

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th February, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.903

RATIONALISATION OF DEPLOYMENT OF EDUCATION OF ATTACHEES

Mr. Kaino asked the Minister for Foreign Affairs:-

(a) whether he could provide a list of Education Attachés in all the Kenyan Embassies, High Commissions and diplomatic missions, stating their respective stations, qualifications, positions and district of birth;

(b) whether he could inform the House if the officers deployed meet the minimum educational requirements to hold their respective positions; and,

(c) whether he could consider rationalizing the deployment of the officers with regard to regional and ethnic balancing.

Mr. Speaker: Hon. Members, I have a request from the Minister for Foreign Affairs. He is unable to be in the House timeously this afternoon because he has been summoned to attend a meeting where he is endeavouring to make Kenya's case on the Somali Question. It is an abrupt meeting involving participants from the international community. So, it is understandable. If he does get here before we come to the end of Question Time, then we will revisit Question No.903.

Next Question, by Member for North Horr!

Question No.1009

NUMBER OF PROJECTS UNDERTAKEN BY ENNDA IN NORTH HERR

Mr. Speaker: Is the hon. Member for North Horr not here?

Well, on this one I have advised hon. Members that sometimes there is no turning round. Please note that there is nothing like "second round" in Parliamentary parlance. So, we will excuse this because it is the second day that the House is meeting but, henceforth, please note that there is no "second round". You cannot find it in the Standing Orders!

Next Question, hon. Member for Juja!

Question No.1074

NON-PAYMENT OF DUES TO FORMER
EMPLOYEES OF M/S KTECL

Mr. Kabogo asked the Minister for Labour:

(a) whether he is aware that M/s Kenya Tanning Extract Company Limited terminated the services of 21 workers with effect from 31st December, 2008 but has declined to pay them gratuity, redundancy or other dues;

(b) when the former employees will be paid their dues; and,

(c) what measures the Ministry will take to ensure that, in the event of closure of the company, the former employees are paid all their dues.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Speaker, Sir, I beg to reply.

I had answered most of the Questions last time and we had left at a point where the parties were to record a consent. So far, we have made progress and the two parties appeared before the Industrial Court on 15th December, 2011. They reviewed the coding and out of court settlement but somehow they disagreed. They have been recalled tomorrow 16th February, 2012 and we hope that the matter will be settled once and for all tomorrow.

Mr. Speaker: Hon. Member for Juja, what is your position there?

Mr. Kabogo: Bw. Spika hili Swali limekuwa Bungeni kila wakati na leo ni mara ya sita. Limewahi kuwoko tarehe 15 Novemba, 2011, tarehe 24 mwezi huo huo, tarehe 30 mwezi huo na tarehe nane Desemba. Haya ni malipo ya wafanyakazi. Ukiangalia katika rekodi ya Bunge, wakati hili Swali lilikuja mwezi wa Desemba, Waziri aliomba kwamba apewe wiki mbili ili aweze kuona kwamba masikizano yamerekodiwa katika korti. Kwa hivyo, kusema kwamba ni kesho, langu ni kukuuliza tu uweze kutusaidia ili lijibiwe kesho kutwa ili Bunge liweze kujua kama hawa wafanyakazi wamelipwa.

Mr. Speaker: Mheshimiwa Mbunge wa Juja, nimekusikiza lakini kama vile Waziri Msaidizi amesema, suluhisho linakaribia. Kwa hivyo, itakuwa ni jambo zuri kama tungempa muda zaidi kwa mfano hadi wiki ijayo Alhamisi, ili aweze kuleta ripoti Bungeni.

Mr. Kabogo: Ninakubaliana nawe Bw. Spika.

Mr. Speaker: Swali litarudi, Alhamisi wiki ijayo.

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

Mr. Speaker: Mjadala kuhusu Swali umekwisha, Mbunge wa Kisumu Magharibi Mjini!

(Question deferred)

Lakini kama ni jambo lingine basi endelea.

Mr. Olago: Jambo la nidhamu, Bw. Spika. Leo asubuhi kulikuwa na Swali kuhusu Wizara ya Kazi lakini Waziri Msaidizi hakuwa hapa kulijibu. Kwa hivyo alipatiwa "punishment" ya kwamba---

(Laughter)

Aliadhibiwa na kuambiwa kwamba asije kujibu Swali lolote hapa lakini amejibu wakati huu!

Mr. Speaker: Waziri Msaidizi, umemsikiliza Mbunge wa Kisumu Magharibi Mjini?

Mr. Ojaamong: Bw. Spika nimemsikiliza vizuri lakini nilipowekewa vikwazo asubuhi niliongea na Naibu wa Spika na akaziiondoa.

Mr. Speaker: Kwa hivyo hayo masharti yaliondolewa?

Mr. Ojaamong: Ndio.

Mr. Speaker: Basi sawa sawa!

Swali lifuatalo ni la Mbunge wa Karachuonyo.

Question No.1124

REMOVAL OF HAYACINTH WEED AT MBITA CAUSEWAY

Eng. Rege asked the Minister for Environment and Mineral Resources:

(a) whether he is aware that the Mbita Causeway, built for easy access to the Mfangano Island, has been the major cause of continued environmental deterioration at the Winam Gulf, particularly due to the *hyacinth* weed;

(b) whether he could tell the House how much money the Government has used both from Treasury and development partners, on the removal of the weed in Lake Victoria and if he could explain why it cannot be removed successfully; and,

(c) whether he could confirm the identity of NGOs that have been formed and are receiving funds from donors in the pretext of removing the weed and if the Government could conduct an audit of their activities.

Mr. Speaker: Make up your mind, Mr. Kajembe and proceed either in English or Swahili.

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Bw. Spika, naomba kujibu.

Nakubaliana na Mheshimiwa aliyeyuliza Swali hili kwamba ile njia “causeway in Winam Gulf” imezoroteka. Imezorota kwa sababu tangu ijengwe ni miaka mingi na wakati ilipojengwa kulikuwa hakuna mambo ya mazingira. Kwa hivyo, ilijengwa tu bila kufikiria mazingira ni nini. Lakini katika mkutano wa Mawaziri wa Afrika Mashariki ambao sasa wanasimamia uhifadhi wa Ziwa Victoria, wamekubaliana kwamba lazima njia hiyo itengenezwe tena. Kwa hivyo, tayari kuna mtaalamu ambaye amewekwa ili afanye kazi hiyo. Atatoa makisio ambayo yatapelekwa katika Baraza la Mawaziri wa Afrika Mashariki. Hivyo ni kusema kwamba Mawaziri wa Afrika Mashariki ambao wanahusika na Mazingira wataweza kutoa kandarasi. Hata hivyo, katika sehemu hii ya Mheshimiwa Eng. Rege, tayari tumetumia Kshs26 milioni kwa Kshs170 milioni ambazo tumeweza kupewa kama ruzuku na Umoja wa Mataifa na Benki Kuu ya Ulimwengu. Jambo ambalo ningependa niseme kinaga ubaga ni kwamba Wizara zote Afrika Mashariki za mazingira ni kwamba zitafanya huu mradi bila tashwishi yoyote.

Bw. Spika, unaweza kukumbuka kwamba Swali hili nimelijibu mara nyingi katika Bunge hili lakini pia sioni vibaya mara kwa mara kwa sababu kuna maeneo matano ya ubunge ambayo yana shida ya magugu ama kwa kimombo “hyacinth”. Kwa hakika, sisi tunaendelea kufanya kazi hiyo. Baraza la Mawaziri Afrika Mashariki limeonyesha kuhusika kwake na ningependa kusema kwamba mradi huu utatengenezwa kama vile Eng. Rege anavyotumaini.

Mr. Speaker: Bw. Waziri Msaidizi, umejaribu kulijibu Swali hili lakini ukiangalia sehemu ya (b); Serikali imetumia pesa ngapi kufikia sasa kwa uondoaji wa hayo magugu. Haujasema hayo.

Mr. Kajembe: Bw. Spika, ukweli wa mambo ni kwamba pesa ambazo tumetumia, Serikali haijatoa mkononi mwake. Serikali imesema kwamba wakati mwanakandarasi anapoendelea na kazi, Serikali pia itatoa ili mradi utekelezwe.

Mr. Speaker: Wawekezaji wametumia pesa ngapi?

Mr. Kajembe: Bw. Spika, kama alivyosema Eng. Rege, kuna mashirika ambayo sio ya Serikali ambayo yametoa msaada katika mradi huu. Ningependa kusema bila kuona haya kwamba hakuna shirika lisilo la Serikali ambalo limetoa msaada wowote wa pesa. Ikiwa Eng. Rege yuko na wasi wasi tungependelea tujue hayo mashirika yasiyo ya Serikali ambayo yameleta ruzuku hio lakini kulingana na sisi hakuna shirika ambalo limeleta ruzuku yoyote ile.

Mr. Speaker: Mbunge wa Karachuonyo, unalo swali la kuongezea?

Eng. Rege: Bw. Spika, nashukuru sana kwa nafasi hii. Ningependa kuchukua nafasi hii kumuuliza Waziri Msaidizi ni pesa ngapi imetumika kwa kutoa magugu hayo kutoka Ziwa Victoria kufikia sasa. Hapo Karachuonyo bado hatujaona hata hela moja ikitumiwa kwa kutoa magugu hayo. Tarehe 23 mwezi wa pili mwaka uliopita, mheshimiwa alitumbia kwamba baada ya mwaka mmoja atakuwa amemaliza hayo magugu katika Ziwa Victoria. Inafaa atueleze kama hayo magugu yameisha ama bado.

Mr. Kajembe: Bwana Spika, mpaka wakati huu tunapozungumza, tumetumia Kshs170 milioni katika yale maeneo ya ubunge yanayozungukwa na hizo kwekwe. Kwa hivyo, katika Kshs178 milioni, ni Kshs26 milioni ambazo zimetumiwa kwako. Hizi pesa zimetumiwa aidha kwa kufanya kazi kwa mikono au kwa vifaa. Hivyo ni kusema – kama nilvyojibu Swali hili – kwamba kwekwe zilizobaki pamoja na kutengeza Daraja la Winam Gulf, tumepata mtaalamu, analeta makisio na atafanya kazi hiyo.

Bw. Spika, ninafikiri nimejibu hilo swali.

Mr. Speaker: Mheshimiwa Mjumbe wa Nyatike!

Mr. Anyanga: Thank you, Mr. Speaker, Sir. This is something that has been affecting the shore of Lake Victoria and Nyatike is one of the places. The Assistant Minister is being casual and he should know that we are talking about a very sensitive matter. The Assistant Minister has confirmed that about Kshs26 million has already been spent on this particular project. Eng. Rege, the Member for Karachuonyo, in his part “b” of Question wants to know why this thing has not been done successfully and, therefore, the Assistant Minister needs to explain to us why he has already spent Kshs26 million but the job has not been done successfully. Could the Assistant Minister tell us whether somebody somewhere or a certain company is milking this money instead of doing the correct job?

Mr. Kajembe: Bw. Spika, ninataka nieleweke kwamba Kshs178 milioni zimetumiwa zote na Kshs26 milioni ni za eneo la Mheshimiwa Rege. Pia, ninataka nieleweke kwamba kazi, kulingana na majadiliano---

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

Mr. Speaker: What is it, Mr. Anyanga?

Mr. Anyanga: Mr. Speaker, Sir, Eng. Rege has stood here and made it very clear that he has never seen that money being spent within that area. Is the Assistant Minister in order to lie to this House?

Mr. Speaker: Order! The Member for Nyatike, you must withdraw the word “lie!”

Mr. Anyanga: Mr. Speaker, Sir, I apologise and replace the word “lie” with “misleading the House.”

Mr. Speaker: Order! Start “I apologise, withdraw the word “lie” and---” Proceed!

Mr. Anyanga: Thank you, Mr. Speaker, Sir. I apologise, withdraw the word “lie” and replace it with the words “misleading the House.”

Thank you.

Mr. Speaker: Proceed, Mr. Assistant Minister!

Mr. Kajembe: Bw. Spika, kwanza, ninataka niseme kwamba sijapotosha Bunge. Pili, ninataka niseme kwamba Wizara yangu na kamati inayohusika na mambo ya mazingira, tulikubaliana tufanye mkutano Kisumu na Mwenyekiti wa Kamati ya Mazingira akamtuma mwakilishi wake. Hawa Wabunge ambao wanasema wanahusika zaidi – na mimi ninaamini kuwa wanahusika – wote walikuwa wana kazi Nairobi na wakatuma mwakilishi wao! Walimtuma---

Eng. Rege: On a point of order, Mr. Speaker, Sir. I would really appreciate if the Assistant Minister could produce a letter inviting us to that particular meeting.

(Applause)

Is he in order to mislead this House by purporting that we were all invited to that meeting but we were all in Nairobi? Mr. Speaker, Sir, this is a serious issue, just as my colleague has said.

Mr. Speaker: Order! The Member for Karachuonyo, if that is the point of order which you stood to raise, then I am afraid that you have not prosecuted it so as to fall within the ambit of a point of order. At the very best, you have staged an argument or asked a question. So, I am afraid that the Assistant Minister will not respond to that!

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that hon. Members of Parliament especially from Nyanza were invited in Kisumu?

Mr. Speaker: Order, the Member for Kisumu Town East! You have not improved the situation, but I can see where you want to go. That, is the Assistant Minister in order to mislead the House that hon. Members of Parliament from Nyanza were invited when, in fact, they were not?

Yes, Mr. Assistant Minister!

Mr. Kajembe: Bw. Spika, ninasimama kidete kusema kwamba Wabunge walialikwa na wakatuma mwakilishi wao kule Kisumu ambaye alikuwa Mheshimiwa--- Mheshimiwa yuko pale!

(Laughter)

Mr. Speaker: Nidhamu, Waziri Msaidizi!

(Mr. Kajembe stood up in his place)

Keti kwanza!

Je, una ushahidi wa kuonyesha kwamba Waheshimiwa walialikwa?

Mr. Kajembe: Bw. Spika, ile kamati ya mazingira na Wabunge hawa, tuliwaalika na nina ushahidi. Mheshimiwa Outa pekee aliyekuja pale akasema; “Wale Wabunge wenzangu mumewaalika, lakini wako na shughuli zingine. Kwa hivyo mimi ninawawakilisha na tutazungumza.” Tulizungumza na tukaelewana!

