, this is a very timely petition that will address that real threat.

I support.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Madam Temporary Speaker, I support this petition. It is a very well known fact that 85 per cent of wildlife in Kenya is hosted by our people, especially the pastoralist community. The Samburu people are the best friends of wildlife.

We are sick and tired of hosting the wild animals which are killing our animals and people. We get very little in terms of resource sharing from tourism. I urge the House Business Committee (HBC) to fast-track this Bill which, I believe, the Minister has already drafted, so that our people can be protected and the country can benefit through tourism.

**Mr. Musyimi:** Madam Temporary Deputy Speaker, I beg to support the petition. As you are probably aware, the Ministry that is responsible for this task comes under the oversight of my Committee. The number of petitions that have come to my Committee is huge to the extent that we have to ask the Minister and the Kenya Wildlife Services (KWS) to look into the matter. We are glad that this petition has come. In my own constituency, we have lost many people to crocodiles in the dams. There is very little attention or sensitivity by the Government on this matter. In fact, my people think the Government is very contemptuous of their claim and request.

I beg to support.

**The Assistant Minister, Office of the Prime Minister** (Mr. Mbadi): Madam Temporary Deputy Speaker, Ruma National Park falls in my constituency. My constituents have suffered a lot in terms of animals coming out of the park and destroying our crops and killing people. Any attempt to drive the same animals back to the park by my constituents results into unnecessary and arbitrary arrests.

Even without referring this matter to the Committee, I would urge the Ministry, because that is provided in our Standing Orders, to take this matter seriously; get the petition and implement it wholly.

Thank you.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, pursuant to Standing Order No.210 this Petition then stands committed to the relevant Committee which I believe is the Committee on Lands and Natural Resources.

Next Order!

## PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Labour and Social Welfare on the nomination of Ms. Gumatto Ukur Yattani as a Member of the National, Gender and Equality Commission.

*(By Mrs. Noor)*

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

## **NOTICE OF MOTION**

NOMINATION OF MS. YATTANI TO NGECC

**Mrs. Noor:** Madam Temporary Deputy Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the nomination of Ms. Gumatto Ukur Yattani as a member to the National, Gender and Equality Commission laid on the Table of the House today, Thursday, 11<sup>th</sup> October, 2012.

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

## **QUESTIONS BY PRIVATE NOTICE**

SALARIES/ALLOWANCES OF COMMISSIONERS

**Mr. C. Onyancha:** Madam Temporary Deputy Speaker, I beg to ask the Minister for Finance the following Question by Private Notice.

What are the salaries and allowances for all the Commissioners of the Commissions set out in the Constitution and how much is it costing the taxpayers in total?

**The Assistant Minister for Finance (Dr. Oburu):** Madam Temporary Deputy Speaker, I beg to reply.

The 11 commissions established under the law whose commissioners are being paid by the Government are:-

1. The Public Service Commission.
2. The Teachers Service Commission.
3. The Kenya National Commission on Human Rights.
4. The National Cohesion and Integration Commission.
5. The Truth Justice and Reconciliation Commission.
6. The Constitution Implementation Commission.
7. The Commission on Revenue Allocation.
8. The Salaries and Remuneration Commission.
9. The Independent Electoral and Boundaries Commission.
10. The Commission on Administrative Justice.
11. The Judicial Service Commission.

Madam Temporary Deputy Speaker, the salaries and allowances of the 72 commissioners and 98 judges is costing the taxpayers Kshs123,364,000 per month, out of which, Kshs71,768,808 caters for their salaries per month. Kshs51,595,192 is paid as allowances and it is included in the salaries per month.

**Mr. C. Onyancha:** Madam Temporary Deputy Speaker, I wish to thank the Assistant Minister for that answer, but I expected a more comprehensive answer which would have stated how much each commission is taking home. We know very well that the Public Service

Commission (PSC) has not even been formed and the salaries pertaining as of today are those of civil service as they were before.

Secondly, the salaries of the commissioners of the Teachers Service Commission (TSC) are quite low compared to the other commissions. Would I be right in suggesting that given the average of what you have given us is Kshs824,000 per commissioner, the majority of commissioners in the new commissions earn more than Kshs1 million, including allowances?

**Dr. Oburu:** Madam Temporary Deputy Speaker, it is not true that they earn more than Kshs1 million. I want to table the detailed remuneration packages of the commissioners and Judges of each commission showing how much they earn; I think that is what the hon. Member wanted to know. I beg to table.

*(Dr. Oburu laid the document on the Table)*

**Mr. Outa:** Madam Temporary Deputy Speaker, I want a clarification from the Assistant Minister. Even as he tables the remuneration of the commissioners, we want him to come out clearly on how much the salaries and allowances of the commissioners are. We have seen that members of the civil society are stretching their eyes towards the hon. Members of Parliament. They allege that we are the highest earners and yet the commissioners are quiet about their salaries. I think the public needs to know how much these commissioners earn. I would like him to categorically tell us how much the salary of a commissioner is because I am not getting that answer from what he has tabled.

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Member! Your point has been made!

Mr. Assistant Minister, before you answer, there is a point of intervention by Benjamin Langat.

**Mr. Langat:** On a point of order, Madam Temporary Deputy Speaker. Given that the list showing details of how much these commissioners earn has just been tabled, could I be in order to ask that this Question comes up after the last Question, so that we can have time to interrogate it?

**The Temporary Deputy Speaker** (Dr. Laboso): Owner of the Question, what is your position on this?

**Mr. C. Onyancha:** Madam Temporary Deputy Speaker, I was going to ask for the same time, so that we can interrogate the list, in view of the fact that I was given the written answer just about five minutes before I came into the House.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, yes, since this is a matter that is of interest to all of us, we can continue with the rest of Questions and come back to it later.

Mr. C. Onyancha, are you just getting the response now?

**Mr. C. Onyancha:** Yes, Madam Temporary Deputy Speaker. I got parts of the written answer as I was entering the Chamber. I do not have the detailed list.

**The Temporary Deputy Speaker** (Dr. Laboso): Yes, I think it is reasonable to allow you to have a quick look through it. So, we will come back to this Question later.

Next Question by the hon. Member for Keiyo South.

FILLING VACANCIES CAUSED BY RESIGNATIONS  
OF SENIOR CIVIL SERVANTS

**Mr. Kiptanui:** Madam Temporary Deputy Speaker, I beg to ask the Minister of State for Public Service the following Question by Private Notice.

(a) Could the Minister provide a list of all senior civil servants who have resigned from their jobs to contest for elective posts in the country?

(b) What measures has the Minister put in place to ensure that the respective Ministries, parastatals and other Government bodies continue running uninterrupted before substantive officers are appointed to the affected offices?

**The Minister of State for Public Service** (Mr. Otieno): Madam Temporary Deputy Speaker, this Question was answered partially and was raised again today to enable hon. Members to seek further clarification on the answers that I had given.

Madam Temporary Deputy Speaker, first, the list has since grown from 115 to 320 resignations. You will realize the reason is because the questioner did say “senior civil servants” in part “a;” but in part “b” the intention appears that they wanted to know the entire public service, including parastatals. The definition of “senior” varies with all these institutions and there is no fixed definition. So, we preferred that we get returns for all those who have resigned to contest in the next elections. That is why the list, after clarification, has grown to 320.

Madam Temporary Deputy Speaker, I wish also to confirm that Emanuel Kisombe, the Permanent Secretary (PS) in the Ministry of State for Immigration and Registration of Persons had not resigned; he is still in office. Two, I wish also to confirm that Prof. Godia has since been confirmed by the President as the PS.

*(Applause)*

Thirdly, Madam Temporary Deputy Speaker, I wish to explain a little technicality facing these acting officers as of now. If any of them is confirmed to the position of PS, we have 42 of them while the Ministries are going to reduce to 22, they will have to fill those positions after the elections competitively. Some of them have a fear that, if you raise them to the position of PS, there is no guarantee that the competitive process will allow them to fit into the reduced number of Principal Secretaries. But if he stays lower, where he is now without being confirmed in the acting capacity, he has his chance of permanent and pensionable terms. So, a number of officers were afraid that they can act, given the authority as they have been given by the President and the Public Service Commission and having been appointed as accounting officers by the PS, Treasury, they are competent to act. However, they do not want to prejudice their position of continuation in the Civil Service by being given a job which the new Constitution demands that they will have to compete for. They are sure that for a half of them, definitely, there will be no jobs for them.

So, Madam Temporary Deputy Speaker, I hope that hon. Members will understand these legitimate fears of the officers and allow them by choice, if they wish to act or be confirmed, we can address that internally. Prof. Godia did not have a problem because if he is not made a Principal Secretary after the elections, he will just go back to the university because he is on secondment. So, his appointment could easily be confirmed in that pretext.

Madam Temporary Deputy Speaker, I wish to request for any further clarifications that hon. Members may wish to have on this matter.

**The Temporary Deputy Speaker** (Dr. Laboso): We will give the first opportunity to the questioner.

**Mr. Kiptanui:** Thank you, Madam Temporary Deputy Speaker. I wish to thank the Minister for attempting to answer this Question comprehensively. When he answered this Question last time, he said that 115 officers had resigned. This afternoon, the list I was given was for 287 officers and while I was seated here, I was given another list of 33 officers. That means that the Minister does not have a full list of officers who have resigned.

I would like him to assure this House when these positions are filled, that they will consider regional balance and gender parity.

**Mr. Otieno:** Madam Temporary Deputy Speaker, as the hon. Member is aware, I passionately pursue the regional diversity principle. I will look into it and ensure that, that is taken into account as these positions are filled. Hon. Members are always free to draw the attention of the Government whenever they feel that there is a shortfall in the implementation of the regional diversity principle.

**Mr. Sirat:** Madam Temporary Deputy Speaker, if I may get it right, the Minister has said that since the last time he was here, the President has confirmed Prof. Godia as a full PS. I wonder why the President did not confirm the acting PS in the Ministry of State for Provincial Administration and Internal Security. This is a very important and sensitive Ministry. Why has the President not confirmed him?

**Mr. Otieno:** Madam Temporary Deputy Speaker, that is precisely what I was explaining in my point number three in the explanation. If Mr. Iringo, as Director of Administration, is confirmed as PS, he will have to face a competitive process to be a Principal Secretary after the elections. If he acts as PS, he retains his position as Director of Administration, which is a secure position that does not have to be filled competitively after you have been promoted to that position. So, this is one example where an officer feels secure to be able to continue in his permanent and pensionable office as Director of Administration after the elections. But if he is confirmed as PS, then another person will be appointed as Director of Administration substantively. Right now, somebody else would be acting in that position; so, he has room to revert to it. It is purely for their own security as career civil servants. I did request hon. Members to bear with them because they put this matter to me; that:-

“Mr. Minister, you can confirm me to the next position. We are 42 PSs and a half of us are sure to go home. I am only 46 years old; I still have another 14 years to go in secure public service. So, I am willing to act in the position. I am competent to act in that position; I have been authorized to act in that position, given all the powers to do so and I can deliver for the period to the next elections. But why risk my career personally by appointing me substantively, replacing me down and then exposing me to the competitive process? If I am not taken as one of the future Principal Secretaries to be interviewed competitively and recommended by the Public Service Commission, my career would have been destroyed. So, please, do not take my neck to the chopping board if you can allow me to act in the interim.”

I did explain that. I agreed with the officers that we allow them that arrangement.

**Dr. Nuh:** Madam Temporary Deputy Speaker, is the Minister further aware that since some of the PSs are in an acting capacity as from now, and having the elections on the 4<sup>th</sup> of March, 2012, by the time Parliament reconvenes to start the vetting process of new PSs, they would have acted for more than six months, which will contravene the same regulations set by the Public Service Commission? What is the Ministry now intending to do with such a looming danger of breaking their own regulations that they have set?

**Mr. Otieno:** Madam Temporary Deputy Speaker, we are allowing these officers to act in those positions by choice. I am not short of officers that would replace them in six months. Instead of forcing them to exit after six months, we can always put the next senior-most person. In most Ministries, we always have at least two people who are competent enough to act in those positions. Breach of our own regulations is different from the constitutional provision that would, otherwise, force them to exit the public service.

**The Temporary Deputy Speaker (Dr. Laboso):** There is a point of intervention. Mr. Letimalo, what is your point of intervention?

**Mr. Letimalo:** Thank you, Madam Temporary Deputy Speaker. Is the Minister in order to tell us that the Government allows civil servants to earn those capacities by choice, instead of telling us how long the Civil Service Code of Regulations allows those officers in acting capacities to act before they are confirmed?

**Mr. Otieno:** Madam Temporary Deputy Speaker, according to our code of regulations, they act for six months and we always have the discretion to extend it.

**Mr. Njuguna:** Madam Temporary Deputy Speaker, while thanking the Minister for his thoroughness in responding to this Question, could he in addition explain to the House the criteria that they have applied on the appointment of these 42 senior Government officers?

**The Temporary Deputy Speaker (Dr. Laboso):** Which 42 officers are you asking about? The Minister seems confused.

**Mr. Otieno:** Madam Temporary Deputy Speaker, Sir, I was referring to Ministries where there are Permanent Secretaries as of now in the Grand Coalition Government. But after the next elections the Constitution provides that there shall not be more than 22 Ministries plus the Attorney-General, the Deputy President, the President and the Cabinet of not more than 25. So, the number will be cut down.

**The Temporary Deputy Speaker (Dr. Laboso):** Hon. Members, we have a lot of business and I am inclined to give the last chance to the questioner. I know there is a lot of interest in this Question but I think the Minister has sufficiently clarified.

**Mr. Kiptanui:** I am satisfied, Madam Temporary Deputy Speaker.

#### REHABILITATION OF BANGALE DAM

**Dr. Nuh** alimuuliza Waziri wa Maji na Unyunyizaji:-

(a) kama ana habari ya kwamba maji ya bwawa la Bangale ambayo ndiyo njia pekee ya maji kwa wakazi wa Bangale imeharibika;

(b) kama ana habari zaidi kuwa kuna uwezekano wa kuzuka maradhi kutokana na matumizi ya maji haya; na,

(c) ni hatua gani amechukua ili kuepusha wenyeji kwa hatari hiyo.

**The Minister for Water and Irrigation (Mrs. Ngilu):** Bi Naibu Spika wa Muda, naomba kujibu.

(a) Ni kweli maji ya bwawa la Bangale yameharibika.

(b) Ninafahamu kwamba madhara yanaweza kupatikana kutokana na matumizi ya maji haya.

(c) Wizara yangu ikishirikiana na washika dau wote inawaadhimisha wakaazi wote wa eneo la Bangale juu ya matumizi ya dawa ya kutibu maji aina ya *pur* iwezayo kusafisha na kutibu viini katika maji.



Tayari wizara imepeleka kтони 60 ambazo zina jumla ya paketi 14,400 ambazo zinaweza kutumika kwa muda wa mwezi mmoja.

**Dr. Nuh:** Bi Naibu Spika wa Muda, katika jibu nililopewa na Waziri, linasema ya kwamba Wizara imeanzisha mikakati kabambe ya kupata maji ya kudumu kupitia bomba la maji kutoka Madogo na mradi huu utagharimu Kshs534 million. Jibu linasema kwamba ujenzi wa bomba hili utanza mwaka huu wa kipindi cha matumizi ya pesa na unatarajiwa kukamilika baada ya miaka miwili.

Swali kwa Waziri ni kwamba ; wametenga shilingi ngapi katika kipindi cha matumizi ya mwaka huu kuweza kuanzisha mradi huu wanaosema?

**Mrs. Ngilu:** Bi Naibu Spika wa Muda, pesa zile ambazo tumetenga ni za kuwasaidia wananchi kwa madawa. Lakini mwaka ujao tuna mradi mkubwa ambao tutatumia kiasi cha Kshs534 million kufanya kilomita karibu 78 ambazo ndizo zitawezesha kuwapatia wananchi maji.

Tumejaribu sana kuwasaidia wananchi ambao wanakaa huko lakini mpaka sasa hatujaweza kupata maji masafi hata tukijenga kisima. Kwa hivyo, tutatumia ile pesa tuliyonayo kwa sasa kutengeneza huu mradi mkubwa ambao utaleta maji kutoka mto unaoitwa Muororo. Hapo ndipo tunaweza kuwasaidia wananchi wa upande huo.

**Dr. Nuh:** Hoja ya nidhamu, Bi Naibu Spika wa Muda. Niliuliza swali kwa sababu jibu nililopewa na Waziri linasema kwamba mradi huu utanza katika kipindi cha matumizi ya mwaka huu wa Serikali. Waziri sasa anasema kwamba jibu alilonipa sio sahihi. Waziri anaweza kuwaeleza wananchi na Bunge ni kiasi gani cha pesa wametenga kuanzisha mradi huu katika kipindi cha matumizi ya mwaka huu?

**Mrs. Ngilu:** Bi Naibu Spika wa Muda, kwa mwaka huu pesa zile ambazo ziko kwa huu mradi ni za kufanya uhandisi. Wahandisi wote wameanza kazi yao ya kufanya uhandisi. Kwa hivyo, wakimaliza hiyo kazi ya uhandisi ndio kazi itaanza.

**Mr. Ochieng:** Mimi ningependa kujua ni mikakati gani ambayo Serikali kupitia Wizara ya Maji na Unyunyizaji imeweka ya kuona ya kwamba Wakenya watapata maji masafi ya kunywa, kuoga na ya matumizi mbalimbali nyumbani. Utafiti uliofanywa karibuni na watu wengine waliotoka ng'ambo, walipata kwamba kuna madhara juu ya asilimia 70 ambayo yanaletwa kupitia maji. Serikali itafanya nini ili kuona ya kwamba Wakenya wamepata maji masafi na ni mwaka gani ambao haya matarajio yataafikiwa na Serikali?

**Mrs. Ngilu:** Bi Naibu Spika wa Muda, ni kweli ya kwamba Wakenya wengi wako na madhara kwa sababu ya kutumia maji ambayo sio masafi. Hii ni kwa sababu pesa ambayo tunapata ili tuwapatie wananchi maji masafi haitoshi. Kwa hivyo, tutaendelea tu kuuliza pesa kutoka kwa Wizara ya Fedha ili watuongeze pesa kwa bajeti ili tuendeleo kuwapatia wananchi maji. Mpaka sasa tuna wananchi karibu milioni 16.4 ambao hawatumii maji masafi kwa nchi yetu ya Kenya.

**Mr. Langat:** Madam Temporary Deputy Speaker, the Minister said that they are doing designs. I have consulted hon. Members and they are saying the designs were done two years ago. Could the Minister tell us when this project will begin?

**Mrs. Ngilu:** Madam Temporary Deputy Speaker, I have just said that this project will be started during the financial year 2013/14.

**Mr. Muthama:** Bi Naibu Spika wa Muda, ninataka kumuuliza Waziri kama ana habari kwamba mabwawa mengi ya maji yaliyoweza kufanyika katika taifa letu yanachimbwa tu na kuwachiwa wananchi maji bila kuyaangalia na kujua kama yanafaa au hayafai. Maji mengi

yamekuwa na chumvi na hakuna njia yote iliyoweza kuonekana ya kwamba kuna tegemeo lolote la kuweza kutatua tatizo hilo kwa kuleta madawa ya kutoa chumvi na vile vile kutoa uchafu.

Wananchi wengi wamekunywa maji, meno imeharibika na afya yao zimekuwa katika hali ya kutatanisha. Waziri ana habari hiyo na kama anayo, anategemea kufanya nini kutoa taabu hiyo kwa Wakenya?

**Mrs. Ngilu:** Bi Naibu Spika wa Muda, ni kweli ya kwamba wakati mwingine tukipata maji kutoka kwa kisima unapata kwamba yako na chumvi au sio masafi sana. Tuko na *chemist* zetu ambazo zinafanya kazi hiyo na tukikuta maji sio masafi tunasema wananchi wasiyatumie. Lakini wakati mwingine tunakuta wananchi wanatumia maji hayo kwa sababu hawana maji mengine ya kutumia. Lakini sisi---

**The Temporary Deputy Speaker** (Dr. Laboso): Madam Minister, there is a point of order by Mohammed Hussein Ali.

**Mr. M. H. Ali:** On a point of order, Madam Temporary Deputy Speaker. Is the Minister in order to change her answer? In her answer to the Question, she says this project will be done in this financial year. You have just heard her say the project will be started in the next financial year. Is she in order to change her initial answer?

**The Temporary Deputy Speaker** (Dr. Laboso): Which is the true position, Madam Minister? Is it this financial year or next financial year?

**Mrs. Ngilu:** Madam Temporary Deputy Speaker, this financial year is for designing and ensuring that we put it in the Budget for next year. It is true that this answer talks about Kshs534 million this year, but I realize that we do not have this money in the Budget.

**Dr. Nuh:** Hoja ya nidhamu, Bi Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Dr. Laboso): Dr. Nuh, you can raise your point of order and ask your last question.

**Dr. Nuh:** Bi Naibu Spika wa Muda, mara nyingi kama waheshimiwa Wabunge tunasema Mawaziri wengi hufika hapa Bungeni na majibu ambayo si kamilifu kwa maswali yeetu. Mfano mzuri ni jibu la Waziri huyu. Jibu hili linasema mradi huu utaanzishwa mwaka huu na utakamilika katika kipindi cha miaka miwili. Kabla ya yeye kujibu Swali hili, nilimunong'onezea kwamba akilijibu hivi itabidi aeleze Bunge ni pesa ngapi wametenga kwa mradi huu katika mwaka huu. Hii ndio maana amebadilishe jibu lake na kusema wakati huu wahandisi wanafanya michoro ya mradi huu. Ni lini Wizara hii itapata michoro hii kutoka kwa wahandisi? Michoro hii ilikamilika miaka miwili iliyopita. Mimi nina nakala ya ripoti ya wahandisi. Je, Waziri aliangalia jibu alilopewa na maafisa wake kabla ya kufika hapa Bungeni au aligundua hakuna pesa za kukamilisha mradi huu baada yangu kuuliza Swali hili? Ni pesa ngapi wametenga za mradi huu katika mwaka huu?

**Mrs. Ngilu:** Bi Naibu Spika wa Muda, ni kweli jibu langu linasema tumetenga pesa za mradi huu katika Bajeti ya mwaka huu. Lakini pesa hizi hazipo katika Bajeti yetu ya mwaka huu. Pengine hatujapata pesa hizi kutoka kwa wafadhili wetu. Sitaki kumwaahidi mhe. Mbunge kuwa mradi huu utakamilika mwaka huu kwa sababu hatuna pesa za kutosha. Ningependa kumuomba asubiri hadi tutakapopata pesa ili tuweze kukamilisha mradi huu.

## ORAL ANSWERS TO QUESTIONS

*Question No.1281*

RULE ON PACKAGING OF POTATOES IN

**The Temporary Deputy Speaker** (Dr. Laboso): This Question was meant to come in the Order Paper after two weeks, but it has come after one week and the hon. Member is not here. So, it is deferred.

*(Question deferred)*

*Question No.1783*

EXTRADITION OF KENYANS ARRESTED IN MOZAMBIQUE  
TO TANZANIA BY KENYAN POLICE

**Mr. Kabogo** asked the Attorney-General:-

(a) Under what circumstances 12 Kenyan businessmen, Messrs. Peter Giruka Mburu, David Ngugi Mburu, Simon Gathinji Kariuki, Michael Mbanya Wathigo, Patrick Muthee Miriithi, Boniface Mwangi Mburu, John Odhiambo Odongo, Gabriel Kung'u Kariuki, Jim Maina Njoroge, Wilfred Onyango Nganyi, Simion Ndung'u Kambuthi and Peter Mahera Kariba were arrested in Mozambique, handed over to Tanzania Police by the Kenya Police delegation under the watch of J. Nyaga Reche (SSP) and former Nairobi Area PCIO, Sammy Githui on the 16th December, 2005;

(b) whether he is aware that two of the above mentioned persons Messrs. John Odhiambo Odongo and Peter Mahera Kariba, have since died in Karanga Prison in Moshi, Tanzania, as a result of injuries from torture; and,

(c) whether he could undertake to extradite the remaining 10 Kenyans who are languishing in a foreign jail, to face trial in Kenya, if there are any charges against them.

**The Attorney General** (Prof. Muigai): Mr. Temporary Deputy Speaker, I beg to respond as follows.

(a) Sometime in December, 2005, the Director of the Criminal Investigations Department (CID) received information from Interpol, Mozambique, about 12 Kenyans who had been arrested by the police in Mozambique on suspicion of planning criminal activities within Maputo and, indeed, the country at large. The same information was circulated to all police commands within the country, giving full details of the suspects and requesting---

*(Mr. Langat crossed the Floor without proceeding to the Bar and bowing to the Chair)*

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Langat, you know the procedure of crossing the Floor.

Continue, Attorney-General!

*(Mr. Langat walked to the Bar, bowed to the Chair and crossed the Floor)*

**The Attorney-General** (Prof. Muigai): Madam Temporary Deputy Speaker, the 12 Kenyans were listed as follows: Peter Gikura Mburu, alias Kamau Ngoi, David Ngugi Mburu, alias Davy, Simon Gathinji Kariuki, alias Symo; Patrick Mureithi Muthee, alias, Musevo, Michael Mbanya Wathigo, alias Bonche, John Odhiambo Odongo, Gabriel Kung'u Kariuki, alias Gabo, Jimmy Maina Njoroge, alias Maich Ordinary, Wilfred Onyango Nganyi, alias Daddy, Simion Ndung'u Kambuthi, alias, Kunen and Peter Mahera Kariba. After searching police records, 11 of the suspects were identified by officers from both CID Headquarters and the Special Crime Prevention Unit, as habitual robbers who had been linked to several bank robberies, both in Nairobi and Mombasa; the banks being Bank of Baroda, Nairobi, Trans National Bank, Nairobi, Credit Bank, Nairobi, Post Bank and Railway Headquarters, Nairobi. Subsequently, the Director of CID dispatched the following officers to Maputo to identify the suspects: Mr. Sammy Githui, now retired Senior Assistant Commissioner of Police, Mr. Jasper Nyanga, SSP, now deceased; Inspector Jackson Otieno Owino, Corporal John Njoroge Kamau and Corporal Arthur Kennedy Onyango. The officers left Nairobi on 12<sup>th</sup> January, 2006, arriving the same day in Maputo and were received by the Director of CID in Maputo. They visited the suspects and positively identified ten of them as being Kenyans previously involved in bank robberies. John Odhiambo Odongo was not linked to any crime in Kenya, while Peter Mahera Kariba's name had only featured in police investigations. Some of them had just been released from Kamiti Prison prior to the arrest in Maputo. The suspects were then arrested alongside a Kenyan alleged to be dealing with old auto batteries.

During interrogations in Maputo, the suspects declined to record statements in the absence of their lawyers and they promised to do so on arrival in Nairobi in the presence of their lawyers. The Mozambican Government demanded the immediate removal of these persons from that country.

While in Mozambique it was established that the suspects had been arrested following a disagreement among themselves while planning a robbery at a South African Bank that was based in Mozambique.

It was further established that John Odhiambo Odongo was married to a Mozambican lady and was the front man in Mozambique. He had leaked the information through his wife after he started fearing that his accomplices in the crime would eliminate him on their way back to Kenya after their mission.

It was further established that the 12 suspects had rented a hotel room next to the bank to monitor the bank operations and had acquired a Pajero Station Wagon which was to be used as a get-away car after the robbery. On receipt of this information, the Mozambican Police arrested the suspects and circulated the information to other police units, including police units in Tanzania. Subsequently, the Republic of Tanzania dispatched a team of officers under the command of Mr. Kigodo, a Senior Superintendent of Police, to Mozambique to interrogate the suspects.

Madam Temporary Deputy Speaker, the Tanzanian police upon arriving in Mozambique, demanded that the suspects should be released to them for their further action. This demand was rejected both by the Government of Mozambique and the Republic of Kenya. However, on 14<sup>th</sup> January, 2006, all 12 suspects and their personal effects were handed over to the Kenya Police and booked on Air Mozambique to fly to Dar-es-Salaam where they would connect on a flight to Nairobi from Maputo.

When the suspects were escorted under very tight security to the airport, the passengers in the aircraft turned violent, protesting that they would not fly with criminals. The captain

declined to allow these passengers on board and they were removed from the plane. The protest and the violent behaviour worsened the situation, as a result the Mozambican Government availed a military plane on the 16<sup>th</sup> of January, 2006 under the escort of both military police to fly the suspects to Tanzania on their way to Nairobi.

On landing in Daresalaam on the 16<sup>th</sup> of January, the Kenyan police team was shocked to find that the Tanzanian police were awaiting this particular group. The Tanzanian police under the command of the Regional Commissioner of Daresalaam boarded the military aircraft, ordered all the persons to surrender, including the Kenyan police, confiscated their passports and they immediately arrested the Kenyans. This incident was communicated to the Director of CID in Nairobi, who advised his officers to remain in Daresalaam and to await further instructions.

On the 19<sup>th</sup> of January, 2006, the Kenyan police team was recalled to Nairobi leaving the suspects behind. It was later learnt that the suspects were then charged with various offences before Tanzanian courts.

It is important to note that the suspects were forcefully re-arrested and taken into custody by the Tanzanian police who forced the Kenyan officers to handover the suspects and their personal effects to them while being in a foreign country. There was very little that the Kenya Police could do at the time.

Yes, I can confirm that the decision was communicated to the Commissioner of Police through the Ministry of Foreign Affairs by a letter dated 13<sup>th</sup> of March, 2012. Two of the suspects; John Odhiambo Odongo and Peter Mahera Kariba have since died in prison in Tanzania. The cause of death is not known to the Government of Kenya.

Madam Temporary Deputy Speaker, the suspects are currently serving various jail terms in Tanzania. They will eventually be repatriated to Kenya upon the completion of their sentences and, therefore, there is no need for further intervention at this point in time.

I thank you.

**Mr. Kabogo:** Madam Temporary Deputy Speaker, I have a lot of respect for the Attorney General. From his voice, those who know him, will know when he is in a catch 22 situation. This is the only Government in East Africa that surrenders its citizenry to other nations. I am not an advocate of criminals but I am a Kenyan and I am an advocate of the Kenyan people's rights.

Is the Attorney General convinced with the story that the suspects plus our police officers were arrested and were forced to surrender criminals to the Tanzanian Government after attempting to bring them to Tanzania and they refused to board a plane? Is the Attorney General satisfied? I did handover documents showing a handover document. I want to re-table that document if the Attorney General has forgotten. It is a willingful handover. It is not forceful.

So, is the Attorney General satisfied that Kenyans are languishing in prisons and there is nothing this Government can do?

**Prof. Muigai:** Madam Temporary Deputy Speaker, the circumstances under which these suspects were removed from the custody of Kenya police, as far as I can tell is as explained to me by the relevant department.

Madam Temporary Deputy Speaker, I share the frustration of the distinguished Member for Juja and wish that we had been able to bring these people home so that they could face Kenyan justice. But in the circumstances of this matter, it is also clear that they were suspects that were of interest to three separate Governments. They were of interest to the Government of Mozambique, which was happy to have the problem taken from their hands. They were of interest to the Government of Tanzania, which as we have seen was extremely robust in its

intervention in a manner that, I think the Ministry of Foreign Affairs has already addressed through other communication.

Madam Temporary Deputy Speaker, therefore, I do not think that the Kenya Government has been negligent or reckless or has abandoned its citizens. It is that there have been intervening circumstances over which the Government had no control.

**Mr. C. Onyancha:** Madam Temporary Deputy Speaker, I am really shocked. The hon. Attorney General, the man we greatly respect has actually confirmed and said that the cause of death of two Kenyans is not known to the Government. I am wondering what efforts the Government has made to try and find out how they died and where the bodies of these Kenyans are because, however criminal they might be, they still have the protection of the Government.

**Prof. Muigai:** Madam Temporary Deputy Speaker, I will want to concede that that is a valid issue. I think that it is still the responsibility of the Government of Kenya to determine the cause of death and to determine steps taken after these persons died in prison. I undertake to supply this particular information, if allowed by you, at the next session.

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy, indeed, I had wanted to raise a similar concern that the way and the manner in which the Government is treating this matter is very casual. If you notice, the hon. Attorney-General is saying that the Tanzanian Police basically ordered our police and harassed them around. We have not seen any serious action or protest note that our Government has raised in relation to the Tanzania Government. The way these people were dealt with, we are not very sure whether they are criminals or whether there is any other underlying issue. So, could the hon. Attorney-General undertake to come back to the House with a more comprehensive answer as to what the Government has done to deal with these citizens whose fate we do not know?

**Prof. Muigai:** Madam Temporary Deputy Speaker, that the Government of the Republic of Tanzania is a friendly Government is beyond question. That this Government also had a legitimate interest in the prosecution of the suspect is also beyond question. What I would like to consider, however, is that the manner in which the custody of these suspects was obtained by a friendly Government was not consistent with international law and practice. I am made to understand that a relevant communication was issued by our Ministry of Foreign Affairs. But if you direct so, I will be happy to provide a supplementary answer regarding this particular aspect.

I thank you.

**Mr. Kuttuny:** Mhe. Naibu Spika Wa Muda ninashukuru. Mkuu wa Sheria amezugumzia uhusiano wa Kenya na Tanzania; kwamba ni wa chanda na pete, na kwamba wanashirikiana bega kwa bega, lakini ila ya hayo yote, hajapata kutatua matatizo ya hao Wakenya ambao wako mbaroni. Familia ya hawa watu wanalia usiku kucha. Ni hatua zipi ambazo serikali inachukua kuhakikisha kwamba hawa Wakenya wamerejeshwa humu nchini wakafanyiwe uchunguzi na sheria ifuate mkondo wake?

Na kwa majibu yake, si maajabu kwamba taifa la Kenya limekuwa na uzoefu wa kupeana wakenya kufanyiwa kesi nje ikiwemo sasa washukiwa wanne wa vita vya kisiasa. Na hii inanifanya kuingiwa na wasiwasi kusema wale wale wajiokoe na wasiachie mwingine aje kuwaokoa.

**The Temporary Deputy Speaker (Dr. Laboso):** What is your point of order, Mr. Elijah Lagat?

**Mr. Lagat:** On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Attorney-General to say that he is just tabling the names of those people who died in prison without telling us the steps that the Government is going to take?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Lagat, I think that one was answered! Yes, Attorney-General! What have you undertaken?

**The Attorney-General** (Prof. Muigai): Madam Temporary Deputy Speaker, I have undertaken to return to this House with further clarification on the steps now being taken by the Government to deal with the persons who are already in the custody of the Tanzanian Government.

However, in response to the Question, I wish to say that it is not the official position of the Kenya Government that Kenyans can be transferred to a third party country for trial outside express extradition procedures. We appreciate that in the circumstances of this case, Kenya was in the process of returning her citizens home to stand trial when a friendly Government conducted itself in a manner that all of us have agreed left the Kenya Government without an option. That incident has been dealt with in a diplomatic way; I want to assure this House that we have already had cases that have gone to the High Court of Kenya and to the constitutional court dealing with the questions of how a Kenyan can be legitimately removed from Kenya to stand trial in another country. The Government intends to be guided by the guidelines that the High Court has provided in these cases.

**Mr. Mureithi**: Madam Temporary Deputy Speaker, the issue that the distinguished Attorney-General has raised is what I wanted to ask, so that he also gives us the policy. Am I in order to request that the dossier he is going to give to us includes the policy of Government, so that we know how they extradite Kenyans to other countries. This is not the first time. There are others who were taken from Mombasa to Uganda. We even had problems with Uganda. Others have been airlifted to America. The whole framework of extraditing Kenyans elsewhere for trial when we have our own judiciary, which is competent, should be addressed.

**The Attorney-General** (Prof. Muigai): Madam Temporary Deputy Speaker, I will be happy to provide that at the next session that you will authorize.

**Mr. Kabogo**: Madam Temporary Deputy Speaker, the Attorney-General says that he is not satisfied with the manner in which these people were taken into custody by the Tanzanian Government. As a matter of fact, they were abducted in an international area – the airport is an international area. There is a hand-over note here which I have tabled. I would like to read the first sentence. It goes: “I Nyaga Riti, SSPI/C, Special Unit CID Headquarters, Nairobi, do certify that I have handed over---” So, really it was nothing forceful. Kenyan cops went to Mozambique. Kenyan citizens were handed over to Kenyan policemen to be brought home to be tried here, if they were criminals. Could the Attorney-General, as he brings his comprehensive answer, also bring a copy of the ruling that was made in Tanzania, and also give information on how these people were released to another nation? These people were promised in a Van, a Toyota Land Cruiser, that they were being taken to the airport to be taken to Nairobi and not Tanzania.

**The Temporary Deputy Speaker** (Dr. Laboso): Your point is made, Mr. Kabogo. How long do you need to get this comprehensive Statement?

**The Attorney-General** (Prof. Muigai): Madam Temporary Deputy Speaker, I will need two weeks. For now I would want to comment that the document produced by the hon. Member does not demonstrate that the Kenyan police surrendered these persons willingly. Under duress, they were obligated because these persons had their money and other personal items. They were forced to surrender these personal items. However, as you have directed, I will bring a more comprehensive Statement.

**Mr. Kabogo**: On a point of order, Madam Temporary Deputy Speaker. Is the Attorney-General in order to say that--- If there was force then the sentence I read would have said

otherwise. He only says, “I certify” and “I have handed over.” It could be either way. From simple reading of this document, the Kenyan policemen handed over Kenyan citizens.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Kabogo since this is going to be addressed again in this House, allow the Attorney-General to give us a comprehensive answer.

*Question No. 1531*

PROVISION OF DETAILS OF COCAINE SEIZED IN 2004

**Mr. Mwau** asked the Attorney-General:-

(a) if he could provide details of all the suspect(s) linked to the approximately 1.14 tonnes of cocaine that was seized in the country in 2004;

(b) if he could confirm that his office was engaged in protracted mutual assistance in 2004 requesting the Government of Netherlands to extradite the suspects to Kenya to face charges, and if so, if he could provide copies of the correspondence;

(c) if he is aware that Mr. Oriri Onyango of the Attorney General’s office and Mr. Gideon Kimilu of the Criminal Investigation Department (CID) were furnished with valuable information including telephone numbers of the suspects involved in the case, and if so, if he could provide the details of the suspects; and

(d) if he could also provide particulars of the Kenyan team, the United Kingdom team, the United States team, the UNODC team as well as names of any other agency that was involved in the investigation and destruction of the seized cocaine in 2004.

**The Attorney-General** (Prof. Muigai): Madam Temporary Deputy Speaker, I beg to reply.

Further to the answer I provided to this House on 29<sup>th</sup> May, 2012 on this matter, six supplementary questions were raised and I undertook to seek answers from the Director of Public Prosecutions (DPP). I am happy to confirm that the DPP has very kindly provided an elaboration of what I had presented.

On part (a) I wish to state as follows. On 14<sup>th</sup> December, 2004 a consignment of cocaine weighing 304 kilogrammes packed in 253 packets was recovered by a combined force of officers drawn from the GSU, the Special Crime Prevention Unit and the Anti-Narcotics Police in a go-down number 20 owned by Rikapsharp Holdings Limited, and which was situated along Airport North Road in Embakasi. On the same day, in a similar operation a police contingent drawn from the CID, the GSU and general duties police recovered yet another consignment weighing 835.5 kilogrammes packed in 701 packets concealed under the deck plate of a speed boat, which was parked in the compound of Rocky House at Casuarina in Malindi Town. The original owners of this house were Ricky Angelo and Astella Ferrari – or something like that. They later sold the house to one Pompel, who was said to live in Italy. The two, however, retained a power of attorney and were responsible for renting and managing the house.

The total consignment weighed 1,141.5 kilogrammes, and was packed in 954 packets. Was there an exhibit? The answer is yes. That exhibit memorandum is available and it has been supplied. It is available to be inspected by the hon. Member.

As relates to why extradition of suspects from Netherlands has failed, the answer is that the court in the Netherlands ruled in favour of the Kenya Government upon the Kenya



Government's request for the extradition of Mr. George Kiragu. The court found that the application was proper and admissible. However, the Minister for Justice in this Republic denied the request of the court to extradite Mr. George Kiragu and the matter rests there.

Is there any Member of this House who was a suspect in relation to this investigation? The answer is "no"; there is no sitting Member of this Parliament who was a suspect in respect of the matter under consideration.

As to question No. 5 the DPP does not possess the information as to whether or not samples of cocaine were brought back to Kenya. He has, however, written to the Director of Criminal Investigations, requesting that this information be supplied as soon as possible.

As to question No.6 regarding whether or not investigations into the death of Mr. Chemorei have been reopened, I am advised by the DPP that he has applied and obtained copies of the proceedings regarding the inquest into the circumstances of Mr. Chemorei's death. He has called the relevant police file to his office. Notwithstanding the order of the Magistrate that the file be closed, the DPP has re-opened the matter and he has started afresh to re-evaluate most of the evidence, with the help of the police file and other information that he has received from the members of the public. This, therefore, is an ongoing inquiry.

**Mr. Mwau:** Madam Temporary Deputy Speaker, I wish to thank the Attorney-General for his elaborate answer. However, could he give a timeline within which he expects to answer Question No.5?

**Prof. Muigai:** Madam Temporary Deputy Speaker, I would crave your indulgence for two weeks.

**The Temporary Deputy Speaker (Dr. Laboso):** Is two weeks okay with hon. Mwau?

**Mr. Mwau:** Obligated, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker (Dr. Laboso):** We will go back to Question No.1 by the Member for Bonchari, so that we dispose of it.

## QUESTION BY PRIVATE NOTICE

### SALARIES/ALLOWANCES OF COMMISSIONERS

**M. C. Onyancha:** Madam Temporary Deputy Speaker, I beg to ask the Minister for Finance the following Question by Private Notice.

What are the salaries and allowances for all the Commissioners of the Commissions set out in the Constitution and how much is it costing the tax payers in total?

Madam Temporary Deputy Speaker, I have had a chance to look at the detailed list of the cost of Commissions. By and large, these commissions are just as expensive as Parliament on the overall. When you analyze it, parliamentarians cost the Kenyan taxpayer in basic salary Kshs200,000. None of the Commissioners earns less than Kshs200,000, if I may just mention a few. The TSC Chairman earns a basic salary of Kshs292,000 and Kshs80,000 as house allowance. An ordinary member earns a basic salary of Kshs232,000 and a house allowance of Kshs60,000. An ordinary Judge of the High Court earns a basic salary of Kshs481,000 and a house allowance of Kshs80,000. Both of them earn more than a Member of Parliament. An ordinary member of the Truth, Justice and Reconciliation Commission earns a basic salary of Kshs500,000 and a house allowance of Kshs100,000. We earn Kshs200,000 and a house allowance of Kshs70,000. I may not have to go on, but I will give the other Members a chance to contribute on it.

My point is that when the Salaries and Remuneration Commission keeps threatening that they are going to reduce the salaries of elected leaders whose duties are 24 hours, no weekends. The duties of a Member of Parliament include assisting the people in the constituency. This is deplorable. These duties do not have weekends.

**The Temporary Deputy Speaker** (Dr. Laboso): What is your Question, hon. C. Onyancha, to the Assistant Minister?

**Mr. C. Onyancha:** Madam Temporary Deputy Speaker, what is the rationale of negotiating these salaries? Most of these chairmen and their duties earn more than a Member of Parliament in terms of the duties that the Members of Parliament perform and the duties that these other Commissioners perform. What is the rationale behind you giving a Commissioner a better house than a Member of Parliament, who has a lot of guests to entertain? They earn a higher house allowance than us.

**The Temporary Deputy Speaker** (Dr. Laboso): Your point has been made.

**The Assistant Minister for Finance** (Dr. Oburu): Madam Temporary Deputy Speaker, I am not in a position to talk of the rationale behind this because the responsibility of analyzing and determining salaries and allowances for public servants has now been transferred to the Salaries and Remuneration Commission. It will review all salaries. In fact, they have already reviewed salaries for the TSC and they have enhanced it. They have increased the salaries. They are reviewing all of them. I am, therefore, not in a position to talk on their behalf because they are independent and they are supposed to act independently.

**Mr. Midiwo:** Madam Temporary Deputy Speaker, recently, doctors and teachers were on strike and the Government said that it did not have money. After children were home for three weeks, the Government came up with money. Where did the money come from? Why is the statement of the Salaries and Remuneration Commission that enables the Treasury to release all this money when there is pressure not tabled before the House? What is the problem? Why can the Government not tell the Salaries and Remuneration Commission what the Budget is, so that they can use it to rationalize salaries of all Kenyans, once and for all?

**Mr. Baiya:** On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Assistant Minister to say that the Government cannot respond to concerns from the Members on behalf of independent Commissions merely because they are independent? They are supposed to have, at least, a line Ministry to speak for them here in the House. So, that does not exonerate him from answering the question.

**Dr. Oburu:** Madam Temporary Deputy Speaker, that Commission does not fall under the Ministry of Finance. It falls under the Public Service. I was asked where the money which was used to pay the salaries of the teachers came from after the children were out for quite a bit of time. This pressure made the Government to stop certain services and try to look for money. In fact, we are still trying to bring to this House some amendments, so that we can increase some taxes here and there in order to meet the emergency payments which we made. On the other question as to why the Government is not allocating money, all the salaries are normally provided for in the Budget. As you know, money in the Printed Estimates is not actual money. They are estimates. We pay them as money flows in from taxes. There is no money which is sitting somewhere waiting to be paid to commissions. It is money which flows in on a daily basis and it is paid out as it comes in. That is the position.

**Ms. Karua:** Thank you, Madam Temporary Deputy Speaker. The Assistant Minister is trying to say that the Commission is not under him and yet, he is answering the question. I have

looked at the documents that the Assistant Minister has tabled and the salaries earned by the commissioners are very close to those of Members of Parliament, the lowest being---

**Hon. Members:** Some earn more!

**Ms. Karua:** Madam Temporary Deputy Speaker, no! Some of them – and I have seen the list - are slightly lower but a majority of them earn much higher. Whereas I have no problem with the salaries of Members of Parliament being reduced if it will help the nation, are the salaries of independent commissions which are 15 in number, and which aggregated together are like another Parliament, set by the Salaries and Remuneration Commission or is it yet to review them so that we can understand how they are going to rationalize all the public service salaries, noting that the burden of salaries may become too heavy for the nation to bear?

**Dr. Oburu:** Madam Temporary Deputy Speaker, the Salaries and Remuneration Commission did not determine those salaries. Those salaries were determined before the Salaries and Remuneration Commission was formed. They have told you that they have reviewed one, which is for the Teachers Service Commission (TSC). Any other new Commissions that may come up after the establishment of this Commission will be determined by them. However, those others were determined before they came into being and they might review them or not, depending on whether they agree with the basis on which they were established by the Government before the Commission was formed.

**Mr. Kutuny:** On a point of order, Madam Temporary Deputy Speaker. Would I be in order to request that the Assistant Minister goes and comes back with a substantive answer, although I want to give him the benefit of doubt? That is because he is also operating under pressure, now that he is running for a senate seat? I can understand the situation that he is going through. Members want to understand the rationale of those salaries. We do not understand why the chairmen of Truth Justice and Reconciliation Commission (TJRC) and Constitutional Implementation Commission (CIC) could get a basic salary of Kshs1.2 million. He has no work. He is doing nothing. Would I be in order to request that the Assistant Minister goes back and brings a satisfactory answer?

**The Temporary Deputy Speaker (Dr. Laboso):** You have another intervention before you respond. There is another point of intervention by the hon. Member for Chepalungu, Mr. Ruto.

**Mr. Ruto:** Madam Temporary Deputy Speaker, could the Assistant Minister confirm, categorically, whether he intends to have those particular remunerations reviewed? He seems to be wavering. He is saying that they may be or may not. Could the Assistant Minister be clear? Could he bring an instrument to this House to ensure that those salaries are reviewed?

**Ms. Karua:** The Constitution demands it.

**Mr. Ruto:** Madam Temporary Deputy Speaker, yes, it is even clear in the Constitution.

**Dr. Oburu:** Madam Temporary Deputy Speaker, the rationale behind the review of those salaries was given in a Gazette Supplement which is on the State Law Miscellaneous Amendment Act (2009). The commissions which were there before the new Constitution came into being were categorized in bands of A, B and so on. There was also A1, A2 and A3. Each one of them was given remuneration according to different criterion, depending on the duties that they were performing.

**Eng. Gumbo:** Members: On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker (Dr. Laboso):** Hon. Members, you keep on asking for points of order but they are not really points of order. They are questions. What is your point of order, hon. Eng. Gumbo?

**Eng. Gumbo:** On a point of order, Madam Temporary Deputy Speaker. This Question has a lot of---

**The Temporary Deputy Speaker** (Dr. Laboso): What is out of order, hon. Gumbo?

**Eng. Gumbo:** I am building my case.

**The Temporary Deputy Speaker** (Dr. Laboso): There is no time, unfortunately. Please, get to the point.

**Eng. Gumbo:** Madam Temporary Deputy Speaker, please, just allow me. This is important. This Question has moral implications for this country. Those commissioners have condemned this House as composed of people who are greedy and who do not care about Kenyans and yet, when we look at, for example, Commissioner Nyachae, he earns over Kshs1.2 million. Would I be in order to ask that the Assistant Minister brings a comprehensive answer so that this country can know how much those commissioners earn and what it costs the taxpayer in total, to keep those commissioners in office?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, is it a general feeling that you want the Question to be comprehensively addressed?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Dr. Laboso): If that is the case, so that we do not spend any more time of the House, it will be brought back to the House. Mr. Assistant Minister; could you tell us how much time you need?

*(Loud consultations)*

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members. Mr. Assistant Minister, can you take points of information that will help you to bring a comprehensive answer to the House?

**The Assistant Minister, Office of the Prime Minister** (Mbadi): Madam Temporary Deputy Speaker, I will only inform the Assistant Minister that when some of those commissioners took office like the CIC, they refused to take the salaries that they were given. They even sought intervention from the Commission for the Implementation of the Constitution (CIOC) which was not granted. Therefore, they bulldozed the Government. So, when the Assistant Minister brings a comprehensive answer, he should take into consideration those issues and not rely on the bands. That is because there were no bands. Actually, the Treasury was arm-twisted to accept the salaries that the commissioners earn at this moment.

**Mr. Keter:** Madam Temporary Deputy Speaker, when the Assistant Minister comes to answer this Question, I want him to consider this example that most of my colleagues have given. Mr. Nyachae earns Kshs1,244,960,000 and he is provided with official transport which is not quantified. So, could he also quantify how much the official transport cost? That is because he is provided with a car, a driver and fuel. How much is that? What is the computation at the end of the contract? If the contract is for three years, how much will they have been paid? Could he indicate that with regard to all the commissioners so that we know?

**Dr. Nuh:** Madam Temporary Deputy Speaker, because civil servants, public servants and state officers serve in different categories and you have those who are on permanent and pensionable terms and those who serve on contract basis like in the commissions, Members of Parliament and the like, it happens that the gratuity or the “take-home package” is not well defined in a law that can show how much. So, could the Assistant Minister tell us whether there is any basis for computation of gratuity for the commissioners and how much each commissioner

or chairperson earns and, specifically, the Chairperson of the CIC who has been very vocal on this issue of gratuity and where Members of Parliament have been condemned for taking home Kshs9 million, Kshs3 million or Kshs4 million at times? How much is the Chairman of the CIC and other commissioners paid in terms of gratuity and what is the basis of that calculation?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Charles Kilonzo, please, do not repeat what has already been said. Ask a question that will help him to bring a comprehensive answer.

**Mr. C. Kilonzo:** Madam Temporary Deputy Speaker, I just want to give information to the Assistant Minister, arising from the fact that he said that the Government intends to bring new tax measures to this House for approval, so that they can get money to increase the salaries of some commissioners and other officers. The information I am giving to the Assistant Minister is that he should not bother because this House will not approve the proposed Value Added Act.

Thank you.

**The Temporary Deputy Speaker** (Dr. Laboso): Yes, hon. Benjamin Langat.

**Mr. Langat:** Madam Temporary Deputy Speaker, Sir, the question I wanted to ask has already been asked by Dr. Nuh.

**The Temporary Deputy Speaker** (Dr. Laboso): Thank you. Lastly, Dr. Bonny Khalwale!

**Dr. Khalwale:** Madam Temporary Deputy Speaker, with all due respect to state officers and all public officers of the Republic of Kenya, Article 230(4) of the Constitution states as follows:-

“230(4) the powers and functions of the Salaries and Remuneration Commission (SRC) shall be to-

(a) set and regularly review the remuneration and benefits of all state officers; and,

(b) advise the national and county governments on the remuneration and benefits of all other public officers.”

Madam Temporary Deputy Speaker, I am quoting the Constitution to plead that, in view of what has been going on, it looks like Members of Parliament and other State officers are now fighting over public resources. Could we not pause for a moment and allow this Commission to advise the national government, so that Members of Parliament and other state officers can know what they will earn, instead of being seen to be fighting over salaries and benefits and in the process making our politics unnecessarily difficult and making our lives ridiculous? Hon. Members, let us forget about this thing. Let us move on and wait for these things to be reviewed.

*(Loud consultations)*

You can boo me! I am expressing my opinion. I am in the minority.

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Order, hon. Members!

**Dr. Khalwale:** Madam Temporary Deputy Speaker, what I am saying is important because, as the Chairman of the Public Accounts Committee (PAC), I know that only 30 per cent of our total annual Budget is available for development. Seventy per cent of it is used for remuneration. Are we going to develop this country by spending the entire Budget on remuneration? Members of Parliament, we have to accept and allow for this trend to be put to an end as soon as the Commission publishes its report.

**The Temporary Deputy Speaker** (Dr. Laboso): Yes, hon. Shebesh.

**Mrs. Shebesh:** Madam Temporary Deputy Speaker, is it in order for some hon. Members to keep on playing to the gallery when we ask very fundamental questions? We are also Kenyans with rights. We are not here to be called names and not fight for our rights. If we cannot fight for our rights, we cannot fight for the rights of other Kenyans.

The fundamental issue we are raising is that certain people, and especially sitting members of constitutional Commissions, have been playing to the gallery regarding this issue and the Salaries and Remuneration Commission by saying that we are trying again to steal from public coffers rather than telling Kenyans the truth: That it is a matter of competition amongst civil servants, and that it has nothing to do with Members of Parliament. It has everything to do with public officers. That is what we are asking the Assistant Minister to clearly tell this House and the country.

Madam Temporary Deputy Speaker, for once, we are not going to be ashamed of fighting for our rights because our rights are enshrined in the Constitution, just like the rights of commissioners and other public officers. Is it in order for us to be always given undesirable labels and “hide” because we want votes yet we get those votes from people whose rights we must be protecting? How can we protect their rights, if we cannot even protect our own rights?

**The Temporary Deputy Speaker** (Dr. Laboso): Yes, hon. Keynan.

**Mr. Keynan:** Madam Temporary Deputy Speaker, before I comment on this particular issue, I want it to go on record that there was no time Members of Parliament sneaked an amendment into the Finance Bill during the wee hours of the night. I want Kenyans to hear that the amendment that I moved was approved by the Minister for Finance, hon. Githae. He had the amendment for four days, which means that he must have had the approval of none other than His Excellency the President.

We do not want the Government to play politics with the image of Members of Parliament. I only did what I was asked to do. The amendment is available. I want Mr. Nyachae and others to get this clearly from the National Assembly. It was not my own amendment. I moved it on behalf of the Minister for Finance. He had it for four days. When he gave it to me and said: “Here, it is. It is approved. Go ahead and move it”, my assumption was, since the amendment had financial implications, His Excellency the President had consented to it.

Probably, along the way, the Government realised that it had not been worked out in the way they wanted, in which case they should have said the truth rather play politics.

**The Temporary Deputy Speaker** (Dr. Laboso): Yes, hon. Kimunya.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Speaker---

**Mr. Keynan:** I have not finished, Madam Temporary Deputy Speaker.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Order, hon. Members! Hon. Kimunya is on a point of order.

**Mr. Keynan:** Madam Temporary Deputy Speaker, give me two minutes to clarify something else.

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Order, hon. Keynan!

Hon. Members, you know that anybody is allowed to intervene at any point in a presentation.

*(Loud consultations)*

Order! Order, hon. Members! Hon. Kimunya, hon. Keynan is on a point of order. So, allow him to complete his point of order.

**Mr. Keynan:** Madam Temporary Deputy Speaker, Sir, it is good that these matters go into the record. We want the Minister for Finance to tell us how the salary of Mr. Charles Nyachae moved from Kshs400, 000 to Kshs1.2 million, and who were involved in the negotiation. Initially, he and other commissioners were offered a basic salary of Kshs400, 000 each but, currently; he earns a salary of about Kshs1.2 million. How was the salary increased? Were other Government departments involved? Was it assessed? Was he given that salary at his own terms?

Finally, I want Kenyans and Mr. Charles Nyachae to read the provisions of Article 210, together with the provisions of Section 75 of the National Assembly (Remuneration) Act, and define what constitutes the taxable income of a Member of Parliament. Every Member of Parliament pays tax. It is not something that we are being given. We all pay taxes on our total income. Communication to that effect exists between the Treasury and the National Assembly. Treasury has determined the taxable income of a Member of Parliament as Kshs850, 000. Mr. Nyachae and others played to the public gallery and purported that we are asking to be paid gratuity on a figure that is not within the law. That is not true at all.

Madam Temporary Deputy Speaker, before the decision that was made on 27<sup>th</sup> August, 2007 by Kenyans, the taxable salary of a Member of Parliament was Kshs200, 000. Immediately the new Constitution was promulgated, the taxable income of a Member of Parliament changed to Kshs850, 000. That is the law. That is how Kenyans are taxed. Therefore, to use the provisions of a statute to negate a provision within the Constitution is a violation of the Constitution.

I want to show to this House that Mr. Nyachae is misplaced, confused and deceitful. When he says---

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Order, hon. Keynan!

**Mr. Keynan:** Madam Temporary Deputy Speaker, if he can question hon. Members on their legislative role, on the issues referred to here; it means that he is an agent of impunity, and that he does not follow the law. How can he question Members of Parliament when they carry out their constitutional mandate?

**The Temporary Deputy Speaker** (Dr. Laboso): Enough, hon. Keynan. Thank you. Hon. Kimunya, can you raise your point of order?

**The Minister for Transport** (Mr. Kimunya): On a point of order, Madam Temporary Deputy Speaker. Our Standing Orders prohibit us from invoking the name of the President in a debate unless we have---

*(Loud consultations)*

You may shout or do whatever you want, but we must be the first ones to obey the laws that we make.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! Mr. Mbuvi, out of the Chambers for the rest of the sitting today.

*(Mr. Mbuvi withdrew from the Chamber)*

Mr. Kimunya, please, finish prosecuting your point of order.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Speaker, our Standing Orders prohibit us from invoking the name of the President in our discussion unless we have specific instructions which are signified by a Minister. Was Mr. Keynan in order to try to imply that the President must have been aware of a discussion between him and the Minister for Finance? Does he have that information and could he provide that proof here? As the Deputy Leader of Government Business, I am not aware of any such discussion between the President and---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Mr. Keter, out of the House for the rest of the day.

*(Mr. Keter withdrew from the Chamber)*

**The Minister for Transport** (Mr. Kimunya): So, is Mr. Keynan in order to mislead this House that the President was aware of the discussion between him and the Minister for Finance? I am very sure that the President was not aware of it. I was not privy to the discussion on this matter between Mr. Keynan and the Minister for Finance.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, that is the end of the debate on that matter. Dr. Oburu, you have heard the clarifications and the notes that need to be covered when you bring your comprehensive answer. Could you tell us how long you need?

**The Assistant Minister for Finance** (Dr. Oburu): Madam Temporary Deputy Speaker, can I say something?

**The Temporary Deputy Speaker** (Dr. Laboso): I have given you the microphone.

**The Assistant Minister for Finance** (Dr. Oburu): Madam Temporary Deputy Speaker, I have taken note of what the hon. Members have said. It would appear to me that there is a lot of anger. Hon. Members are not quite satisfied with the tax they have been receiving. It appears that I am at the receiving end of this anger, although I am also a victim. I will try to get more information. But if hon. Members were patient enough, I would have given them the information that I have. I will bring it in a more organized manner and table it. I think I have all the information that is required.

**The Temporary Deputy Speaker** (Dr. Laboso): What period do you need to put it together comprehensively?

**The Assistant Minister for Finance** (Dr. Oburu): I will be ready on Wednesday next week.

**The Temporary Deputy Speaker** (Dr. Laboso): You can give us a comprehensive answer on Wednesday next week.

Next Question is by the hon. Member for Gichugu.

**Ms. Karua:** Madam Temporary Deputy Speaker, allow me to inform the Assistant Minister; I was on the queue but you never noticed me.

I would like to inform him that Article 230 does not exempt any state officer from the review by the Salaries and Remuneration Commission. I know that some of the commissions



were formed before the Salaries and Remuneration Commission came into place. So, he must answer firmly that every state officer's and public officer's salary will be reviewed by the Salaries and Remuneration Commission.

Finally, I just think that we were not giving ourselves credit by delivering personal attacks on others.

**The Temporary Deputy Speaker** (Dr. Laboso): Please, Ms. Karua, prosecute your Question.

**Ms. Karua:** Thank you for the latitude, Madam Temporary Deputy Speaker.

*Question No.1828*

NON-PAYMENT OF PENSION DUES TO  
FORMER EMPLOYEES OF KCB

**Ms. Karua** asked the Minister for Finance:-

(a) whether he is aware that 86 former employees of Kenya Commercial Bank Limited (KCB) have not been paid their pension dues; and,

(b) what he is doing to expedite the settlement of their dues.

Madam Temporary Deputy Speaker, this Question had already been answered and it was just further clarifications by the Minister for Finance.

**The Assistant Minister for Finance** (Dr. Oburu): Madam Temporary Deputy Speaker, just as the hon. Member has said, the Question was answered on 4<sup>th</sup> October, 2012 but the hon. Member sought additional information. The additional information was about the other people---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! Let there be order in the House.

**The Assistant Minister for Finance** (Dr. Oburu): The additional information was about the other people who had not been paid. In this particular case, there is a civil appeal No.1 of 2011 by Peter Badi, Ambrose Mwangi and 79 others against the decision of the Retirement Benefits Authority (RBA), and civil appeal No.3 of 2010, Anne Wangui Ngugi and 595 others against the decision of the RBA. The issues relating to the two civil appeals before the tribunal are about the manner in which the members' benefits were calculated. The appellants appointed an actuary to determine---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! Those exiting, please, do it quietly.

**The Assistant Minister for Finance** (Dr. Oburu): The appellants appointed an actuary to determine their benefits and the trustees also had an actuary who determined the benefits payable. Unfortunately, the benefits determined by the respective actuaries do not reconcile. The RBA Appeals Tribunal at its sitting on 27<sup>th</sup> August, 2012 instructed the RBA to appoint an independent actuary to review the matter and provide an independent actuarial report. In compliance with the tribunal's order, the RBA appointed Mr. Robert Oketch, a fellow of the

Institute of Actuaries of London and the Actuaries Society of South Africa, and an employee of NBC Holdings Limited, as the independent actuary and instructed him to provide an actuarial report on or before 19<sup>th</sup> October, 2012.

Upon completion of the report, the tribunal will be guided by the independent actuary's findings on the correctness, or otherwise, of the benefits paid to the claimants.

**Ms. Karua:** Madam Temporary Deputy Speaker, could the Assistant Minister indicate how soon this will be completed now that he has admitted that there are disputes over the manner in which benefits were computed? This means that the matter is not settled as earlier claimed.