Mr. Speaker: Yes, the hon. Member for Kamukunji!

Mr. Hassan: Asante, Bw. Spika. Waziri Msaidizi amesema Mawaziri wa Afrika Mashariki wamesikilizana kulishughulikia swala hili la kwekwe. Pengine angetunufaisha na kutuelimisha hapa katika Bunge, Mawaziri hawa wana bajeti ya shilingi ngapi? Na ni jinsi gani watashughulikia matatizo tuliyonayo kwenye ziwa letu hapa nchini Kenya?

Asante.

Mr. Kajembe: Bw. Spika, Ziwa Victoria zinasimamiwa na nchi tano nazo ni Kenya, Uganda, Tanzania, Rwanda na Burundi. Swala la kurekebisha Ziwa Victoria hupitiwa tu katika Baraza la Mawaziri wa Mazingira wa Afrika Mashariki. Swala hili limezungumzwa vya kutosha na kuna mkataba ambao umefikiwa kati ya nchi hizi tano za Afrika Mashariki, kwamba Benki kuu ya Ulimwengu itatoa pesa katika mafungu manne ili kuondoa hii kwekwe katika Ziwa Victoria. Pia, serikali zinazohusika za Afrika Mashariki zilipewa nafasi yao, kwamba zitaongeza pesa kusafisha hii Kwekwe. Mpaka sasa, Benki Kuu ya Ulimwengu imetoa Kshs178 milioni wakati tunangoja pesa nyingine za Serikali kuu. Hata hivyo, wakati umefika tuingie katika sehemu ya pili na Benki Kuu ya Ulimwengu ili tuleta pesa tuendee kusafisha hii kwekwe katika Ziwa Victoria. Ninataka niseme kuwa katika mikutano ya Mawaziri wa nchi tano za Afrika Mashariki ambayo mimi pia ninahudhuria, kila kitu kinaendelea sawasawa.

Lakini ninataka uniruhusu, Bw. Spika, niseme kuwa wakati Bw. Outa alikuwa pale, zile kamati zimeweka hii kandarasi kutengezwa katika sehemu za Waheshimiwa Wabunge, alilalamika kwa kusema zile kamati zingine hazikuwajulisha Wabunge wao na nikatoa agizo, kama Waziri Msaidizi wa Mazingira, kwamba wakati huu pesa hii ikija, badala ya Waheshimiwa Wabunge kuwaachia kamati katika maeneo yao ya ubunge, Wabunge watawakilishwa kikamilifu. Nimetoa amri hiyo, Bw. Spika, na itafuatwa.

Mr. Wamalwa: Asante sana, Bw. Spika. Waziri Msaidizi, wakati wa mazishi ya marehemu Prof. Wangari Maathai, tulionyeshwa kwamba mmea huu unaweza kutumika kutengeneza jeneza. Ni juhudi gani Serikali imefanya kusaidia haswa vikundi vya vijana na akina mama wanaoishi karibu na Ziwa Victoria ili waweze kutengeza majeneza na waweze kupata riziki kutokana na mmea huu?

Mr. Kajembe: Bw. Spika, mimi pia nimesikia maneno hayo, kama alivyosikia Bw. Wamalwa, lakini sina chembe chembe za kitaalam kuhusika na utengenezaji wa majeneza kutumia kwekwe hii. Lakini ninataka niseme kuwa katika vikao vyetu katika Wizara, tumeligusia jambo hili na wataalamu wetu wanajaribu kuzungumza. Tumewaambia watuletee taarifa kamili juu ya swala hili.

Mr. Ogindo: Thank you, Mr. Speaker, Sir. The Mbita Causeway is a very serious issue. The Gulf of Winam is suffocating. I would like the Assistant Minister to clarify to this House. What is the Government of Kenya (GoK) doing on its own to rescue the Gulf of Winam from suffocating?

Mr. Speaker, Sir, we have seen the GoK build several bridges across the country and across the oceans, and we are proud of that. What is the Government doing on its own to ensure that there is a bridge across Rusinga?

Mr. Kajembe: Bw. Spika, katika majibu yangu hapo awali, nimesema kwamba hivi karibuni, tutatangaza yule ambaye atachukua kandarasi kutengeza hii njia na hili daraja. Katika majibu yangu hapo awali pia nilisema kwamba tayari tumeweka mtaalamu kutupatia bei, yaani *consultant* na amesema kuwa ripoti yake itamalizika mwisho wa mwezi huu wa February. Ninataka nikuhakikishie kuwa maneno hayo yanaharakishwa ili kwamba---

(Mr. Ogindo stood up in his place)

Mr. Speaker: Ni nini, Mheshimiwa Mbunge wa Rangwe?

Mr. Ogindo: Bw. Spika, je Waziri Msaidizi ako kwa kanuni kwa kupotosha hili Jumba hili kwa kusema kuwa kuna *consultancy* inaendelea na vile vile kwa kusema kuwa kuna kandarasi imepeanwa. Ni yapi yanaendelea na ni lini yatafanyika?

(Laughter)

Mr. Kajembe: Mhe Spika, labda lugha hazikuchuana, lakini nimesema kandarasi itamalizika kabla ya mwisho wa mwezi huu; mwisho wa mwezi huu tutatoa kandarasi ili sehemu ile ijengwe. Mhe Spika, nataka labda nifahamishe Bunge kitu, kwa ruhusa yako---

Mr. Speaker: Bila kuchukua muda mwingi.

Mr. Kajembe: Asante. Nataka nifahamishe Bunge kwamba kazi ya kuondoa kwekwe katika Ziwa Victoria ni ushirikiano wa nchi tano na tuna mktaba na chi tano. Hakuna nchi moja inaweza kusema itafanya kazi kivyake. Jambo hili litasilishwa katika Baraza la Mawaziri. Kitu nataka kusema ni kwamba nazungumza kama Waziri Msaidizi wa Mazingira. Ninamjulisha Mhe Rege kwamba mradi huu utatekelezwa haraka iwezekanavyo. Pia nataka niseme kwamba daraja liko na ninakubaliana na Wabunge kuwa haliko katika hali nzuri. Litatengenezwa na nataka nikwambie nina fedha; kama litaangukiwa na mmonyoko wa udongo tutaondoa mmomonyoko wenyewe.

Mr. Olago: Asante sana Bw. Spika. Mambo ambayo jambo hili kwekwe si lakuchuliwa urahisi. Shida ambayo tumekuwa nayo katika ghuba ya Winam yote ni kwamba pesa ambazo zinatolewa na Wizara zinatumiwa kwa njia ambayo si nzuri. Zinatumiwa na maafisa wa Wizara na wale wa Lake Victoria Environment Programme bila kuhusisha Wabunge ama madiwani. Pesa zote ambazo zimetumika, ni Shs178 million, na kazi zilivyofanya haionekani. Je, ni hatua gani ambayo Wizara imechukua kuhakikisha kwamba pesa zikitolewa tena zitatutumika kusaidia watu mashinani?

Mr. Kajembe: Mhe Spika, narudia tuu. Jawabu langu ni kwamba Wizara yangu inakubaliana na Wabunge kwamba daraja limezoroteka. Pia nimesema kwamba pesa zilizotumika Kshs 178 million kulikuwa na wataalamu ambao walikuwa wameshikana na kamati katika maeneo ya ubunge ya hawa Wabunge. Nakubaliana nao kwamba hawakushirikishwa wakati wa kutumika kwa pesa hizo; hawakushirikishwa katika utendaji kazi huu. Lakini sasa nawahidi nikiwa mimi mwenyewe kwamba wakati huu pesa zikiingia nitawaita pamoja. Tutawashirikisha. Msiwe na shaka juu ya jambo hili.

Eng Rege: Mr. Speaker, Sir, the well-being of our communities, over 30 million who live around the lake, really depends on the ecosystem of the lake. I would like to ask the Assistant Minister to assure this House that the affairs of Lake Victoria will not be asked about again for the fifth time in this House. By when will the entire lake be cleaned? We want to see that you are doing something on the lake.

Mr. Kajembe: Bw. Spika, ingawaje Mhe Rege anasema maswali yasiulizwe tena juu ya kwekwe, mimi nawaomba waendeleo kuuliza maswali maanake ni taratibu za Bunge; lakini mimi, nitahakikisha kwekwe zimeondolewa.

Mr. Speaker: Wakati gani?

Mr. Kajembe: Mhe Spika, nimesema hapo awali kwamba wataalamu watatuambi kabla ya mwisho wa mwizi ni pesa ngapi zinahitajika; baada hapo, tutatoa hiyo kandarasi.

Mr. Speaker: Sawa! I think that is a satisfactory and clear answer. Next Question by Mr. Gitau!

Question No.1148

LACK OF TOILET FACILITIES AT WANG'URU
POLICE STATION HOLDING CELL

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

(a) whether he is aware that the holding cell at Wang'uru Police Station lacks toilet facilities and, if so, what plans the Government has to provide the same;

(b) how much money the Ministry has spent to improve the holding cell since 1954 when the it was constructed; and,

(c) what the capacity was of the cell at the time of construction in 1954 and now.

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

(a) I am aware that the holding cell at Wang'uru Police Station has no toilet. Currently, prisoners use a toilet which was recently renovated outside the cell. Plans are also underway to put up modern cells with modern sanitation facilities, whose plan and bill of quantities are being prepared by the Ministry of Public Works. As soon as it is ready, a request for funds will be forwarded to the police headquarters to source for funds.

(b) There is no specific vote or allocation for maintenance or improvement of cells. However, during the financial year 2010/2011 when the Kirinyaga South Division was established, the Government allocated Kshs160,000 for general maintenance of police buildings. By that, I mean the office and residential houses in the whole division, which include Wang'uru Police Station. Wang'uru Police Station has got three holding cells. There is one cell for male prisoners, one cell for female prisoners and one cell for juvenile prisoners.

(c) At the time the station was built, each of the cells was meant to accommodate six suspects. However, owing to increased population and rise in crime rates, the three cells now hold an average of 45 prisoners.

Mr. Gitau: Mr. Speaker, Sir, I would want to inform the Assistant Minister that his answer is misleading. These cells were put up by the colonialists to hold Mau Mau suspects 58 years ago, and the only money which he has provided for all those years is only Kshs160,000. I can confirm that I put up a toilet for the staff through the Constituencies Development Fund (CDF); there is no toilet that is in exists close to the holding cells. The only cell that is exists measures 10 by 10 feet; it holds male, juvenile and female suspects; they actually use buckets at nights as toilets. Could the Assistant Minister consider creating some special fund to renovate this place since for the last 58 years only Kshs160,000, as he has confirmed, has been given to the police station?

Mr. Ojode: Mr. Speaker, Sir, that is a genuine case and that is why we have prevailed upon the Ministry of Public Works to give us the bills of quantities in order for us to know how much money we are going to allocate to that particular place. We are going to modernize the place. We are going to install proper sanitation. It is, indeed, true that the cells were built in

1954. I want to assure this House that once we get the bills of quantities, we are going to put in some money in order for us to modernize that particular cell.

Mr. Chachu: Mr. Speaker, Sir, there are many police posts and police stations in this country which are in very bad physical shape. Just last year, I talked about one post, Moso, in Iliret Location and up to now nothing has been done despite that the Ministry undertook that they would allocate some funds to rehabilitate that post. When will the Assistant Minister deliver on his undertaking?

Mr. Ojode: Mr. Speaker, Sir, in the last financial year, we requested the Treasury to allocate us some money in order for us to modernize some of these cells. Out of what we requested, we only got a quarter. So, we have prevailed upon the Ministry of Public Works to go and carry out the feasibility studies so that we know how much money is required where. That is what we are currently doing. If we get the money which we requested for reforms, I assure this House that we will come up with the most modern facilities within the police cells.

Mr. Mureithi: Thank you, Mr. Speaker, Sir. If I heard the Assistant Minister right, he said that there are three cells but the Questioner said that there is only one cell. According to Article 28 of the new Constitution on Human Rights: "Every person has inherent dignity and the right to have the dignity respected and protected." I wonder what exactly the Assistant Minister is doing to make sure that when he has cells, the juvenile girls are separated from the boys. So, what steps does he have and what time frame does he have to make a modern police post that caters for human dignity as enshrined in the Constitution?

Mr. Ojode: Mr. Speaker, Sir, we will try our level best to come up with very modern facilities. The only problem we have been facing is lack of funds. However, right now, we have made some savings from the construction works that have been going on. That is why we have engaged the Ministry of Public Works to go to certain cells which are badly off so that we can fast-track the construction and hand them over to the prisoners. I also want to say that this is not just in Wang'uru. There are also other cells which are badly off and we will take care of them once we get the bill of quantities from the Ministry of Public Works.

Eng. Maina: Mr. Speaker, Sir, the Assistant Minister has told us how he wants to modernize this prison. However, this is a prison which was constructed during the colonial days with the full intention of punishing the Mau Mau people. Therefore---

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

(Eng. Maina stood up in his place)

Mr. Speaker: Order, the Member for Mathira! Please, resume your seat. There is a point of order.

Mr. Olago: On a point of order, Mr. Speaker, Sir. My understanding of the Question is that we are dealing with Wang'uru Police Station while Eng. Maina is talking about Wang'uru Prison. Is he in order to talk about a prison when we are talking about a police station?

Mr. Speaker: The Member for Mathira, you are certainly out of order! Retrace your steps and proceed.

Eng. Maina: Mr. Speaker, Sir, I referred to it as a prison because it was used during the colonial days by the colonialists. That is why the local people who come from the area like myself refer to it. But now that it has been converted into a police post or station--- Since the original intention is known and that is why people who go there leave either dead or mentally disturbed because there is bilharzia and mosquitoes of unknown species, could the Assistant

Minister consider transferring the modernization he wants to carry out and set up a new police station elsewhere rather than stick to this place which is inhabitable?

Mr. Ojode: Mr. Speaker, Sir, I will not object to that as long as they can make land available for transfer especially when the Member for the area thinks that it is important for us to transfer the police station from the current location. I do not have any objection. But, what we are doing, as a Government, is to make sure that we come up with modern facilities so that we have three different cells; one for the juveniles, one for females and one for males. That will be done countrywide.