**The Assistant Minister for Finance (Dr. Oburu):** Madam Temporary Deputy Speaker, as indicated in my reply, the independent actuary was given up to 19<sup>th</sup> October to present their report. This report is supposed to go to the tribunal which instructed the authority to appoint this actuary. As soon as the tribunal gives us their ruling on their findings on this, the payments will be done without any further delay.

**Mr. Njuguna:** Madam Temporary Deputy Speaker, hearing from the Assistant Minister, it is notable that---

**The Temporary Deputy Speaker (Dr. Laboso):** Order, hon. Members! The consultations are too high.

**Mr. Njuguna:** Madam Temporary Deputy Speaker, the Minister has agreed that these workers are owed some money as a result of the predicament that they found themselves in, could he further consider paying some interest on the dues accrued when the whole report is fully finalized?

**Dr. Oburu:** Madam Temporary Deputy Speaker, these were employees of the Kenya Commercial Bank. They were not employees of the Government. Therefore, the Retirement Benefits Authority is only mandated to intervene in these cases to instruct the relevant company to pay these benefits. We are not in a position to dictate to them whether to pay interest or not.

**Ms. Karua:** Madam Temporary Deputy Speaker, I would like to ask the Assistant Minister to undertake to expedite the conclusion of the matter.

*Question 1774*

MARKETING OF MUTTON FROM NORTHERN KENYA  
TO NORTH AFRICA/MIDDLE EAST

**The Temporary Deputy Speaker (Dr. Laboso):** Hon. Members, just note that Question 1774 has been deferred. The Minister is out of the country.

*(Question deferred)*

*Question No.1706*

FAILURE TO RELEASE FUNDS FOR BOARDING PRIMARY  
SCHOOLS IN SAMBURU EAST DISTRICT

**Mr. Letimalo** asked the Minister for Education why he has failed to release funds meant for low cost boarding primary schools in Samburu East District and when the funds will be released.

**The Assistant Minister for Education** (Mr. Mwatela): Madam Temporary Deputy Speaker, I beg to reply.

*(Loud consultations)*

If I may request for a little silence so that the answer can be heard.

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! The Assistant Minister and the Questioner are unable to hear each other.

Continue, Mr. Assistant Minister!

**The Assistant Minister for Education** (Mr. Mwatela): Madam Temporary Deputy Speaker, the Ministry of Education released funds for all low cost boarding primary schools throughout the country including those in Samburu East District on 23<sup>rd</sup> August, 2012. Out of Kshs189,998,928 disbursed in the first financial year 2012/2013, Samburu East District got a total of Kshs3,821,296 for the 11 low cost boarding schools with a population of 2,276 pupils which are in that particular district.

**Mr. Letimalo**: Madam Temporary Deputy Speaker, I filed this Question in the month of July, that is the middle of second term before the schools closed after receiving numerous complaints from headteachers of boarding schools that they were running out of food and, therefore, they had to close earlier.

From the information given by the Assistant Minister, assuming that the allocation given in the first tranche was disbursed in January, could he confirm that the funds were inadequate to cover the entire school term to the extent that the schools had to close before the scheduled time? What does he intend to do to correct this anomaly so that schools actually run the full term before the second tranche arrives?

**Mr. Mwatela**: Madam Temporary Deputy Speaker, the first tranche that I am talking about was in the financial year 2012/2013. It was budgeted for by this House in the year 2012. I would like to plead with the hon. Member that the delay was not caused by the Ministry of Education but rather by the delay in receiving the same for the amounts from the Ministry of Finance. As such, I only want to plead with the hon. Member that as the Ministry of Education, we would like schools to run as planned and we will be working closely with the Ministry of Finance to ensure that this money comes in time the way we have done this time round with the capitation that we have given to all schools.

So, I plead with the hon. Member to understand that we are trying our best and we have already started doing it particularly with the capitation.

**Mr. Letimalo**: Madam Temporary Deputy Speaker, with that understanding, I hope that the Minister will actually work on that so that schools operate throughout the term.

Given that the Ministry has continued giving the allocation going by the enrolment that was there when the low cost boarding schools were registered and since then the enrolment has actually increased, what is the Assistant Minister doing to ensure that the allocation actually matches with the increased involvement to ensure that all the students in boarding schools are well covered?

**Mr. Mwatela**: Madam Temporary Deputy Speaker, that concern is very genuine. In fact, the amounts given are commensurate with the enrolment. The problem we have is the capitation which is allowed per student which we are already looking at and revising upwards to cover the changes that have taken place economically. So, that one is a genuine concern and very soon, we will have new figures so that there is proper coverage.

*Question No. 1727*

ESTABLISHMENT OF MARITIME COLLEGE IN KISUMU

**Mrs. Odhiambo-Mabona** asked the Minister for Fisheries Development:-

(a) whether he could provide a list of all students, indicating their names and respective counties that have been admitted at the Maritime College in Mombasa since 2000;

(b) what percentage of the students were women and youth; and,

(c) when the Government will establish a similar college in Kisumu to enable people from areas like Homa Bay and Mbita counties easily access the training on maritime.

**The Assistant Minister for Fisheries Development** (Mr. A.C. Mohamed): Madam Temporary Deputy Speaker, I seek your indulgence with regard to this Question. Bandari College is the only Maritime institution in Kenya. It is a college of Kenya Ports Authority under the Ministry of Transport. For that matter, I would request that this Question be directed to the relevant Ministry.

**The Temporary Deputy Speaker** (Dr. Laboso): The relevant Ministry is the Ministry of Transport. Mrs. Odhiambo-Mabona, you will have to wait a little longer for your answer. Have you agreed with the Minister?

**Mrs. Odhiambo-Mabona:** Yes, Madam Temporary Deputy Speaker.

*(Question deferred)*

*Question No.1746*

NON-OPERATIONALIZATION OF NUNGUNI  
HEALTH CENTRE MORTUARY

**Mr. Kiilu** asked the Minister for Public Health and Sanitation:-

(a) whether she is aware that the mortuary at Nunguni Health Centre, constructed by Kaiti Constituency Development Fund (CDF) in 2010 has not been operationalized and, if so, why; and,

(b) whether there are any plans to upgrade the health centre to a district hospital.

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Madam Temporary Deputy Speaker, I beg to reply.

(a) I am not aware that a mortuary was being constructed at Nunguni Health Centre. The Ministry of Public Health and Sanitation is limited to provision of preventive, promotive health care with primary health care service. The functions do not include provision of mortuary services which is a function of the Ministry of Medical Services.

(b) My Ministry has the mandate to run and manage dispensaries and health centres. However, should a community feel strongly that one of their health centres should be upgraded to a high level, they are expected to raise their requests through the DDC which then will ratify

the requests and then ask the Ministry that would be responsible for the management of the upgraded facility to consider the request.

My Ministry will then be notified of such intentions upon which we will be expected to give consent and lease the facility to the relevant Ministry. So far, my Ministry has not received such a request.

Thank you.

**Mr. Kiilu:** Madam Temporary Deputy Speaker, while I retain a lot of respect for this Assistant Minister, I am amazed that he says that he is not aware that a mortuary had been constructed at Nunguni Health Centre, which falls squarely under his Ministry. The Ministry was aware. It is the Ministry staff, through the District Health Management Team, that recommended the release of this money from the Constituencies Development Fund (CDF). Is he telling this House the truth that this facility was not a felt need for this district?

**Dr. Gesami:** Madam Temporary Deputy Speaker, I have already indicated that the Ministry of Public Health and Sanitation takes care of only dispensaries and health centres. We do not have mortuaries in the health centres. So, if the local people had actually requested for a mortuary, then we need to have the request done to the Ministry of Medical Services which will take over the hospital. Once an X-ray and mortuary facilities have been built in a health centre, then it ceases to be a health centre and becomes a sub-district hospital, which belongs to the Ministry of Medical Services.

**Mr. Muthama:** Madam Temporary Deputy Speaker, most of the health facilities that have been constructed through CDF monies lack proper equipment and staff. In most cases, here in our country---

**The Temporary Deputy Speaker** (Dr. Laboso): Please, ask your question!

**Mr. Muthama:** Madam Temporary Deputy Speaker, could the Assistant Minister confirm whether mortuaries can be constructed in the health centres?

**The Temporary Deputy Speaker** (Dr. Laboso): But he has just said "no."

**Dr. Gesami:** Madam Temporary Deputy Speaker, I have already indicated that there are particular levels of services that we can provide in particular facilities. In a dispensary, we provide a lower level of services. In a health centre, we provide a slightly higher level of services. If a particular community has decided that a mortuary is their priority, then they should be able to apply to the relevant Ministry to upgrade that facility to a sub-district hospital.

**The Temporary Deputy Speaker** (Dr. Laboso): Last question, hon. Kiilu!

**Mr. Kiilu:** Madam Temporary Deputy Speaker, there exists a mortuary at Nunguni Health Centre which is under the Ministry of Public Health and Sanitation. Could the Assistant Minister confirm that after receiving a request from the management committee of this health centre, he will take action to recommend this facility to be taken over and promoted to a sub-district hospital by the relevant Ministry?

**Dr. Gesami:** Madam Temporary Deputy Speaker, it is up to the local people to apply to the Ministry of Medical Services now. Once that facility has had a mortuary, it becomes a sub-district hospital. So, the hon. Member can as well actually put his people together, apply to the District Development Committee (DDC) and notify us that this facility is not a sub-district hospital.

*Question No.1665*

NON-ISSUANCE OF IDENTITY CARDS TO

## YOUTH IN CHERANGANY CONSTITUENCY

**Mr. Kutuny** asked the Minister of State for Immigration and Registration of Persons:-

(a) whether he is aware that youth in Cherangany Constituency lack national identity cards;

(b) how many cards have been issued in the constituency since 2008, and whether he could provide a per administrative location list of recipients; and,

(c) what urgent measures he has taken to ensure youth who have attained the mandatory age are registered in the constituency.

**The Assistant Minister, Ministry of State for Immigration and Registration of Persons** (Mr. Baya): Madam Temporary Deputy Speaker, I beg to reply.

(a) I am not aware that the youth in Cherangany Constituency lack national identity cards.

(b) The total number of identity cards issued in the constituency since 2008 through 30<sup>th</sup> August, 2012, is 22,582. They are distributed as follows: Financial Year 2008/2009, 10,000 ID cards were issued; in 2009/2010, 4,840 ID cards were issued and 2010/2011, 9,100 ID cards were issued. In 2011/2012, 5,740 ID cards were issued. This gives us a total of 22,582. The production system does not show registration of persons per location, but per registration office. The list of recipients per registration office is attached, where Cherangany had a total of 8,681 and Kaplamai, 13,901. The target for this financial year 2012/2013 for both Cherangany and Kaplamai is 7,700.

(c) The Ministry has taken the following urgent measures to ensure that the youth who have attained the mandatory age are registered in the constituency:-

(i) The District Registrar of Persons has mounted mobile registration programmes in the constituency.

(ii) Enough registration materials have been issued to the District Registrar of Persons, Trans Nzoia East.

(iii) The Ministry has waived fees for initial registration to encourage eligible citizens to register.

(iv) The Ministry has established two registration offices, namely, Cherangany and Kaplamai, within this constituency.

**Mr. Kutuny:** Madam Temporary Deputy Speaker, the Assistant Minister has put it clearly that the Government is doing everything possible and issuing ID cards, but the information I have is that we have got many young people with waiting cards. They are still waiting to be given ID cards. Is he aware that one of the challenges that the people in my constituency are facing, particularly in Chepsiro Location, Kiptoror Location and Milimani Location is the conditionalities that have been put by his Ministry? They are asking for title deeds and birth certificates. For example, there is an old man aged 75 years, called Mark who wanted to change his registration from Marakwet District to Trans Nzoia East. He was asked to produce his mother's and father's ID cards and birth certificates. Many people have opted now to go to Marakwet or Uasin Gishu---

**The Temporary Deputy Speaker** (Dr. Laboso): Ask your question!

**Mr. Kutuny:** What is the Assistant Minister doing to prevent these conditions put by his Ministry so that these people can access IDs in an easier way?

**Mr. Baya:** Madam Temporary Deputy Speaker, some of these conditions are necessitated by the mere facts that Cherangany was between the larger Trans Nzoia which is a border district. I believe this is why the vetting committees had that tendency of finding out the truth about an individual; whether he or she is truly a Kenyan. But I think we have since then directed that they do not have to produce papers for the parcels of land that they own. There are other ways of identifying and knowing who is a true resident of Cherangany and Trans Nzoia for that matter and who is not. Therefore, we stopped getting titles from people to prove that they are truly residents.

**The Temporary Deputy Speaker (Dr. Laboso):** Hon. Members, there are about 20 of you who want to intervene on this one but we do not seem to have the time. Hon. C. Kilonzo!

**Mr. C. Kilonzo:** Madam Temporary Deputy Speaker, I wish to ask Question No---

**The Temporary Deputy Speaker (Dr. Laboso):** No.

**Mr. C. Kilonzo:** Then, I did not press this.

**The Temporary Deputy Speaker (Dr. Laboso):** Well, your name is on the screen. Then, I will give the Floor to hon. Leshomo.

**Mrs. Leshomo:** Asante sana, Bi Naibu Spika wa Muda. Ningependa kuuliza Waziri Msaidizi swali kuhusu kitambulisho na birth certificates ambalo tumeuliza kwa Bunge hili kwa muda mrefu. Angechukua jukumu kutembea ili alete ripoti kamili kwa sababu kuna shida kubwa katika maeneo mengi ya Bunge.

**Mr. Baya:** Bi Naibu Spika wa Muda, ni kweli ya kwamba swala la vitambulisho limekuwa swala gumu sana kwa Wakenya. Lakini ningetaka kuwaelezea Wabunge wenzangu ya kwamba, pahali ambapo unaona pamekuwa pagumu na ungetaka tutembelee sehemu hiyo, hata kama ni juma lijalo, mimi nitaandamana nawe.

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

*[Mr. Speaker took the Chair]*

**Mr. Lagat:** Mr. Speaker, Sir, the Assistant Minister has talked about the efficiency of issuing ID cards. I think last week, I also asked the Minister about how long it takes for the youth in Kapsabet or in Nandi County to receive their ID cards and he mentioned 25 days. I have here with me a waiting card which was issued on 19<sup>th</sup> November, 2011. The youth has not received the ID card.

In fact, the Ministry is just registering the youth without issuing the ID cards. The youth are now with the waiting cards but they do not have ID cards. When will the youth receive these ID cards?

**Mr. Baya:** Mr. Speaker, Sir, it is true that there could be specific cases like the one the hon. Member is referring to. These can be dealt with because there could be something faulty with either the photo or the fingerprints that were taken. But in general, it takes about 25 days to issue identity cards to the youth in Nandi and those surrounding areas such as Uasin Gishu and Trans Nzoia.

**Mr. Nyambati:** Mr. Speaker, Sir, the issue of ID cards has been in the House for too long. We are heading towards the general election. We are going to deny Kenyans the right to vote and this is a very serious matter.

Is the Assistant Minister going to put in place measures to ensure that youth in this country, especially those in secondary schools who have attained the age of 18 are registered? Could he put in place measures to ensure that he goes to every secondary school in this country and register those youth who are 18 years and above so that they are ready to enter into this exercise that we are getting into?

**Mr. Baya:** Mr. Speaker, Sir, as a Ministry, we are doing our best to make sure that if possible all the youth are registered before the election time. We have, for instance intensified mobile registration units as one measure. We have in some places opened new registration offices. We have also increased the number of registration materials. These are measures to enhance registration of our youth and other Kenyans to ensure that they get identification cards.

**Mr. Warugongo:** Asante sana, Bw. Spika. Shida ya kupata vitambulisho siyo ya Cherangany peke yake lakini imeikumba Kenya nzima, hasa Kieni. Hakuna mtu ambaye hajui eti mwaka ujao kutakuwa na uchaguzi. Vijana wetu wameenda na kupeleka maombi ya vitambulisho na wamepewa stakabadhi ambazo zitawafanya wangojee mpaka kitambulisho kitakapotokea. Lakini kwa sababu uchaguzi huenda ukafika bila vitambulisho, tungemtaka Bw. Waziri Msaidizi atuambie kama anaweza kuamuru vijana hawa kujiandikisha na kupiga kura kutumia stakabadhi hizo kwa sababu ziko na nambari ya kitambulisho.

**Mr. Baya:** Bw, Spika, swala la kupiga kura halihusu Wizara yetu peke yake. Pia, ni swala ambalo linahitaji yule anayepiga kura ajulikane kwamba ni yeye kweli ama si yeye. Kwa hivyo, sitaweza kuwahakikishia kwamba nitawaruhusu watu ambao wana zile stakabadhi kupiga kura. Nafikiri tutakuwa tunafanya makosa.

**Mr. Mwaita:** Bw. Spika, Waziri amesema ataweka mobile centres ambazo zitazunguka katika wilaya. Ninataka nijue zitakuwa ngapi katika kila wilaya.

**Mr. Baiya:** Bw. Spika, wingi wa vituo vya kuandikisha watu ambavyo ni vya kuhamahama vinategemea ukubwa wa sehemu hiyo sio wingi wa watu peke yake. Lakini kama sehemu ni pana na watu wanaenda safari ndefu kufika kwa ofisi, sehemu kama hizo tutazipatia vituo kama hivi. Kwa hivyo, siwezi kusema ni vingapi kwa kila wilaya. Pengine ukiniuliza wilaya fulani vitakuwa vingapi, ninaweza kufanya utafiti na nitakujibu.

**Mr. Sirat:** Mr. Speaker, Sir, I just want to agree with my colleagues that elections are around the corner. In three to four weeks time, we will start registering voters. I want to ask the Assistant Minister a very simple question; how many youths in the whole country who have attained 18 years do not have ID cards and have waiting cards? That is one category. The other category is how many youths have attained 18 years and above and are willing to be issued with ID cards but have not yet been issued with waiting cards.

Mr. Speaker, Sir, there is a question the Minister was asked and he said that it does not fall within his docket. However, the Minister for Justice, National Cohesion and Constitutional Affairs is here and I want him to answer that question.

**Mr. Baya:** Mr. Speaker, Sir, I would not like to lie to my colleagues. At the moment, I do not have the number of the youth who are 18 years old and above, and who have the waiting cards, or who have not been registered at all. If there is need, I could work on that and give an answer next week.

**Mr. Kutuny:** Mr. Speaker, Sir, one of the inefficiencies in issuance of the ID cards is the anomalies in the process where, for example, a person in Kaplamai Location finds his name in Cherangany Location. What mechanisms is the Government putting in place to ensure that the names, the vote photos and also the locations rhyme the applicants' criteria?



**Mr. Baya:** Mr. Speaker, Sir, it is true that sometimes there is confusion to the extent that one may find their document in another division or location. We are addressing this issue through computerization. As of now, we have gone to the level of divisions. We are moving downwards to locations and we believe that by so doing we should be able to remove the confusion and send the documents to the right places.

**Mr. Speaker:** Hon. Members, given that Question No.1831 is already deferred, that brings us to the end of Order No.6. Before we move to Order No.7, I see a request from hon. Adan Keynan.

*Question No.1831*

AWARD OF HONOURS TO HEAD OF STATE  
/MEMBERS OF PARLIAMENT

*(Question deferred)*

**PAPER LAID**

The following Paper was laid on the Table:

Report of the Parliamentary Service Commission on the recruitment of the Clerk of the National Assembly and the Clerk of the Senate.

*(By Mr. Keynan)*

**NOTICE OF MOTION**

APPROVAL OF APPOINTMENT OF CLERK-DESIGNATE OF SENATE/  
CLERK-DESIGNATE, NATIONAL ASSEMBLY

**Mr. Keynan:** Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Section 45B, Subsection (5)(b) of the former Constitution as saved under Section 3 of the Sixth Schedule to the Constitution, Section 11 of the Sixth Schedule to the Constitution and Article 259 of the Constitution, this House approves the appointment of Mr. Jeremiah Makokha Nyegenye as the Clerk-designate of the Senate and Mr. Justin N. Bundi as the Clerk-designate of the National Assembly on such terms and conditions of service as the Parliamentary Service Commission shall determine.

**MINISTERIAL STATEMENT**

GAZETTMENT OF MANAGING DIRECTOR OF NYAYO  
TEA ZONES CORPORATION

**The Minister for Agriculture** (Dr. Kosgei): Mr. Speaker, Sir, I rise to respond to a request for a Statement from hon. C. Kilonzo who sought to know why the Minister for

Agriculture has failed to appoint the CEO for Nyayo Tea Zones Corporation and a few related questions.

Mr. Speaker, Sir, the Minister for Agriculture did not fail to appoint an MD for the Nyayo Tea Zones Corporation. This was done. The process was carried through in the normal manner. One MD came to the end of a third term. At the end of the third term, after consultations and advertising, ten people were shortlisted. One was selected. The list was forwarded to the Ministry of Agriculture and I, indeed, appointed them and signed a Kenya Gazette on 26<sup>th</sup> June, 2012 and sent it to the Government Printer; that would have completed the appointment of that officer. To date, the appointment has not been gazetted.

Reminders have been written; and in the process, a case was filed in the Industrial Court purporting to stop the Minister for Agriculture from appointing the MD. This is quite curious because according to the suit papers, the litigants are talking about constitutional rights of somebody who had served for nine years, yet all we need to have done was to follow the due process. I am also at a loss. I did not refuse to appoint an MD. I have appointed one; I sent the gazette notice to the Government Printer almost three months ago, but nothing is happening at the Government Printer.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I am just curious because the Minister has put the blame on the Government Printer. The last time I checked, the Government Printer was not the approving authority. Could the Minister come out clearly and tell us who within the Ministry or Government, is refusing to have this particular applicant gazetted? Could she also confirm whether or not it is about the wars within the Coalition Government? Is that why this particular person is not being gazetted?

**Mr. Lang'at:** Mr. Speaker, Sir, there is a clear case of impunity here where the Minister says that she has done her bit of signing the gazette notice and the Government Printer has refused to publish it. Could she tell us what action she has taken against the Government Printer for not doing his bit? What further action has she taken to ensure that this appointment takes effect immediately?

**The Minister for Agriculture (Dr. Kosgei):** Mr. Speaker, Sir, I am also at a loss because the Government Printer answers to a Ministry. Absolutely, I have no explanation as to why he would not gazette that. I have had him reminded twice and there are letters written to him to remind him that the Board appointed a Managing Director after the due process. Therefore, it should be gazette. He says there is a court case, but when we first sent the Gazette Notice, there was no such case. I cannot say that this is the Grand Coalition problem because nobody has addressed me on that. However, I have seen some letters coming from another office asking us to reinstate somebody who had already left the organization.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Mr. Speaker, Sir, I have two Statements, one requested by hon. Kabogo on the role of Uongozi 2012 Campaign Caravan and the other requested by hon. Sirat and hon. Langat on the state of preparedness for our elections. Hon. Kabogo is in the House today and hon. Langat and hon. Sirat were also here. I need your guidance if I can deliver both or one.

**Mr. Speaker:** How long will you be for each?

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Mr. Speaker, Sir, the Uongozi one, I should be about six minutes.

**Mr. Speaker:** Let us do the one on Uongozi. Who requested for the one on Uongozi?

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Mr. Speaker, Sir, it is hon. Kabogo.

**Mr. Speaker:** And the next one will be?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Speaker, Sir, the next one is on the preparedness of the IEBC for the upcoming general elections. It is a bit lengthy because we combined two requests from two Members, namely, hon. Langat and hon. Sirat. It is a bit long because it combines two questions.

**Mr. Speaker:** Mr. Minister, with your capacity, look at where we are. We ought to have been away from this Order just about an hour ago. We are there one hour late. So, I know you have capacity to compress those Statements, so that you are able to do both of them in ten minutes at most.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Speaker, Sir, I will try to be brief.

#### ROLE OF UONGOZI 2102 CAMPAIGN CARAVAN

The first Statement is with regard to the request by hon. Kabogo on the role of Uongozi 2012, he do the one for Uongozi 2012 Campaign Caravan. The Member wished to know the role of Uongozi 2012 Campaign Caravan, its funding and the steps that my Ministry is taking to ensure that the electoral process is free from any foreign interference as indicated in the application form to be filled in by the people seeking to be contestants in that initiative. Lastly, he wanted to know the measures that the Government will take to ensure that the IEBC desist from being part of and sponsor of the programme that seeks to influence the electoral process by sponsoring candidates in the forth coming general elections as indicated in the Uongozi website.

Uongozi 2012 Campaign Caravan is an initiative of Inuka Kenya Trust. This is a registered Kenyan trust whose mission is to facilitate the consolidation of a Kenyan identity that affirms the individual as an African and global citizen and empowers Kenyans to use information, express their views and importantly take initiative aimed at improving their lives and holding the Government accountable. This is not a Government initiative. So, it is not possible for me to elaborate on their sources of funding. This has been operating like all the other NGOs that are involved in voter education.

Kenya is a vibrant and democratic country. The role of the civil society and community based organizations in the socio-political discourse has been instrumental. Quite a number of reforms have come because of such initiatives. These organizations are registered through the various regimes that are provided under the law, namely, the NGO Co-ordination Act, 1990; the Societies Act, the Companies Act and the Trustees Perpetual Succession Act, 1992.

These are organizations that are created by the members of the society with the aim of advancing their common interest and, therefore, are not funded by the Government. They are private initiatives. Although they may feed into and even compliment the Government efforts, they are not extension of Government action or part of the Government policy.

I wish to, therefore, confirm that the IEBC does not fund the Uongozi Campaign Caravan. However, part of the IEBC's mandate is to ensure voter education to all Kenyan voters. This mandate means disseminating information that will empower the citizens to understand the voting system and the methods that will be employed in the coming historic elections. Towards this end, the IEBC has provided voter education materials to all Kenyans, including Uongozi 2012 Campaign Caravan for the purpose of distribution to the general public. It must be appreciated that the mandate of the IEBC towards voter education extends to all the 18 million voters who are targeted for the coming general election.

In order to reach all these voters, the IEBC has had to employ all available means to ensure that the relevant voter education materials are disseminated as far and as wide as possible.

As indicated above, the campaign caravan is not a Government initiative and I wish to reiterate that. The electoral process, including the planning and execution of all activities necessary for the conduct of the elections scheduled for 4<sup>th</sup> March, 2012, is being undertaken exclusively by the IEBC. The operation and functional independence of the IEBC is guaranteed under the Independent Electoral and Boundaries Commission Act, 2011. Section 19 of the Act states that the expenses of the Commission are charged on the Consolidated Fund. Section 26 further states that the Commission shall, in the performance of its functions, not be subject to the direction or control of any person or authority. These provisions are founded on Chapter 15 of the Constitution which provides a constitutional anchor to the independence of the IEBC.

The Commission has a strong team of commissioners, who are competitively and transparently selected and the names were approved by this House. They were, in fact, vetted and have been found capable of discharging their mandate. I am confident they are keeping to the oath of office and are maintaining the independence and impartiality of the Commission. In any case, the commissioners and staff of the IEBC are well aware of the consequences of breaching electoral laws, especially compromising the independence of the Commission.

As stated earlier, the IEBC does not sponsor the Uongozi 2012 Campaign Caravan. I would like to assure this House that for the reasons stated above, the IEBC will not engage any organization whose reputation is wanting or one that is out to derail free, fair and credible elections.

**Mr. Speaker:** Are there Members wanting clarifications on this Statement? Minister, please, keep note.

**Mr. Njuguna:** Mr. Speaker, Sir, what steps has the Minister taken to ensure that the Uongozi 2012 Campaign Caravan as it starts its operations will not campaign against certain candidates during the forthcoming general elections?

**Mr. Kabogo:** Mr. Speaker, Sir, I am the one who sought for this Statement. I have listened to the Minister's lengthy Statement. Is he satisfied that Uongozi 2012 Campaign Caravan, having partnered with the USAID, the Japan Embassy and the Inuka Trust - and we know who Inuka is- will not influence the electoral process? The IEBC is indicated in the website as a partner. As advertised on *Daily Nation* of 23<sup>rd</sup>, they said:-

“While leadership and integrity are first and foremost political challenges, they cannot be resolved by politicians alone”.

We have stopped harambees. The only funding is going on at the grassroots level is the NGO funding. Is he satisfied that all what is happening within Uongozi 2012 Campaign Caravan, the IEBC and other partners is not meant to influence the electoral process? Could he request the IEBC to stop partnerships with people who are attempting to influence leadership in this country?

**Mrs. Shebesh:** Thank you Mr. Speaker, Sir. There have been a lot of initiatives on voter education and opening up democratic space that is being done by Non-Governmental Organizations (NGOs); *Uongozi* being one of them and *Mkenya Daima* being another. If you can remember, Mr. Minister, you took us to Mombasa on the same. Can the Minister clarify why, in the civil education, there is a concerted effort to make the sitting Members of Parliament appear non-viable as prospective candidates of 2013? I say that because in one of the *Uongozi* questionnaire, they asked: Do you think that your current Member of Parliament is worth re-electing? Is that not influencing? I do not believe that is civic education.

**Mr. Speaker:** Order, Member for Rarieda. If you want to consult with the Member for Gichugu, why do you not just sit next to her and speak to her?

Very well. Continue, Mrs. Shebesh.

**Mrs. Shebesh:** I want him to clarify what civic education means with the guidance of IEBC and Ministry of Justice, National Cohesion and Constitutional Affairs. Certainly, some of the questions that *Uongozi* and other initiatives are asking are not civic education. Could the Ministry clarify?

**Ms. Amina Abdalla:** Thank you, Mr. Speaker, Sir. Could the Minister assure this House that the *Uongozi* Trust initiative is not using finances that are masquerading as transport and meal allowances to influence voters given that we, politicians, are not allowed to engage in voter bribery? Is he also aware or has he verified that, that is not part of the African springs? We are told that the current financiers or movers of *Uongozi* Trust are experts after having come from leading the Arab Springs?

**Mr. Speaker:** Minister, you may now make your responses.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Speaker, Sir, I do appreciate the concerns of hon. Members. It is true that so far, we have not heard a specific legal framework regulating the issue of voter and civic education. However, as of this afternoon, one of the issues that is before this House is that of the regulations to guide voter registration. We believe that most of the concerns that Members are raising will be addressed through the regulations that we are putting in place. These regulations will regulate the qualifications of those who will be given the task of voter education and civic education. It will provide for accreditation of non-state education providers. It will provide for parameters within which they can operate, including them not being partisan or, maybe, targeting certain political parties or candidates. All these regulations, once the House passes them, will guide the process. However, so far, IEBC has been partnering with development partners who have been supporting IEBC and my Ministry in civic education. We have the Kenya National Integrated Civic Education (KNICE) and Legal Education Programme that is running under my Ministry. We have the Government of Japan, the US and others that are supporting civic education. They are purely funding and the rest is being done by Kenyans. So far, apart from *Uongozi* Trust, there are other NGOs that have been participating. Yesterday, we had one called *Mwangaza* that was being launched. It is concentrating on civic education. We have had the *Mkenya Daima* Initiative that we have been partnering with and even when we had our historic conference in Mombasa, my Ministry partnered with *Mkenya Daima* and other civil society movements that are promoting civic education.

So far, on all issues raised by hon. Members, I want to assure you that they will be addressed specifically to ensure that those who are tasked and engaged by IEBC are qualified and are not being used to bring about external interference in our electoral process, or are not going to cause an Arab Spring as hon. Amina has suggested. So, I am satisfied and I would like to assure the Member for Juja that, indeed, through the regulations that we are putting in place, your concerns will be addressed. Voter education will be regulated and we will be able to put everything in place.

**Mr. Speaker:** Mr. Minister, you may issue the next Statement but, please, live within five minutes; strictly so.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Speaker, Sir, the next statement was requested by the Member for Ainamoi, my good friend, hon. Benjamin Lagat and also by hon. Sirat. This was on 26<sup>th</sup> and 27<sup>th</sup> of September where we were requested to give a programme of activities leading to 4<sup>th</sup> March, 2013 elections and various matters touching on the conduct of these elections.