Mr. Gaichuhie: Thank you, Mr. Speaker, Sir. The Assistant Minister has said that once he gets the Bill of Quantities, he will consider funding that police station. I remember very well last time I asked the same question about my station, I went to the Ministry of Public Works, they gave me the Bill of Quantities and everything was done but nothing has ever been given to the Police Station of Subukia. Could the Assistant Minister assure this House that he will consider Wang'uru Police Station as soon as he gets the money? Could he also consider Subukia Police Station at the same time?

Mr. Ojode: Mr. Speaker, Sir, it is when we receive the Bill of Quantities and not when the Member of Parliament receives the Bill of Quantities. The Bill of Quantities informs us how much money we are supposed to allocate---

Mr. Gaichuhie: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to say that the Bill of Quantities are with me and yet they were taken to the Subukia OCPD's office?

Mr. Ojode: Mr. Speaker, Sir, we need the Bill of Quantities so that we can estimate how much money we will use. I am not sure that the ones that the Questioner is talking about have so far been given to us at the headquarters. Bills of Quantities can be taken to the OCPD who does not remit them to us. I kindly request the hon. Member to ask the OCPD to remit the Bill of Quantities in order for us to do a budget and allocate funds so that we can modernize that police station.

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

Mr. Speaker: Mr. Assistant Minister, do you want information from the Member for Subukia?

Mr. Ojode: No!

Mr. Speaker: The Assistant Minister has declined.

Mr. Duale: Mr. Speaker, Sir, it is not only in Kirinyaga but in many parts of the country like Garissa where the male and female inmates share the same room contrary to religious and cultural beliefs. Could the Assistant Minister confirm that across the nation, there are cells that harbour both sexes and even children? What is he doing in the face of the new Constitution?

Mr. Ojode: Mr. Speaker, Sir, it is against the law to mix the male and female in a cell. If, indeed, it is true that they are mixing both male and female in one cell appropriate action will be taken against the officers who are doing that. As of now, I want to assure my colleagues that we will build modern facilities. Once we get the money and the estimates, I will allocate funds so that we can have modern facilities as cells and not prisons which fall under the Office of the Vice President and Ministry of Home Affairs and not Ojode!

Mr. Gitau: Thank you, Mr. Speaker, Sir. Could the Assistant Minister consider separating the three categories of the arrested people and put them in in-huts as a stop-gap measure as he constructs the modern police station?

Mr. Ojode: Mr. Speaker, Sir, I will order the Director of Operations to go to Wang'uru Police Station and check what we can do as *an adhoc* measure in order to separate the groups as the Questioner wants. Otherwise, I want to say and assure the Questioner that we will definitely come up with something so that we separate the two cells.

Mr. Speaker: Yes, the Member for North Horr!

Question No.1009

NUMBER OF PROJECTS UNDERTAKEN
BY ENNDA IN NORTH HERR

Mr. Chachu: Mr. Speaker, Sir, I apologise for coming late. When this Question was called for the first time, I was not here. With your indulgence, I amended this Question three months ago because as it is, I will not achieve my intended objective. With your indulgence, I plead with you that I ask it again with those amendments because the way it is, I will not achieve my objective.

Mr. Speaker: Very well! The Member for North Horr under those circumstances, Question No.1009 stands withdrawn.

(Question withdrawn)

Hon. Members, we are now into the Prime Minister's Time. However, for the convenience of the House this afternoon, I would like us to take the next order before we move to the Prime Minister's Time.

POINTS OF ORDER

GOVERNMENT COMMITMENT TO IMPLEMENTING THE CONSTITUTION

Mr. Ruto: Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Leader of Government of Business on whether the Government is serious on the implementation of the Constitution and the timely passage of laws as required by Article 261 of the Constitution bearing in mind that a lot of legislation has arrived in Parliament late and Parliament has been forced, in a number of times, to either pass the laws in a hurry or jump certain stages which include the publication period and the participation of the public together with House Committees in the effective passage of the laws. The Leader of Government Business should specifically confirm to this House whether the Attorney-General as required by Article 261(4) understands that it is his responsibility to prepare the laws in consultation with the Committee on Implementation of Constitution (CIC) within reasonable time and ensure that the rest of the institutions can then play their role reasonably and deliver quality laws. I request the Leader of Government Business to give that Statement.

Mr. Speaker: Leader of Government Business, when will you deliver this Statement?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, if my friend, Member for Chepalungu could bear with me and the House, I will be ready with this Statement on Tuesday next week.

Mr. Speaker: Very well! It is so directed. Member for Saboti.

CONTROVERSIAL TRANSFER OF KITALE DISTRICT HOSPITAL
MEDICAL SUPERINTENDENT

Mr. Wamalwa: Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Medical Services with regard to the controversial transfer of the Kitale District Hospital Medical Superintendent, Dr. Morris Nyongesa Wakwabubi. I would like the Minister in the Statement to explain the following:-

Under what circumstances was the said officer transferred, what informed the Minister's decision to abruptly transfer the said officer and whether the said transfer was politically instigated.

Mr. Speaker: Very well, Minister for Medical Services! Leader of Government Business, perhaps you want to indicate when this will come.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, could this also be Tuesday next week?

Mr. Speaker: Very well. So directed! Member for Nyando!

Mr. Outa: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Attorney-General.

Mr. Speaker: Order, Member for Nyando!. Is your request approved?

Mr. Outa: Yes, Mr. Speaker, Sir, from your office!

Mr. Speaker: Then proceed!

IMPROPER USE OF GOVERNMENT EMBLEMS

Mr. Outa: Yes, Mr. Speaker, Sir, could the Attorney-General explain under what circumstances an individual or an organization is deemed to have contravened the law by improper use of certain Government emblems, specifically the court of arms. Based on the specified scenario, is the Vice-President in order to have used the court of arms, superimposed on his hut in political rallies? Thirdly, could the Attorney-General specify the penalty for such an offence?

Mr. Speaker: The Attorney-General? Leader of Government Business, when will the Attorney-General deliver this request?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, on behalf of the Attorney-General, if this could also be done sometime next Wednesday, the Member for Nyando would be pleased to hear there are no issues.

Mr. Speaker: Shall we say Wednesday morning?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, Mr. Speaker, Sir. There is no problem.

Mr. Speaker: It is so directed.

Dr. Khalwale: Mr. Speaker, Sir, I rise to raise two Ministerial Statements. I want to request the first one from the Prime Minister.

GOVERNMENT POSITION ON MOMBASA REPUBLICAN COUNCIL

This is in respect of the Mombasa Republican Council. I would like the Prime Minister to clarify to the House and to the country the official Government position on the Mombasa

Republican Council. He should go ahead and indicate whether it is an outlawed organization or not. Furthermore, he should confirm to the House whether the stated position that he announced while he was in Mombasa that he is ready to negotiate with the MRC is, indeed, the official Government position. I would like the Prime Minister to tell us whether he does or the Government also intends to open talks with other outlawed militia groups including *sungu sungu*, *chinkororo*, *mungiki*, *taliban* and indeed, *al shabaab* which we are currently fighting in Somalia.

Finally, the Prime Minister should tell us whether he is aware that the MRC is actually agitating for secession from the Republic of Kenya.

Mr. Speaker: Right hon. Prime Minister, will you want to do this on Wednesday next week or when?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, there is usually a very clear procedure through which Members ask the Prime Minister Questions and they are answered and I have never hesitated to do so. I do not know why there is a departure so that I have to be asked to give a Ministerial Statement here instead of the Member raising the matter through your office and forwarding it to my office and then I will respond.

Mr. Speaker: Right hon. Prime Minister, there is no departure. It is just that this is a request for a Ministerial Statement. So, it is treated as such. The only exception being that it is directed to you and in your case, therefore, you can respond by delivering that Statement on any Wednesday when time is set aside specially for the Prime Minister.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, if I receive that request formally in writing the way I do, I will respond to it.

Mr. Speaker: Very well. It will actually be transmitted to you, Right Hon. Prime Minister. Proceed, Dr. Khalwale, to prosecute the next request.

FINAL AND OFFICIAL POPULATION OF KENYA

Dr. Khalwale: Mr. Speaker, Sir, the next one is to the Minister of State for Planning, National Development and Vision 2030. This is in respect to the population of Kenya. I would like the Minister to clarify the final and official position population of this country. I would like him to give reasons that informed the initial nullification of the census results in the districts of Turkana, Wajir and Mandera counties. I would like him to clarify the fate of that nullification.

Finally, he should clarify how this is going to impact on planning for development in the country, especially in regard to the Commission of Revenue Allocation, the creation of 80 new constituencies, the allocation of Constituencies Development Fund funds and other devolved resources.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I will respond to the request on Tuesday next week.

Mr. Speaker: You will be ready on Tuesday?

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Yes, Mr. Speaker, Sir. I will be ready.

Mr. Speaker: Very well. It is so ordered.

Mr. Hassan: On a point of order, Mr. Speaker, Sir. I want to remind the House and you that in the last session, I requested for a Ministerial Statement on the demolitions that were taking place in Nairobi. I wanted to know the Government's position from the Attorney-General. I never got a response from the Attorney-General and it was postponed to the opening of the new

session. So, I just wanted to seek clarification as to when the Attorney-General will give the position on that.

Mr. Speaker: Very well. That becomes an urgent matter. Leader of Government Business!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, this could be done on Thursday next week because we have an earlier request for a Ministerial Statement directed to the Attorney-General, if that is convenient to the Member of Kamukunji.

Mr. Speaker: Member for Kamukunji, are you comfortable with Thursday next week?

Mr. Hassan: Mr. Speaker, Sir, I am afraid I am not because it appears the Attorney-General's office or the Executive takes this House for granted. This issue has been postponed time and time again. I think he should take our request seriously and respond to it at the quickest time possible.

Mr. Speaker: Very well!

Ms. Karua: Mr. Speaker, Sir, I had asked a Question by Private Notice about the same demolitions. I am seeking your directions if it is on the same subject, then you might find it necessary to have them responded to together?

Mr. Speaker: On the same day?

Ms. Karua: Yes, Mr. Speaker, Sir.

Mr. Speaker: Yes, indeed, I have heard the sentiments of Mr. Hassan with respect to this matter having taken too long beginning from the last Sitting of the House. The situation is such that we have directed several Statements to be issued on Tuesday and Wednesday next week. So, we do not want to overcrowd those two days because it may not be practical to receive all Statements then. We will then direct that this Statement come on Thursday, next week, as much as possible, Leader of Government Business, without fail.

We will now move on to the Prime Minister and depending on how much time he takes, we may then accommodate the Minister for Planning, National Development and Vision 2030 on a Statement on the Constituencies Development Fund (CDF). So, proceed, Mr. Prime Minister!

PRIME MINISTER'S TIME

STATEMENT

SUSTAINING REFORM AGENDA FOR 2012

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, allow me to convey my new year's greetings to many hon. Members of Parliament whom I have not had occasion and pleasure of meeting so far this year. I wish each of you and your families God's blessing in 2012. According to the Chinese calendar, this year is the year of the dragon. The dragon is an artificial creature that is believed to climb to heaven. This is suspicious as I believe and, this is the year Kenya will enter the era of democracy and economic prosperity.

The high expectations we hold for our country are shared across the world. Three weeks ago, I joined Heads of States and Governments and CEOs of global corporations at a World Economic Forum (WEF) in Davos, Switzerland.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. The Prime Minister is addressing us on the issue of sustaining reform agenda for 2012. However, he has been talking about a dragon

in China and we cannot quite comprehend and relate it to what the topic is. Could he clarify so that we follow it and be able to interrogate him?

Mr. Speaker: Mr. Right Hon. Prime Minister, will you proceed?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, why can the hon. Member not allow me to finish my Statement and then he can ask the questions later? I have not finished! I only made a reference to the dragon. The dragon will come out clearly when I finish my Statement!

(Laughter)

Mr. Speaker: Order, Mr. Right Hon. Prime Minister! Dr. Khalwale was actually entitled to rise on a point of order. My prophetic soul was unable to anticipate what he was going to say in his point of order. However, I think sometimes you have to accommodate a sense of humour which I think is permissible.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, exactly! That is the reason why I am also just returning the jest. I am not very serious as Dr. Khalwale.

Mr. Speaker: Proceed, then!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I will finish with a *kitendawili*.

(Laughter)

As I was saying, I was in Davos, Switzerland where Heads of Governments, Heads States and heads of major global corporations meet annually to look at the world economic status.

This year, pessimism raised in Davos because Europe was gripped in debts and the global economy was clearly slowing, but Africa was an exception at Davos. In the panel where I shared with Presidents Zuma, Kikwete and Conde of Guinea and Prime Minister Zenawi, optimism about Africa was evident both among African leaders and global business magnates. Everyone believes that this is now truly an African time.

Over the last week, I travelled across the country and had a number of occasions to listen to fellow Kenyans. They are all excited about the democratic transformation that our country is making and the upcoming elections. Kenyans are waiting to reap the benefits of devolution. It is, therefore, incumbent upon us, the Executive and the Legislature to deliver. We have made great strides in implementing the Constitution. All the required legislations have been passed according to the schedule. The necessary constitutional and independent offices are in place. We all agree that these offices have started to radically transform the way we govern ourselves. However, much remains to be done.

In the next few weeks, the House will debate several crucial Bills. I call on hon. Members to raise to the challenges and enact all the necessary legislations. In this regard, I want to thank the House for voting unanimously yesterday to shorten the publication period for the Bills, so that the debate can begin. Among the legislation that must be passed in the next two weeks are the Bills on land, devolution and public finance. These Bills are of particular significance.

Land management remains a thorny issue in the conscience of our nation. Indeed, the recent evictions in Nairobi and its environs disturb our conscience, then we will agree that the enactment of the land Bills will be a major step forward. However, legislation alone will not solve all the land problems and other related conflicts. Alternative conflict resolution mechanisms are also necessary.

Mr. Speaker, Sir, one such mechanism is dialogue and moral situation to which all of you as leaders have a key role to play. I call on of us not to exploit conflict for political gains. Let us use our good offices to unite Kenyans. Kenyans are eagerly waiting for the establishment of the county governments. The exceptionally high expectation for devolution puts the onus on us to enact legislation that will ensure effective systems of devolved government. To provide for immediate arrangements for the establishment of county governments, the Government will establish the transition authority as soon as the relevant Bill is passed. At the same time, Ministries will proceed in earnest with the ongoing programmes to build capacity. Our aim is to give county governments necessary technical skills and infrastructure, so that they can deliver much needed public services as soon as they are set up.

We will submit to this House the Public Financial Management Bill later this week. The road to this Bill has been rocky, not because of any partisan interest or bureaucratic infighting. There was a desire on one hand to ensure that much needed fiscal discipline will be observed throughout the counties with oversight of the national treasury. There was also a genuine interest on the other hand to empower counties, so that they can ably discharge their responsibilities to the people. I believe the Bill strikes the right balances among competing interests and will deserve our support.

I plead with this House not to be driven by the fear of the unknown when it comes to Land, Public Finance and Devolution Bills. Let us think of the known damages that over-centralization has inflicted on our people. Let us listen to the cries of the people of the Coast who are saying, "*Pwani si Kenya*," because they feel deliberately marginalized and left behind. Let us think of that family in Msambweni whose sole breadwinner committed suicide three weeks ago, because he was facing eviction from the only land that generations of his family have known. Let us think of the people of North Eastern who barely have an inch of tarmac 50 years after Independence.

Mr. Speaker, Sir, implementation of the Constitution will succeed only if Kenyans fully understand and appreciate the Constitution. The Government is working with other stakeholders and has developed a civic education programme on the implementation of the Constitution. The programme will give priority to devolution, Bill of rights, citizenship, national values, leaders and integrity. The civic education programme has started with senior civil servants being taken through the process. I urge the hon. Members to support it.

Mr. Speaker, Sir, there is the economy. As you know, our economy falls back into negligible growth every single election year. We must not repeat the same mistake this year. It has always been a circle since the introduction of multiparty politics in our country in 1992. Every election year the growth slows down and thereafter, that is continued until the second year after the elections. Right now, as I speak, many investors are adopting a wait-and-see attitude. Let all of us speak loudly and demonstrate by action that there is nothing to be feared and the elections will be completed peaceful. We want to assure everybody that there will be a Kenya after the elections, and that we learnt a lesson from the last experience.

Mr. Speaker, Sir, it took a bitter pill of high interest rates to stabilize the Shilling. Inflation will be brought down to less than 10 per cent in the coming months. Some in the public appear to fear that Government spending may rise in the election year, as often observed in the past. There will be no spending on electioneering by the Government as witnessed in the past. With our collective efforts, I am confident that our economy will grow by more than five per cent this year.

Mr. Speaker, Sir, the court recently ruled that the General Election can only be held in the year 2012 if the President and Prime Minister agree in writing to dissolve the Grand Coalition Government. We feel that the election is too important to be left to the discretion of the Principals and that it should also involve the National Assembly. As such, we will bring a Bill to this House, so that hon. Members can debate and participate in the fixing of the date of elections once and for all.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Are there hon. Members seeking clarifications?

Member for Imenti Central!

Mr. Imanyara: Thank you, Mr. Speaker, Sir, for this opportunity. The reform agenda that the Prime Minister talks of sustaining, is founded on the National Accord that was signed four years ago. Specifically, Agenda Four Reforms set a timeline within which the Government was to address the issue of Internally Displaced Persons (IDPs) and also the post election violence perpetrators who have not been sent to The Hague. What specific measures is the Government taking with regard to these two issues?

Mr. Wamalwa: Mr. Speaker, Sir, one of the Agenda Four items was the issue of youth empowerment. We do know that last year, there was a matter before this House about the Kazi Kwa Vijana (KKV) Programme and how the initiative had flopped. The hon. Prime Minister did indicate to the House that, indeed, they were returning Kshs4.3 billion back to the World Bank for restructuring of the Youth Empowerment Programme. We are in a new year and several months away from an election. How long would it take for this restructuring to be done, so that this Kshs4.3 billion can get to the youths of Kenya?

Mr. Lessonet: Mr. Speaker, Sir, I want to seek a clarification from the Prime Minister in terms of the Vision 2030 and exactly what he intends to do considering that this year is an election year, and he has seen part of the implementation of the Vision 2030 while he is serving his first term in that very serious position of leadership in this country. What is he going to do to make sure that this Vision 2030 progresses up to including next year when he will not be the President?

Mr. Njuguna: Mr. Speaker, Sir, I would like to ask the Prime Minister what steps the Government is taking to make sure that slum dwellers in our major towns will not be evicted until the new law is put in place. Could the Prime Minister also assure me that I will not be evicted from my home, allegedly for a remark that I never made in Kisumu on 4th February(?); that “Prime Minister *tosha*?”

Dr. Nuh: Mr. Speaker, Sir, of utmost importance in the reform agenda in this country would be enabling legislation that has timelines set within the Constitution. It is just yesterday when hon. Members were lamenting that Bills have been presented a bit too late. I expected the Prime Minister to, at least, capture and tell us, as a House, why it has taken the Government too long to present these Bills to the House for an adequate time to be allowed for public debate. I expected that the Prime Minister would, at least, give us a clear timetable as to when the Bills that are supposed to be law, in two years time, that is, by August, will be presented to this House for participation by the public and public debate to be allowed?

Mr. Speaker: Very well! Rt. hon. Prime Minister, will you respond to those five and we will try and do another five after that?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, hon. Imanyara, the Member for Imenti Central asked about Agenda Four items. He specifically wanted to know about the IDPs

that have not been resettled and the perpetrators of post election violence who are not being taken to The Hague.

Mr. Speaker, Sir, regarding the IDPs, the hon. Member needs to know that there are categories of IDPs in our country. There have been IDPs for a long time. There are IDPs who were specifically victims of post election violence and those who were evicted from their properties in different parts of the country. There are some of them who are in camps and others who went back and are actually being kept by relatives and, therefore, not all the times visible.

Efforts have been made in the past and a number of IDPs went back to their homes. The hon. Member will appreciate that quite a substantial number of IDPs are actually back in their homes. There are a few who are not yet in their homes. Money has been made available by the Government and efforts are underway to identify pieces of land to be procured. As we speak, there are quite a number of land pieces in different parts of the country, which are being purchased for resettlement of some of these people.

Mr. Speaker, Sir, the hon. Member will appreciate that we also have people who are landless and who are also in the IDP camps. These are not necessarily victims of post-election violence. That is why the numbers keep on swelling despite the fact that we keep on resettling quite a number of the post-election violence victims.

Regarding those who are not going to The Hague, the Attorney-General recently set up a task force to look at the files that had been opened to see what can be done about them. I will be asking the Attorney-General to come and brief the House on the fate of those people after he receives a report from the task force that he has set up.

Mr. Speaker, Sir, hon. Wamalwa asked about the KKV Programme. First, I want hon. Wamalwa to understand well that last year, he made very malicious allegations about the KKV Programmes, which were not supported by facts and---

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Is it in order for the Prime Minister to state before this House that it is malicious for an hon. Member to seek clarification about a matter touching the youth of this country and purported misappropriation of funds, which the Minister for Youth Affairs and Sports as well as the Prime Minister, in his Statement, did admit? Is he in order?

Mr. Speaker: The Rt. Hon. Prime Minister, so that we are on top of things at this point, you have said that the hon. Member for Saboti did make malicious statements. Could you substantiate that?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I just want to draw your attention to the debate last year on the issue of the KKV Programmes. Allegations were made that some monies were misappropriated in my Office. This prompted the World Bank to write a letter apologising to me, and saying that those allegations were malicious. It was the hon. Member for Saboti who made the allegation on the Floor of this House. So, I have got written evidence to substantiate that statement.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Indeed, it was the same Prime Minister who, on this issue, told the House that the figure which hon. Wamalwa had indicated had been misappropriated was not correct. He owned up that the figure involved was actually much smaller. If the loss of a smaller amount of money was acknowledged by the Prime Minister, is that not tantamount to accepting that actually there was a loss? Therefore, it amounted showing hon. Wamalwa had not been malicious. He had only played the normal oversight role as is expected of Members of Parliament.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member has got a selective memory. At no point did I ever say that there was a smaller figure that had been misappropriated. What I said was that there was some kind of accounting problem. I said that there were two accounts – Government of Kenya account and World Bank account. There were certain expenditures which were supposed to have been paid through Government of Kenya funds and other expenditures which were supposed to have been paid using World Bank funds.

*(Dr. Khalwale and Mr. Wamalwa
stood up in their places)*

Mr. Speaker: Order, hon. Members! We must get away from here!

Proceed, the Rt. Hon. Prime Minister!

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. Unless the hon. Member does not want to get the facts---

Mr. Speaker: Order! Order, the Rt. Hon. Prime Minister! I have given directions because I am satisfied that you have quoted the word “malicious” from a World Bank letter. That is why I am satisfied. Otherwise, we would have let it continue.

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir.

Therefore, all we said was that upon discussions with the World Bank, it was agreed that the funds that the World Bank was providing be withdrawn and then be directed to specific projects. So, the whole of this programme is being redesigned in that regard. The World Bank has been working together with officers from the Government in that regard and we are soon going to make an announcement as to how those funds are going to be made available.

Mr. Speaker, Sir, the hon. Member needs to know that the KKV Programme was a crash programme that was introduced during the serious economic difficulties following the post-election violence, the world economic meltdown and the drought that affected this country in 2008. It was an economic stimulus programme that was introduced at that time. The Treasury provided funding in that particular financial year, but it withdrew the funds thereafter and re-directed them to the Economic Stimulus Programmes (ESPs), which had been implemented even in hon. Saboti’s constituency. Therefore, the KKV programme was not a failure as the hon. Member was trying to imply.

With regard to the issue raised by hon. Lessonet, Vision 2030 is exactly what it says. It is a programme aimed at propelling this country from a third world country status to a middle-income economy by the year 2030. Right now, we are in the year 2012. We still have 18 more years to reach the year 2030. There are flagship projects that have been identified in order to achieve Vision 2030. Those projects are being implemented in tandem, and are in different sectors of our economy.

Mr. Speaker, Sir, Vision 2030 is anchored on three pillars, namely, economic, social and political. So, I can assure the hon. Member that the projects that have been initiated are now ongoing. There are others which are going to begin to be implemented in the next financial year and the year after. Some of them will be implemented in the years 2015 to the year 2025, and until we reach the year 2030. It is a continuous programme.

Mr. Lessonet: On a point of order, Mr. Speaker, Sir. I truly understand the attributes of Vision 2030. What I asked the hon. Prime Minister was what steps he is putting in place to make sure that changes in leadership, in terms of principles, do not threaten the realisation of Vision 2030.

Mr. Speaker: Very well, the Rt. Hon. Prime Minister!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member is asking me the impossible. He is asking me to tie the next Government to the programme that has been initiated. One can only hope that there will be goodwill in the next Government, and they will be able to continue the programme that has been initiated by this Government. I can assure the hon. Member that if I were to be the leader in the next Government, I would definitely continue this programme.

Mr. Speaker, Sir, Dr. Nuh raised the issue of reform timelines. We, as a Government, have tried. However, there are areas where we have not lived up to the promises because of some difficulties which were not anticipated. The hon. Members need to appreciate the fact that these Bills or the legislations being brought before the House to implement the Constitution are being originated by the line Ministries. The line Ministries usually set up a task force because the Constitution talks of public participation. The public participates at different levels.

The hon. Members need to appreciate that legislation being brought to this House here have gone through a lot of consultations with the members of the public. For example, if you look at the Devolution Bill that is now before the House, the Minister set up a task force that went around the country consulting the public. The task force also went to other countries all over the world to look how the other systems operate. It took the task force more than six months to compile the report.

Likewise the Financial Management Bill also has involved a lot of wide consultations.

It is because these are not Bills that can just be taken out of the shelf and then published, that is why they are taking too long. We have to apologize that some of them have not reached the Floor of the House on time. Hon. Members need to appreciate that there has been a very good reason why they took that long.

Mr. Speaker, Sir, the hon. Member for Lari asked about the slum dwellers. I am a Member of Parliament representing the largest slum in Africa, South of Sahara. That is Kibera slum. I, therefore, understand the plight of slum dwellers. Our people live in slums not through choice of their own, but it is because of the failure of the past Government to respond to the needs of our people.

After Independence, very little was invested in terms of construction of low cost housing for the poor. The Government addressed the housing for the middle income in our society. The result was that as the rural urban migration increased and there was no formal settlement for them, the people responded by constructing informal structures. The Government then recognized them and they were called informal settlements. As I speak today, 60 per cent of Nairobi's population lives in slums. It is a very high number. We cannot resolve this matter by merely using forceful eviction of people. It is irresponsible, inhuman and that is the reason why I have said it must stop, except the figure where there are very compelling reasons to do so.

Mr. Speaker, Sir, I, therefore, want to inform the hon. Member for Lari that as we stand now we have banned any more forceful evictions of people from informal settlements until proper arrangements are made for them to move out and they are shown where they will settle.

I sympathise with the hon. Member for Lari. I was present in Kisumu when the hon. Member made the remarks for which he was attacked. The hon. Member never ever said that the President should say "Raila Tosha". The hon. Member just took Kenyans a long history. He talked about Jaramogi Oginga Odinga and the struggle for the release of Jomo Kenyatta. Then he talked of Raila and "Kibaki Tosha" and he left it at that. He never ever said that President Kibaki should say "Raila Tosha". I want to urge that even myself if I had an opportunity I would have

said I do not want President Kibaki to say “Raila Tosha”. That is the responsibility of the people of Kenya who would rather say Martha Karua Tosha, Eugene Wamalwa Tosha or Raila Odinga Tosha. So, I am very sorry for what happened to the hon. Member for Lari.

Let me also say that it is irresponsible for Kenyans to take the law into their hands and go and attack an hon. Member of Parliament and burn his property because of what he has said. That is the height of political intolerance that this country should not tolerate. It is primitive, irresponsible and it is the kind of behavior which shows us that some people have not learnt from the experiences of 2008. If we are going to be so intolerant that if the hon. Member for Ikolomani disagrees with me, I organize for goons to go and burn his home and his house, we will not have a united country.

It behoves Members of this House to stand up and condemn in the strongest terms possible these kinds of acts of political intolerance and thuggery.