Specifically, the hon. Members sought to know the following:-

(a) A programme of activities indicating timelines that need to be undertaken by the IEBC before the forthcoming General Election on 4<sup>th</sup> March.

(b) The status of the BVR kits with an indication of the parties involved and the expected time of completion of the contract.

(c) The time required to install, test and train the staff to use the BVR kits and an assurance to the House that the General Election will be held on 4<sup>th</sup> March, 2013.

(d) The number of polling stations which will be set in the country and, specifically in Wajir South and indicate the number of polling clerks for those particular constituencies.

(e) The time it will take an illiterate voter to cast his or her vote for the elective position.

(f) The plan of the Government to ensure that all the people who have attained 18 years and above with no identity cards are registered and issued with identity cards before the start of voter education.

(g) The plans the Ministry has in place to ensure that all potential voters are registered in less than two months and that they shall be able to cast their votes in time.

The IEBC has a very elaborate plan of activities leading to the General Election of 4<sup>th</sup> March, 2013. This takes into account the practical aspects for the preparation of the election such as recruitment and training of electoral officers to legal aspects such as timelines provided for under the Election Act 2011 with regard to certification of the register, amongst others. Some of the activities in the plan include compilation of the voter register by December, 2012.

The IEBC is said to commence voter registration electronically from 1<sup>st</sup> November, 2012. I was very pleased when we had a workshop with the IEBC in Mombasa. The Chairman, Mr. Isaak Hassan, gave us the assurance that already, the equipment has started arriving in the country. This will facilitate training and by the end of this month, all the kits will be here and they will commence voter registration on 1<sup>st</sup> November, 2013. The other activity is the submission of party nomination rules by 17<sup>th</sup> October, 2012, submission of party symbols by independent candidates. This has to be done by 27<sup>th</sup> December, 2012. Eventually, we will have the IEBC nominations on 17<sup>th</sup> January, 2013. Subsequently, they are preparing for the presidential run-off.

The contract for the supply of the BVR kits was signed on Monday, 24<sup>th</sup> September, 2012. The contract is a government to government arrangement and, therefore, the parties involved are the Government of Kenya and the Government of Canada. The Government of Kenya was represented by the Independent Electoral and Boundaries Commission (IEBC) and the Permanent Secretary, Ministry of Finance, while the Canadian Government was represented by the Canadian Commercial Corporation. These were the parties that executed the contract.

Mr. Speaker, Sir, the BVR kits that will be supplied, which have already started arriving in the country, will be pre-loaded, pre-configured and tested at the factory before delivery. On arrival, the kits will be ready for use, with minimal local configuration to ensure that they are only used for pre-authorised purposes. The training of trainers, registration officers and technical support personnel will be conducted using the 5,000 advance kits that I have talked about. The training will take 11 days.

The IEBC has completed the mapping of registration centres and is in the process of compiling the list, in preparation for gazetting. Mapping of the registration centres is an elaborate process that has required consultations with various stakeholders, including registered political parties. The IEBC will shortly be gazetting the results of this exercise. This will fully detail the number of registration centres per constituency, including Wajir South of hon. Sirat.

Mr. Speaker, Sir, I would like to assure this House that the methodology and ease with which voters will cast their ballot has been given every keen attention by the IEBC. You may recall that the IEBC held mock elections early this year in Kajiado and Malindi, although there was an attempt by remnants of the Mombasa Republican Council (MRC) to disrupt the exercise in Malindi. This is a matter of concern which we continue to address. The tests in both Kajiado and Malindi provided useful insights into the voting process of all cadres of voters - the illiterate, semi-literate and the literate, amongst other categories.

Hon. Sirat asked how long a voter would take to cast his ballots. This exercise has confirmed that it will take any voter, including an illiterate voter, between six and ten minutes. This time round, voters will not be required to carry the voter's cards with them. All they need is an identity card for them to be identified and then they will cast their ballots. They will be casting six ballots. So, it will take time because they will have to vote six times, unlike what they had been doing previously - casting only three votes, for the President, the Member of Parliament and Councillor. They now have to also vote for the Senator, the Governor as well as the Women Representative. So, there will be six ballots cast. On average, the time to be taken will be between six and ten minutes per voter.

Mr. Speaker, Sir, in addition, the ballot papers that will be used at the election will be simplified and colour coded as per the elective positions being filled. This will make it easier for the whole spectrum of voters to understand and cast their ballots. It is also worth noting that the IEBC will be conducting an extensive voter education exercise, which will enlighten all voters on all aspects of the voting process. This places particular emphasis on what this House will be doing this afternoon in putting in place the Rules for voter education; because of the complex process of voting that we will be going through in this historic election.

The IEBC recently launched standardised electoral voter education materials. This was done on 1<sup>st</sup> October, 2012, at the Kenyatta International Conference Centre. We want to thank the hon. Members who found time to attend the function. The Cabinet has waived application fee for national identity cards. The matter was addressed by the relevant Ministry this afternoon, but I just wish to confirm that the Government has waived registration application fees on national identity cards and allocated more funding to this Ministry to ensure issuance of national identity cards to all who are eligible, so that they do not miss the historic opportunity of participating in these elections.

Mr. Speaker, Sir, the IEBC is fully prepared to register all eligible voters in the country. Based on the previous registered voters, it is estimated that this round, approximately 18 million persons shall be present themselves for registration as voters. As I have said, the Commission has set aside 30 days of voter registration, starting from 1<sup>st</sup> November. This will be achieved using the 15,000 BVR kits. What was ordered previously were only nine kits. So, through the government to government arrangement with the Government of Canada, we have increased the number of equipment, so that we can squeeze out the registration process and cover more wards. So, this will be achieved using the 15,000 BVR kits, each of which has the capacity to register 50 persons per day.

These will spread across the 1,450 wards in the country. This, in effect, means that the Commission has not only provided for the anticipated number of voters, but it has also over-estimated, so as to be on the safe side to hit target. Going by the estimation that we have been given by the IEBRC and the assurance that we have been given by the Government of Canada, the 15,000 BVR kits should be able to register 22.5 million voters in 30 days.

Mr. Speaker, Sir, as I said, this is a long Ministerial Statement. So, I want to assure hon. Members that the IEBC is ready for the 4<sup>th</sup> March, 2013 election. In the last workshop called in Mombasa, the Chairman of the Commission assembled his entire team, right from the Constituency Co-ordinators to the Commissioners themselves as we all as the managers of the elections. They said to Kenyans that they were ready, and that the election would not be postponed to August, 2012.

Thank you.

**Mr. Speaker:** Let us take requests for clarifications on that Ministerial Statement. They will be a maximum of five requests, beginning with the Member for Wajir South.

**Mr. Sirat:** Mr. Speaker, Sir, with your indulgence, I have only three clarifications to seek.

What measures has the Minister put in place to mitigate a situation where the BVR kits stop functioning or develop mechanical faults in the remote parts of Wajir South Constituency? Wajir South has a high rate of illiteracy of about 85 per cent. He said that it will take between six and ten minutes for a voter to cast his ballots. If it takes a maximum of ten minutes, it means that only six people will vote in each hour. So, only 72 people will vote between 6.00 a.m. and 6.00 p.m. We have over 35,000 registered voters in Wajir South, with only 100 polling stations envisaged. Can he explain how all the 35,000 voters are going to vote?

Mr. Speaker, Sir, the Minister was here when the Minister of State for Immigration and Registration of persons answered the Question enquiring whether the youth who have waiting cards will be allowed to register as voters and he said: "My colleague is here. He will answer that one." Can the Minister now answer the question about the over five million youth, some of whom have waiting cards and others are yet to be registered? Can he tell us whether they will be allowed to register as voters? In my constituency, there are 15,000 youths with waiting cards. So, can the Minister solve this issue before these people take the matter to court?

**Mr. Speaker:** Member for Ikolomani, I hope that you will stay closer to the rules as the Member for Wajir South did.

**Dr. Khalwale:** Mr. Speaker, Sir, indeed, I will.

Mr. Speaker, Sir, members of the public understand that the government to government procurement includes a loan from the Government of Canada. Can the Minister tell us the fate of the Kshs4 billion that was originally set aside for this exercise? Finally, he is aware that the companies that participate in the tender have moved to court. Suppose they were to win the case, who will bear the cost of payment of damages? Is it the taxpayer or the Chief Executive Officer (CEO) who, unprocedurally, cancelled the tender that was won by one of those companies?

**Mr. Speaker:** Yes, Member for Ainamoi.

**Mr. Langat:** Mr. Speaker, Sir, clearly, what the Minister is telling the country is that the IEBC is running a serious crash programme.

Could he tell us what emergency measures have been put in place should this system fail to work? Secondly, the Minister has said that the procurement of these kits is a government to government arrangement, but he has not told us what kind of arrangement it is. Is it a donation, or are we buying or leasing from Canada? If we are buying from them---



**Mr. Speaker:** Order, hon. Member for Ainamoi! You know you want a clarification. I have accommodated you and allowed you to go to two and now you want to go to three. I will not allow that.

**Mr. Letimalo:** Mr. Speaker, Sir, voter and civic education is crucial to ensure that all Kenyans who are registered as voters will participate in the general election. When will this voter or civic education be starting? Who will actually be doing it to ensure that pastoralists who move with their livestock--- This is a time when it is dry; they should also be covered during the voter or civic education.

**Mr. Njuguna:** Mr. Speaker, Sir, what measures is the Ministry or the Government taking to fully convince Kenyans that the general election will take place on 4<sup>th</sup> March, 2013 and not in August, as currently being rumoured in the country?

**Mr. Speaker:** Mr. Minister, you may give your responses now.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Mr. Speaker, Sir, to start with the clarification by Mr. Letimalo, voter education kicked off on 1<sup>st</sup> October, 2012. There was an elaborate function at KICC where all members of the Commission, Members of this House, Members of the Cabinet and the international community attended. We set out a programme to ensure that thorough voter education will be given.

Regarding the issue of who will participate in this voter education, it is part of the rules that we are dealing with now to ensure eligibility and look at educational standards, impartiality in the exercise and so on. So, we are asking hon. Members to put in place the necessary legal framework.

Mr. Langat has asked about the issue of malfunctioning of this system as did his friend from Wajir South, Mr. Sirat. As we have said, already this equipment has been tested and the purpose of testing was to see how it works. In the Memorandum of Understanding (MoU) that was signed between the Government of Kenya and the Government of Canada, there are guarantees given by the Government of Canada. Due diligence was done and we believe that the equipment that is already being received, or will be delivered from Canada, will be functional and will satisfy our specifications and requirements. All this will be under the guarantee of the Government of Canada. We believe that it will come with the necessary back-up and technical expertise to ensure that it is functional. We believe that it is equipment that has been supplied to other countries, and it is working. We want to assure Kenyans that it has been tested before and it is a system that will cure our past ills, including having dead people registering or voting.

Mr. Speaker, Sir, I also want to inform Mr. Sirat that we have been voting, and when you enter the polling booth one to six minutes has been reasonable period. When we were doing it manually, we used to take long but with electronic voting, and the fact that you will not have to carry your voter's card--- You would walk into a polling station, give it to a clerk who would use a ruler to cross out your name; that used to take long. Now you will not have to carry a voter's card. You will just thumb print and immediately you are identified you will cast your vote. The only thing that will take time is the casting of six votes. This is where voter education is going to be crucial.

We are going to be asking hon. Members to help the IEBC and all those players who will be involved. The estimated time of six minutes is really on the conservative side. It could be done faster than that and it is doable. As all the polling stations have been identified, Dr. Khalwale asked what the Kshs4 billion will be used for. The reasoning of the Government was that the money could go towards increasing the polling stations or ensuring that the process is

carried out effectively. We believe that if a specific Question is put, we will be able to give you the details on how the Government intends to apply that funding. We believe that with the increase of polling stations, we will be able to hasten the process of casting our ballots. This is one of the areas that we are looking at.

Regarding the issue of identity cards, the Minister dealt with it. We believe that it is a matter of concern. This is a matter that has come up in the Cabinet severally. This is a matter that has caused the Government to allocate more resources to the Ministry of State for Immigration and Registration of Persons. It is also a matter that we would like Mr. Kajwang to come and deal with substantively before this House, because it is a matter of concern; even if we succeed in registering many Kenyans. In the past we have left out young Kenyans who have never voted before and who have been looking for the opportunity to participate in the historic election for the first time in their lives. To me, this will be the greatest injustice we will do to these young Kenyans. Therefore, everything must be done to ensure that they are able to register and vote.

Regarding the issue of legal challenges, Dr. Khalwale, we do not wish to speculate because the matter is *sub judice*, that is, it is before the courts. We believe that the necessary procedures were followed. We believe that this matter is under inquiry by a Committee of this House. Whoever will be found responsible for the mess that was there, must be held accountable. We believe that the Committees of this House will bring their recommendations. What we did as a Government was to intervene so as to ensure that the process is not derailed or delayed and it was in good faith. It is now back on track through the government to government arrangement that we have told this House about.

Thank you, Mr. Speaker, Sir and sorry for taking too long.

**Mr. Sirat:** On a point of order, Mr. Speaker, Sir. The Minister has not answered a precise question: Will he allow youths with waiting cards to register as voters?

**Mr. Speaker:** Minister, that is brief.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Speaker, Sir, I have answered it by saying that we have allocated enough resources to ensure that all eligible Kenyans are issued with identity cards before the voting day. Their going with waiting cards to the polling stations should not arise. There are enough resources and Mr. Kajwang has been empowered to ensure that Kenyans get their identity cards.

**Mr. Speaker:** Order, hon. Members! I am afraid we must close that matter there. I want to take requests for Statements.

Hon. Member for Gichugu, I have seen you unless you want to speak on this particular order, I would want you to rise a little later. We must first of all take the Statement by the Leader of Government Business.

BUSINESS FOR THE WEEK COMMENCING  
16<sup>TH</sup> TO 18<sup>TH</sup> OCTOBER, 2012

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, I wish to take this opportunity to make the following Statement with regard to business for next week.

Allow me, without appearing to anticipate debate, to point out that today we have on our Order Paper a Motion for Adjournment of the House to a day other the next normal sitting day. This is to allow hon. Members to proceed to a well deserved break until Tuesday 20<sup>th</sup> November, 2012. However, as the practice of the House, if hon. Members decide to continue with House

sittings, we shall give priority to the business that will not be covered in today, and whatever was not covered yesterday.

Lastly, the House Business Committee will then meet on Tuesday 16<sup>th</sup> October, 2012 at the rise of the House should circumstances so demand to consider business for the rest of the week.

**Mr. Speaker:** Very well, we will now take Mr. Muthama.

## POINTS OF ORDER

### LEGALITY OF SECTIONS 22(1)(B) AND 24(1)(B) OF ELECTIONS ACT, 2011

**Mr. Muthama:** Mr. Speaker, Sir, I beg to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the legality of Sections 22(1)(b) and 24(1)(b) of the Elections Act, 2011, in view of the ruling by the High Court in petition No.198, 2011 delivered on 29<sup>th</sup> June, 2012 where I was the plaintiff and the respondents were the Minister for Justice, National Cohesion and Constitutional Affairs and the Attorney-General.

The ruling on page 26, paragraph 70 by the Judge states as follows:-

“I find and hold that Section 22(1)(b) and Section 24(1)(b) of the Elections Act, 2011, which bar persons not holding secondary school qualifications from being nominated as candidates for elective office or for nomination of Parliament to be unconstitutional and in violation of the petitioner’s rights under the Constitution.”

Mr. Speaker, Sir, in his Statement, the Minister should clarify whether the Election Rules 2011 should contain provisions on operationalization of the two sections in question. I have the ruling with me, a copy of which I have and if the Minister wishes to be assisted with this, I can provide it.

**Mr. Speaker:** Minister for Justice, National Cohesion and Constitutional Affairs, when will you deliver that Statement?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Speaker, Sir, may I do it on Tuesday?

**Mr. Speaker:** Very well! It is so directed.

### FAILURE BY THE MINISTRY TO UNDERTAKE THE KENYA AIDS INDICATOR SURVEY

**Mrs. Odhiambo-Mabona:** Mr. Speaker, Sir, on behalf of Amb. Affey, I rise to ask a Ministerial Statement from the Minister of State for Planning, National Development and Vision 2030 regarding the failure by the Ministry to undertake the Kenya AIDS Indicator Survey (KAIS) October, 2011, in the counties of Wajir, Garissa and Mandera.

In the Statement, the Minister should:-

(a) Explain how the failure to undertake the survey would affect the prevention, treatment and care services of HIV/AIDS in the counties;

(b) Confirm that this will not deny the three counties of donor funding towards HIV/AIDS programmes;

(c) Confirm that this was not an act of discrimination against the people of the three counties contrary to the values enshrined in the Constitution;

(d) Assure the House that the Ministry will not exclude the three counties from future surveys.

**Mr. Speaker:** Minister, when will this come?

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, I will communicate the message to the Ministry of State for Planning, National Development and Vision 2030 and I will tell them to have a Statement by Thursday next week.

**Mr. Speaker:** It is so directed.

#### BOMB EXPLOSION AT ST. POLYCARP ACK CHURCH IN NAIROBI

**Mrs. Shebesh:** Mr. Speaker, Sir, first of all, I was expecting a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the grenade attack in a church two weeks ago. You had asked for that Statement to be brought last week, Tuesday but it has not been brought.

**Mr. Speaker:** I certainly recollect that. Deputy Leader of Government Business when will this happen?

**The Minister for Transport** (Mr. Kimunya): Tuesday next week.

**Mr. Speaker:** Fair enough! It is so directed. Mrs. Shebesh please note and be present. Do you have another one?

#### ATTACK OF HON. MWAU AT KIBWEZI

**Mrs. Shebesh:** Mr. Speaker, Sir, I do have a request for a Ministerial Statement. I would like to request for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the attack on hon. John Harun Mwau on 6<sup>th</sup> October, 2012, at Kasayani in Kibwezi by political thugs.

In the Statement, the Minister should clarify whether Members of political parties are free to hold political rallies in Makueni County without being attacked and what action the Government has taken, bearing in mind the Election Act and Political Parties Act that clearly state the action that should be taken against persons or political parties that are involved in violence and intimidation against other members of the public.

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, we can have that for Thursday next week.

**Ms. Karua:** Mr. Speaker, Sir, I wish I had caught your eye earlier when the Notice of Motion for the Parliamentary Service Commission Report was given. We have now received a copy of the report which is relying on the PriceWaterHouseCoopers consultancy for selecting the candidates. I am just seeking your directions because I think the executive summary of PriceWaterHouse Report should have been annexed to guide the hon. Members.

I notice the debate is slated for later today and I seek your guidance and direction as an hon. Member. Executive summary of the report of PriceWaterHouseCoopers will enable a meaningful participation of this debate whose Notice of Motion has just been given and we are expected to debate later.

**Mr. Speaker:** Yes, Member for Gichugu, that is genuine and I think obviously a very well grounded concern. Vice-chairman of the Parliamentary Service Commission, you gave notice of this Motion which is at Order No.15 and the Member for Gichugu is asking and,

indeed, maybe there will be other hon. Members asking for the executive summary of PWC report which you have covered in your report as tabled. What is your response to that?

**Mr. Keynan:** Mr. Speaker, Sir, I also appreciate what Ms. Karua has said. You know when any institution puts an advert for jobs, there are thousands of Kenyans who normally apply. All the same, the book from PriceWaterHouseCoopers on individual candidates is a voluminous one. I think that can be availed and the hon. Member can look at it. It is not something that outrightly--- They are so many pages. But all the same, I have provided. I went ahead as a result of what she said and attempted to provide the sheet. It is here. I have a copy. I hope I can also share the same with the hon. Member. But I think the information we have given is adequate and can guide the process.

**Mr. Speaker:** Vice-Chairman, that decision is not yours. That decision on adequacy is mine. Whether or not the information you have given is adequate, that decision would be mine; not yours. You do not enjoy that discretion.

Hon. Vice-chairman of the Parliamentary Service Commission, maybe you were not getting the gist of what the Member for Gichugu is asking for. You have tabled a report and among other things your report recommends to the House for approval the appointment of two persons who are named in the Motion. The Member for Gichugu relatively from what I can sense is satisfied with your report but she says your report is based on the PriceWaterHouseCoopers Report. She is asking as, indeed, she is entitled to, for an executive summary of the PWC report. If you go there, then we will be on the same page.

**Mr. Keynan:** Mr. Speaker, Sir, that will be availed.

**Mr. Speaker:** Why do you not avail it now as we transact through the other Orders before we go to Order No. 15? She is asking for an executive summary. You are talking about very many candidates who applied. So, you see you are not on the same page. She does not want those very many candidates; she wants an executive summary of the PWC report.

**Mr. Keynan:** Mr. Speaker, Sir, I am obliged. That will be availed. I stand guided.

**Mr. Speaker:** Very well. Proceed and ensure that hon. Members have that executive summary at the earliest time.

Hon. Members, that brings us to the end of Order No.7. We want to take the next Order. Hon. Members, please, note that beginning from the next Order, you are guided by the Supplementary Order Paper. So, we must all turn to the Supplementary Order Paper.

Next Order!

## **BILLS**

### *First Readings*

#### THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL THE CROPS BILL

#### THE KENYA AGRICULTURAL RESEARCH BILL THE AGRICULTURE, LIVESTOCK, FISHERIES AND FOOD AUTHORITY BILL

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

*relevant Departmental Committees)*

## **PROCEDURAL MOTION**

### **EXTENSION OF SITTING TIME**

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 20(2) this House orders that today's sitting be extended until the business appearing in the order paper today is concluded.

Mr. Speaker, Sir, this is a very straightforward Motion, the import of which is to give the House adequate time to transact the business appearing on the Order Paper, mainly the conclusion on the Draft Elections Regulations, Order No.15 as well as the Motion for Adjournment. If the House does grant this, we will be able to transact the business. We will, probably, be seeing ourselves staying until late into the night. But it is subject, obviously, to the interest shown by the hon. Members, within the Motions coming hereafter.

Mr. Speaker, Sir, we did discuss this within the House Business Committee and thought that it was the best way of disposing of the business.

Mr. Speaker, Sir, I beg to move and ask Dr. Khalwale to second.

**Dr. Khalwale:** Mr. Speaker, Sir, indeed, I want to second the Minister, hon. Kimunya, but request the hon. Members of the House that main business which is serious here is the one on regulations. So, if we can quickly conclude the other little businesses and then spend time on the substantive business, it will allow us to finish before 8.00 p.m.

Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**Mr. Njuguna:** Mr. Speaker, Sir, I support.

**Mr. Ruto:** Mr. Speaker, Sir, it is strange that hon. Kimunya likes to ask Members of Parliament to stay until midnight and when we transact business dutifully and stay up late, the next day we are bashed. He joins the bashing and hardly defends the House that we are actually transacting serious business. It is said that we are always looking to sit up late to do mischief.

Mr. Speaker, Sir, I do not know; I am torn in between supporting and opposing because in the first instance, what is before the House is very important business which actually ought to be passed but I do not know what we can do to make sure that we can finish this before 7.00 O'clock notwithstanding the fact that we must still look thoroughly at the election rules.

I reluctantly support.

**Eng. Gumbo:** Mr. Speaker, Sir, I also support but I would request Members that when we sacrifice, it should be noticed. Not that when we do things here then some want to look better than others. I think that is wrong.

I support.

*(Question put and agreed to)*

## MOTION

### APPOINTMENT OF MEMBERS TO SELECT COMMITTEES

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order No. 159 and 176, the following Members be appointed to serve in the Select Committees stated here below:-

**(i) Justice & Legal Affairs Committee**

Hon. Aghostinho Neto Oyugi, M.P.

**(ii) Local Authorities Committee**

Hon. Najib Balala, M.P.

Hon. Tirus Ngahu, M.P.

**(iii) Transport, Public Works & Housing Committee**

Hon. Omar Zonga, M.P.

**(iv) Public Investments Committee**

Hon. Aghostinho Neto Oyugi, M.P. to replace Hon. John Mbadi, M.P. who has since been appointed Assistant Minister,

**(v) Local Authorities & Funds Accounts Committee**

Hon. Moses ole Sakuda, M.P.

**(vi) Constituencies Fund Committee**

Hon. Adan Duale, M.P.

Mr. Speaker, Sir, these appointments are to fill existing vacancies in these Committees and also to accord the new Members of Parliament who have joined us following the recent by-elections, an opportunity to serve within the Committees during the remaining time of the House.

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Order, Minister! Resume your seat for a moment. Those Members converging around the Member for Runyenjes who is now just going back, could you kindly find an appropriate place for you to have your consultations; either sit at a point where there is an adequate number of seats to accommodate all of you and you can consult quietly or retreat to the Speaker's Chamber which is behind me and you can have your consultations and then come back into the House. You have two options and you may exercise any of them.

Minister, you may continue.

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, these names were discussed and approved by the House Business Committee and submitted to the full House for ratification and approval as required by the Standing Orders.

Mr. Speaker, Sir, I beg to move and request hon. Muthama, one of the Joint Whips to second.

**Mr. Muthama** seconded.

*(Question proposed)*

**Eng. Gumbo:** Mr. Speaker, Sir, I stand to support the Motion primarily because it is important that the three new Members, Messrs. Aghostinho Neto Oyugi, Moses ole Sakuda, and Tirus Ngahu, also get a chance to do Committee work. I think it is their right; more specifically, as a Member of the Constituencies Development Fund Committee, I am particularly happy to work with hon. Adan Duale who is a seasoned debater and a very decisive man in opinion. That is a Committee that deals with resources that affect the people of Kenya. It is important that we have decisive and firm Members in that Committee.

I support.

**Mr. Njuguna:** Mr. Speaker, Sir, let me indicate that the six are hon. Members of this House and they are distinguished in their own right; they are highly experienced.

I support the Motion.

*(Question put and agreed to)*

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

### IN THE COMMITTEE

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

### CONSIDERATION OF THE DRAFT ELECTIONS REGULATIONS, 2012

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Members, we are now in the Committee to consider the Draft Elections Regulations, 2012. We had started yesterday and we agreed that those regulations that may have been dropped be recommitted at the end of the exercise. We will start from Regulation 8.

#### *Regulation 8*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 8(1) be amended by inserting the words “and through electronic and print media of national circulation and other easily accessible medium” immediately after the word “Gazette”.

This is just to increase the publicization of what is in the Gazette.

*(Question of the amendment proposed)*

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



*(Regulation 8 as amended agreed to)*

*Regulation 9*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 9(1) be amended by inserting the words “and publicize through electronic and print media of national circulation and other easily accessible medium,” immediately after the word “Gazette”.

Again, this is an issue of publicization of what is in the Gazette.

**Mr. Muthama:** On a point of order, Madam Temporary Deputy Chairlady. I wish to seek a clarification on whether the business of the House is being conducted according to the Standing Orders. In these Draft Regulations we have Regulation 42, which has not been proposed for amendment. I sought a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs because there is a court ruling, and I have a copy of it here. On page 26 of the ruling---

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Muthama, could you tell us which Regulation you are referring to?

**Mr. Muthama:** Madam Temporary Deputy Chairlady, that is where I am heading to. This is Article 42.

**The Temporary Deputy Chairlady** (Dr. Laboso): But we are not yet there, hon. Muthama. When we get there, you can raise your objection.

**Mr. Muthama:** Madam Temporary Deputy Chairlady, I am on my feet because it is not listed anywhere in the amendments that we are dealing with.

**The Temporary Deputy Chairlady** (Dr. Laboso): When there is no amendment, then it will be read. Once it is read, then you will raise your objection.

**Mr. Muthama:** Much obliged, Madam Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

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

*(Regulation 9 as amended agreed to)*

*(Regulation 10 agreed to)*

*Regulation 11*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 11(1) be amended by deleting all the words after the words “holding of” and substituting therefor the words “the respective elections in the *Gazette* and in the electronic and print media of national circulation as set out in the Act and through other easily accessible medium.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left)*

*out, put and agreed to)*

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

*(Regulation 11 as amended agreed to)*

*(Regulation 12 agreed to)*

*Regulation 13*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 13(2) be amended by inserting the words “disability and category of disability” immediately after the word “sex”.

We need to know the category of the disability of a Member when they are applying for nominations.

*(Question of the amendment proposed)*

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

**The Temporary Deputy Chairlady** (Dr. Laboso): We have a further amendment by hon. Eng. Gumbo.

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, I beg to move a further amendment:-

THAT, the Regulations be amended by inserting the following new sub-regulation in Regulation 13-

(4) Each political party shall submit only the name of one person as their candidate for a presidential election or any electoral area as defined in the Elections Act, 2011.

The rationale for this proposed amendment is clear. We have had instances in this country where political parties present more than one name for one position. So, the proposed amendment is for complete avoidance of doubt.

*(Question of the further amendment proposed)*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I support that amendment and hear hon. Gumbo because this is a real problem in the party that he professes.

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, in my view, this is a very healthy amendment and I support it.

*(Question, that the words to be inserted)*

*be inserted, put and agreed to)*

*(Regulation 13 as amended agreed to)*

*Regulation 14*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 14 be amended in paragraph (a) by inserting the words “and file with the Commission” immediately after the word “obtain”.

This is in relation with independent candidates filing a certificate that they are independent candidates.

*(Question of the amendment proposed)*

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

*(Regulation 14 as amended agreed to)*

*(Regulations 15 and 16 agreed to)*

*Regulation 17*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 17 be amended in paragraph (1), by-

(a) deleting the words “at the same time deliver to the Commission, eighty” and substituting therefor the words “deliver to the Commission at least five days to the day fixed for nomination, in a hard and electronic version”;

(b) inserting the words “identity card or passport number” immediately after the words “respective signatures”.

This is an important amendment because, as you are aware, hon. Harun Mwau took A4 certification list up to the Court of Appeal and yet, IEBC is saying that presidential candidates must deliver to the Commission 80 foolscap sized papers. The presidential candidate needs to deliver 50,000 names, meaning that each A4 paper would be required to have the signatures and names of 624 persons. So, to avoid having another petition case where the numbers would not be achievable, we are deleting that 80. We are also appreciating that in this day and age, we should give an electronic version of the list so that the IEBC can have ample time to verify that those subscribers are actually voters. That is the import of amendment “a”.

In part “b”, we want it amended to include “identity or passport number”, so that we can have the identities and the voters’ number of the individuals who will be subscribing to support a presidential candidate.

*(Question of the amendment proposed)*

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, the law now is clearer and specific. I support.

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

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

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

*(Regulation 17 as amended agreed to)*

### *Regulation 18*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 18 be amended-

(a) in paragraph (a) by deleting the words “five hundred thousand” and substituting therefor the words “one hundred thousand”; and,

(b) in paragraph (b) by deleting the words “one million” and substituting therefor the words “two hundred thousand”.

This is the nomination fee that presidential candidates will be paying to the electoral commission. We appreciate that the electoral commission will be spending cash in processing its papers but we do not believe that the 1,000 per cent increase is fair. So, we are proposing that presidential candidates pay Kshs200,000 each, up from Kshs100,000 in the last election, and that persons with disabilities pay half of that amount.

That is the import of the amendment to Regulation 18.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Yes, Dr. Khalwale.

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I want to compliment the Committee because we cannot allow the presidential election to be the preserve of millionaires and billionaires of Kenya when we know that even the source of that money is suspect.

I support.

**The Temporary Deputy Chairlady** (Dr. Laboso): Yes, hon. Minister.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, I want to thank the Members of the Departmental Committee, particularly for hearing the outcry of many Kenyans on the issue of the high nomination fees proposed so far. Two things should not be made so expensive as to be beyond the reach of ordinary Kenyans - the issue of democracy and justice. These two should not be so expensive as to be a preserve of the rich by the rich.

Therefore, I really want to support the amendment wholeheartedly.

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

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

*(Regulation 18 as amended agreed to)*

*Regulation 19*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 19 be amended in paragraph (2) by deleting the words “and be maintained for at least three months after the elections” immediately after the words “prior to the elections”.