Thank you, Mr. Speaker, Sir.

Dr. Nuh: Mr. Speaker, Sir, I want to thank the Prime Minister for answering that part and clarifying the reasons as to why the Government took too long to present the Bills. But in part (b) of the question where I asked when this House should expect the Bills that are supposed to be law by August has not been answered. Even if he cannot give a specific date when this House should expect those Bills, at least, he should give a firm undertaking to this House that Parliament will not be rushed through these Bills and that they will be provided to this House in a timely manner.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the Constitution has clearly stated how Bills will come. There is the Attorney-General, the Commission on the Implementation of the Constitution and the Law Reform Commission. As the Bills are finalized, we bring them as quickly as possible to this House. We know that there are timelines. We are now bringing the ones with the deadlines. We will try to accelerate the process of preparation of the ones that are remaining. Most of them are almost complete.

Mr. Hassan: Mr. Speaker, Sir, I want to seek some clarification from the Prime Minister because he has been quoted quite a number of times in the media over the fact that he knew the date of our next elections and that he would consult with the President on the date. Now that he has seen the light and he believes that the National Assembly should participate in that, could he tell us when the Principals are likely to consult us on this important issue because the public in general is waiting?

Dr. Khalwale: Mr. Speaker, Sir, if we are going to sustain reform agenda in 2012 then we should do so by upholding the rule of law. Could the Prime Minister clarify whether the selective eviction of the poor from Syokimau, Maasai Village, Mau Forest and leaving the rich who have been listed in the Ndung’u Report does not amount to selective application of the law? If we want to sustain the rule of law when will he move on the people listed in the Ndung’u Report?

Finally on the issue of selective application of the law, Kenyans are waiting with bated breath on the outcome of the Deputy Chief Justice, Nancy Baraza fiasco. Could he also clarify whether using the same law that is being applied rightly to Nancy Baraza, he will also use it to apply to the Ministers in this House who have been found to have fallen short of glory and this House has made a pronouncement that they are not fit to hold public office?

Mr. Mwangi: Mr. Speaker, Sir, this morning the Minister for Public Works indicated that he did not have enough funds to complete the stalled projects. This afternoon the Prime Minister has talked about economic stimulus projects which have stalled as well. Could the

Prime Minister be in a position to tell us whether there is enough funding to complete the economic stimulus projects that have stalled all over the country?

Mr. Gunda: Mr. Speaker, Sir, could the Prime Minister tell the House whether the Government will remove the Mombasa Republican Council (MRC) from the list of illegal organizations and when the Government will start addressing issues which MRC have raised leading to the slogan “*Pwani si Kenya*”?

Mr. Chachu: Mr. Speaker, Sir, the Prime Minister talked about the Internally Displaced Persons (IDPs) and what the Government is doing to ensure justice is done and to resettle them. As of January this year, 30,000 IDPs are in Moyale; their homes have been burnt down, all the schools have been closed and Moyale is a ghost town. What is this Government doing to ensure that those IDPs in Ethiopia who have no homes to return to, no schools to take their children to, whether the Gabras or Boranas, get their justice?

What will the Government do to ensure that those who are behind those criminal acts are brought to book and justice is done to those IDPs in Moyale who have lost all their livelihoods and property due to the clashes that happened in Moyale in the last three months?

Mr. Speaker: Let us hear the Member for Eldoret North and that will be the last one, I am afraid. If we do Eldoret North, we do not immediately do Chepalungu!

Mr. Samoei: Mr. Speaker, Sir, I want to ask the Prime Minister, especially on this very important subject of the reform agenda, whether the statements he has been making about the people who voted “No” in the last referendum that indeed they do not qualify to be voted as leaders in this country is Government policy? I am talking about close to three million Kenyans who voted “No” in the last referendum. Was it their democratic right to vote yes or no? Are the statements attributed to the Prime Minister to the effect that these people have a problem is Government policy or that is his own opinion? What is the position of the Government on the democratic rights of Kenyans to either have voted “No” or “Yes”? What is the position of persons seeking office in a democratic society where there is freedom of conscience especially with reference to the reform agenda this year?

Mr. Speaker: Right hon. Prime Minister, you may now respond.

(Mr. Ruto stood up in his place)

Order, Member for Chepalungu! I did indicate even as we closed the last round of five that we will do another five and then we have to look at other business that is before the House this afternoon.

Member for Chepalungu, you must respect that!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member for Kamukunji probably has selective memory. I did not say that I know the date of next elections. I said that I will consult President Kibaki in accordance with the court ruling. What I said is that I have ears and I have eyes and I know what Kenyans are saying. So I said what we are going to be doing was going to try to respond to the need of the people in this country. That position has not changed. All we have now said is that we are not going to make arbitrary decisions among ourselves. We will bring this matter to the House and allow hon. Members to have a say on the date of the next General Elections.

Dr. Khalwale talked about selective evictions of the poor. This country is big and we cannot generalize. Situations differ. I must also admit that there was a time when there was what we called land *grabiosis* which was a malady that afflicted this country and that there are a

number of people who are living on other people's plots without a right of doing so. Therefore, we cannot really just generalize.

Mr. Speaker, Sir, we have said that where people have to be evicted, particularly where a community is living, it must be done with a human face. These people must be shown somewhere else that they are going to stay. We said that it is inhuman and cruel to send bulldozers to knock down structures where people are living with small children without any alternative given to them.

He also referred to the Ndung'u Report but we now have a Land Policy that is coming before the House shortly. However, before that, the hon. Member will recall that the Minister for Lands has been revoking some of the legal allocations which were done last time. It is not selective and it is not confined to the poor. It is something that is applying to the middle class and the rich as well.

Dr. Khalwale wanted to know whether the law being applied to Justice Nancy Baraza will also apply elsewhere. The issue of the Deputy Chief Justice we can say is more or less like *sub judice*. I would have my own feelings about this matter but I do not want to talk about my personal feelings on this issue because this matter is not in the domain of the Executive. This matter is being handled by the Judiciary and the Judiciary then asked the President in accordance with the Constitution to constitute a tribunal to investigate the conduct of the Deputy Chief Justice.

Mr. Speaker, Sir, the Executive cannot therefore, be accused of being culpable in this issue. It is purely in the domain of the Judiciary and we want to ensure that transparency is observed in handling this matter.

Whether the same should apply to the Minister; I know that Ministers with cases to answer are right now not serving in the Government as I know.

The hon. Member for Kiharu wanted to know whether funds are available to complete the Economic Stimulus Projects (ESPs). That is a matter that will be answered by the Treasury. Hon. Members need to know that this is what was brought to substitute the *Kazi kwa Vijana* Programme which was funded for only one financial year. In the following financial year it never got any more funds. I want hon. Members to understand that the *Kazi kwa Vijana* Programme has not been operational for the three financial years.

Hon. Gunda had asked about the Mombasa Republican Council (MRC). I have already given an undertaking that I will issue a Statement on this matter sometime next week. However, it must suffice to say that I stated that we are willing to talk to this group as a Government. We must find solutions. Political problems require political solutions and not forceful solutions. I am on record as having said one time that we need to talk to *Mungiki* and the matter has continued to drag.

I mentioned that there is no harm in talking to these people to find out what is happening. If you see somebody carrying a placard or wearing a T-Shirt reading, "Pwani si Kenya" you should look at that as a symptom of something that has gone wrong. I have no apologies to make on this matter and as a Government we have said that we are willing to talk on condition that they renounce their pronouncement of trying to secede from the Republic of Kenya. However, I will be issuing a much more comprehensive statement on this subject next week.

Hon. Chachu Ganya wanted to know about the IDPs in Moyale. There are so many IDPs in this country in different categories. There are people who are merely landless. There are others who have been made destitute as a result of competition for resources in their areas. These are issues that are being dealt with. For example, in Moyale, there are people who lost their lives

when there was a fight between the various communities that live there. The Government is in the process of sorting out this matter. We now want to find out a much more lasting solution to this issue. We do not want just to gloss over this matter. Therefore, I would also like to appeal to the hon. Member who belongs to one of the communities that has been involved in this fracas to co-operate to the Government. I also appeal to the others, that is, the Boranas, Gabbras, and others that we need to work together to find a lasting solution to the conflict that has bedeviled this area for a long time.

The hon. Member for Eldoret North wanted to know whether those who voted No during the referendum or those who were waving the red card are going to be allowed to exercise their democratic rights. He wants to know whether this is a Government policy or not. I am on record as having said that there are some people who were flashing red cards who said that this new Constitution was worse than the old Constitution. They said that if this Constitution was passed then people would lose their land. They also said that if this Constitution was passed then women would be aborting at will and that every hospital would be having an abortion ward. They said that if this Constitution was passed, homosexuality would be legalized and it would be the order of the day. I have been saying that all that was just propaganda to try and win the votes. These people clearly said that they had no confidence in this new Constitution. That is why I asked, "If you believe in this Constitution, how do you expect someone who opposed it to implement it?" That is all I have been saying. So, I have been telling the people not to vote for the people who opposed the Constitution because we want this Constitution to be implemented. It can only be implemented by those who believe truly in it.

Mr. Samoei: On a point of order, Mr. Speaker, Sir. The Prime Minister needs to tell the country whether the rhetoric that he is involved in is campaign propaganda he is distributing for his own campaign's sake or whether it is Government policy. The Constitution---

Mr. Speaker: Order, Member for Eldoret North! Let me just guide you. I am not stopping you. Just listen to me first. Please, resume your seat for a moment.

Hon. William Ruto, you have stood on a point of order. So, you really must prosecute your concern such that it falls within the ambit of a point of order as provided for in the Standing Orders. Please, just do that! If the Prime Minister has not responded to your clarification or he is doing it wrongly, then say so. You have a lot of experience in this House – this is your third term now. Prosecute the point of order!

Mr. Samoei: Precisely, Mr. Speaker, Sir. Is the Prime Minister in order to run away from answering directly the question that I put to him whether his position that he has been propagating around the country that people who voted No during the referendum should not be voted for is a Government policy or his own propaganda? He needs to answer that.

Mr. Speaker: Very well. That now fits.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. ole Ntimama! The person who has addressed the House last is the Member for Eldoret North. Do you want give information to the Member for Eldoret North?

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Speaker, Sir, I want to give general information on the main question---

Mr. Speaker: Order, Mr. ole Ntimama! You know even if you are going to give information, you must do so within the letter and spirit of the Standing Orders. I am afraid that up to where you are, you have not satisfied me that you are living within the letter and spirit of the Standing Orders. I am afraid I will have to decline.

Proceed, Prime Minister.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I truly believe in democracy that every Kenyan had a right at that time to say Yes or No. I have not talked against those who voted No. All I have been talking about is those who were spreading propaganda. I have not been addressing Government functions when I have spoken on this matter. I have been addressing political party---

Mr. Samoei: On a point of order, Mr. Speaker, Sir. The Prime Minister is an experienced Member of this House. I have asked him a direct question. He cannot keep on running away. He is always the Prime Minister whether he is in Mombasa or in this place or that place. So, could he tell this House whether what he has been saying is Government policy or his own propaganda? He needs to be categorical!

Mrs. Odhiambo-Mabona: But he has responded!

Mr. Speaker: Order, hon. Millie Odhiambo!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, unless the hon. Member of Eldoret North wants to answer the question himself. He should allow me to conclude.

Mr. Speaker, Sir, all I have been saying is that at times, I address members of Orange Democratic Movement (ODM) like I was addressing delegates of ODM. Yes, I am a Prime Minister, but I am also a Party Leader.

However, to answer his question, it is not a Government policy; it is a statement of fact which I have been making that it was propaganda. I have been saying that the people who did not believe in this Constitution cannot be trusted to implement it when they are in power.

Mr. Speaker, Sir, in conclusion, let me say this---

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. George Nyamweya! I have seen and heard you. Just hold your horse for a short while; perhaps, for one more minute.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir---

(Mr. Samoei stood up in his place)

(Laughter)

Mr. Speaker: Order! Order! Rt. Hon. Prime Minister, please, proceed.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, in conclusion, let me say this: It is on record when we were debating in this House to introduce a Bill to establish an independent tribunal to try the perpetrators of post-election violence, I spoke stood before this House and said that we should set a local tribunal and I voted for it.

Mr. Speaker, Sir, the Members of the House who are gallivanting the country running around saying it is hon. Raila who is taking people to Hague, hon. Issack Ruto coined and said: "Do no be vague, say Hague".

(Mr. Ruto stood up in his place)

Mr. Speaker: Order, the Rt. Hon. Prime Minister, I would want to take the point of order by hon. George Nyamweya!

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir. This is the most weighty matter that this country can face. When the country was being asked: Do you accept the new

Constitution as drafted or not? We were given a straight choice: “Yes” or “No.” Then, it ought to have said that if you vote “no”, it means you have no Constitution, you are not a Kenyan and you could not enjoy the benefits of that Constitution. Therefore, is it in order for the Prime Minister to stand here and tell the country that those who exercised their democratic right, who did not agree with the Constitution as drafted cannot enjoy the benefits of that Constitution, cannot have the protection of that Constitution. Is that what we are being asked to believe and understand from him?

Mr. Speaker, Sir, is it in order for him, not to be guided by the oath he took, the oath all of us took to defend and protect this Constitution? Whether you voted “yes” or “no”, you are now bound by that Constitution. It is our Constitution now. Surely, it cannot be right for---

Mr. Speaker: Very well! Your point is made hon. George Nyamweya. Rt. Hon. Prime Minister, do you want to respond to that point of order?

(Mr. Ole Ntimama stood up in his place)

Order, hon. Ole Ntimama! I have seen you. But let the Rt. Hon. Prime Minister respond to that point of order first.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have said very clearly that every Kenyan whether they voted “yes” or “no” are protected by the Constitution.

I believe on the dictum that I may not agree with you have to say, but I shall defend unto death the right to say it. That is the reason why we tolerated everybody. The “no camp” was given full protection during the campaign. They had the full force of the law behind them when they were campaigning. They were gentlemen and gentle ladies, after they were defeated, they conceded defeat. So, they are Kenyans.

Mr. Speaker, Sir, this is politics. As some would go and say that they are united in one thing that one person will not be the President of this country. That person has also the right to say do not trust the people who opposed the same Constitution because they will not implement it.