The Regulations required independent candidates to not only have offices three months prior to the elections, but maintain them three months after the elections. We feel that, that is punitive. So, we are deleting the sections that require them to have these offices three months after elections.

*(Question of the amendment proposed)*

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, in supporting the amendment, I would like to say that it is not prudent to ask a defeated candidate, following a general election, to continue running an office.

Therefore, I support the amendment.

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

*(Regulation 19 as amended agreed to)*

*Regulation 20*

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I would like Ms. Amina Abdalla to guide me. When I look at Regulation 20 and I also go to the general rules, Part IX, specifically 52 which refers to general positions, we should have both regulations when they are referring to no contest. What you are saying in Regulation 20 is also what you are saying in 52 since this one is general and applies to all contests like for president, governor and so on. Why do you choose to have both instead of just one?

**The Temporary Deputy Chairlady** (Dr. Laboso): The Committee may answer but the Minister should be the one to guide us on this.

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, somebody has just walked away with my regulations.

**Dr. Khalwale:** The Minister can answer me.

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, whoever has a copy of my regulations--- I think it is Mr. Linturi; could he please give it back to me?

To answer the question by Dr. Khalwale, Regulation 20 is specific to the presidential contest and Regulation 52 deals with the other seats. The regulation we are now dealing with is specific to the presidential elections.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, the presidential election is what has caused us problems in the past. So, we need very clear provisions to apply to presidential elections. Regulation 52 will apply to the general situation. I think it is not superfluous. It is good to be specific as far as presidential elections are concerned.

*(Regulations 20, 21 and 22 agreed to)*

### *Regulation 23*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 23 be amended in paragraph (1) by-

(a) deleting the expression “21 or;”

(b) deleting the word “forty” appearing immediately before the word “standard”.

You will note that when I was seconding the Motion, I mentioned that we do not believe that the Constitution required political party candidates to have a list of subscribers. So, we are removing that requirement of the list of subscribers from the component that deals with party sponsored candidates and retain it for only independent candidates. We are deleting the number “40” so that the names can then fit in a 4A page.

*(Question of the amendment proposed)*

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

**The Temporary Deputy Chairlady** (Dr. Laboso): There is a further amendment by Eng. Gumbo.

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT the Regulations be amended in Regulation 23 by inserting the words “or county, as the case may be” at the end of sub-regulation (1).

Madam Temporary Deputy Chairlady, the purpose of this amendment is that it actually excludes women candidates in the counties. So, I am just adding “or county, as the case may be” at the end of that sub-regulation (1). I have already discussed with the Committee Chair and we are in agreement.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Committee Chair, are you in agreement?

**Ms. Amina Abdalla:** Yes, Madam Temporary Deputy Chairlady. I do support it because the amendment deals with an oversight; the fact that women would be at the county level.

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

*(Regulation 23 as amended agreed to)*

*Regulation 24*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 24 be amended-

(a) in paragraph (a) by deleting the words “one hundred and fifty thousand” and substituting therefor the words “ten thousand”;

(b) in paragraph (b) by deleting the words “two hundred and fifty thousand” and substituting therefor the words “twenty thousand”

Madam Temporary Deputy Chairlady, this is the nomination fee to be paid by persons wanting to be elected as Members of Parliament. We are increasing it by 100 per cent so that Members of Parliament will pay Kshs20,000 and the youth and disabled, Kshs10,000.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, I wish to support that amendment.

Madam Temporary Deputy Chairlady, when tabling these regulations, I did indicate that we will welcome these amendments. Particularly, I heard a young man who has been a student leader at Kenyatta University and he wants to run as a Member of Parliament somewhere in Bomet. He did say that there are so many things that have been put in his way. First of all, the Higher Education Loans Board (HELB) says that he must clear before he gets there and the young man has not worked. When you ask him to pay another Kshs250,000 he will not be able to realize his ambition. I want to thank the Committee for ensuring that many Kenyans will enjoy their political rights under Article 38. It is, for the first time, a very important right enshrined in our Constitution.

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, this is a very good motivation to those who are disadvantaged in the society. It also opens doors for all those desiring to stand for these elections to come forward.

Madam Temporary Deputy Chairlady, I support.

**Mr. Kombo:** Madam Temporary Deputy Chairlady, I also support. This is because what the amendment is doing - and we want to thank the Committee - is to ensure that being elected is not the preserve of the rich.

Madam Temporary Deputy Chairlady, I support.

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I wish to support. From a gender perspective, many women are not resourced. So, if you reduce this, it will enable many more women to vie.

Madam Temporary Deputy Chairlady, I support.

**Mr. Nyambati:** Madam Temporary Deputy Speaker, I also want to support because this will mean that we are making it possible for every Kenyan who wants to run for elective office to do so as opposed to locking other people who cannot make it out.

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

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

*(Regulation 24 as amended agreed to)*

*(Regulations 25 and 26 agreed to)*

#### *Regulation 27*

**Ms. Amina Abdalla:** Madam Temporary Deputy Speaker, I beg to move:-

THAT, Regulation 27 be amended in paragraph (1) by-  
deleting the expression “25 or”;

deleting the word “forty” appearing immediately before the word “standard”.

Again, this is to avoid litigation and to exclude political party nominated candidates from having subscribers.

*(Question of the amendment proposed)*

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

*(Regulation 27 as amended agreed to)*

#### *Regulation 28*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the proposed regulation 28 be amended-

(a) in paragraph (a) by deleting the words “two hundred and fifty thousand” and substituting therefor the words “twenty five thousand”;

(b) in paragraph (b) by deleting the words “five hundred thousand” and substituting therefor the words “fifty thousand”.

This is to reduce the nomination fee for Senators to Kshs50,000 and for Senator candidates who are youth or disabled to Kshs25,000.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady (Dr. Laboso):** What is your point of order, hon. Dr. Khalwale?

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I really want to beg that you indulge me on this one. You know we are reading four documents at the same time; the rules and the amendments. There is a Constitutional issue which I would like the Minister to speak to in Regulation 27. It is good that the Minister clarifies.



**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Khalwale, we are on Regulation 28 now.

**Dr. Khalwale:** Yes, Madam Temporary Chairlady, I was caught up when I was reading both documents and you overtook me. It will be nice for the Minister to speak to it.

**The Temporary Deputy Chairlady** (Dr. Laboso): Dr. Khalwale, please just consult the Minister as we move on then if there is any issue, you can let us know but we must move or it can be recommitted, if there is need for it. Just consult him please and then we can move on.

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, then could you allow me to recommit Regulation 27?

**The Temporary Deputy Chairlady** (Dr. Laboso): That is why we are saying go and discuss with the Minister. We are not saying recommit it now. Go and agree with the Minister, please, Dr. Khalwale.

So, we are on Regulation 28 and I have proposed that Regulation 28 be amended as proposed by the Committee.

**Mr. Njuguna:** Madam Temporary Chairlady, this truly is very good encouragement particularly to those who are aspiring to stand and allows a lot of individual rights and democratization in our country.

I support.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, I also wish to support this amendment. It goes a long way in ensuring that Article 38 that gives Kenyans political rights to make political choices without any undue restrictions remains in place. I want to thank the Committee for listening to Kenyans and ensuring that democracy is not made too expensive.

**Mr. Mureithi:** Madam Temporary Deputy Chairlady, I also want to join my colleagues in supporting this amendment considering that those who are looking for senate positions will be campaigning in very large counties. This goes a long way in reducing the burden on them to pay the money. Whatever they will remain with will enable them to cover the large counties during their campaigns.

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

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

*(Regulation 28 as amended agreed to)*

*(Regulations 29 and 30 agreed to)*

### *Regulation 31*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-  
THAT regulation 31 be amended-

- (a) in paragraph (1) by-
- (i) deleting the expression “29 or;”

(ii) deleting the word “twenty” appearing immediately before the word “standard”;

(b) in paragraph (2) by deleting sub-paragraph (c)

I want to be clear because the question that was raised about senators by Dr. Khalwale is the same one that we are trying to address in this regulation. The situation is that for all elective seats, when you are a candidate of a political party, the IEBC should not expect you to have subscribers as stipulated in the Constitution. The Constitution only covers independent candidates. So, our amendment is in Regulation 31, which talks about the number of subscribers. We have deleted the regulation that deals with party-nominated candidates, so that it is only the independent candidates who have to have the list of subscribers.

Secondly, the requirement by IEBC is that in addition to the names, ID numbers, and voter card numbers they should bring photocopies of the voter’s cards. We have deleted sub-regulation (c) because there is no provision for voter’s cards, and that would be superfluous. So, I propose that Regulation 31 be amended as per the Order Paper.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Madam Temporary Deputy Chairlady, I was just consulting with hon. Dr. Khalwale. Please, indulge him for a minute.

**Dr. Khalwale:** Let us be very clear, hon. Minister and hon. Amina Abdalla. You are, therefore, saying that on nomination day it is only independent candidates who will be accompanied by the supporters, but the rest of the candidates will only present the nomination certificate. Traditionally, it has been that you normally go with between seven and 20 people. So, you are, therefore, saying that we will go without them? Please, let it be clear.

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, it is the decision of the Committee and even political parties are in agreement that the Constitution only requires an independent candidate for governor and senator to come with--- In the case of senator, they will need a list of 1,000 members and for governor the requirement is similar to that for the county assembly person. It does not expect that to happen for a political party-nominated candidate. Given that that is not a requirement for you as a political party nominated person, I do not see why the IEBC is saying that you bring a list with the copies of the voter’s cards, their signatures and their thumb prints to the nomination process if they are not literate.

You will see in subsequent regulations that you will be required as a political party candidate to have a proposer and a seconder who is a member of your political party, but not that list of 1,000 or 2,000 members. It is just two people, that is the proposer and the seconder. It is the business of your political party to ensure that you are supported in the county by 1,000 or 2,000 people in case you want to be the senator for Kakamega County.

**Mr. Kombo:** Madam Temporary Deputy Chairlady, listening to hon. Amina Abdalla, I am absolutely convinced that it is superfluous. If the political party has nominated you, it has done its job and it will be superfluous that you are required to have the endorsements.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Madam Temporary Deputy Chairlady, I wish to welcome the amendment. It brings clarity between independent candidates and candidates sponsored by parties. Political parties have already gone through a process because of the provisions of the Political Parties Act. To ensure compliance with that, they have members in 24 counties. When they nominate their

candidates, then the candidate will have the following of that party. So, it is superfluous and we can do away with it.

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

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Regulations be further amended in Regulation 31 by deleting the words “five hundred voters” appearing in sub-regulation (1) and substituting therefor the words “two thousand voters”.

I have discussed with, call her teacher, and she told me that this is a provision in the Act. I am unable to see that provision, but I find it not correct that somebody seeking a seat in the county should always seek 500 supporters when someone seeking a seat in the constituency needs about 1,000 supporters. This amendment is in order and I request the House to approve it.

*(Question of the further amendment proposed)*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, there is an anomaly in the Constitution that there was no requirement as to how many subscribers a candidate for governorship would have. That was addressed in the Elections Act where it says “the same requirements as a ward assembly person”. So, unless hon. Gumbo wants to say 2,000, but that would be *ultra vires* because it would be more than what is required by the parent Act.

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, I have looked at this Act quite extensively. Could I, kindly, be guided as to which section of the Act specifically is talking about this?

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, so that we make progress, could we then reconvene to this Regulation once we have looked at the relevant Act? The internet is not working inside the House for us to look at the Elections Act and the Constitution regarding the requirement for independent candidates for the position of a governor.

**The Temporary Deputy Chairlady** (Dr. Laboso): We have a copy of the Elections Act here. If you can quickly go through, but I agree that we need to move ahead. This can be one of those to be recommitted on that specific part.

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, the only way it can come back is through a re-committal. How else can it come back? I need to be guided.

**The Temporary Deputy Chairlady** (Dr. Laboso): Yes, we will recommit it once we have got clarity whether in the parent Act there is a clause that covers this specific amendment.

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

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

*(Regulation 31 as amended agreed to)*

*Regulation 32*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the proposed regulation 32 be amended-

- (a) in paragraph (a) by deleting the words “two hundred and fifty thousand” and substituting therefor the words “twenty five thousand”
- (b) in paragraph (b) by deleting the words “five hundred thousand” and substituting therefor the words “fifty thousand.”

This is putting the nomination fees for Governors at Kshs50,000 and for the disabled and for the youth at Kshs25,000.

**Mr. Njuguna:** Madam Temporary Deputy Chairlady, although appreciating the good effort put by the Committee, it should have done much better by lowering the figure for the disabled to Kshs20,000.

I support with a lot of hesitation.

*(Question of the amendment proposed)*

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

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

*(Regulation 32 as amended agreed to)*

*(Regulations 33 and 34 agreed to)*

*Regulation 35*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 35 be amended-

- (a) in paragraph (1) by deleting the word “twenty” appearing immediately before the word “standard”
- (b) in paragraph (2) by deleting sub-paragraph (c)

This is to reduce the fixing of the numbers of A4 Forms that independent candidates need to present to the IEBC and two, deleting the requirement of photocopies of voter’s cards because there will be no voter’s cards in the next election.

*(Question of the amendment proposed)*

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

*(Regulation 35 as amended agreed to)*

*Regulation 36*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the proposed regulation 36 be amended-

- (a) in paragraph (a) by deleting the words “twenty five thousand” and substituting therefor the words “two thousand five hundred”;
- (b) in paragraph (b) by deleting the words “fifty thousand” and substituting therefor the words “five thousand”.

This is reducing the nomination fee to be paid by county assembly representatives candidates from Kshs50,000 to Kshs5,000 and those of the youth and disabled candidates to Kshs2,500.

*(Question of the amendment proposed)*

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

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

*(Regulation 36 as amended agreed to)*

#### *Regulation 37*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the proposed regulation 37 be amended-

- (a) by deleting paragraph (b);
- (b) in paragraph (c) by inserting the words “and by a proposer and seconder who shall be voters registered in the respective electoral areas, and who shall be members of the political party” immediately after the words “candidate”.

I propose that we delete “b” because there is no need for subscribers in the case of party-nominated candidates and secondly, to provide for the fact that your proposer and seconder before nominations must be members of your political party.

*(Question of the amendment proposed)*

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

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

*(Regulation 37 as amended agreed to)*

*(Regulations 38, 39, 40 and 41 agreed to)*

#### *Regulation 42*

**Ms. Amina Abdala:** Madam Temporary Deputy Chairman, I beg to move:-

THAT, Regulation 42 be amended by deleting paragraph (5) and substituting therefor the following new paragraph-

“(5) Notwithstanding that a returning officer has held nomination papers invalid; he may admit the same once the invalidity has been cured”.

This is providing a mechanism for the returning officer to be able to receive back a nomination paper they have declared invalid, if the presenter of the paper is able to cure the reason for the invalidity within the nomination period. So, if you went there and you forgot to carry your identity card, and the returning officer says that your nomination is invalid, if you go back to him before 5.00 p.m., or the end of the nomination period, and you are able to produce whatever it is that caused them to declare your nomination invalid, they should allow you to cure the invalidity and declare you duly nominated.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Yes, Minister. Is this the Regulation you had some issues with, hon. Muthama?

**Ms. Amina Abdalla:** No, it is Regulation 45. This is Regulation 42.

**The Temporary Deputy Chairlady** (Dr. Laboso): So, we have not yet reached there. Proceed, Minister.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, I just wanted to support the amendment. We know how frustrated candidates have been due to technicalities. Under Article 38, again, this will enhance the political rights of Kenyans, so that there are no undue restrictions that could lock out candidates on technicalities.

Thank you.

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

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

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, there is further amendment by hon. Gumbo.

**Mr. Gumbo:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Regulations be amended by inserting the following new Sub-Regulation in Regulation 42-

(6)Where the nomination papers of a candidate of a political party have been accepted, no further nomination papers shall be accepted in respect of that seat from the same political party.

Madam Temporary Deputy Chairlady, if you look at Sub-regulation (5), it says that where a nomination paper has been delivered to a returning officer, no further nomination papers shall be accepted in respect of the same candidate unless the first paper has been declared invalid. There is nothing in that Sub-regulation to stop a political party from presenting more than one nomination paper.

The amendment is for the same reasons I adduced earlier. So, I think it is a good amendment.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Committee, do you have any further comment on the amendment?

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, we support the amendment. It will help political parties which are still living in the old era, but it might not be an issue in the future. His fears are valid.

So, we support the amendment, because I think some political parties would take a while to acclimatise with the new scenario.

**The Temporary Deputy Chairlady** (Dr. Laboso): Do you have a point of intervention, hon. Peter Munya before the Minister concludes?

**The Assistant Minister for East African Community** (Mr. Munya): Madam Temporary Deputy Chairlady, whereas this amendment is well intentioned, understanding where hon. Gumbo is coming from, I am imagining of a situation where papers are presented but not validly. Maybe, they were fake papers. They were accepted, but you cannot change your decision when you have discovered that there was an error in accepting them. So, it is a very tricky amendment. If a returning officer accepts papers that later on turn out to be fake, those papers cannot be changed, if this amendment goes through.

So, this is a dangerous amendment. I do not think we should support it.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, I wish to support the amendment because we know the history of political parties and candidates. There are situations where several certificates show up on the nomination date; I think it would be necessary to clarify that as long as the nomination papers presented are genuine, because there is a possibility of fake ones being presented--- Once accepted and you lock the door, we need to address that. I do not know how the hon. Member would want to respond to that.

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, I think the fears of Mr. Munya may not be that well founded. By the time you appear before the IEBC it is a long validation process. For example, if I may talk of my party which is setting standards for democracy in this country, we have gone through the expression of interest, and what we call in engineering, request for proposals. That already is a validation process. Then we go to the IEBC and find another validation process. So, I do not think the fears of Mr. Munya are founded at all. We have the process within that long chain except for those who are not keen on going through that process; but even in that case, the validation process of IEBC is good enough to arrest such a possibility.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Chairlady, whereas I can see the sense in this proviso, as it is, it can actually be an avenue for misuse. It just says “where nomination papers of a candidate have been accepted”. It does not say whether they are genuine ones or not. So, the first one to present nomination papers in whatever format and they are accepted will lock the door for any other candidate. For example, if that candidate was to collapse, you are basically saying that the political party cannot provide any other substitute because they had already accepted the papers. The intention is clear, but the way it is worded it cannot stand in law. You actually might end up with more mischief than what you are trying to avoid. I would rather we remove it and let it be what is already provided in the Act in terms of

how you can replace nominees and leave it to the rules, because the parties are supposed to submit their nomination rules to the IEBC, showing how they will do it and who will be the signatories. Let that be an administrative procedure rather than saying that once the first one has been accepted nothing else can be accepted, irrespective of whether it was an error or a forgery. So, actually we could end up with one certificate being signed by the chairman and secretary general in the morning and then somebody goes to the organizing secretary and the vice-chairman to sign another one. We saw this happening some years back when the first one to get through the gate would be the one validly nominated, yet everyone has a certificate. Let us leave it to the point where three people come and create a situation where there has to be some validation among them. I would rather have mitigation than locking all the others out.

**Eng. Gumbo:** Actually, I think regarding the fears of the Minister, already we had put in amendments to make sure that it cannot be acceptable for a political party to present more than one name. That has gone through.

Two, if you look at Elections Act it is very clear that if a candidate dies after the nomination, then you start the process again. So, this question of a candidate dropping dead after presenting the nomination papers is already covered in the Elections Act. So, there is no fear there at all.

*(Question, that the words to be inserted  
be inserted, put and negatived)*

*(Regulation 42 as amended agreed to)*

*(Regulations 43 and 44 agreed to)*

#### *Regulation 45*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 45 be amended by deleting paragraph (2) and substituting thereof the following new paragraph-

“(2) For purposes of this regulation, candidates shall submit the following documents to the Commission-

- (a) certificate of tax compliance from the Kenya Revenue Authority;
- (b) certificate of good conduct from the Kenya Police Service; and
- (c) clearance certificate from the Higher Education Loans Board.

Madam Temporary Deputy Chairlady, Regulation 45(1) states that if the Commission requires information about you from any State institution, then it is the responsibility of that State institution to provide it.

In “b” it says that for the purposes of this regulation, the Commission will prescribe a list. You are all aware that in the by-elections that have taken place so far, the candidates have been asked for a tax compliance certificate, certificate of good conduct, credit bureau, HELB and all that. But these regulations did not provide what the Commission would require. So, to solve that problem, we proposed three; the certificate of tax compliance from KRA, certificate of good conduct from the Kenya Polic Service and clearance certificate from the Higher Education Loans Board.

However, it shall be noted that there are issues with this proposal. So, I beg to move.



*(Question of the amendment proposed)*

**Mr. Nyambati:** Madam Temporary Deputy Chairlady, I am one of the people who have been victims of by-elections and I know how serious this thing can be. I want to propose a further amendment to the amendment. I wish to propose:-

THAT, we delete the entire Regulation 45 and replace it with “the candidate shall sign a self-declaration form which is Schedule I to the Integrity Act.”

If I may explain a little bit; we will be having this Integrity Act which will take care of all these things. So, we need to remove the entire Regulation 45.

**Dr. Khalwale:** Madam Temporary Deputy Chairlady, I want to support Ms. Abdallah, but as I support her, it will be nice for Mr. Nyambati to tell us what is on that self-declaration form so that if we must then amend Ms. Abdalla’s amendment we should know what we are going to amend. For now, I am supporting Ms. Abdalla for the fact that some of these ambiguous requirements like credit rating bureaus, those are private companies who will either ask for so much money for you to be given a certificate or they can be used to frustrate you by your opponents. So, such things should be made clear.

**The Temporary Deputy Chairlady** (Dr. Laboso): So, you are supporting the amendment.

**Dr. Khalwale:** Yes, Madam Temporary Deputy Chairlady. I am supporting the amendment by hon. Amina and inviting hon. Nyambati to shed more light on what it is that we want to self-declare.

Madam Temporary Deputy Chairlady, finally, like hon. Nyambati, I was also subjected to a by-election. To get a certificate of good conduct is not easy. If somebody makes a wild allegation against you, the police will ask for time to go and investigate that allegation. You never know whether they will have an answer in good time. It can frustrate a few people.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Chairlady, I would have supported this amendment purely for purposes of bringing clarity in terms of what regulations or information should be submitted. But looking at the information that is required, even those three are already problematic. We just talked earlier, when we were reducing the fees, about including these young university students who have just completed university. They will, obviously, not have a Higher Education Loans Board (HELB) clearance certificate because they have not even started paying the loans. So, in terms of this certificate of good conduct from the Kenya Police Service, I know that we ask for it for *matatu* drivers and conductors. Right now, there is a huge queue of people being cleared by political parties because they are required to get this certificate of good conduct. It takes a minimum of two weeks. Suppose on the election day, you have not received yours and you are being frustrated by your political opponents who will make sure that you do not receive it, what will happen to you?

Madam Temporary Deputy Chairlady, the same applies to the tax compliance certificate from the Kenya Revenue Authority (KRA). If it is not in the Elections Act, why would we want to bring it in the Election Regulations? We were very clear when we were doing the Leadership Code and said that there has to be a self-declaration form. That is, perhaps, the maximum that should be required of a candidate. Once you have been nominated and cleared, if there is an issue it will be raised. But as of now, let us not bring some onerous provisions for people to then go looking for papers, because this goes counter to the provisions of Article 38 of our Constitution,

where we say that nobody should be unreasonably burdened in terms of pursuit of their democratic rights to vie for an election.

Madam Temporary Chairlady, I would oppose parts “a”, “b” and “c”, but I am not opposed to the deletion of subsection (2). So, perhaps, I would persuade the Chair of the Committee and Minister to further amend this; that Regulation 45 be amended by deleting paragraph 2 and we just leave it at that. This is because the Leadership and Integrity Code is very clear in terms of the self-declaration form that you are supposed to fill. We should not leave it to the IEBC to dream up all manner of things. They might even be asking for your marriage certificate to show that you are morally upright or whether you are baptized.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Kimunya, we are not on debate, but in the Third Reading.

**Mr. Midiwo:** Madam Temporary Deputy Chairlady, I wish to propose that we go hon. Nyambati’s way. We should reject hon. Amina’s amendment and delete the whole of it.

Madam Temporary Deputy Chairlady, about three years ago, I got a tax demand from KRA---

**The Temporary Deputy Chairlady** (Dr. Laboso): You are talking of “the Nyambati way”, yet we have not seen the proposal that you are making. We need to see it in writing.

**Mr. Midiwo:** Madam Temporary Deputy Chairlady, let him then move an amendment for deletion. He also proposed a new clause when he talked of a self-form which is---

*(Hon. Nyambati bowed to the Chair and crossed the Floor without proceeding to the Bar)*

**The Temporary Deputy Chairlady** (Dr. Laboso): Order! Can you, please, go to the Bar? There must be order in this House.

*(Mr. Nyambati walked to the Bar, bowed to the Chair and crossed the Floor)*

**Mr. Midiwo:** Madam Temporary Deputy Chairlady, really, what we are trying to say is that, if you leave these things to the IEBC, anybody can choose to victimize you on the eve of elections.

Madam Temporary Deputy Chairlady, more so, some of these things, for example, certificate of good conduct is not in Siaya, where I come from. You will not force me to get a bus to come and beg somebody to check my record and I have no control. Number two, some of these things like tax evasion is a criminal offence. There are already procedures to deal with such crimes. The punishment should not be that you do not run for an office. Everybody knows that it is a criminal offence. There is the Penal Code which deals with it. We know what a crime is.

I want to propose that hon. Amina Abdalla withdraws her amendment or we reject it but we go the hon. Nyambati’s way which says that you sign a self declaration form. Then, if you lie on that form, the police can come and investigate you or the relevant authorities.

Madam Temporary Deputy Chairlady, I was saying that I was served with a tax demand two or three years ago of about Kshs6 million. They said that I did not file taxes in 2010. I went up to the Commissioner, Waweru and showed my filings then, they corrected it. The other day, two months ago, they gave me tax clearance. Now, when I went there at Continental House,

where they are doing this, it is back on my record again. So, I do not want to be subject of nonsense. If the civil servants there are not working, it should not be my problem.

So, Madam Temporary Deputy Chairlady, I want to plead with you that we do something which will help Kenyans and not only punish Kenyans.

**The Temporary Deputy Chairlady** (Dr. Laboso): There are several of you that want to speak and there is an amendment. We will have to dispense with hon. Amina Abdalla and then the Minister if you are all in agreement or we will either way put it to the vote.

So, Minister, do you want to allow two or three ventilations as you discuss that?

Mr. M'Mithiaru!

**Mr. M'Mithiaru:** Madam Temporary Chairlady, I stand to oppose the amendment by the Chair, Ms. Amina Abdalla and propose that we entirely delete Regulation 45. One is that, we are actually dealing with things that are already provided for. About tax compliance, even if it is Income Tax, already the law allows the authorities even to follow you to the employer and even attach your salary. It allows them even to seize your bank account. So, really, we do not need to provide it here again.

Madam Temporary Deputy Chairlady, on the criminal record, it is known that in any criminal activity, there are already arms of the Government that can be able to follow on that. We do not need to provide it here. I think on the loans of the HELB already, Mr. Kimunya talked about it. So, mine is to second the proposal that hon. Nyambati is bringing, that is deleting Regulation 45 and substituting with the one for self declaration.

**Mr. Linturi:** Madam Temporary Deputy Chairlady, I want to oppose Madam Amina Abdalla's amendment. I want to give a very practical example, why I am a victim. The Kenya Revenue Authority yesterday brought a letter to Clerk of the National Assembly to attach my emoluments here. When I went to follow up, I realized these people are asking for money which they purport I did not pay in the year 2005. That is eight years since I made those imports. Excise Duty was computed by them and they gave me an invoice which I paid that time. They think I underpaid. Assuming tomorrow is when we are supposed to be presenting our papers and a certificate is required for my clearance, definitely, I will not get it. I think this is unreasonable. Article 38 of the Constitution is very clear that you cannot restrict somebody running for office by imposing unreasonable conditions. These conditions are unreasonable and I, therefore, urge the House to find that it is only important and practical that the candidates should go and seek support from the people because Kenyans---

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Odhiambo-Mabona!

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Chairlady, I know that this amendment is very well intentioned, unfortunately the reality would dissuade me from supporting it. Just last month, I was assisting a woman candidate who was in a by-election for councillorship. I spent the greater part of my time outside Parliament helping her to chase after these certificates of clearance. She was almost locked out; fortunately, she went ahead and won. At one point, I had to send her things on e-mail and so on. It is really ridiculous that what is intended to be very good is then abused. Hon. Linturi is not the only one who has been given those tax demands. Last year, from nowhere, I got something from the KRA that I owed them Kshs3 million. I am not a rich person! I do not do any business. So, surely, all you can get is my salary, unless I was being paid extra money that did not reach me from somewhere I did not know. Somehow, I owed them Kshs3 million!

Madam Temporary Deputy Chairlady, this Parliament is very unpopular and the best way to lock out 90 per cent on technicality is to provide for this. Yes, we will provide standards, but I

agree with the hon. Member's amendment that you must swear an oath. If you lie, then you could be taken to court, but if you subject us to running around like headless chicken, that is not in order.

**Mr. Mureithi:** Madam Temporary Deputy Chairlady, my point is to ask the Minister and the Chair that even as I oppose the amendment by the Committee, how will they deal with false accusations when it comes to the requirements they are demanding here? Am I in order to suggest that they drop this amendment and then replace it with hon. Nyambati's amendment?

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Minister, you will give us the way forward now.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Madam Temporary Deputy Chairlady, in fact, I am proposing a further amendment to hon. Amina Abdalla's amendment by deleting---

I beg to move that Regulation 45 be amended by deleting Paragraph 2.

We delete the rest of that. This is because already Walter Nyambati's proposal is provided for in the Leadership and Integrity Act that was passed in this House. The self declaration form is already part of our laws, and a candidate will be able to comply with that. We do not need to restate in these regulations what is already provided for in an Act of Parliament.

My proposal is that we delete Paragraph 2 and we leave it at that. We delete the entire thing. In fact, from the part that reads: "Regulation 45 be amended by deleting paragraph 2." I am saying just 2 and not 1.

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, if we delete the entire 45, given that the law already gives the IEBC the powers to prescribe what we need to provide to them, we are still giving back the discretion. My proposal was to give them limits of what they can ask. If you are uncomfortable with the proposal, I suggest that we delete the entire 45, but we retain hon. Nyambati's amendment, so that we do not give them any chance of coming up with anything new. So, we still restate what hon. Nyambati said, so that we control the capacity of the IEBC to come up with things at the last minute.

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Amina Abdalla, would you then move to withdraw your amendment and we ask the Minister to move hon. Nyambati's amendment, then we dispense of it?

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I would like to withdraw this amendment on condition that we are going to delete the entire clause, but still provide for a limit of what the IEBC will be asking the candidates.

**The Temporary Deputy Chairlady (Dr. Laboso):** So, the import of that is that you are withdrawing? So, can we get the amendments from the Minister? It is only the Minister who can introduce a new amendment on the Floor at this stage.

*(Ms. Amina Abdalla's proposed amendment withdrawn)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Madam Temporary Deputy Chairlady, I beg to move:-

That the entire Regulation 45 be deleted and replaced with the words "that candidates shall submit a self declaration form as prescribed by the Leadership and Integrity Act".

*(Question of the amendment proposed)*

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

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

*(Regulation 45 as amended agreed to)*

**Mr. Muthama:** Madam Temporary Deputy Chairlady, this is the Regulation I was referring to. Regulation 45 has been dealt with. Regulation 46 is as a result of the Elections Act, 2011, Articles 22(1)(b) and 24(1)(b). The two Articles in the Elections Act, 2011, have been vacated by a court of law and I have supplied the ruling to the Minister. In that context, I do not think I even need to propose an amendment. It is the Minister's responsibility by obeying the court ruling.

**The Temporary Deputy Chairlady (Dr. Laboso):** Hon. Wamalwa.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamwalwa):** Thank you Madam Temporary Deputy Chairlady. I think honourable Member's fears are unfounded because when you look at Regulation 46, you will see that it is a general provision. At the end of the day, IEBC is supposed to ascertain educational qualifications and whatever they are, as provided by the law. That is what IEBC would go for. I had indicated to the hon. Member and he had already asked for a Ministerial Statement in view of the ruling of the High Court, which we are dealing, whether to appeal or not. We are also in the process of preparing the Statute Law (Miscellaneous Amendments) Bill to clean up various Acts. This is one of the areas we will be considering when we bring the Bill. However, this particular provision does not set educational standards such as to violate that ruling. So, it does not really step on its toes. I just wanted to give that assurance that when we do the amendments, the educational standards will be set as per that ruling.

**Mr. Linturi:** Madam Temporary Deputy Chairlady, I think, for the first time, the Minister for Justice, National Cohesion and Constitutional Affairs is misleading the House and is not being very honest. I am sorry if I used the wrong language. However, I am aware that the court made a decision on this matter because it was challenged by many people. In fact, I know over 800 people that were party to this case. The judgment was made on 29<sup>th</sup> June. So, if the Ministry had any intention of appealing against this judgment or the IEBC which I know was a party, then they should have done that. Since they did not, we must also respect the rule of law. The reason I think that my friend, Mr. Muthama is apprehensive is because the regulation we are providing for is so clear that they are saying that you have to submit certificates to them for verification. So, if the court has found that for purposes of running for any elective office you do not require those qualifications because they were formed with the opinion that many people may not have them - the National Assembly is a House of representatives - I do not find it necessary to allow them to ask for papers that are necessary in the conduct of an election.

**Mr. Muthama:** Madam Temporary Deputy Chairlady, I concur with hon. Linturi because the Minister is not being straightforward with what he is saying. This is not a matter of the Minister trying to make the decision that he thinks is suitable. He is being compelled by a court of law to vacate and delete this Article. Paragraph 70 of the same ruling, which I beg to read for a minute for the above reason, says:

“I find and hold that Section 22(1) (b) and Section 24(1)(b) of the Elections Act 2011 which bar persons who do not hold post secondary school qualification from being nominated as candidate for elective office or nomination to Parliament, to be unconstitutional and in violation of petitioner’s rights under the Constitution.”

In the same context, what the Minister says contradicts the Constitution in Article 38 (2) which says:-

“Every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for-

(a) any elective public body or office established under this Constitution; or (b) any office of any political party of which the citizen is a member.

The Minister should just tell the House that he is going to delete Regulation 46 and make sure that the same text does not appear in the Elections Act, 2011 because a ruling has been given.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Muthama, there are two things; you can clearly see that this Regulation does not have an amendment and there was nothing that could have stopped you from preparing one, so that we would now be discussing an amendment that you have made on this Regulation. As it stands, it is a Regulation without an amendment. That is one point.

The second point is that, from what I see, the court ruling you have mentioned only addresses itself to Section 22(1)(b); about post-secondary qualification. It does not say anything about Section 22(2), on the president and the deputy president, who still require academic qualifications. So, what I am really seeing is that deleting it would mean that we would not be able to ascertain the qualifications of a president or deputy president.

**Mr. Muthama:** Madam Chair just---

**The Temporary Deputy Chairlady** (Dr. Laboso): Order! Order, hon. Muthama!

Hon. Amina Abdalla, you may proceed.

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I want to plead with hon. Muthama that this provision is for general purposes. It was based on what is in the Act. The Act and the subsequent amendment that we did in the Statute Law (Miscellaneous Amendments), came before the court ruling. So, the court ruling supersedes what is there, unless the appeal changes the situation. So, we should worry about this general position, because it also applies to the persons in respect of whom the court determined needed to be declared to have the requisite education standards, who are the president and the deputy president.

So, we can make progress, unless he has amendment on this Regulation.

**The Temporary Deputy Chairlady** (Dr. Laboso): Yes, Minister.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Madam Temporary Deputy Chairlady, just to allay the fears of my friend, hon. Muthama, this particular Regulation does not set the educational qualifications. It is the Act that does. The court ruling referred not just post-secondary education, it also referred to governors and the presidential candidates. In the same ruling, the court upheld that they must have degrees.

So, it sets the standard but, for our purposes, these Regulations are about ascertaining educational qualifications as set out by the law. So, what I am assuring my good friend is that the ruling of the court is something we are dealing with. There is the Statute Law (Miscellaneous Amendments) Bill that is coming, and the law will be addressed, and not the regulations.

**The Temporary Deputy Chairlady** (Dr. Laboso): Hon. Members, we must make progress.

**Mr. Muthama:** On a point of order, Madam Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Dr. Laboso): Order! Order, hon. Muthama! The point has been cleared. I will, therefore, put the Question.

*(Regulations 46, 47, 48 and 49 agreed to)*

*Regulation 50*

**Eng. Gumbo:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Regulations be amended by inserting the following new paragraph in Sub-regulation (6) of Regulation 50-

(e) the location of each tallying centre.

Madam Temporary Deputy Chairlady, the reason for bringing this amendment is that while it is a requirement that the polling stations and the description of valid votes are listed, the location of each tallying centre should also be listed. That is the purpose of the amendment.

*(Question of the amendment proposed)*

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

*(Regulations 51 and 52 agreed to)*

*Regulation 53*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, regulation 53 be amended-

- (a) in paragraph (2) by inserting the words “disability and its nature” immediately after the word “sex,”
- (b) in paragraph (8) by deleting the words “A political party submitting a party list shall also publish the party list” and substituting therefor the words “The Commission shall publish the final party list”.

In part “a” we want to ensure that candidates declare their types of disability and not just say that they are disabled and in part “b”, these regulations require political parties to be the ones to publish in the gazette of national circulation the names of their list of members. We think that it is the responsibility of the IEBC to do so because we want to avoid mischief and cost to political parties.

*(Question of the amendment proposed)*

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

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

*(Regulation 53 as amended agreed to)*

*(Regulation 54 agreed to)*

*[The Temporary Deputy Chairlady  
(Dr. Laboso) left the Chair]*

*[The Temporary Deputy Chairman  
(Mr. Lekuton) took the Chair]*

*Regulation 55*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Regulation 55 be deleted and replaced with the following new regulation-

Commission  
to publish  
formula for  
allocation of  
seats.

**55.**(1) The Commission shall before the election to which a party list applies publish in the Gazette and publicize through electronic and print media of national circulation and other easily accessible medium, the formula for allocating the seats to the respective political parties.

(2) The formula for allocation of seats to the respective political parties from the party lists shall be the number of seats won by a political party divided by the total number of seats multiplied by available seats for allocation in the respective House.

This is in relation to the formula that the IEBC would use to determine the allocation of party list candidates for political parties. We think that this is a very clear formula that should be provided for and not leave the ambiguity that we had in the last elections. So, we are proposing the deletion of Regulation of 55 and the replacement of a clear formula.

*(Question of the amendment proposed)*

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

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

*(Regulation 55 as amended agreed to)*

*(Regulation 56 agreed to)*



*Regulation 57*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 57(1) be amended by deleting the words “and in at least two newspapers with national circulation” immediately after the words “Gazette” and substituting thereof the words “and through electronic and print media of national circulation and other easily accessible medium”.

Mr. Temporary Deputy Chairman, Sir, this is to ensure the publicisation of the campaign period. Please indulge me to I state that there are colleagues who are worried that campaign activities as described in Regulation 58 are already ongoing and are criminalized. I just want them to note that the definition of “campaign period” in the definition section has already ensured that the IEBC will only deal with campaign activities once the official campaign period has been declared.

So, I beg to move that Regulation 57 be amended as per the Order Paper.

*(Question of the amendment proposed)*

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

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

*(Regulation 57 as amended agreed to)*

*(Regulations 58 and 59 agreed to)*

*New Regulation 59A*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the following new regulation be inserted immediately before regulation 60 under Part XI-

Appointment of national and county chief agents  
**59A.** (1) Every political party shall at least fourteen days to the date of the election submit to the Commission the names of one national chief agent and forty seven county chief agents.

elections agents.  
(2) Every independent candidate at a presidential election shall fourteen days to the date of the election submit to the Commission the names of one national chief agent and forty seven county chief agents.

Mr. Temporary Deputy Chairman, Sir, this regulation provides that every political party shall submit names of a national election chief election agent and one for every county but it does not do so for the general elections. This will make sure that we do not have the wars we had in KICC where there were 100 people from one party.

*(Question, that the words to be inserted*

*be inserted, put and agreed to)*

*(New Regulation 59A as amended agreed to)*

*(Regulation 60 agreed to)*

### *Regulation 61*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Regulation 61 be amended by inserting the words “and publicise through electronic and print media of national circulation and other easily accessible medium” immediately after the word “*Gazette*”.

Mr. Temporary Deputy Chairman, Sir, this is to have publicisation of information when we will eventually go into electronic voting so that is publicised in both electronic and print media that we are moving to electronic voting; that is in subsequent elections.

*(Question of the amendment proposed)*

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

*(Regulation 61 as amended agreed to)*

### *Regulation 62*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 62 be amended-

- (a) in paragraph (1) deleting the words “as the returning officer considers” immediately after the words “ballot papers”;
- (b) in paragraph (2) (a) by deleting the words “transparent” and substituting therefor the words “fairly transparent or translucent”;
- (c) in paragraph (2) (b) by deleting the words “on the lid thereof” and substituting therefor the words “prominently and distinctively”;
- (d) by inserting the following new paragraph immediately after paragraph (c) -  
“(ca) clearly labeled with the text of the respective elective position”;
- (e) in paragraph (4) (a) by deleting the word “a copy of the” immediately before the words “Principal Register” and substituting therefor the words “both electronic and hard copy of the”.

Mr. Temporary Deputy Chairman, Sir, the first one is to remove discretion of the returning officers being allowed to consider. The second has been an input by the IEBC. They say that pure transparent ballot boxes are usually weak. So, they are suggesting that we say “fairly transparent or translucent,” so that we do not have easily destroyed ballot boxes. The third one is to substitute on the lid by having the elections for which that ballot box is supposed to be used, to be prominently and distinctively labeled, and to say which election it is for.

Mr. Temporary Deputy Chairman, Sir, finally, there is the amendment on the principle register. We are going the Biometric Voter Registration (BVR) way. So, the principle register will not only be a hard copy, but an electronic copy as well. Those are the imports of the five listed amendments to Regulation 62.

*(Question of the amendment proposed)*

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

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

*(Regulation 62 as amended agreed to)*

### *Regulation 63*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 63 be amended in paragraph (1) (f) by deleting the word “incapacitated” immediately after the word “special needs or” and substituting therefor the word “assisted”.

*(Question of the amendment proposed)*

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

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

*(Regulation 63 as amended agreed to)*

*(Regulation 64 agreed to)*

### *Regulation 65*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 65 be amended in paragraph (2) (a) by deleting the words “the presiding officer thinks” immediately after the word “in such a manner as” and substituting thereof the word “is”.

This is to remove discretion on the Returning Officer.

*(Question of the amendment proposed)*

*(Question, that the words to be left out,*

*be left out put an agreed to)*

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

*(Regulation 65 as amended agreed to)*

*(Regulation 66 agreed to)*

*Regulation 67*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 67 be amended by inserting the following new paragraph immediately after paragraph (2) -

“(2A) The voting outside Kenya shall follow the Kenyan time”.

*(Question of the amendment proposed)*

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

*(Clause 67 as amended agreed to)*

*(Regulation 68 agreed to)*

*Regulation 69*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 69 be amended in paragraph (2) by inserting the words “which is prominent and distinctive” immediately after the words “different colour”.

This is to ensure the ballot paper will be prominent and distinctive.

*(Question of the amendment proposed)*

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

*(Regulation as amended 69 agreed to)*

*Regulation 70*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 70 be amended-  
in paragraph (1) by-

(i) renumbering subparagraphs (d), (e), (f), (g), (h) and (i) as subparagraphs (a), (b), (c), (d), (e) and (f), respectively;

(ii) by inserting the following new subparagraph immediately after the renumbered subparagraph (c) -

“(ca) in case of an electronic register, ask the voters to place their fingers on the fingerprint scanner and cross out the name of the voter once the image has been retrieved”;

(b) in paragraph (2) by inserting the following new subparagraph immediately after subparagraph (b) -

“(ba) where a voter has no finger, make a mark on the next most suitable part of the body”;

(c) by deleting paragraph (4).

This is untidiness that we were talking about in these regulations. Regulation 70 starts with (d) instead of (a). So, we are proposing the renumbering of the sub regulations. Secondly, this Regulation seems not to have taken into account that our next elections will be using BVR. So, we are proposing a new C (a) that in case of an electronic register, the voter will be asked to provide their fingers so that their names can be crossed.

Finally, we are providing for marking a prominent part of a person’s body if that voter does not have a finger. In C, we are proposing the deletion of paragraph 4 of 70, which anticipates that the Returning Officer might be allowed to ask for ballot papers from other polling centres which we know with adequate preparations will not be possible and given that those ballot papers will be marked with serial numbers of the polling centres.

With those remarks, I beg that we amend Regulation 70 as per the Order Paper.

*(Question of the amendment proposed)*

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I stand to seek clarification. Where a voter has no finger, they can make a mark with the next more suitable part of the body. Supposing all the fingers are not there? What---

**The Temporary Deputy Chairman** (Mr. Lekuton): Hon. A. Abdalla, please, pay attention. This is directed to you.

Hon. Minister, please, repeat that for the benefit of hon. A. Abdalla.

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, the effort is commended. Where a voter has no finger--- There can also be a situation where a voter has no fingers. Now, they can make a mark with the next suitable part of the body. Is it the nose?

**Hon. Members:** Any other body part!

**The Minister for Roads** (Mr. Bett): Or the toe!

*(Laughter)*

You see, it is a bit tricky.

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, we used the words “no finger” because if you have one finger then we will use that one finger. I am not appreciating why we should have “fingers” because if you have one finger then you have a finger and we will use that whether it is a thumb or a pinky. I am not very sure about the import of that. The only

issue is that we are not very sure where the most prominent part is. We left that to the discretion of the Returning Officers.

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

*(Regulation 69 as amended agreed to)*

#### *Regulation 70*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT the Regulations be amended in Regulation 70 by deleting the words “shall be retained” appearing in paragraph (g) of sub-regulation (1).

This is just about editing. The words, “shall be retained” are a repetition and we have already discussed that.

*(Question of the amendment proposed)*

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

*(Regulation 70 as amended agreed to)*

*(Regulations 71 and 72 agreed to)*

#### *Regulation 73*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT regulation 73 be amended-

(a) by inserting the following new paragraph immediately after paragraph (1) –

“(1A) Where the person who applies to be assisted is not accompanied by a person who is qualified to assist him or her, the presiding officer shall assist such voter, in the presence of the agents.”

(b) in paragraph (2) by deleting the word “inquiries as the presiding officer may deem necessary” immediately after the word “may make such” and substituting therefor the words “necessary and respectful inquiry”

Mr. Temporary Deputy Chairman, Sir, this is a very important amendment given the experience we had in the recent by-elections. The regulation provides that every assisted voter should come with their own assistant. It then states the Presiding Officer can assist the person. We are proposing that the Presiding Officer can only assist a person who does not come with somebody to assist them in the presence of agents. We think it is important that although the Constitution requires that every voter should do secret voting, given the experience in Kajiado, we do not wish to leave that to the Presiding Officer. The voter should be allowed to waive that right given that they are the ones who will not have come with an assistant.

The second amendment in paragraph 2 is in relation to deleting the inquiries of the presiding officer that he may feel necessary and make them compliant to the Constitution. Those inquiries must be necessary and respectful.

*(Question of the amendment proposed)*

**Ms. Karua:** Mr. Temporary Deputy Chairman, Sir, I support the amendment, but it is a double edged sword that those with money can ask their agents to note who are voting for them and pay them afterwards. But even if we left it to the returning officers, they too can be corrupted and mark wrongly. So, I see this as the lesser evil and I support it.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, I want to support hon. Amina's amendment, but if you look at 73(4)(c), the Minister has provided that the person shall assist or support only one voter at that election and have a mark as proof of assisting or supporting a voter. The challenge sometimes I see in elections is that old women come with people from their villages. If a village has got very many voters who require to be assisted, then those women and men run out of people to assist them.

Could the Minister consider providing that instead of assisting one person, a person be allowed to assist a maximum of five people? When he assists the first one, the mark is on the thumb, the next one on the index finger. Once all the fingers are marked, he has assisted five people and has helped his village.

I have been corrected that it should be four people because he will also have voted. The Minister should think about it and if he sees that there is merit, then he can provide for that. I might be using Ikolomani where literacy level is 79.1 per cent. How about the other areas with much higher illiteracy levels?

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Mr. Temporary Deputy Chairman, Sir, I welcome this amendment because we have had serious problems, particularly when it comes to elderly people being assisted and when you have biased officers, particularly returning officers at polling stations. So, the issue of allowing agents of all the candidates to witness is going to address this.

But in terms of hon. Khalwale's proposal, we also want to avoid brokers hanging around polling stations and ferrying in voters. We could create a problem. Imagine if you had about 20 or so brokers, it could be messy. What has been provided is reasonable and it will guard against the mischief.

**Mr. Njuguna:** Mr. Temporary Deputy Chairman, Sir, in the past, presiding officers have been accused of assisting voters unfairly. Therefore, this amendment will address that situation and voting will be impartial.

I support.

*(Question, that the words to be added be added, put and agreed to)*

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

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

*(Regulation 73 as amended agreed to)*

*Regulation 74*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 74 be amended in paragraph (3) by deleting the words “who are present, shall make up into” immediately after the words “candidates or agents” and substituting therefor the words “shall seal in”  
This is just an editorial amendment.

*Question of the amendment proposed)*

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

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

*(Regulation 74 as amended agreed to)*

*(Regulation 75 agreed to)*

*Regulation 76*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 76 be amended-

(a) in paragraph (2) by deleting subparagraphs (a) to (f) and substituting therefor the following new subparagraphs-

“(a) president;  
(b) member of the National Assembly;  
(c) member of the County Assembly;  
(d) senator;  
(e) county woman representative in the National Assembly; and  
(f) county governor”.

(b) by inserting the following new paragraph immediately after paragraph (4) -

“(4A) Subject to paragraph (2), the counting of votes cast outside Kenya shall follow the Kenyan time”.

This is with regard to the sequence with which we will be counting the votes. We think that in a polling station, after the president, the issues will be County Assembly and National Assembly. That is why we are proposing for the sequence as provided for. The second amendment, which has already been covered in the voting, is that we are expecting counting in the Diaspora to happen in Kenyan time.

*(Question of the amendment proposed)*



**Mr. Njuguna:**Mr. Temporary Deputy Chairman, Sir, the amendment is appropriate. I support.

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

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

*(Regulation 76 as amended agreed to)*

*Regulation 77*

**Ms. Amina Abdalla:** Madam Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, regulation 77 be amended in paragraph (1) by deleting the words “as shall be present” immediately after the words “candidates or agents”.  
This is another editorial type of amendment.

*(Question of the amendment proposed)*

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

*(Regulation 77 as amended agreed to)*

*(Regulation 78 agreed to)*

*Regulation 79*

**Ms. Amina Abdala:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Regulation 79 be amended in paragraph (3) by deleting the words “or agent” immediately after the words “and any candidate” and substituting therefor the words “counting agent or observer”.  
This is to specify the persons who can observe the spoilt ballots and the counting by specifying that they are counting agents or observers.

*(Question proposed)*

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

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

*(Regulation 79 as amended agreed to)*

*(Regulations 80, 81, 82 and 83 agreed to)*

*Regulation 84*

**Ms. Amina Abdala:** Madam Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Regulation 84 be amended-

(a) in paragraph (1) by inserting the words “and observers, if present” immediately after the words “candidates or agents”;

(b) in paragraph (1) (c) by inserting the expression “in the order provided in regulation 76 (2)” immediately after the words “in respect of each election”.

This is to allow observers in the tallying area and also provide for the sequence in which the tallying would go.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Mr. Lekuton): Yes, hon. Bonny Khalwale.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, I want the Minister to look at Regulation 84(1)(b). This is now at the tallying centre. By saying that we shall examine the ballot paper marked “rejection objected to and disputed” and confirm or vary the decision of the presiding officers with regard to the validity of such ballot papers---

This means that at the tallying centre, ballot boxes which will have been sealed at the polling stations, will be re-opened, unless we are imagining a situation where the rejected ballot papers will be a bundle that has been set aside. As an experienced politician, the Minister knows that at the end of voting, after the tallying has been done and the presiding officer is satisfied at the polling station and the agents of all the political parties have agreed, they append their signatures on the result slip and then the ballot boxes are sealed, only to be re-opened in the event of an election petition.

So, are you saying, in part (b) of the amendment, that the ballot papers with questionable marks on them will be put somewhere aside or are you saying that the ballot boxes will be re-opened at the tallying centre – something which was cured by an Inter-Parties Parliamentary Group (IPPG) initiative.

**The Temporary Deputy Chairman** (Mr. Lekuton): Yes, hon. Amina Abdala.

**Ms. Amina Abdala:** Mr. Temporary Deputy Chairman, Sir, I was going to look for the provision which shows that the rejected ballot papers are to be sealed in an envelope. I am just checking whether the envelope has been included in the Rules. There is a provision, during the counting, under Regulation 75; which says that all the rejected ballots from a tallying centre will be shown to the agents and once they agree that they are rejected papers, they will sign on it and put it in an envelope at the end of the exercise. So, I am just checking to verify whether the sealed envelope will then be put in a ballot box.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, let me propose that we recommit it so that the Minister and the Chair of the Committee can be clear and we deal with it at the end because it is important. Somebody can just put enough papers in the envelope and seal it; your agents may have gone to sleep. Then they stuff them in and when they reach the tallying centre they say that the new ones are now valid and so they become genuine votes. This might look very small for county and presidential elections but in terms of ward elections, people defeat

others by five votes. The nightmare of this is that if you re-open this, then the returning officer at the tallying centre does not have the registers to verify that this person voted this way or that way. Let us always be clear.

**The Temporary Deputy Chairman** (Mr. Lekuton): Mr. Minister, could you update us now?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I think Dr. Khalwale has genuine concerns; probably we can recommit that after we consult.

**The Temporary Deputy Chairman** (Mr. Lekuton): I am informed that Dr. Khalwale's proposal for amendment has nothing to do with Ms. Amina Abdalla's recommendations on Regulation 84(a) and (b). So, we finish with this amendment then we can recommit your proposal.

**Ms. Amina Abdalla:** On a point of order, Mr. Temporary Deputy Chairman, Sir. Dr. Khalwale's point is valid because in Regulation 82, the envelopes that would contain disputed ballot papers will be put in the box.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): I would propose that we dispose of Ms. Amina Abdalla's amendment because it is not related to the one by Dr. Khalwale; we could also bring a further amendment just to deal with part (b) because his concerns are genuine. Let us dispose of Ms. Amina Abdalla's amendment then we can do a further amendment.

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

*(Regulation 84 as amended agreed to)*

#### *Regulation 85*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended by inserting the following new sub-regulation in Regulation 85-

(2)A tallying centre shall be selected subject to the following requirements-

(a)the presidential elections tallying centre shall be located at Nairobi;

(b)the county tallying centre shall be located at the county headquarters;

(c)the constituency tallying centre shall be located at the constituency or district headquarters;

(d)all tallying centres shall be located at public buildings.

Mr. Temporary Deputy Chairman, Sir, actually the purpose of this proposed amendment is very clear; that the tallying centres have been mentioned in many places but it is not clear where they shall be. So, it is giving the tallying centre for presidential, county up to locational level and defining exactly where they will be and also stating categorically which is not anywhere in the regulations that all tallying centres shall be located inside public buildings.

*(Question of the amendment proposed)*

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

*(Regulation 85 as amended agreed to)*

*(Regulations 86, 87, 88, 89 and 90 agreed to)*

#### *Regulation 91*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, Regulation 91 be amended in paragraph (1) by inserting the words “observers” immediately after the words “election officials”.

Mr. Temporary Deputy Speaker, Sir, this is for allowing observers to also vote.

*(Question of the amendment proposed)*

**The Minister for Roads** (Mr. Bett): Mr. Temporary Deputy Chairman, Sir, I agree with what is being proposed by Ms. Abdalla. I believe she should have added the words “and” so that it is “election officials and observers”. If you add the word “observers” immediately after the words “election officials” it will now be reading “election officials observers”. I believe there should be a connecting word “and”. It is just some editing.

**The Temporary Deputy Chairman** (Mr. Lekuton): Ms. Abdalla, could you clarify that please?

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, the provision reads that: “by election officers,” then we are going to say “observers,” then “patients admitted in hospital” So, that is not the right place to put an “and”.

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

*(Regulation 91 as amended agreed to)*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I propose a further amendment to Regulation 91 and it is very simple.

I beg to move:

THAT Regulation 91 be further amended by inserting the words “and security” immediately after the word “defence” appearing in sub-regulation (1) The Regulation says that the Commission may make provision for voting by

election officials, patients admitted in hospital, members of the defence forces. After the word “defence” I want to put “defence and security forces”.

*(Question of the further amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)  
(Regulation 91 as further amended agreed to)*

*(Regulations 92, 93, 94, 95, 96,  
97, 98 and 99 agreed to)*

### *Regulation 100*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 100 be amended-

(a) in paragraph (1) by deleting the words “may” immediately after the words “the Commission” and substituting therefor the word “shall”;

(b) by inserting the new paragraph immediately after paragraph (1) -

“(1A) All disputes emanating from political party nominations shall be resolved by the Commission at least seven days to the day designated for submission to the Commission by political parties of the names of their respective candidates”.

Mr. Temporary Deputy Chairman, Sir, Article 88(4)(E) of the Constitution requires that the Electoral Commission deals with disputes emanating from political party nomination processes. You will notice that the courts did throw back the disputes that were in the last two by-elections to the IEBC. So, the import of this amendment is that there is no discretion for the IEBC to use the word “may” develop and publish in the Gazette rules of procedures, including timelines applicable for the settlement of election disputes from the Constitution. So, we are replacing the word “may” with “shall.”

Mr. Temporary Deputy Chairman, Sir, secondly, we are also providing a timeline by which the IEBC must have resolved political parties disputes, emanating from nominations, by saying that they must do this seven days from the deadline of them accepting nomination papers. That is the import of the amendment to Regulation 100.

*(Question of the amendment proposed)*

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

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

*(Regulation 100 as amended agreed to)*

*(Regulations 101 and 102 agreed to)*

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Chairman, Sir. You will bear with me that it is starting to dawn on us that we are getting tired. There is a small, but very important issue which is forcing me to request for recommittal of Regulation 88. Regulation 88 is speaking to the issue of gazette and announcement of the results of the Presidential elections. When it talks about the Commission, we have to be specific in law, who in the Commission is doing it, lest two different people within the Commission announce two different results. So, I want us to make it clear that the Chairman, as the spokesperson of the Commission, is the one who will gazette and announce. I have already spoken to the Minister and he has no objection for that recommittal.

**The Temporary Deputy Chairman (Mr. Lekuton):** Hon. Khalwale, I think, maybe, if you had discussed with the Minister and you come up with all the issues that we need to recommit, it maybe great. We will do it at the end.

Minister!

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa):** Mr. Temporary Deputy Chairman, Sir, I think we have already agreed and I will be indicating to the Chair. They are about four that we will be recommitting, including the one hon. Dr. Khalwale referred to.

**The Temporary Deputy Chairman (Mr. Lekuton):** Hon. Members, we have in the Schedule few forms that we need to amend. That is Form No.12, 15, 16, 17 and 18. We will start with hon. Amina Abdalla’s Form No.12.

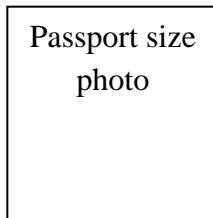
*Schedule – Form 12*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, the Regulations be amended in the Schedule as follows-

- (a) by deleting FORM 12 and substituting with the new FORM

**Form 12**



**(r.15 (1))**

**NOMINATION PAPER FOR PRESIDENTIAL ELECTION**

Election of President of the Republic of Kenya to be held on the .....day of ....., 20.....

We, the undersigned being registered as voters, in the constituencies shown below do hereby nominate the under mentioned person as a candidate at the said election.

Particulars of the Candidate

Name in Full	
--------------	--

Occupation	
National ID card or Passport No.	
Sex	
Date of Birth	
Voters card number	
Physical address	
Postal address	
Political Party	
Party register No./ Clearance certificate No. of independent candidate	
Telephone contacts	1. 2.

And I, the aforesaid ..... do hereby consent to my nomination as a candidate for election as President of the Republic of Kenya and hereby certify that I am in all respects qualified for nomination as such candidate.

.....  
Signature of Candidate

**SUPPORTERS OF PRESIDENTIAL ELECTION CANDIDATE**

Election of the president of the republic of Kenya will be held on the .....day of .....20.....

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination of .....as a candidate for election as President of the Republic of Kenya.

No.	Name	County	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No.

Supporter1:  
Full Names .....  
Constituency .....  
Voters Number .....  
Party Office Held.....  
Signature of.....

Supporter 2:  
Full Names.....

Constituency .....

Voters Number .....

Party Office Held .....

Signature of the proposer.....

Dated.....

N/B a total of at least 2000 supporters from at least 24 counties must be submitted to the Returning officer.

*(Question of the amendment proposed)*

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

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

*(Form 12 in the schedule as amended agreed to)*

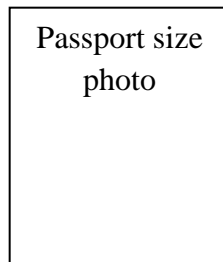
*Schedule – Form 15*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Schedule be amended by deleting Form 15 and substituting therefor with the new FORM 15.

**Form 15**

**(r. 21)**



**NOMINATION PAPER FOR NATIONAL ASSEMBLY/COUNTY WOMAN REPRESENTATIVE PARTY/INDEPENDENT ELECTION**

Election of a member of national assembly of the .....Constituency/County to be held on the ..... day of ..... for....., 20.....

We, the undersigned, being registered voters in the constituency/county\* and nominate the under-mentioned person as a candidate at the National Assembly/County woman representative election\*.

Particulars of the candidate:



Name in Full	
Occupation	
National ID card or Passport No.	
Sex	
Date of Birth	
Voters card number	
Physical address	
Postal address	
Political party*	
Party register No./ Clearance certificate No. of independent candidate	
Telephone contacts	1. 2.

And I, the aforesaid ..... do hereby consent to my nomination as a candidate for election as Member of National Assembly/Woman representative\* of the ..... constituency/county and hereby certify that I am in all respects qualified for nomination as such candidate.

.....  
Signature of Candidate  
Dated.....

**SUPPORTERS OF NATIONAL ASSEMBLY/COUNTY WOMAN REPRESENTATIVE PARTY/INDEPENDENT CANDIDATE**

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination of ..... as a ..... candidate for election as member of National Assembly/County woman representative\* of the ..... constituency.

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No.

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No.

Supporter 1:  
 Full Names .....  
 Constituency .....  
 Voters Number .....  
 \*Party Office Held.....  
 Signature of Proposer.....

Supporter 2:  
 Full Names.....  
 Constituency.....  
 Voters Number.....  
 Party Office Held\*.....  
 Signature.....  
 Dated.....

*N/B a total of at least 1000 supporters from the constituency/county must be submitted to the Returning officers for every independent candidate.*

*\*delete as appropriate*

Mr. Temporary Deputy Chairman, Sir, it should be noted that this is an important one because it separates the parts of the form that would require subscribers to be only applicable to the independent candidates for National Assembly.