Mr. Speaker, Sir, all I want to say is that let preach and drink what we say.

Mr. Speaker, Sir, the hon. Member for Chepalungu coined the phrase here: “Do not be vague, say Hague”

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Is the hon. Prime Minister in order to use his time to spread propaganda? I would like him to substantiate and prove by producing the HANSARD Report in which I coined such a statement. It is clear that before the House at that time was the choice whether to establish a local tribunal or not. It was not a choice between a local tribunal and The Hague. This is misinformation. It is the same misinformation that he would like to use his time to spread.

He has just mentioned that he was in Switzerland attending a meeting of Heads of State and Governments. What was he doing in Switzerland, and yet he is not even a Head of State neither is he a President? Was he not simply wasting public funds?

(Several hon. Members stood up in their places)

Order, hon. Members! Order, hon. Wavinya Ndeti!

Rt. Hon. Prime Minister, you may respond to the first part of the point of order by the hon. Ruto. The second part breaches the rule of relevance.

The Prime Minister (Mr. Ruto): Mr. Speaker, Sir, the first point was about “do not be vague, say Hague”. That did not go on the HANSARD. It was sung when the HANSARD was off, when there was a division!

(Laughter)

It did not go on record. It was clear, in fact, it was inferred in the Waki Report---

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

Mr. Speaker: What is Member for Chepalungu? Please, it must be within the Standing Orders.

Mr. Ruto: Mr. Speaker, Sir, I will not digress. Now that the Prime Minister has conceded that it was not in the HANSARD and that it was never said here, could he then withdraw and apologise for bring matters that are outside the House which he cannot substantiate?

Mr. Speaker: Order! I did not hear the Prime Minister say that you said on record. If the Prime Minister said so, then perhaps, I want to be informed.

Did you say, he said it on record?

The Prime Minister (Mr. Raila): No, Mr. Speaker, Sir. I only said that he coined a phrase which was being sung during the time when the division was ringing.

Mr. Speaker: If that is what the Rt. Hon. Prime Minister said then it is a matter of public not notoriety because the Press has also reported quoting the hon. Member. So, if he is referring to Press, that would be different. It is not even the concern of Mr. Speaker, what is reported in the Press I cannot vouch to its accuracy.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, finally, it was actually inferred in the Waki Report that we did not set up a local tribunal, then the matter would go the Hague. That is the reason why he prepared an envelope which was sealed and handed over to Kofi Annan, not President Kibaki or Raila Odinga; that if the Government does not set a independent tribal to investigate and try the perpetrators of post-election violence then the envelope should be handed over to the International Criminal Court (ICC). So, it is not Raila Odinga who took the envelop to ICC. It was this House at the instigation of the people who are known who took Kenyans to be tried at the ICC. We said we did not want Kenyans to be tried outside this country. We said that we want Kenyans to be tried here so that if they are found guilty we can forgive them, and say let us forgive, heal the wounds the way they did in South Africa.

Mr. Speaker, Sir, so let no falsehoods be told about an innocent member of this House by those people who are seeking sympathy. We are praying, but nobody has gone in the public to pray for the victims of the post-election violence, the people who died.

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

Mr. Speaker: What is it Member for Eldoret North?

Mr. Samoei: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to continue on a charade on matters that he has not been asked by anybody and to speak to the matters he has mentioned? While it is true that the local tribunal was brought to this House, it is the manner in which the local tribunal had been set up at that time. There was to be a court in Eldoret, Kisumu, Kericho and Nakuru, yet violence was in the whole country. Those were the matters that were prosecuted at that point in time.

Mr. Speaker, Sir, a constitutional Bill that was brought to this House. The Prime Minister is on record, as late as today, castigating people who have prayed for the people who have been taken to the Hague. Who has stopped the Prime Minister from praying for other

people? If he does not want to engage in the prayers he should just keep his peace instead of trying to castigate those people who are engaged in prayers for others; if he feels very passionate about praying for other people, nobody has stopped him from going ahead. So, I think the Prime Minister should be stopped from engaging this House in unnecessary charade of issues. In any case, let me speak to the Prime Minister directly. The Secretary General of the Orange Democratic Movement (ODM) wrote to the United Nations--- It is on record that the ODM said that they wanted those who had been taken to the Hague to be tried there, and that there was no court in Kenya that could try us. That letter is a matter of public record. Was that letter issued with the permission of the Prime Minister? Was it issued by the Secretary General with the permission of the Prime Minister, or with his knowledge or on his instructions?

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

Mr. Speaker: Order, hon. Members! This matter really must come to an end. Hon. Samoei, you have made your point. I have allowed you latitude because I wanted you to similarly have an opportunity to ventilate. Right hon. Prime Minister, as you respond to that point of order, can you please restrict yourself to what you must say? We must conclude this matter.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! You come from the Cabinet where the Prime Minister belongs! Do you want a point of order to correct something that the Right hon. Prime Minister has said?

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Speaker, Sir, I want to give him some piece of information although I am in the Cabinet!

Mr. Speaker: Order! Information to whom, Mr. ole Ntimama?

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Speaker, Sir, to the Prime Minister himself!

Mr. Speaker: To the Prime Minister?

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Yes, Mr. Speaker, Sir!

Mr. Speaker: Order! The Right honourable Prime Minister, do you want information from honourable ole Ntimama?

The Prime Minister (Mr. Raila): Yes, Mr. Speaker, Sir!

(Applause)

Mr. Speaker: Very well!

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Speaker, Sir, I just wanted to give the hon. Prime Minister some information.

(Applause)

Mr. Speaker: Order, hon. Ntimama! Mr. ole Ntimama, I have intimated earlier on as I spoke to hon. Samoei, hon. Ruto and even the Right hon. Prime Minister that when you catch the Speaker's eye to contribute to any matter before the House, you must live within the ambit of the Standing Orders; I am afraid that although you caught the Speaker's eye to give information to the Right hon. Prime Minister, you have not done so. Instead you have spoken to hon. Samoei. I

rule that out of order and I direct that, that information, for whatever it is worth, be expunged in its entirety from the records of the House this afternoon.

(The information given to the Prime Minister by Mr. ole Ntimama was expunged from the records of the House as ordered by Mr. speaker)

Right hon. Prime Minister, give a response only to the extent that you must.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, hon. Member has alleged that the reason why they disagreed with the Bill was because it categorized the country and came up with courts in a specific parts of the country. That was one Bill, but there was another Bill which was brought later by hon. Mutula Kilonzo, which has removed all those provisions. That Bill was also rejected. It also did not come to the Floor of the House because it was rejected in the Cabinet and the hon. Member was also in the Cabinet, and led the forces against it.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Dr. Khalwale!

Right hon. Prime Minister, is that really helpful to the House?

The Prime Minister (Mr. Raila): No, Mr. Speaker, Sir. I am giving him information.

Mr. Speaker: Why do you not restrict yourself to what you must do?

The Prime Minister (Mr. Raila): Yes, Mr. Speaker, Sir.

Hon. Gitobu Imanyara brought a Bill before this House to set up a tribunal. That was also rejected.

Mr. Speaker: Order, Right hon. Prime Minister! That is not accurate. The Bill by hon. Imanyara is still pending before this House, and it is not rejected. Be accurate, Right hon. Prime Minister?

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir, for jogging my memory.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Dr. Khalwale! We really must conclude this matter.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, it did not see the light of the day for reasons which are obvious.

So, hon. Samoei is a good friend of mine, and I would be the last person to wish him harm. I talked to him because he was away when we resolved that we were going to support the local tribunal. When he arrived he addressed a Press conference at the airport and said he was against it, because he thought it would target just the small fish, and not the big fish who could not be tried here. He said we could only get justice at the Hague. That was then. He found out much later that this had happened.

All that I am saying is that this country needs reconciliation. This country has gone through trying times, but not worse than what South Africa went through. The South Africans had a bigger and wider vision and they were able to resolve their internal differences in a much more civilized manner, and they reconciled their society. We can also do it in this country, but we cannot do it when we try to condemn the innocent. So, let us face the facts. Let us trace our steps backwards and find out how we can find a solution that will ensure that this country remains united and peaceful, so that it is able to achieve what our founding wanted, which is contained in the Kenyan dream.

I thank you.

Mr. Speaker: Very well. Order, hon. Members! That then brings us to almost the end of statements.

I am afraid that I will want to defer your Statement to the earliest sitting tomorrow. Depending on the fate of Order No.8, you will determine what time you can deliver that Statement.

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Speaker, Sir. This morning, the Deputy Speaker sanctioned the Ministry of Water and Irrigation from transacting business in the House. The Assistant Minister for the Ministry gave an explanation as to why we were not here to answer the Question on time because we had some information that had not reached our office before we came here. So, I would like to apologise so that you can lift the sanction on us.

Mr. Speaker: Very well! Mrs. Charity Ngilu, indeed, the Deputy Speaker has conveyed that information to me. The sanctions imposed by him this morning are, therefore, discharged. You are free to transact business beginning this sitting.

The Minister for Water and Irrigation (Mrs. Ngilu): I thank you very much, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Let us move on to the next Order!

PROCEDURAL MOTIONS

RESOLUTION TO HOLD HOUSE SITTINGS ON 16TH AND 23RD FEBRUARY, 2012

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the Provisions of Standing Order 20(3) This House resolves to hold a Sitting on Thursday 16th, Tuesday 21st, and Thursday 23rd February, 2012 commencing at 9.00 a.m. to 12.30 p.m.

This Motion is informed by the need for us to do as much as we can to deal with the Bills particularly those on land and devolution ahead of the deadline which is on 26th of this month. I have given an undertaking that I will come and respond to the concerns raised by the Member for Chepalungu with regard to Government commitment to this very important matter of implementing the Constitution. Therefore, I want to urge hon. colleagues to treat this matter with absolute good faith because it is a matter we deliberated on as the House Business Committee and all of us are convinced that this is the way to go if, indeed, we will continue to show commitment that this House hitherto as shown with regard to full implementation of our Constitution.

Mr. Speaker Sir, it should also be noted that it is not the Executive alone; we have, of course, an independent Commission, the CIOC in particular and Kenyans who must have their ideas reflected in the legislation that subsequently finds its way to the Floor of this House. Therefore, I just want to say at this particular moment that the Cabinet has done all that is within its powers including sitting very long hours to prepare the Bills that are now properly before the House.

I know that you had to call for the Special Session of this House in order for us to be able to deal with these issues. Therefore, I want to urge that colleagues agree with this Motion. I will call on the Deputy Prime Minister and Minister for Local Government who is also the first Deputy Leader of Government Business, hon. Mudavadi, to second this Motion.

[Mr. Speaker left the Chair]

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

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I stand to second this Motion and reconfirm that this was the proposal that was agreed in the House Business Committee to allow for proper attention to be given to these Bills by Members of this House. It was felt that it would be better if we can utilise the mornings on Tuesdays and Thursdays as the initial proposals rather than sitting for extended hours so that people can be fresh and upbeat when they are making these contributions in the morning hours. So, without belabouring the point, I would like to urge the Members to support this Procedural Motion because the Bills we have in question, particularly the ones around devolution and land, some are bulky and have clauses that go into hundred plus. It is important that there is sufficient time for Members to talk about it. Again, the additional time will allow more Members to contribute to the Bills as opposed to limiting the time that is set aside for debate.

I second the Procedural Motion.

(Question proposed)

Mr. Mututho: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion with a view of convincing the public that we truly debate for quality here. It is not true that we just look through Bills as pieces of paper. Because of the voluminous nature of the Bills that are before us, we need this time. This will also help members of the public to follow the proceedings live like they always do in their offices and as they drive to work and other places so that truly and ultimately all these Bills get a fair treatment.

I support the Procedural Motion.

Mr. Mungatana: Mr. Temporary Deputy, Sir, I also wish to support this Motion. I know that we are unhappy with the Government on why it delayed, why it was late to open the House and all those whys. But *maji yakimwagika, hayazoleki*. Let us deal with what is now and give it our best shot. We must work extra hard. It is expected of us. It is now a moment in history that is called upon us as Members of the Tenth Parliament and let us live up to it as we have done before.

I support.

Mr. Mureithi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to support the Motion. The reason is that when we were recalled from leave, we were recalled to work. Therefore, we have to put all our effort. We appreciate that for the Government to come up with all these Bills, it required the participation of other organs or institutions and probably that is why it delayed. We should now roll our sleeves so that our Constitution can finally be fulfilled as we promised the public.

I support.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Procedural Motion. While I do this, I would like to call upon the Executive, at least, to realise the hemorrhage they are causing this House, the Tenth Parliament, in terms of Committees not even

having to deal with Committee issues but having to narrow down to debating the specific Bills. Because they are also part of this House, they should also strive in future. We were just raising concerns as to when the Bills that are supposed to be passed by 27th August this year which have a timeline of two years--- As a house, we expect that the Bills are here timely so that again we are not forced to have extra sitting hours or extra session of days just because the Executive has gone to slumber or to sleep for some time. I would like to tell them that they are also part of this House and the trouble of extra hours that they are taking through this House; they are also going through it. So, for us to have quality laws, let them strive in future so that they do not make this a ritual.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. G. Nyamweya: Thank you, Mr. Temporary Deputy Speaker, Sir. I am just wondering whether we are alive to the fact that once Bills are read the first time, they stand committed to the relevant Departmental Committees. If so, what is the purpose of those Committees if not to scrutinize those Bills and have public participation?

If we are asked to commit ourselves to debate these Bills now, presuming that that is what we are being asked to do, are we then effectively not saying that we are bypassing those Committees? If we are, then why did we withdraw some Orders from the Order Paper yesterday that were bypassing the Committees? Again, we are effectively bypassing the Committees. I cannot find myself going through those voluminous Bills without the assistance of the relevant Committees or even having sufficient time before I come to debate and, therefore, be part of passing a Bill which I have not exhausted in my understanding of it. If this is what we are being asked to do, then I am afraid I will not go along with the others. Then we will actually be bypassing our own Standing Orders and the Constitution. In that case, I oppose this Motion.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I stand to support the Motion. I believe the extension of the hours is because of the heavy legislative agenda before us that will bring before this House matters that are of sensitive nature that have long divided this nation and caused us to shed blood. These are matters touching on boundaries, land and devolution of resources. We need to go beyond the extra mile to ensure that we discharge our mandate.

I support.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion. As I support, I really do not see the sacrifice the Members of Parliament want to think we are making by sitting on Tuesday and Thursday mornings. There is no sacrifice because all that we have done is to replace Committee work with Parliament work, namely, debate in the Chamber. So, if we had not allocated this time which we are now seeking through this Motion, then we would be in our Committees on that Tuesday morning and Thursday morning doing the usual Parliamentary work. So, since the Members of Parliament, who are not Members of the Cabinet have shelved aside their business in the Committees for the sake of this very heavy agenda, I would like to call upon my brother, the Leader of Government Business and tell him that we are supporting him.

He also has unique brains in the Cabinet, men and women who he should whip, so that they can sit here with us, we debate this matter when they are here instead of leaving it to a small bunch of Members of Parliament from the Back Bench, as you know. We need to move together, so that we can benefit from the thinking collectively of all the Members of Parliament in this country.

I support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, very briefly, I also rise to support this very important Motion. Ahead of us is serious business that Kenyans are paying special attention to. Therefore, extra time is required for serious scrutiny and sacrifice and commitment by this House.

With those few remarks, I beg to support.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I want to thank you because I rise to oppose this Motion. You realize that yesterday the mood was against a similar Motion. The point or the philosophy behind this is so that we shed much more light into these Bills instead of the heat that they are going to generate. They are decent Bills here that would ordinarily go to different Departmental Committees. If we spare time so that these Bills are subjected to the Departmental Committees, we will be able to deal with them simultaneously, but if we take the Committees' time into the House time, then we will have to deal with these Bills in series instead of dealing with them at parallel.

I oppose.

The Temporary Deputy Speaker (Mr. Imanyara): Leader of Government business, you can respond quickly.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I thought that you would just simply put the question because I do not think this is the kind of Motion that requires any response. But now that you have given me the Floor, I just want to confirm that the House Committees, for instance on Local Authorities, have been sitting. I remember I looked for the Chairman on telephone, the Member for Kinangop, and he confirmed that they are on top of things and that, in fact, they will be going along with the House as we move. Therefore, I want to confirm that nothing untold is actually happening.

(Question put and agreed to)

REDUCTION OF PUBLICATION PERIOD OF BILLS

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the Provisions of Standing Order 107, this House orders that the publication period of the Land Registration Bill (Bill No. 4 of 2012) and the National Land Commission Bill (Bill No. 5 of 2012) be reduced from 14 to 5 days.

This Motion is also informed by the discussion we have just had on the commitment by this House to do serious business. I can tell you that the Cabinet, on its part, did the best we could and I am sure the Committee on the Implementation of the Constitution as well, but I think the Members will need to get prepared for very exciting debate on these very important Bills dealing with land. As the Member for Saboti has just observed, Kenyans shed blood because of land. Kenyans are looking forward to a very informed debate on this matter. But in order to give effect to the decision this House has just made that we need to sit on the various days as elaborated, namely, Thursday this week and Tuesday and Thursday next week, it is important that we shorten the publication period in order to be ready.

My learned friend and the Minister for Lands informs me that he is absolutely prepared to do exactly what the Member for Ikolomani was challenging me to do. I am going to have to

summon all of us to be here and lead this discussion because it is enriching and it is the kind of thing that is expected of us by the whole country.

Therefore, I beg to move and request the Deputy Prime Minister and Minister for Local Government, hon. Mudavadi, to second this Motion.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to second this Motion. The argument has been well put by the Leader of Government Business and indeed, just to emphasize, the Speaker has been talking of this being a special sitting. We have this business to conduct. So, I would urge the Members to support this reduction from 14 to 5 days. This again, does not prevent the relevant Committees from also looking at those Bills concurrently.

I beg to second.

(Question proposed)

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. The reason I do so is because these Bills have timelines and we do not have much time to meet that timeline. So, if we do not shorten the period, we will be going over the period within which we are supposed to pass these Bills. For this reason, I would urge the Members that we support this Motion to shorten the period so that we can be within the constitutional requirement.

I beg to support.

Mr. Temporary Deputy Speaker, Sir, I just want to add onto what Mr. Ngugi has said. There is some opinion which is also going round that we will not have enough time to look into the issues, the issues are heavy and land registration is such a difficult thing. However, I want to tell my colleagues that we have been with these issues for years. We have studied them, we have been in school with these things, we are now in leadership and so we know the difficulties. We know the problems. Now, it is decision time and we must do it. We must bite the bullet! We must pass these laws. If it is just burning a few more hours, let us do it because we must make decisions. We must make decision; whether it is right or wrong, and it must be timeously.

So, I support this move to reduce the publication period to five days. At any rate, it is enough time for us to read the Bill, understand it, digest it and make reasonable contributions.

With those few remarks, I beg to support.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion because the land issue has been a serious problem in this country. Here is an opportunity for us to deal with the problem and fix it, once and for all.

I support a reduction of days for the publication.

The Temporary Deputy Speaker (Mr. Imanyara): I will give a chance to Mr. Mututho followed by the Minister for Lands and the Leader of Government Business to close. This is only a Procedural Motion!

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. As I have said time and again, in agriculture, there are only four factors of production. Among them that is most cardinal is land. The issues of land, as long as they remain *zigzag* as they are today, they will continue to affect the entire economy.

I, therefore, support wholeheartedly this Motion. We should spend all the time we need on this particular Bill.

With those few remarks, I beg to support.

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I also rise to support this Motion. But just to mention that in preparation of these Bills, we took the extra step of engaging hon. Members at a workshop to look at the Bills. Subsequent to the workshop, the relevant Committee headed by my friend Mr. Musyimi looked into these Bills. The outcome of that workshop in Naivasha was considered in the Bill. So, I think hon. Members will not be confronted with these Bills for the first time.

I beg to support.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I simply beg to move.

(Question put and agreed to)

BILLS

First Readings

THE LAND REGISTRATION BILL

THE NATIONAL LAND COMMISSION BILL

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

Second Reading

THE COUNTY GOVERNMENTS BILL

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I beg to move that The County Governments Bill be read a Second Time.

While moving, I would like to, first of all, make some preliminary remarks to acknowledge the people who have made a tremendous contribution in getting to where we are in the draft Bill being before hon. Members and also to help the country understand through a recap the process that we have undergone to get where we are. I would like to take this opportunity at the very outset to thank the taskforce that I sent up under the chairmanship of Dr. Mutakha Kangu which comprised of very many eminent Kenyans from different parts of the country who had the mandate to help us think through the aspects of this subject called devolution as envisaged in Chapter 11 of the Constitution and, indeed, in other clauses within the Constitution that touch on devolution.

For record purposes, this taskforce was set up on 20th February, 2011 and they had sessions in all the 47 counties running from the time they were inaugurated to 15th March where they were able to have county based consultations. Secondly, they also organized several meetings with organized groups running from 23rd March, at the KICC. Then on 20th May, 2011, they also had consultative meetings with all the Permanent Secretaries in the Government today.

On 22nd to 31st May, 2011, this team then produced the interim report and it held validation meetings again in all the 47 counties.

On 6th June, 2011, at the Kenya Institute of Administration (KIA), Kabete, the taskforce had the first consultative meeting with hon. Members on the interim report and recommendations.

On 7th to 9th June, 2011, at the KICC, there was an international symposium of devolved governments which was addressed by both the President and the Prime Minister.

On 22nd June, they also had special meetings with the Ministry of Agriculture. On 23rd June, 2011, they also had meetings with the residents associations in particular the Kenya Alliance of Residents Associations (KARA).

On 24th June, this taskforce also had a meeting with the National Urban Development Policy team.

Lastly on 23rd to 24th July, 2011, the taskforce held another consultative meeting with hon. Members at the Great Rift Valley Lodge in Naivasha. I wanted to bring this out because it is important for people to know that this document is the result of a very elaborate consultative process that was undertaken. I believe that, perhaps, it has been one of the Bills that have been broadly consulted on before the final outcome is put in place.

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

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

Madam Temporary Deputy Speaker, the taskforce had made several recommendations which included the number of Bills that need to be dealt with. This is one of them, but I want to thank the House, if they recollect, they already approved the Urban Areas and Cities Act which was part of the package that came from the recommendations of the taskforce.

Devolution is, perhaps, the most challenging aspect of our new Constitution. It is the one that will either make or break the gains of this new Constitution. It will also provide an opportunity for Kenyans to get to grips and even have a better control of their own destiny as envisaged in Chapter 11 of the Constitution.

This is a historic Bill. The Bill that I am about to highlight and present, in my view, is really the backbone of what a county government will be. It provides the basis for those governments; it defines who will play what role and what are the powers and limitations that are brought out. Therefore, I would like to encourage hon. Members to look at it very carefully although they may have seen it before. Some of the issues they contributed in those consultative fora are already incorporated, but there could be some omissions which are valuable and we would like to be brought in so that it is enriched.

Madam Temporary Deputy Speaker, Part 1 of the Bill just deals with the standard provisions of interpretation and the preliminary aspects of county government. I would like the hon. Members to look at them very carefully because they run all the way from Article 1 up to page 16. All these highlight a number of things.

Madam Temporary Deputy Speaker, it brings out the purposes of the Bill on devolution. But, also, let me draw the hon. Members attention to the fact that we are also saying, on page 15, that every county shall enact legislation prescribing the following county symbols. Each county

government will have a county flag, coat of arms and public seal. This is very symbolic in the sense that it will be providing a clear identity of that particular county government. So, as hon. Members look through those provisions, I would like them to bear in mind that we want proper recognition to be accorded to these entities as they move on.

Madam Temporary Deputy Speaker, Part 2 on page 16, which starts as Article 5, also provides the functions of the county government. Again, these are very important because they are drawn from the Constitution. I would like the hon. Members to look at these functions very carefully and see whether there is any shortcoming, because they have to be consistent with the Constitution. They are spelt out for us to understand what the county government is supposed to do; how it can enter into contracts and so forth.

Madam Temporary Deputy Speaker, Part 3 of this Bill, which is on page 18, focuses on the membership of the county assembly. Again, this is very important because it is bringing into effect Article 177(A) of the Constitution and also spelling out the issue of how parties should nominate members and what criteria they should take into account, as spelt out in the Constitution. The issue of community and cultural diversity must be taken into account. So, that, again, is important.

Madam Temporary Deputy Speaker, there is the role of the county assembly. I would like to urge our Members, as they move into various areas and fora, because I have noticed that people continue speaking about councillors--- I think we need to remember that if Parliament adopts this Bill, then we are no longer talking of councillors in the traditional way that we have known them. These are very important individuals that are going to handle a legislative process within their entities. They are going to actually literally mirror the role of Parliament as it is today at the county level. They are the supreme organ at the county government level. So, I would like the hon. Members, again, to give special attention to these particular provisions, including the role of members of the county assembly.

Madam Temporary Deputy Speaker, we also bring out here in Article 10 the fact that these county assemblies, as legislative bodies, will also have the majority party leader and minority party leader. So, we are truly reflecting the position as it is in the national Constitution, so that it is also directly mirrored at the county assembly level. This is important.

Madam Temporary Deputy Speaker, under Article 11, we talk of the removal of the Speaker. I would like the hon. Members to recall that under the Elections Act and, again, according to the Constitution, the way the Speaker is elected had been taken care of by this House. But what was not dealt with was the removal of the Speaker. So, this Bill now is curing that particular problem. It also brings out the fact that there shall be a county assembly clerk, just the way we have a Clerk for Parliament.

Madam Temporary Deputy Speaker, on Article 13, it is important that the procedure of the county assembly; the committees and how they function, is also brought out. We do not want any chaos in the county assemblies. So, we are making *ab initio* procedures of those committees. Let me highlight and over and above this, we have written to the Speaker of the National Assembly, through legal team of Parliament, to help in drafting the Standing Orders that shall be used in the county assemblies, so that we can have some generic Standing Orders which can be adopted throughout the county assemblies, so that we do not have *Kangaroo* arrangements arising as we move forward.

Madam Temporary Deputy Speaker, we provide for petition if the people want to petition the assembly. All that runs also up to Article 15. There is freedom of speech. We are also making it clear that nobody should be stifled in the county assemblies, that is, Article 15 on page

24. People must be allowed to speak. They must also have the powers and privileges and immunities as it is in the county assembly. We also bring out the official languages and deal with issues of quorum and the voting procedure in the county assembly.

Madam Temporary Deputy Speaker, all that runs up to page 26 where we also bring out how a Bill can be introduced into the county assembly. This is important so that there is a clear mechanism to allow the hon. Members to introduce Bills and how they are handled once they are there.

Madam Temporary Deputy Speaker, on Article 25, we also start making provisions on how the Governor should assent to a Bill. I think that, again, is very important and elaborate on how the procedure should be.

Madam Temporary Deputy Speaker, we then come to Part 4 which deals with the electoral wards. This is something that the taskforce looked at very carefully. In Article 27, the taskforce recommended that there should be not more than 1,450 electoral wards for the purpose of election of the county assembly. I would like to just remind the hon. Members where we are coming from. In the traditional format of what we have today, we have about 3,200 civic leaders in 175 local authorities. Now, on the basis of this, just by a sheer rule of thumb, the taskforce was working on the basis that looking at issues of population and what the Constitution says. They recommended a basic approach that would give roughly five wards in each constituency; give or take some adjustments. Indeed, the Independent Electoral and Boundaries Commission (IEBC) has produced that and so, will not want to belabour too much. But the rationale here was that we should have county assembly members who are better remunerated and then they have a greater task to deal with and fulltime assignment. What we have had through the traditional system is that civil leaders have been very poorly remunerated. In fact, they just live on allowances. We all know what has happened to our local authorities. I do not want to belabour that, but would like the hon. Members to look at this very carefully and support it, so that at any one time, we have a functioning entity and better remunerated people. This will even attract more dynamic individuals throughout the Republic who have been shying away from playing a role to participate in the elective process, so that they can contribute in this area. So, hon. Members, once again, I bring this to your attention, but even the criteria and how it is arrived at is spelt out in Part IV.