*(Question of the amendment proposed)*

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

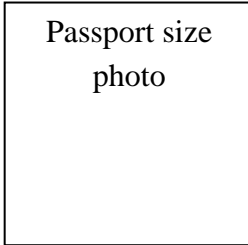
*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Form 15 in the schedule as amended agreed to)*

Schedule – Form 16

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:  
 THAT the Schedule be amended by deleting Form 16 appearing therein and substituting therefore the with the new Form 16A

**Form 16A**



**(r. 25)**

**NOMINATION PAPER FOR SENATE ELECTION**

Election of a Senator for the ..... County to be held on the ..... day of  
 ....., 20.....

We, the undersigned supporters, being registered as voters, in the county holding the election do hereby nominate the under mentioned person as a candidate at the said election.

Particular of candidate:

Name in Full	
Occupation	
National ID card or Passport No.	
Sex	
Date of Birth	
Voters card number	
Physical address	
Postal address	
Political Party	
Party register No./ Clearance certificate No. of independent candidate	
Telephone contacts	1. 2.

And I, the aforesaid ..... do hereby consent to my nomination as a candidate for election as Senator of the ..... County and hereby certify that I am in all respects qualified for nomination as such candidate.....

Signature of Candidate

**SUPPORTERS OF SENATOR**

We, the undersigned, being registered voters with the voter numbers indicated against our respective names, do hereby support the nomination of  
 .....as a candidate for election as Senator of the  
 ..... County.

<i>No.</i>	<i>Name</i>	<i>Constituency</i>	<i>Voters Number</i>	<i>Signature/Thumb Print</i>	<i>I.D Card No./ Passport No.</i>

Supporter1:

Full Names .....  
 Constituency .....  
 Voters Number .....  
 Party Office Held .....

*Signature of Proposer.....*

Supporter 2:

Full Names.....  
 Constituency .....  
 Voters Number .....  
 Party Office Held .....  
 Signature.....  
 Dated.....

N/B a total of at least 2,000 supporters from the county for the Senate must be submitted to the Returning officers for every independent candidate.

I note that the issue of supporters is only for independent candidates. So, it needs to also include the supporters of independent senator candidates, when you are looking at the subscribers list.

*(Question of the amendment proposed)*

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

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

*(Form 16 in the schedule as amended agreed to)*

*(Question of the amendment proposed)*

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

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

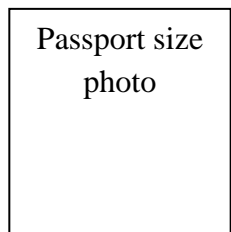
*(Form 16 as amended agreed to)*

*Schedule - Form 17*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:  
THAT the Regulations be amended in the Schedule as follows-  
(d) by deleting FORM 17 appearing therein and substituting therefor the new FORM 17A

**Form 17**

**(r. 29 & 30)**



**NOMINATION PAPER FOR COUNTY GOVERNOR**

Election of a County Governor of the ..... County to be held on the ..... day of  
....., 20.....

We, the undersigned supporters, being registered as voters, in the county Assembly wards of  
county holding the election do hereby nominate the under mentioned person as a candidate at the  
said election.

Particulars of the Candidate

Name in Full	
Occupation	

National ID card or Passport No.	
Sex	
Date of Birth	
Voters card number	
Physical address	
Postal address	
Political Party	
Party register No./ Clearance certificate No. of independent candidate	
Telephone contacts	1. 2.

And I, the aforesaid ..... do hereby consent to my nomination as a candidate for election as County Governor of the ..... County and hereby certify that I am in all respects qualified for nomination as such candidate.

.....  
Signature of Candidate

Dated .....

**SUPPORTERS OF COUNTY GOVERNOR CANDIDATE**

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination of ..... as a candidate for election as County Governor of the ..... County.

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D Card No./ Passport No.

Supporter1:  
Full Names .....  
Constituency .....

Voters Number .....  
Party Office Held .....

*Signature of Proposer*.....

Supporter 2:  
Full Names.....  
Constituency.....  
Voters Number.....  
Party Office Held.....

Signature.....  
Dated.....

*N/B a total of at least 500 supporters from wards concerned must be submitted to the Returning officers every independent candidate.*

Mr. Temporary Deputy Chairman, this is the nomination paper for a Governor candidate. It is separate from the ones that are supported by independent candidates.

*(Question of the amendment proposed)*

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

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

**The Temporary Deputy Chairman:** Hon. Gumbo did you have a further amendment to Form 17?

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I think I will have to withdraw that amendment because it was with regard to nominations for gubernatorial elections which have since seen--- It has constitutional implications and it has to be the same as that of the county assembly members.

*(Eng. Gumbo's proposed amendment withdrawn)*

*(Form 17 as amended agreed to)*

*Schedule - Form 18*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:  
THAT the Regulations be amended in the Schedule as follows-  
(e) by deleting FORM 18 appearing therein and substituting therefor the new FORM 18A.

**Form 18**

**(r. 33, 34 35(2))**

## NOMINATION PAPER FOR COUNTY ASSEMBLY ELECTION

Passport size  
photo

Election of a County Assembly Ward ..... County Assembly Ward to  
be held on the ..... day of ..... , 20.....

We, the undersigned supporters, being registered as voters, in the .....county Assembly ward of .....county holding the election do hereby nominate the under mentioned person as a candidate at the said election.

Particulars of candidate:

Name in Full	
Occupation	
National ID card or Passport No.	
Sex	
Date of Birth	
Voters card number	
Physical address	
Postal address	
Political party	
Party register No./ Clearance certificate No. of independent candidate	
Telephone contacts	1. 2.

And I, the aforesaid ..... do hereby consent to my nomination as a candidate for election as county assembly member of the ..... County Assembly



ward of.....county and hereby certify that I am in all respects qualified for nomination as such candidate.

.....  
Signature of Candidate

Dated.....

**SUPPORTERS OF COUNTY ASSEMBLY CANDIDATE**

We, the undersigned, being registered voters with the voters numbers indicated against our respective names, do hereby support the nomination of .....as a candidate for election as County Assembly Ward Member of the ..... County Assembly ward.

No.	Name	County Assembly Ward	Voters Number	Signature/Thumb Print	I.D CARD NO./PASSPORT NO

Supporter1:  
Full Names .....  
Constituency.....  
Voters Number.....  
Party Office Held.....

Signature of Proposer.....  
Dated.....

Supporter 2:  
Full Names.....  
Constituency .....  
Voters Number .....  
Party Office Held .....  
Signature.....  
Dated.....

*N/B a total of at least 500 supporters from the county assembly ward must be submitted to the Returning officer every independent candidate.*

Mr. Temporary Deputy Chairman, Sir, this is nomination paper for the county assembly election.

*(Question of the amendment proposed)*

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

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

*(Form 18 as amended agreed to)*

*(Schedule as amended agreed to)*

*(Title agreed to)*

*Regulation 1*

**Ms. Amina Abdalla:** I beg to move:

THAT, Regulation 1 be amended by-

(a) inserting the expression “(General)” immediately after the word “Elections”;

(b) Inserting the words “and shall come into effect upon publication in the Gazette” at the end thereof.

This is to make sure that the regulations are referred to as the Draft Elections General Regulations and saying that these regulations shall come into effect upon publication in the Gazette.

*(Question of the amendment proposed)*

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

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended in Regulation 1 by inserting the words “a deputy returning officer” immediately after the words “a returning officer” appearing in the definition of the word “election officer”.

If you look at the body of the Regulations, there are talking of a deputy tallying officer who is not described anywhere. So, that is really the purpose of the amendment.

*(Question of the further amendment proposed)*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I need some clarity. Is the amendment by hon. Gumbo to Regulation 1 or Regulation 2?

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, it is a typo and it was meant to be Regulation 2.

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, procedurally, we have passed the amendment in Regulation 2. So, if we have passed it, we can then ask for re-committal, because we passed that yesterday.

**The Temporary Deputy Chairman** (Mr. Lekuton): Hon. Amina Abdalla, it is so directed.

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

*(Regulation 1 as amended agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Draft Elections Regulations, 2012 and its approval thereof with amendments subject to re-committal of Regulations 2, 3, 4, 5, 6, 56, 57, 58, 84 and 88.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Lekuton): Hon. Members, before we report to the House, we will now move to the Draft Elections (Voter Education) Regulations, 2012. We will report both to the House together.

THE DRAFT ELECTIONS (VOTER EDUCATION)  
REGULATIONS, 2012

*Regulation 2*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 2 be amended-

(c) in the definition of the term “constituency committee” by deleting the word “to” immediately before the word “regulation 4”.

(d) in the definition of the term “voter educator” by deleting the word “an” immediately before the word “person”.

The two amendments are basically typographical.

*(Question of the amendment proposed)*

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

*(Regulation 2 as amended agreed to)*

*Regulation 3*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 3 be amended by inserting the following new paragraphs immediately before paragraph (a)-

“(aa) implement Article 88(4)(g) of the Constitution.

This is basically to add the reason why the IEBC should be doing voter education in the objectives because the Constitution requires them to do it. So, we are inserting implementing Article 88(4) (g) of the Constitution as one of the objectives.

*(Question of the amendment proposed)*

*(Question that the words to be added be added, put and agreed to)*

*(Regulation 3 as amended agreed to)*

*(Regulations 4, 5, 6, 7, 8 and 9 agreed to)*

### *Regulation 10*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended by deleting sub-regulation (3) of Regulation 10 and substituting therefor the following new sub- regulation-

(3) A member of the National Committee, other than an ex officio member, shall be appointed for a term of three years and shall be eligible for reappointment for one further term of two years.

The proposed regulation seems to be giving the members too much time. Therefore, I am proposing that they serve for one term and that they be eligible for a further term of two years so that they can serve for a total of five years.

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

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

*(Regulation 10 as amended agreed to)*

### *Regulation 11*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended in Regulation 11-

(a) by deleting the words “who shall be of opposite gender” appearing in Sub-Regulation (2);

(b) by inserting the words “and the geographical diversity within that constituency” at the end of Sub-Regulation (4).

Mr. Temporary Deputy Chairman, Sir, number 11(a) is typo. The purpose of part (b) is very simple. In some constituencies, the presiding officers are appointed from only one side due to other considerations. For example, in the last national referendum, 80 per cent of all the presiding officers in my constituency were appointed from one division yet all the divisions have the same population. So, the purpose of this amendment is to ensure that equitable sharing is effected geographically.

*(Question of the amendment proposed)*

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

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

*(Regulation 11 as amended agreed to)*

*(Regulation 12 agreed to)*

**The Temporary Deputy Chairman** (Mr. Lekuton): Let us move to Regulation 13 by Eng. Gumbo.

*Regulation 13*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended by deleting Sub-Regulation (3) of Regulation 13 and substituting therefor the following new Sub-Regulation-

(3) A member of the constituency committee, other than an ex officio member, shall be appointed for a term of three years and shall be eligible for re-appointment for one further term of two years.

The reason for this amendment is the same as to the one I gave to my amendment to Regulation 10.

*(Question of the amendment proposed)*

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

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

*(Regulation 13 as amended agreed to)*

*(Regulation 14 agreed to)*

*Regulation 15*

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Regulation 5 be amended by inserting the following new paragraph immediately after paragraph (1)-

(a) “(2A) all costs and expenses of the national and constituency committee shall be borne by the Commission.

Mr. Temporary Deputy Chairman, Sir, the purpose of this amendment is to provide clarity that the cost and expenses of the national and constituency committee shall be borne by the Commission.

**The Temporary Deputy Chairman** (Mr. Lekuton): Hon. Amina Abdalla, could you clarify on Regulation 15. It looks like in Regulation 15 there is no sub-regulation (1) and (2).

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Sir, the Regulation 15 has one paragraph. So, we are proposition the retention of the first wording as paragraph (1) and inserting a new paragraph (2).

**Ms. Amina Abdalla:** Mr. Temporary Deputy Chairman, Si, that is an issue that we have dealt with. It was written 2A instead of 2.

*(Question of the amendment proposed)*

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

*(Regulation 15 as amended agreed to)*

*(Regulations 16, 17, 18, 19, 20, 21, 22,  
23, 24, 25, 26 and 27 agreed to)*

*(Schedule agreed to)*

*(Title agreed to)*

### *Regulation 1*

**The Temporary Deputy Chairman** (Mr. Lekuton): Let us move to the next amendment to Regulation 1 by the Committee. Yes, hon. Amina Abdalla?

**An hon. Member:** She has walked out!

**The Temporary Deputy Chairman** (Mr. Lekuton): Any member of the Committee can move the amendment on her behalf. Yes, Eng. Gumbo!

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, regulation 1 be amended by-

(c) Inserting the words “and shall come into effect upon publication in the Gazette” at the end thereof.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted)*

*be inserted, put and agreed to)*

*(Regulation 1 as amended agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Draft Elections (Voter Education) Regulations 2012 and its approval thereof with amendments.

**The Minister for Transport** (Mr. Kimunya) seconded

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Deputy Speaker in the Chair]*

## **REPORT, CONSIDERATION OF REPORT AND APPROVAL**

### CONSIDERATION OF THE DRAFT ELECTIONS (VOTER EDUCATION) REGULATIONS, 2012

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Draft Elections (Voter Education) Regulations, 2012 and approved the same with amendments.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Transport** (Mr. Kimunya) seconded.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that the Draft Elections (Voter Education) Regulations, 2012, be now approved.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Draft Elections (Voter Registration) Regulations  
Were, accordingly, approved)*

### CONSIDERATION OF THE DRAFT ELECTIONS REGULATIONS, 2012

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I beg to report that the Committee of the Whole House has considered the Draft Elections Regulations, 2012 and approved the same with amendments, subject to the recommittal of Regulations, 2, 3, 4, 5, 6, 56, 57, 58, 84 and 88.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report.

**The Minister for Transport** (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[Mr. Deputy Speaker left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Mr. Lekuton) took the Chair]*

#### CONSIDERATION OF THE DRAFT ELECTIONS REGULATIONS, 2012

*(Consideration of Recommitted Regulations 2, 3, 4,  
5, 6, 56, 57, 58, 84 & 88)*

**The Temporary Deputy Chairman** (Mr. Lekuton): Order, hon. Members! We have recommitted the following Regulations: Regulations 2, 3, 4, 5, 6, 56, 57, 58, 84 and 88.

Now we can start with Regulation 2.

#### *Regulation 2*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulation be amended in Regulation 1 by inserting the words “a deputy returning officer” immediately after the words “a returning officer” appearing in the definition of the word “election officer”.

Mr. Temporary Deputy Chairman, Sir, if you look at the definition of “election officer” we have left out “deputy returning officer,” yet that is referred to many times in the regulations.

*(Question of the amendment proposed)*

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

*(Regulation 2 as amended agreed to)*



*Regulation 3*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended in Regulation 3 by inserting the words “done transparently and competitively and thereafter ” immediately after the word “shall” appearing in sub-regulation (2).

THAT, the Regulations be amended in Regulation 3 by inserting the following new regulation immediately after regulation 3-

Responsibilities of returning officer 3A. (1) A returning officer shall be responsible for-

- (a) the tallying of results from the polling stations for purposes of the election of the President, county governor, senator, member of the National Assembly, county women representative to the National Assembly and county assembly representative;
  - (b) the announcement of results tallied under paragraph (a);
  - (c) the nomination of candidates to contest for the position of member of the National Assembly, county women representative to the National Assembly and member of county assembly;
  - (d) such other functions as may be assigned to him or her by the Commission.
- (2) The constituency elections coordinator shall not be appointed as the returning officer or the deputy returning officer of the constituency in which he or she is deployed.

Mr. Temporary Deputy Chairman, Sir, I have discussed with the Chair of the Committee and realize that part 3A(1) has been covered by her. So, I wish to drop that part, but propose and add a New Part 2 as per the amendment.

*(Question of the amendment proposed)*

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

*(Regulation 3 as amended agreed to)*

*New Regulation 3A*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, after discussing with the Chair of the Committee, I wish to drop that New Regulation 3A because it was essentially to define the role of the Returning Officer, which has been sufficiently covered by the Chair of the Committee. So, I want to drop it but only Part One of 3A and retain Part Two of 3A. Drop Part One of 3A, which is defining the role of the Returning Officer and retain Part Two.

*(Question of the amendment proposed)*

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

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

*(New Regulation 3A as amended agreed to)*

*Regulation 4*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT the Regulations be amended in Regulation 4-

(a) by inserting the words “done transparently and competitively and thereafter” immediately after the words “shall be” appearing in sub-regulation (2).

(b) by inserting the following new sub-regulation immediately after sub-regulation (2)-

(3) The county elections coordinator shall not be appointed as the returning officer or the deputy returning officer of the county in which he or she is deployed.

*(Question of the amendment proposed)*

*(Question, that the words to be added  
be added, put and agreed to)*

*(Regulation 4 as amended agreed to)*

*Regulation 5*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT the Regulations be amended in Regulation 5-

(a) by deleting sub-regulation (1) and substituting therefor the following new sub-regulation-

(1) The Commission shall transparently and competitively appoint a presiding officer for every polling station and may similarly appoint such number of deputy presiding officers as may be necessary.

(b) by inserting the words “or an insignia previously approved by the Commission for independent candidates” at the end of sub-regulation (6).

*(Question of the amendment proposed)*

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

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

*(Regulation 5 as amended agreed to)*

#### *Regulation 6*

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Regulations be amended in Regulation 6 by inserting the words “at least three months before the date of any election ” at the end of sub-regulation (3).

*(Question of the amendment proposed)*

*(Question, that the words to be added  
be added, put and agreed to)*

*(Regulation 6 as amended agreed to)*

#### *Regulation 56*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, we are making this regulation pursuant to the provisions of Section 109 of the Elections Act, which is clear that these regulations are being made for better carrying out of the provisions of this Act. Therefore, the regulations must be in accordance with the provisions of the Act.

Looking at the Elections Act, it provides for the election period. When you look at regulations 56, 57, and 58, that is Part X of the Regulations, they relate to the campaign period and are not in accordance with the provisions of the Elections Act, which provides for the election period. On that basis, I am proposing a further amendment, the deletion of the entire Regulation 56. The same will apply to the remaining regulations in that part.

**The Temporary Deputy Chairman** (Mr. Lekutton): Could we confirm from the Minister if he wants to delete Regulation 56 entirely?

**The Minister for Justice, National Cohesion and Constitutional Affairs:**(Mr. Wamalwa) : Mr. Temporary Deputy Chairman, Sir, yes, I am proposing that we delete Regulation 56 entirely.

*(Question of the amendment proposed)*

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, in supporting the deletion of Regulation 56, I wish to confirm that when we were working on the Elections Act the matter of the campaign period came up. When it was looked at within the framework of the new Political Parties Act, particularly Section 15, it guarantees the parties that they have freedom to campaign on a continuous basis. Because of that, the whole issue of campaign period which was being granted within a certain time of the year was overtaken by events. That was then removed in totality, that is the campaign period plus all that comes with it. Since the enactment of the new law, indeed, the campaign period was removed and what was brought in place defined the election period for the purposes of what you can do within that period.

More specifically is what is covered within Section 26(1) which is about holding *harambees* during an election period. However, everything else was sorted out and in any case all other offences that relate to how you conduct elections were very clearly defined within the election law. So, the campaign period is not necessarily within our laws any longer. I just wanted to give that comfort, that we actually looked at this when we were amending the Elections Act and the Political Parties Act to make sure that they are in harmony with the new Constitution.

**Eng. Gumbo:** Mr. Temporary Deputy Chairman, Sir, I just want to echo the words of the Minister. Political campaigns have become very competitive and people must be free to sell their manifestoes and policies without restriction.

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

*(Regulation 56 deleted)*

*Regulation 57*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, Regulation 57 is inconsequential and for the same reason, I propose that it be deleted.

*(Question of the deletion proposed)*

*(Regulation 57 deleted)*

*Regulation 58*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, it is also consequential and for the same reason I propose that it be deleted.

*(Question of the deletion proposed)*

*(Regulation 58 deleted)*

*Regulation 84*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I wish to propose a further amendment to Regulation 84(1)(b) because of the issue Dr. Khalwale raised. I wish the Members to apply their minds to this provision. Looking at what will happen right from the polling centres and coming to the tallying centres where the results should be announced and the possibility of re-opening and examining the ballot papers marks to know what was rejected or objected, it will be basis for quite some serious problems that could result in a crisis at the tallying centre and affect results. We want to avoid that. We know what happened at the tallying centre at the KICC. We want to do everything to ensure a smooth election and this particular provision on the basis of the concerns raised by the Members, I beg to move:-

THAT, we delete Regulation 84(1)(b).

*(Question of the amendment proposed)*

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, although I spoke to this, imagine a situation whereby you have provided that for the presidential election, the tallying centre is here in Nairobi. So, it will mean that boxes will come from all the corners of the country, so as to be re-opened at the tallying centre for the presidential election in Nairobi to get to know what was objected and what was rejected. It was a recipe for allowing stuffing of ballots and, therefore, affecting the final presidential result.

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

*(Regulation 84 as amended agreed to)*

*Regulation 88*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Chairman, Sir, I wish to make a proposal for the amendment of Regulation 88(1)(4). This is just to bring clarity because the chairperson of the Commission is spokesperson and the act of declaring the results, we do not want to leave any doubt as to who will be responsible for the declaration of the results. It has to be the chairman of the Commission. Therefore, I beg to move:-

THAT, Regulation 88(4)(b) be amended by inserting the word “Chairman of the Commission”.

This will read that upon the receipt of a certificate under sub-regulation 1, “the Chairman of the Commission shall”. That will also apply to the statement that “provided that the Commission may declare a candidate elected as the President---“. We just need to insert the word “chairman of the Commission”.

*(Question of the amendment proposed)*

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, I want to support the amendment. Hon. Members, let us go back to the situation at the KICC in 2007. If this kind of law that we are amending was in existence, then Mr. Kivuitu would have announced the results that he did while someone else would have announced the other results. So, if we leave this there, then that means that we are inviting the same scenario and it could play out. This is now clearer.

I support.

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

*(Regulation 88 as amended agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Thank you Mr. Temporary Deputy Chairman, Sir. I beg to move that the Committee doth report to the House its considerations of the Draft Elections Regulations of 2012 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[Mr. Deputy Speaker in the Chair]*

## **REPORT, CONSIDERATION OF REPORT AND APPROVAL**

### **THE DRAFT ELECTIONS REGULATIONS, 2012**

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Draft Elections Regulations, 2012 and approved the same with amendments.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said report.

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, I would like to second the Motion by the Minister. In seconding for agreement, let me take this opportunity to thank profusely, hon. Amina Abdalla and her Committee for the work that has been put into the review of these regulations, and hon. Gumbo and the other Members who were here. This is history in the making in terms of ensuring that we have free and fair elections. I believe that this exercise would not have been complete if we did not register those thanks for all the Members who have been working on this especially, once again, hon. Amina Abdalla, hon. Nicolus Gumbo, the Minister and his entire team.

I second.

*(Question proposed)*

*(Question put and agreed to)*

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I beg to move that the Draft Elections Regulations, 2012 be now approved.

The Minister for Transport (Mr. Kimunya) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Draft Elections Regulations, 2012 were accordingly approved)*

## **MOTION**

APPROVAL OF APPOINTMENT OF MR. JEREMIAH M. NYEGENYE  
AS CLERK-DESIGNATE SENATE & MR. JUSTIN N. BUNDI AS  
CLERK-DESIGNATE, KENYA NATIONAL ASSEMBLY

**Mr. Keynan:** Mr. Deputy Speaker, Sir, I would like to take the shortest time possible to move this Motion.

Mr. Speaker, Sir, I would like to move that the Report of the Parliamentary Service Commission on the recruitment of the Clerk of the National Assembly and the Clerk of the Senate be adopted by this House.

**Mr. Deputy Speaker:** Order! Order! Hon. Keynan, you move a Motion by reading it verbatim, as it is on the Order Paper. You can then make your contribution accordingly

**Mr. Keynan:** Thank you, Mr. Deputy Speaker, Sir. I stand guided.

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

THAT, pursuant to the provisions of section 45B, Subsection (5) (b) of the former Constitution as saved under Section 3 of the Sixth Schedule to the Constitution, Section 11 of the Sixth Schedule to the Constitution and Article 259 of the Constitution, this House approves the appointment of Mr. Jeremiah Makokha Nyegenye as the Clerk-designate of the Senate and Mr. Justin N. Bundi

as the Clerk-designate of the National Assembly on such terms and conditions of service as the Parliamentary Service Commission shall determine.

Mr. Deputy Speaker, Sir, as hon. Members are aware, Parliament is a technical institution. I must appreciate, on the onset, the good work done by the Members of the Parliamentary Service Commission (PSC), guided by the Speaker. I must also appreciate the work done by the staff members of the National Assembly and more so, the staff members of the PSC Secretariat.

Parliament is also trying to reform itself. As one of the three Arms of the Government, Parliament has benefitted immensely from the new constitutional dispensation in terms of how its functions are managed and carried out. Parliament, as a technical institution, requires a competent technical team which will supervise, manage, advise and deal with technical issues as far parliamentary practice is concerned.

Mr. Deputy Speaker, Sir, pursuant to these considerations, the PSC contracted the services of PriceWaterhouseCoopers to carry out the recruitment. The exercise was done systematically. The first stage attracted the confirmation of the job description and the role of the profiles as received from the Commission. This was discussed and agreed upon. Eventually, an advertisement was placed in the newspapers. The second stage involved the screening of those who had been shortlisted. Finally, we have a product.

I must confess that this is a product of a number of activities. Firstly, we had to look at the experience and the track record of the individuals who had been interviewed. Secondly, we also had to look at the technical competences of the individuals. Thirdly, we had to look at the leadership and management skills of those who have been interviewed.

Mr. Deputy Speaker, Sir, *PriceWaterhouseCoopers* carried out psychometric analysis and aptitude tests and eventually came up with a list that enabled the Commission to get the best candidates from amongst our members of staff and from outside Parliament. I emphasise our staff because parliamentary staff are not individuals who can just be trained overnight. They are individuals who require many years of exposure to the job, many years of training and many years of practicing. This institution has really invested in the staff of the Kenya National Assembly. That is why you should not be surprised that the names being proposed, especially for the two top positions, are not from outside but are products of the Kenya National Assembly.

Mr. Nyegenye is the Director, Legal Services, in the National Assembly and I am sure those of us who are in the 10th Parliament, and those who were there before must have benefitted from the services of Mr. Nyegenye as the Director, Legal Services. I must say that Mr. Nyegenye has remained one of the most competent legal officers that I have ever known in my history. Therefore, I was not surprised when PricewaterhouseCoopers and the Parliamentary Service Commission settled on him as the Clerk-designate of the Senate.

Secondly, Mr. Justin Bundi is a serving Deputy Clerk. Since our Clerk is about to retire, and Mr. Bundi has served the Government in different positions as an administrator, including in the Provincial Administration--- He has served as the Clerk of the East African Legislative Assembly (EALA) and for many years in the Kenya National Assembly. Currently, he is the Deputy Clerk of the Kenya National Assembly. Using key parameters, namely experience, track record, technical competence, leadership and management skills, taking into account the psychometric and aptitude analysis that has been carried out by PricewaterhouseCoopers, the Commission recommends that these two gentlemen be confirmed by this House as required by the Constitution to serve as Clerks in the Senate and the National Assembly respectively.



Before I conclude, I would like to say that there are many other parliamentary staff who are qualified and competent; at times we were even spoilt for choice. Those who have not been picked, it does not mean that they are not the best. It is because of this that we picked two other senior parliamentary staff to deputize them. I must appreciate the role played by Madam Consolata Munga who has been a long-serving Director of Committee Services. She has been appointed as the Senior Deputy Clerk to the Senate. This is not in the Order Paper but I feel I should say it, so that those who are here can appreciate that other senior officers have also competed for different positions, and have also been considered based on so many other considerations. The Commission has agreed to designate Madam Munga to deputize Mr. Nyegenye as Senior Deputy Clerk, Senate.

We also have Mr. Michael Sialai, who is also a long-serving principal Clerk of the National Assembly. He has also demonstrated competence, dedication and service to the National Assembly. He has also been appointed as Senior Deputy Clerk, National Assembly. I felt I should say this, so that you are aware that in addition to these two appointments, there are other individuals who have also been appointed.

With those few remarks, I want to ask Mr. Mwathi to second and pray that this House approves these two names. On 22<sup>nd</sup> October, 2012, they are required to participate in a one week induction in the United Kingdom (UK), House of Commons, so that when they come back, they will have all the skills to enable them to attend to the Kenya National Assembly.

I beg to move.

**Mr. Deputy Speaker:** That is enough, you have already moved.

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, I rise to second and in doing so, I will just use a few words. First and foremost, I would like to thank all the applicants who showed interest to work with the National Assembly, among them members of our staff. Secondly, I want to commend the managing partners of PricewaterhouseCoopers who did a thorough job. I saw that they were committed, brought us a comprehensive report and explained every step that they had taken. We were convinced that whatever they did merited our comments and recommendations.

Thirdly, I want to congratulate my colleagues. I know this exercise was tedious. It was quite heavy. The commissioners who we worked with even late in the night were dedicated and actually they showed resilience. It is important that I actually congratulate them together with our staff who worked tirelessly to make sure that the process was completed in time.

I wanted to mention this, which is very important that until one hour before the commencement of business today, even all the commissioners including the Speaker who is our chairman did not know the results. The results were brought to the plenary and the decision was made about one hour before we got here. We did that to maintain confidentiality and also to ensure that there was no speculation.

Mr. Deputy Speaker, Sir, finally, I am convinced personally being who I am and having a long history in the Civil Service that the process was open, fair and actually the people who were appointed, were appointed on merit and there was regional diversity.

With regard to the issue of gender, I know this may not have come out strongly but I would want to say this; in these appointments in totality, if you look at them, we managed to have 40 per cent of the top positions occupied by the other gender; the ladies. By doing this, we have surpassed the threshold given by the Constitution. So, in short, the next two top positions are held by ladies. So, in a short while, I think they will be at the top.

As I conclude, I would want to congratulate all those who have been appointed to these positions and request that they work with dedication.

Hon. Members, I want to say that it was important for us as we considered those who applied to be able to motivate the members of staff who are working within the Parliamentary Service and for them to aspire to higher positions that we gave consideration to our working staff. All in all, they performed very well. They were actually on top in all the lists. They came top of all the people who were interviewed.

With those remarks, I second.

*(Question proposed)*

**Mr. Deputy Speaker:** Mr. Kipruto--- Kiprono arap Ruto.

**Mr. Ruto:** Thank you, Mr. Deputy Speaker, Sir, although you did not pronounce my name well. I still take this opportunity to thank you for giving me this opportunity and to thank your office for doing a good job---

**Mr. Deputy Speaker:** What part of your name did I not pronounce well? Are you not arap Ruto?

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I want to reserve that to another hour.

I want to thank the Office of the Speaker and the Clerk who is retiring, Mr. Gichohi, for the work they have done to actually open up Parliament, introduce new systems of openness and now in recruitment. I think the Parliamentary Service Commission and the entire administration of Parliament have done a superlative job. This should be emulated by other public service organs. I think it is also a lesson in which the Government can learn that they need to be prepared for the new dispensation. You have done very well to prepare for the Senate. You are also preparing for the new larger Parliament. I want to congratulate the staff who have been appointed to these positions and wish them well. They have done very well inspite of our pull and push on the Floor of the House. They are often unheard. We only see them moving up and down, but they do a lot of work.

Thank you very much. That is a job well done for the Parliamentary Service Commission. Good luck to the officers.

**The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to also support the decision arrived at by this panel.

Mr. Deputy Speaker, Sir, I want to, first, congratulate those that were members of the Panel for a job well done. I think it is very difficult these days to allocate senior jobs in any parastatal or in the Government. It is a difficult job, but they managed to do it and apparently are unanimous in their decision.

Mr. Deputy Speaker, Sir, secondly, I would like to also congratulate the team that has been selected. I think it has been said clearly that we are lucky that we found a team of people with experience with Parliament and Government. But it is also more important that we are motivating people who have had experience in this Parliament, that it is okay to go out there and identify people to come and take positions. But if we can find people who have the history and experience and have been dedicated to this Parliament, as long as they qualify and do well, I think we should support them. In this case, this is what happened.

Mr. Deputy Speaker, Sir, I would also like to say that all the five must have been qualified. I think they meet the minimum qualifications, but two people had to get the jobs. It so happens that those who got the jobs have something that is--- It is not that they are very special, but it is just that they had to separate the five and identify two people. So, even those that did not

get the job should not feel too bad. I think to be among the five was good enough but somehow they had to identify two people. So, I really want to congratulate them.

Mr. Deputy Speaker, Sir, I also want to thank the team for preparing us to for the Senate to come and the new Parliament. We have people with experience and competence to lead us in that direction as we begin next year.

Thank you, Mr. Deputy Speaker, Sir.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I also rise to support this Motion and congratulate my good friend, Mr. Jeremiah Nyegenye and Mr. Justin Bundi, for getting these very historic positions to start off the new Senate and the National Assembly.

Mr. Deputy Speaker, Sir, I also want to thank my very able Chairman, hon. Keynan and his team of commissioners for doing a fantastic job. I just want to remind Members that as we prepare for the Senate and the National Assembly, we still face the challenge of having this two House challenged on---

**Mr. Deputy Speaker:** Hon. Magerer, are you sure that you are on your point of order?

**The Assistant Minister for Energy** (Mr. Magerer): No, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Proceed, hon. Wamalwa!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I was just reminding the hon. Members that as we get the Clerk-designate of the Senate and Clerk-designate of the National Assembly, the task of this House of ensuring that we achieve the gender parity principle, as per the new Constitution, is still ahead of us. I will still call the hon. Members to apply their minds to it, to avoid the two Houses – both the Senate and National Assembly – facing legal challenges and, perhaps, having a constitutional crisis. So, let us, as we congratulate these people, continue to apply our minds to find a way forward to resolve the gender riddle.

Thank you, Mr. Deputy Speaker, Sir.

**Eng. Gumbo:** Mr. Deputy Speaker, Sir, I want to be quick, because I do not wish to repeat what others have said.

Allow me to congratulate the Parliamentary Service Commission for a job well done. Filling public---

**Mr. Langat:** On a point of order, Mr. Deputy Speaker, Sir. Judging by the mood of the House, will be in order to request that the Mover be now called upon to reply, because we are just repeating what others have said?

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

**Mr. Keynan:** Mr. Deputy Speaker, Sir, I wish to give two minutes of my---

**Mr. Deputy Speaker:** Order, proceed!

**Mr. Keynan:** Mr. Deputy Speaker, Sir, with your permission, may I donate two minutes of my time to hon. Gumbo to say one or two things.

**Mr. Deputy Speaker:** You cannot!

**Mr. Keynan:** Mr. Deputy Speaker, Sir, I stand guided. I want to thank the Members, whatever we have done in addition to what we have presented here and the other appointments that we have made. I can assure you the issue of gender, professionalism, qualification and merit and the diversity of Kenya has been taken into account.

As hon. Mwathi has said, the issue of gender equity actually was one critical thing in the general appointment that we have done. I can assure you that more than 40 per cent cumulative, all individuals appointed are from either gender. I hope this new team is not going to let you down and it is going to add value to Parliament.

Thank you.

*(Question put and agreed to)*

**Mr. Deputy Speaker:** Leader of Government business can you now move the Adjournment Motion.

### **MOTION FOR ADJOURNMENT**

#### ADJOURNMENT TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House do adjourn until Tuesday, 20<sup>th</sup> of November, 2012 at 2.30 p.m.

Mr. Deputy Speaker, Sir, in moving this Motion for Adjournment, let me start by thanking the Members for the efforts they have put in during this session, where we have passed a record number of Bills. We now have Election Regulations. We know that there is still a lot of work to be done including Members moving to their political parties to ensure that there is compliance with the Political Parties Act and sorting out issues at the constituencies. We have had notices that we need to disburse the CDF monies between now and the 15<sup>th</sup> and Members require this break to go and put those issues in place and hence this break is not just necessary for purposes of breaking but also for work at the constituency.

Mr. Deputy Speaker, Sir, we also have a very clear understanding that should the Members be required during this period, we will then use the powers of the Speaker to call back the House to pass anything that may be totally urgent. I do not quite anticipate any of this except the Campaign Financing Bill; should that mature before, Members have to be called or also in terms of the negotiations going on within the gender rule of the Constitution, they can be recalled. Those are, perhaps, the only two things that might lead to this or any other that might appear urgent to the Speaker. It will really be the discretion of the Speaker and the Principals he may need to consult.

In moving this, also, I want to clarify something; I think, there was a misunderstanding that we cannot have the Motion for Adjournment unless we have three hours. Three hours is provided for as a maximum period for discussion of a Motion for Adjournment. So, between now and midnight we have two hours. Should we talk beyond midnight then we will not go home. But I doubt if we will be able to exhaust the two hours that we have and, hence, I am very positive that Members will make a decision in terms of where we want to go with our adjournment.

I am very happy that the consensus seems that we need to go out there in the constituencies and do some work. May I also take this opportunity to thank our staff who stay with us in this House, who work day and night. They also require to take their annual leave to also meet their families and go and prepare their children for the examinations. I do believe that this will also be an opportune time for them to take that break so that by the time we come back for the final leg, between 20<sup>th</sup> of November and 15<sup>th</sup> of January, really that will be the last time

we will be meeting as a House. I do hope that we will finish all the other Bills that are in maturation. We need to take the opportunity to clear all the Bills that have been committed to the House; when we come back we will be prepared to work late to clear all the Bills, otherwise we will lose all the work that has been done by the Committees. We do not know whether the next House will have the same enthusiasm as this House.

With those words I beg to move and request my colleague, the Minister for Justice, National Cohesion and Constitutional Affairs to second.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I rise to second this Motion and thank the Deputy Leader of Government Business for his very able leadership and all Members for their contribution. We have called upon them time and again to go an extra mile. Today, I am particularly grateful to hon. Amina Abdalla and Members of the two Committees that looked at the regulations. By passing these regulations, we have taken yet another step towards our preparedness for the coming elections.

I must thank Members and the Committees that proposed amendments. We have removed any road blocks that could inhibit or prohibit Kenyans from enjoying their rights under Article 38, to make political choices and to be able to do so without undue restrictions. As you go home, let us prepare for peaceful elections.

I want to thank Members for attending the National Conference on Peaceful Elections, and also for participating in the County Forum for Peaceful Election. We are starting a programme which we will roll out to the counties and constituencies to preach peace and to urge Kenyans to prepare for this historic election. They need to participate and to do so peacefully. We will also be rolling out a voter education exercise that the IEBC has already started. Civic education will be going on. We will be urging Members to be agents of change, to be agents of civic education and voter education. We urge you, as you go out, to preach peace and know that Kenya is set for a historic election.

We want to tell our friends, particularly our international partners who continue to help us in civic education and voter education, to stand by us whenever we have problems in this country. When we had the post-election violence they stood with us. We respect them and also thank them for their support. We want to let them know that as we go into this election, Kenyans must be left to exercise their sovereign will through this election without undue interference, or being given unsolicited advice.

I think this is one thing we are going to be very clear. We know that when Kenya attained its Independence, it became the master of its own house. Nobody can dictate to us who we are going to elect or how we are going to conduct ourselves. This is something that we must be left to determine ourselves as a sovereign nation.

With those few remarks, I want to thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity.

*(Question proposed)*

**Eng. Gumbo:** Mr. Deputy Speaker, Sir, I thank you as I rise to support this Motion for Adjournment. I want to congratulate the Parliamentary Service Commission for the job they have done of giving us two new Clerks for the two Houses of Parliament. In this appointment, we have got two gentlemen with outstanding public service careers and this is commendable. As a person who believes in one Kenya one country, one nation and one people, I note with a lot of

satisfaction that all the top four officials of Parliament are from different regions of the country. It is an emphatic statement on equality, and I think it is another feather in the cap of this Tenth Parliament.

By promoting our own, we are trying to build confidence in our staff in Parliament. We are also telling them magnanimously that excellence pays. It is saddening for our country that as we make these major strides, we are still reading very depressing news of how Kenyans appointed to privileged public positions are daily abusing those positions. I must say that what we read in *The Standard* Newspaper today is very depressing where a chief executive officer of a parastatal can employ ten close relatives at the expense of other Kenyans. This is a matter that we should condemn. When somebody is entrusted with ensuring equitable employment as the head of human resource in a public institution and he chooses to employ two of her daughters, two of her nephews and two of her nieces, it is something that we, as leaders of this country, must condemn.

I have run a private practice now for over 20 years, but I have never seen the need to even employ a close relative. When people like these take us back to where we have come, we must speak with one voice and say that, we, as Kenyans, want equality, equitability, but not inequality.

I support.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support the Motion for Adjournment. Firstly, I would like to congratulate the two clerks who have just been appointed, namely, Mr. Jeremiah Nyegenye and Mr. Justin Bundi. In congratulating them, this is something that we must thank the Committee for a job well done. We know these individuals. I happen to have worked at the East African Legislative Assembly where Mr. Justin Bundi was appointed the Clerk and we were very proud Kenyans because of the way he carried himself and performed his duties. I am sure he will do very well here. Mr. Nyegenye is known to all of us in this House. It also feels good when we see internal candidates win the day. This means that they have been mentored well.

I would also want to thank the outgoing Clerk and his deputy who left the other day to contest some elective position. These two have mentored their staff well and that is why we have a pool that we can appoint people from. If you have to bring people from outside, it means that those who have been with the staff have not been mentoring them. It is gratifying to know that we have internal candidates who are well trained.

As we go on recess, I would like to urge my colleagues that we go and set a good mood of campaigning. This means that we, as leaders, must show leadership at the grassroots on how we can campaign with our competitors without attacking or abusing one another. Those are things of the past. We should go and set the mood ourselves. This is an opportunity for us to go and set the mood of how things are going to be.

More than that, we also need to wind up our CDF projects properly. I want to thank the CDF Committee for moving very fast to ensure that we got our last funding within a very short time. All of us are going to release the last funds. It is very important to wind up well because as they say, the end justifies the means. So, whichever way we will wind up, we will talk a lot for this country. When we come back, I will be one of those who will be presenting Bills that are very urgent. There is the Bill for Higher Education, Science and Technology and Technical and Vocational Training Bill. I urge hon. Members to read them because they are just laws and as such, they will set a different level for higher education in this country. It will be useful for hon. Members if they plan to come back because there will be a point where we may require them to

come up with county based institutions or constituency based institutions in the new devolved dispensation.

Therefore, I want to urge that they help us when they come back so that we can take the shortest time possible. With those remarks, I support.

**The Minister for Gender, Children and Social Development (Dr. Shaban):** Ahsante sana Bwana Naibu Spika. Pia naunga mkono Hoja hii ya sisi kufunga ili kuelekea maeneo ya Bunge tulikotoka; kule tulikochaguliwa. Kazi imefanyika na Wabunge sasa hivi wanatakiwa kuelekea manyumbani ili waweze kuzungumza na wananchi waliotupatia fursa hii ya kuwa kwenye Bunge hili la kifahari, Bunge la Kumi.

Ningependa pia kuchukua fursa hii kuwapongeza Bwana Nyegenye na Bwana Bundi kwa kuwa wameteuliwa kusimamia ukatibu wa Bunge na *Senate*. Wataanza kazi hivi karibuni ili kutekeleza majukumu hayo ambayo ni mazito. Kwa sababu ni watu ambao walikuwa wameshafanya kazi na wanaelewa kazi za hapa, itakuwa nyepesi kwao. Natumaini kwamba wataweza kuiendeleza kazi nzuri ambayo ilifanywa na Bwana Patrick Gichohi ambaye anastaafu baada ya kufanya kazi kwa miaka mingi hapa Bungeni.

Wabunge wa Bunge hili la Kumi wamefanya kazi nyingi sana. Tunapoelekea nyumbani, sasa hivi ni wakati wa kuenda kuhakikisha kwamba shughuli za kimaendeleo kule mashinani zinaendelezwa vizuri. Ningependa pia tuchukue nafasi hii kuzungumzia siasa ambazo ni za kuwaunganisha Wakenya. Vile vile, tuzungumze siasa ambazo si za chuki na kuwaunganisha Wakenya hasa wakati huu tunapoelekea katika uchaguzi mkuu unaokuja mwezi wa tatu mwaka ujao.

Ningependa kuunga mkono Hoja hii wakati huu tukielekea manyumbani na mashinani ili tukirudi hapa, tumalizie mkondo wa mwisho wa Bunge hili la Kumi na turudi tena ili tuwaulize wananchi fursa ya kurudi kufanya kazi tena kama watatuona tukiwa tunafaa.

Wakenya wako tayari baada ya kuwa na Katiba mpya ili kuona uchaguzi unaokuja umefanywa kwa njia nzuri ili wapate mafanikio yaliyo katika Katiba mpya. Pia, ningependa kuwapongeza Makamishina wetu wa hapa Bunge ambao wamefanya kazi nzuri ya kuwapa nafasi wafanyikazi wetu wakiwa hapo ndani na haswa wamama ambao wamechukua asilimia 40. Haikuwa rahisi kwao kuipanga na kuipangua ili watoshee hapo, ijapokuwa najua walifanya kazi nzuri katika mtihani waliofanya, walipita na alama za juu sana. Naunga mkono Hoja hii.

**Mr. Muthama:** Bwana Naibu wa Spika, nashukuru kwa kunipa nafasi hii. Naunga mkono Hoja hii. Hii ni Hoja ya likizo ambayo ilibisha hodi na imeingia wakati unaofaa. Likizo hii itatupa nafasi nzuri ya kurudi nyumbani na kufanya kazi hasa tukitumia pesa za CDF. Pesa za CDF, imesemakana tutapewa asilimia 50. Hiyo imeshaingia na sasa tunangoja asilimia 50. Itakapofika mwezi wa Januari na pesa ziwe hazijatumika, zinaweza kuitishwa tena. Kwa hivyo, tutapata nafasi ya kuweza kuzitumia ili tuweze kuwafanyia wananchi maendeleo.

Bw. Naibu wa Spika, jambo lingine ni kwamba, ningependa kuiomba Serikali kwa dhati, tunapoelekea kwenye mfumo mpya wa serikali za kaunti; uchaguzi utafanywa tarehe 4 Machi, 2013. Mwezi mmoja baadaye, tutakuwa tumeweka watu katika sehemu zinazofaa ili waweze kuhudumu. Wasiwasi wangu mkubwa ni kwamba huenda kukawa hakuna makao ya kufanyia vikao vya bunge za kaunti. Kwa hivyo, ningependa Serikali ilizingatie suala hili na kuhakikisha kwamba pesa za kutosha zimetengwa ili kujenga ofisi na majengo ya bunge za kaunti ili ziweze kutafakari juu ya mahitaji ya wananchi.

Jambo lingine ambalo ningependa kuligusia tunapoelekea likizoni ni kwamba kuna umuhimu wa kujaribu kuwaunganisha Wakenya. Sianza za ukabila zimeenea kote nchini.

Ukiangalia utaona kwamba Wakenya katika maeneo yote humu nchini wameshikana na watu wa sehemu hizo. Wakenya wanajiuliza iwapo tuna viongozi ambao wanaweze kujitolea na kuiongoza nchi hii, wakizingatia maslahi ya taifa lote. Kila mtu anapozungumza, utaona kwamba waliosimama nyuma yake ni watu kutoka kwa kabila lake, ambao wanamwambia kwamba yeye tu ndiye anayefaa kuitawala nchi hii.

Bw. Naibu wa Spika, maombi ni kuona kwamba tumekuwa na mhe. Jomo Kenyatta mwingine, ambaye aliunganisha taifa hili. Wakati kulipokuwa na mgawanyiko mkubwa katika nchi hii, Daniel arap Moi na Ronald Ngala wakiwa katika chama cha KADU, na Paul Ng'ei akiwa APP, Jomo Kenyatta, ambaye alikuwa Rais wa taifa hili, hakuwangojea watu hao waende kwake. Aliwatafuta, akawaweka pamoja na kuliunganisha taifa hili, pamoja na hayati Jaramogi Oginga Odinga. Katika taifa hili, bado ninamtafuta mtu mwenye hekima kama hayata Jomo Kenyatta. Vile vile, mstaafu Rais Moi pia alijaribu kuwaunganisha Wakenya. Sasa ninaomba tuwe na watu kama hao, ambao wanaweza kuwaunganisha Wakenya ili tuweze kwenda mbele.

Mwisho ni kwamba Bunge hili limefanya kazi, lakini tunapoenda nyumbani, ni kama tunaonekana bado tunahitajika kufanya kazi zaidi. Naomba wananchi waelewe kwamba Bunge hili limefanya kazi kubwa. Tumechangia Miswada mingi. Tulipitisha Katiba mpya na kufanya mambo mengi mazuri. Kama binadamu hawatatambua kwamba tumefanya hayo yote, Mungu atatambua na kutuwezesha kwenda mbele.

Kwa hayo mengi, ninaiunga Hoja hii mkono.

**Mr. Deputy Speaker:** Yes, hon. Millie Odhiambo.

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I support the Motion.

In doing so, I want to encourage hon. Members that, as we go home, we remember to preach peace. As we all know, there are premature campaigns going on.

Mr. Deputy Speaker, Sir, I want to make one comment about the persons we appointed to senior positions in Parliament. I want to congratulate those who have worked tirelessly behind the scenes and who are retiring. I want to also congratulate the ones who are coming in. I want to just thank the Committee for choosing exceptional people. I have known Mr. Nyegenye for many years; even before I came to Parliament.

He does exceptional work. However, I look forward to a day when we will not congratulate ourselves for choosing four exceptional men. We had a distinguished woman who has worked in this Parliament for many years. I would have liked to have seen her at the apex of the places we have filled.

I also want to say that, as Members of Parliament, today we were really mad at the public for the things they are saying against us. We were the ones who set tempo because we demonise ourselves; but we have an exceptional person who stood up for us, and I am told that one of the reasons he was not against us is that he is a former Member of Parliament. It is unfortunate that we are the ones who demonised ourselves. Indeed, I wish that we did not give Mr. Ochilo Ayacko that position for reasons other than the fact that he is a former Member of Parliament.

I support.

**Mr. Kutuny:** Bw. Naibu Spika, asante sana kwa nafasi hii umenipa. Niko na machache sana.

Kwanza nashukuru Kamati ya Huduma ya Bunge, Parliamentary Service Commission, kwa kazi nzuri ambayo wamefanya. Leo tuna Bunge la kifahari. Tunaketi kwa viti vizuri, tuna Bunge lipya ambalo limefanyiwa ukarabati na tunajivunia. Aisifuye mvua imemnyea na hiyo ndio sifa. Leo nashukuru pia kwa kazi ambayo wamefanya kuteua wale walio na tajiriba ya miaka mingi katika sheria kuwa makatibu wa Bunge.



Bw. Naibu Spika niruhusu niwapatie changamoto wale ambao wanaenda kuwa makatibu. Bunge hili lina Wabunge ambao wamejitolea lakini wana changamoto ya kushughulikia maslahi ya wafanyakazi wa Bunge hili ili isiwe ni Bunge ambalo Wabunge wanajivunia lakini wafanyakazi wanavumilia. Waangalie maslahi ya wafanyakazi wa Bunge, watu wa chini kwa mishahara yao na hali yao. Katika Bunge hili tunahitaji usafi. Unapoketi kwenye ukumbi wa Bunge, masaa kama haya utapata kwamba mbu ni tele na wavamia walioko kule wakisherehekea. Sisi tumekuwa mlo wa mbu tunapoketi kwenye ukumbi. Tungependa kamati ambayo inashughulikia maslahi ya Wabunge ichukue hatua ya kuweza kuimairisha maeneo hayo.

Nikikamilizia, ningependa kusema kwamba usalama wa taifa ni kitu ambacho kinatakikana kupewa kipaumbele. Kwa sasa usalama umezorota na kama tunakwenda likizo Bunge ndio imekuwa macho na imekuwa mnyapara wa Serikali ili iweke mikakati ya kuimarisha usalama. Tungependa Serikali iweke mikakati ya kutosha.

Nikikamilisha, ningependa kuomba kamati ambayo inahusika na shughuli za Bunge, nimemuona Kiranja wa Serikali yuko hapa na tutakaporejea, tuna Miswada muhimu kama ule ambao mimi nimeuleta Bungeni wa kusindikiza Serikali kwamba baada ya vijana kukamilisha masomo yao katika vyuo, Serikali iwape nafasi ya kupata ujuzi kwa miaka mitatu ili wanapotafuta kazi isiwe kwamba hawana tajiriba ya miaka miwili ama mitatu. Narudia tena, kwamba naomba wakati tutakaporejelea vikao vya Bunge, tafadhali Mswada huo upewe kipaumbele ili vijana waweze kupata nafasi ya kuhudumu kwa muda wanapotafuta nafasi za kazi.

Kwa hayo nawatakia heri na fanaka mnapoingia katika ulingo wa siasa wa mwisho. Itategemea ukali wa meno na urefu wa kucha.

Asante Bw. Naibu Spika, na mlale unono.

**The Minister for Roads (Mr. Bett):** Mr. Deputy Speaker, Sir, that was tough Kiswahili.

**Mr. Deputy Speaker:** I was hoping that you would also proceed and contribute in Kiswahili.

**The Minister for Roads (Mr. Bett):** I will do it in English today and not that I am not proficient in Kiswahili; I am.

I also rise to support this Motion of adjournment. While doing so, I want to take this opportunity to congratulate the officers concerned for the appointments which we have approved for the new members of staff of the National Assembly and the Senate.

I also want to thank the outgoing Clerk, Patrick Gichohi and I want to disclose that we were at the university at the same time. He has done a good job. I wish him well wherever else he is going to after here.

I also want to thank Members of this House; they have done a good job over this period. Hon. Members have passed so many Bills and done so many Motions. This is an indication that this is a hardworking House contrary to what others may be saying outside there.

Yesterday we did pass the Sports Bill into Committee of the Whole House. I want to underline the importance of sports in this country and I want to urge the relevant Ministry that the infrastructure in sports must be given a lot of attention. It is one area that will remove our youth who may be unemployed in the various parts of the country. I heard that there would be up to 18 stadiums to be done. I want to believe there will be Kapkatet Stadium in Kericho County amongst those stadiums which will actually serve both Bomet and Kericho Counties.

Mr. Deputy Speaker, Sir, one other thing that I want to indicate when it comes to athletes particularly those who are undertaking professional activities is that every time they go out of

the country and when they come back, the positives they have acquired outside the country are normally taxed by the Athletics Association of Kenya (AAK).

When one looks at it critically, why are they being taxed? What contribution has AAK done to the athlete in order to win wherever they are? I think this is an immoral taxation and it should not be allowed any more because it is the sweat of that athlete which is being taken away by a person who has not contributed to the person of that athlete. It is actually killing the profession in that if I go out there and find I will be taxed, I do not need to go. So, I think it is about time we got AAK to stop imposing taxes on our athletes.

I want to thank the Ministry of State for Special Programmes and the Ministry of Lands for the effort they have done in the resettlement of the Mau evictees. I want them to appreciate that it is not only the Mau evictees who need to be resettled; there are also many other evictees like those in Embobut Forest, Kipkurere and Mt. Elgon. So, they should be payin attention to this.

The number of Mau evictees they have settled is a paltry number compared to the whole population of evictees living in tents in those sides of Olenguruone. I want the Ministry to move and buy more land for the resettlement of these people and also to provide food, medicine and mosquito nets.

I had an opportunity last Monday of coming across the evictees who had been moved to Majani Mingi and it is a sorry sight to behold, when you look at the children, with lots of them having mosquito bites. I think it is incumbent upon the Ministry of Medical Services and the Ministry of Public Health and Sanitation to move with speed and supply them mosquito nets.

Finally, as we go out into---

**Mr. Deputy Speaker:** It is time. The rule of the Motion of Adjournment is that you speak for five minutes and when your time is up, the microphone switches itself off.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, in joining my colleagues on this Motion of Adjournment, I would like to start by thanking the Kenya Defence Forces of this country for liberating our neighbouring country, Somalia.

Secondly, I would like to call upon the Government to enhance security in the country. Recently, we have experienced abductions and murders of innocent people in this country. We have also seen the re-emergence of criminal gangs in this country. Therefore, the Government must be able to rise up and make sure that there is adequate security in this country.

I also take this opportunity to mainly thank the Speaker, the Deputy Speaker and the Members of the panel for guiding business in this House well. It is also important that we remind the National Cohesion and Integration Commission to seriously address the issues of those leaders who could be inciting the people against one another in this country.

I also take the opportunity to thank the Chief Justice for initiating radical reforms in the Judiciary and allowing faster justice in the Judiciary.

Mr. Deputy Speaker, Sir, I would like to also commend those who have been appointed to take up new positions in the coming year. They will go in the annals of history as being the first to take up their roles in the new Assembly and also Senate. It is our pride that these are our own products.

Mr. Deputy Speaker, Sir, I would urge the two Principals to make sure that we have enough security in this country and unnecessary tension is lowered.

Mr. Deputy Speaker, Sir, I fully support this Motion.

**Mr. Kaino:** Mr. Deputy Speaker, Sir, I wish to join my colleagues in supporting this Motion for Adjournment.

Mr. Deputy Speaker, Sir, I want to thank the Members of this Parliament for the maturity that they have shown since the time that we came to this House. You and I, who have been here for many years, remember this Mace. If it could talk, it could tell us a lot. Members of Parliament would even run with it in the House during those days. Those days you could tell a DP, FORD or KANU person. But today, we cannot even distinguish whether the Members of this House belong to PNU, ODM or ODM Kenya. They are actually mature. I really want to thank these hon. Members. I pray that three quarters of these hon. Members come back to this House.

Mr. Deputy Speaker, Sir, I also want to ask the Ministry of Agriculture to take the issue of food security in this country more seriously. As we go on recess, there are many Kenyans who are suffering because they do not have enough food. This Ministry together with the Ministry of State for Special Programmes should identify areas where maize did not do well and take relief food there. Currently, there is food shortage in Trans Mara, Kericho and parts of North Eastern Province because of crop failure. Some of these areas used to harvest surplus food, but today, they are begging for relief food.

Mr. Deputy Speaker, Sir, as we go on recess, let me thank His Excellency the President, Mwai Kibaki, for overseeing infrastructure improvement throughout the country during his tenure. We may not have good roads in Marakwet, but he has done wonders in the improvement of our roads. Marakwet is part of Kenya and we need good roads. I believe that, probably, the next Government will consider Marakwet District which has been left out when it comes to roads. All districts have a few kilometres of tarmac roads. It is a pity that our roads are in a sorry state. We are suffering a lot. I use a four wheel drive vehicle, but I cannot reach home.

Mr. Deputy Speaker, Sir, we might not have another Motion for Adjournment next time when we come back. I am praying God to take care of us during the recess so that we meet next time.

With those few remarks, I beg to support.

**Mr. Langat:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I want to support the Motion for Adjournment.

Mr. Deputy Speaker, Sir, I congratulate the Members of this House because many times we have sat for extra hours to transact business in this House. I salute all hon. Members for that commitment.

As we adjourn, there are Bills that are yet to come to the House. We realize that by the time we come back on 20<sup>th</sup> November, we will have less than one month before our time ends in this House. Therefore, I propose that the Executive should actually go and sit and schedule all the Bills immediately when we come so that if there is anything that needs to be done, we do it at the right time, not the way we have been doing rushing up to late in the night.

Mr. Deputy Speaker, Sir, I want to also encourage the Minister for Roads, who is seated here to send money to do the roads. Some of us who come from areas where it rains on a daily basis, the roads are very bad and *wananchi* are accusing us of not working. So, I want to urge the Minister to send all the money and not just the Kshs7 million he is saying he has sent. That is a small amount in our areas.

Mr. Deputy Speaker, Sir, I wish all the Members a nice Recess, a Recess with a lot of touch with *wananchi*.

With those few remarks, I support.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I want to also support the Motion for Recess. But I want to rise up to challenge the deficit of wisdom on the part of the Executive. As anticipated by the Chief Whip, he is actually searching for wise people and I want to rise to the occasion.

Mr. Deputy Speaker, Sir, before I rise to that, I want to thank hon. Kimunya for working very hard. I think he is one of the Ministers who stay here until late. In spite of that, he still has some deficiency in knowledge of Standing Orders because---

*(Laughter)*

**Mr. Deputy Speaker:** Order!

**Mr. Ruto:** Okay, I withdraw the word deficiency, Sir.

**Mr. Deputy Speaker:** You cannot discuss a Member's conduct and say he has deficiency. The fact that you are coming to the end of this Tenth Parliament does not give you a *carte blanche* to flout the rules.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, as a fairly senior Member of this House, I understand what you are saying. I only want to remind him that I was in his position about 15 years ago. The Standing Orders actually stipulate that as a Minister, when you sign a Bill that will lead to incurrence of expenditure of public funds, the signature of a Minister should signify the acceptance. He should also indicate that His Excellency the President has acknowledged or has actually consented or authorized that particular signature. You do not just wake up and sign something that will cause expenditure unless you have sought the consent and concurrence of His Excellency, the President. So, normally, we believe that when they sign, obviously His Excellency the President has consented. If he has not, then I think you really need this wisdom. During this period of Recess, please revise the Standing Orders so that by the time we come next time, we do not get into this problems that we have gotten into.

**Mr. Deputy Speaker:** Are you saying "study" the Standing Orders or you are saying "revise" the Standing Orders? Is it revision as it is done in school?

**Mr. Ruto:** Yes, revision as in school. Like what the Form Fours students are now doing. This is what I mean and they have their sons. Review and learn. I could give some lessons during this Recess period if I get some little time and I try to spruce their minds.

**Mr. Deputy Speaker:** In law, when you say revised, it means amended. It is the latter version. But any way, let us proceed.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I also want to request this Government during this Recess period to think about the East African community. Currently the East African Community and even the Legislative Assembly in Kenya is domiciled in the Ministry of East African community under one Minister who hardly comes here called Musa Sirma. It is like a department in that Ministry, yet it is supposed to do legislative duties. It is supposed to help us to integrate as East Africa. This has been taken as if it was just another directorate in the Ministry. They choose when to give them funds to move around. I do not understand why this has been allowed to happen. I would like to request the Government that by the time we come back it brings the necessary legislative instruments to properly domicile it, probably, in Parliament--- The right place should be in the National Assembly. Why should it be in a Ministry?

**Mr. Deputy Speaker:** Hon. Isaac Ruto, it is because the East African Legislative Assembly was established through a protocol by the summit of the Heads of States; this was an Executive authorization. As you put it, that needs to be revised, but whether it is going to be done through Parliament or by revision of the protocol by same Executives is the issue.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, we can assist this same Executive. They had good ideas, and I thank them for what they have done so far, but it is not going to move these countries towards integration.

**Mr. Deputy Speaker:** Precisely.

**Mr. Ruto:** Mr. Deputy Speaker, Sir, this is for as long as we let it stay inside that Ministry. Let us have it out and about. Let us give it the requisite recognition.

**Mr. Deputy Speaker:** The Chair will want to give you one additional minute. You are making quite a lot of sense. Could we give him one more minute?

**Mr. Ruto:** Thank you, Mr. Deputy Speaker, Sir.

**The Minister for Roads (Mr. Bett):** Mr. Deputy Speaker, Sir, I only got challenged by hon. Benjamin Lang'at. I want to confirm to the House that I will do everything within my powers to make sure that we receive funds from the Exchequer in order for me to disburse it to the various constituencies, and we will be able to utilize those funds before things happen. So, far, I have released Kshs7 million and I want to follow it up with more, as quickly as possible.

*(Question put and agreed to)*

### **ADJOURNMENT**

**Mr. Deputy Speaker:** Hon. Members, the House now stands adjourned until Tuesday, 20<sup>th</sup> November, 2012 at 2.30 p.m.

The House rose at 10.45 p. m.