Mr. Speaker, Sir, I would like to highlight Clause 28, through Clause Clause 30. Hon. Members will recall that when we passed the Elections Act, we dealt with the recall of Members of Parliament but we did not deal with the recall of County Assembly Members. So, this process is brought out in this Bill; again, it cures the deficit in that other Act.

I would like to draw the attention of hon. Members to a very specific issue here. If you look at the provisions of these Clauses and compare them with the recall clauses in The Elections Act, you will appreciate that the recall process proposed in this Bill is superior, in terms of defining the process and methodology, to the recall process contained in The Elections Act.

In this Bill, it is spelt out how a petition for recall is brought out. It also points out, under Clause 29, that whoever will be petitioning must also obtain the assent of at least 30 per cent of the registered voters in the ward. That petition will then be referred to the Independent Electoral Commission (IEC) for it to look at its merits and demerits. If it is found to be valid, the a recall will be effected and then an election will be held.

If you compare this process to the one provided for in The Elections Act, you will realise that there is no process that is properly defined as to how a Member of Parliament can be

recalled. The process is very loosely provided for. In this case, there is a clear process. Again, I invite hon. Members to look at it.

Mr. Speaker, Sir, Part V is about the Executive Committee – which is the Cabinet of the Governor – its functions and how it comes out. The functions of the Governor are spelt out in Clause 31. I specifically want to draw the attention of hon. Members to Clause 31(k) of this Bill. One of the biggest debates has been what the role of the Governor will be when it comes to security in the county. In this Bill, we clearly state as follows:-

“31(k) subject to the operational command structures set out in The Public Service Act or any other national security legislation, the Governor shall chair the county equivalent of the National Security Council as provided for in Article 239(5) of the Constitution.”

Mr. Speaker, Sir, we are making this very clear in this particular legislation, because you cannot be a Governor who is elected by the people and then you do not know what goes on in terms of security in your area. So, whereas the President will chair the National Security Council, the Governor will chair his County Government Security Council.

I also want hon. Members to look at Clause 32, which is on the powers of the Governor, the functions of the Deputy Governor and the removal of the Governor. This is, again, the one that I will pick on. This is not provided for in The Elections Act. So, if you look at Clause 34, we shall be talking about the removal of the Governor from office. In this particular Clause, the procedure is spelt out on how a Governor may be removed from office, which will culminate in an impeachment process at the Senate level.

Mr. Speaker, Sir, it is, therefore, not going to be easy to remove a Governor from office. Neither is it going to be impossible to do so but there will be a process to followed, which will be very clear. If a County Assembly has a problem with its Governor, there will be a process to be followed, which will include the passing of a Motion of no confidence in the Governor, to be supported by at least two-third majority. If two-thirds of the Members of a County Assembly uphold it, the matter will be referred to the Senate. In the Senate, again, there has to be at least two-thirds of the Members present and voting if, indeed, the Governor has to be impeached.

So, clearly, there are enough checks and balances. We shall not have the coups and counter-coups that we have seen in the traditional county councils. So, this is a process which makes it very clear that it is a serious assignment. If, indeed, you want to impeach a Governor, you must have very valid reasons to do so.

Mr. Speaker, Sir, we also bring out, under Clause 6, how the Governor will appoint his Cabinet. Hon. Members will recall that in the Constitution, it is already provided that you cannot have more than 12 Members forming the Executive Committee, even for the largest county. That means you have the Governor, the Deputy Governor and ten other Members of the Executive Committee. So, that is already upheld in the Constitution. What we are bringing out here is how the Government shall nominate these particular individuals.

There are, indeed, some suggestions that have been brought forward, that the Government should nominate and then the County Assembly approves, without a competitive process. I would like hon. Members to look at Clause 36. If it is felt by hon. Members that it must be altered, that shall be the decision of the House. However, I think it is important for hon. Members to bear in mind the fact that if we are saying that Parliament shall be vetting or ratifying or approving those who shall be Cabinet Secretaries, it is equally important that the County Assemblies have a parallel duty to vet and approve those who will be in the County Executive Committee Members in the respective County Governments.

Mr. Speaker, Sir, the functions of the Executive Committee are also pointed out under Clause 37. The County Executive Committee and the Governor will also be responsible for the urban areas and cities. That is provided for under Clauses 38 and 39. You will recall that we shall not have mayors and all those people elected but we shall have management boards for our urban areas. Those boards, again, have to be appointed through a process and ratified by the County Assemblies. We also bring in the issue of accountability for the Committee Members. All that deals even with removal and procedure in meetings.

Mr. Speaker, Sir, Article 44 is the area of---

The Temporary Deputy Speaker (Dr. Laboso): Order, Deputy Prime Minister and Minister for Local Government! You have persisted in referring to the Chair as “Mr. Speaker”. Please, note that there is a change in the Chair.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Madam Temporary Deputy Speaker. I note that there is a change in the Chair, and you are equal to the task.

Madam Temporary Deputy Speaker, I want to point out that there is the issue of the appointment of the county secretaries. This is important because these are going to be the top officers in the respective county governments. We are providing for a process on how those persons can be appointed by the governors. We have also provided for the appointment of the other county chief officers, under Article 45. All these processes are important for hon. Members to look at very carefully.

I now move to Part XI, which deals with the decentralised units. These are the urban areas and cities in the county governments, which are covered under Article 48. We also have the sub-counties, which are equivalent to the constituencies, as we have pointed out herein. We then have the wards, which are the smaller units within the constituencies.

Madam Temporary Deputy Speaker, we realised that we could not legislate uniformly in this Bill for all the counties on how they may want to decentralise below the ward level. We believe that this may be better left to the county assemblies to legislate and decide on how they will want their structures to be. This is where the debate is, as you may have seen in the media; it is on the aspects that have been brought out like the village councils and the village committees.

Indeed, in the original draft that we submitted to the Commission on Implementation of the Constitution (CIC), those units were there but in the process, the CIC felt that perhaps it might be better to stop at the ward level and allow the county governments to determine what kind of structures they may wish to have below the ward level. So, that, again, is subject to debate. The rest of this area goes on to cover the issues that deal with the kind of officers that will handle those decentralized units.

I want now to bring your attention to Part 7 on page 48. In this area, we talk of the county public service. This is a provision of the Constitution. The Constitution under Articles 10 and 232 is talking of a county public service and yet, we also have the National Public Service Commission. So, the experts have brought out a situation where each county government because it is required constitutionally shall then establish a County Public Service Board whose objectives are spelled out there. The functions and roles of this board are also brought out very clearly. I would like hon. Members to read this very carefully because these are the people who will deal with the establishment of the county governments. They will deal with promotions and disciplinary measures. They will basically perform the role that the Public Service Commission performs, but this is at the county government level. In this Bill we do propose that the recommendation can be a minimum of three and up to a maximum of seven in terms of the

composition if you look at Article 56, so that it is a lean board. It will also depend on the size of the county in determining the size that you are able to have.

But we are making it very clear that the chairperson, vice-chairperson and not less than three, but not more than five other members nominated and appointed by the county governor with approval of the county assembly. This is a very lean public service. As we go further, we have even spelled out the qualifications of the people who should be able to serve in this board. Human resource is a very sensitive issue. We must have people who are schooled and able to handle these matters at the county government level.

Madam Temporary Deputy Speaker, all that runs through all the way. We have the criteria for abolition of offices and so forth. Even if they appeal issues, how people are recruited, what should be done to advertise. They run all the way to Part 8 because the details are there. It is very elaborate and people can see it has so many clauses which run up to page 71 Article 84. So, all these are important for hon. Members to look at.

Citizen participation in Part 8, page 71, Article 85 begins to spell out the principles of citizen participation. This is a mandatory requirement in the Constitution that at whatever level, whether it is at the county government level or the national level and, indeed, even this Parliament we talk of proposing some amendments to the Constitution, they are already preparing for public hearings. So, this citizen participation and how it should be done again we provide for very elaborately under Part 8 of this Bill. That runs all the way to page 74.

On page 74 we then come to Part 9 which deals with public communication and access to information. Again, this is a constitutional requirement and we are making provisions to allow the public to access information in accordance to Article 35 of the Constitution on matters dealing with county governments if they feel they need to know.

Where there is a slight adjustment, I am just trying to trace the clause is that we do also provide that somewhere along the line it may be necessary at some stage to also allow some nominal fee to be paid some times for information. This is because also these county governments can just be flooded with all sorts of requests at any one time for information. So, we are saying do not deny, but perhaps there will be a requisite fee which can be determined by the county government to allow for the processing of the information that they require. This is not different from the fee that you pay when you want a search in the Ministry of Lands.

Madam Temporary Deputy Speaker, Part 10 provides the principles of civic education. It is so clear that this process of devolution, what we are adopting, this form of government and as we move along, civic education will have to be serious and an integral part of the process. So, we are also providing the mechanisms and the parameters that should be guiding principles when we are conducting civic education in the counties.

Then we come to Part 11, county planning. This we are making it mandatory because we all know the chaos we have seen in this country when it comes to planning and matters of development facilitation. So, again, we are bringing out this very clearly, what principles should be adopted, what should be the objective of county planning and then there is an obligation to every county government to make sure that they have plans. This is important because if they do not have plans, they could suffer some penalties in terms of financing because they will have to prepare budgets and so forth.

So, this is a very serious issue and we intend to bring this out here because we must have discipline and must see if resources will go to these county governments. We cannot afford to have haphazard arrangements. There must be plans. They must be debated in the county assembly, approved and then on the basis of that the funding processes and the programmes can

be done. We do not want the governor to be the one who now moves and makes roadside pronouncements just the way in the past we have seen presidents make roadside pronouncements which disrupt the planning process and budgets. We must equally safeguard and make sure that we shall not have rogue governors who will be moving around and imagining that the county resources are personal resources. They must be resources that are clearly planned for and everybody is clear that there is a plan which must be adopted and followed.

Madam Temporary Deputy Speaker, again, that is given a lot of attention. I plead with hon. Members to support it, so that our county governments can start on a proper footing. Then we have Part 12 which deals with the county public services. This is the delivery of county public services. This is on part 12, Article 114 on page 91. We have the principles set out. Then specifically there is Article 115. Here we are also saying that there have to be standards and norms for public service delivery. We do not want people to take this for granted. This is taxpayers money. People are in office. They must ensure that there are certain standards that must be met in the delivery of their services.

In Clause 116 there are shared services; these are services that can be shared either vertically between the National Government and the county Government or horizontal shared services between a county and another. I would like to remind Members that there is no more Central Government. There is National Government and the County Government. Again, some provisions are being made there.

Madam Temporary Deputy Speaker, Clause 118 brings out issues of tariffs and pricing of public services. This is very important because a county government delivering service in the county shall adopt and implement tariffs and pricing policy for the provision of public services. This is okay but then now we also must spell out how do you arrive at those tariffs? What consultations have taken place? This is done so that it is not just an exploitative process. As you arrive at those tariffs again there must be a process by the county government to arrive at it. That is important.

I will move on to Part XIII – Procedure for Suspension of County Government. Article 120 is very important because we are setting up county governments. We do not want at whims of anybody or anybody in the National Government to wake up and say that Vihiga County Government has been suspended without an elaborate process. I would like Members to look at those provisions in Part XIII very carefully. What are the grounds for the suspension that may be done either by the President or arising from conflict or war? That is provided for in Article 192 of the Constitution. There is suspension of county government in exceptional circumstances and again it brings out how that can be envisaged and it can be brought out so that there is no unilateral process of anybody trying to muzzle or just suspend a county government.

Clause 121 (4) brings out that the Senate in the final body. If they feel that this process is not right, the Senate can reverse those suspensions.

Madam Temporary Deputy Speaker, these are extremely important and I would like hon. Members to give that area special attention. It runs all the way to page 103. Those are very important provisions because we did not want a situation that we have seen in the past where the Minister for Local Government, depending on which side of the bed he woke up from would say: “I have dissolved a particular council”. People are then left helter-skelter wondering what went wrong. That kind of power cannot be exercised unilaterally.

Please, Members, look at it, strengthen it, cross check it with the Constitutional provisions and I am sure we shall be okay with this.

Some of the issues that are mentioned here will also be dove-tailing into the Inter-Governmental Relations Act and the Transition to Devolved Authority Act. As you read this, please also read the others because some of the questions you may raise perhaps have been captured in those other Bills.

Madam Temporary Deputy Speaker, as I come to Part XIV which is the miscellaneous provisions and these are largely financial provisions in the Bill and perhaps the most important thing is that Members will note that under Article 132 on page 104 the Local Government Act will be repealed upon the final announcement of all the results of the first elections held under this Constitution. Then all issues that may arise as a consequence of the repeal under sub-section (1) shall be dealt with and discharged by the body responsible for matters relating to transition. I am bringing this out because we at one time wanted to amend Cap.265. This has been overtaken by events after the new Constitution. The provisions of that Bill is that as soon as we are through with the elections it is automatically repealed and these new provisions take effect.

On Part XV on page 105, we do not want chaos immediately after the elections so we are providing for the first sitting of the County Assembly. In the first sitting, the Independent Electoral and Boundaries Commission (IEBC) shall play a very major role in determining the place and time that this first sitting shall take place. After that the Chief Justice shall designate for each county a judge to swear in the members and speaker elected at a meeting under sub-section (1). These are important transitional provisions so that there is order after the election and there is smooth handing over.

Madam Temporary Deputy Speaker, when we move to clause 136 we deal with arrangements for public servants. Again, please, Members look at that very carefully.

After that we come to the schedules on page 107. We have schedules that deal with oath of office for the Governor, Deputy Governor, the Speaker, the Acting Speaker, County Assembly Clerk, the County Executive Members and the County Assembly Members. The last one is of course the traditional memorandum and objects of reasons.

As I finalize, I would just like to point out that the task force did a very good job, they presented their report. Just to be able to deal some of the concerns that were raised here, I want to tell Members that in August of last year, we at the Ministry of Local Government submitted the draft Bills and recommendations from the task force to the Commission for the Implementation of the Constitution (CIC) as required. So we were literally several months ahead of schedule. However, we had to wait and the CIC had to go through the process of analyzing these Bills, making their comments and that is where we are today. The Bills are here and everybody has played their role in accordance with the law.

I would like to request Members to also appreciate that we cannot take shortcuts and we cannot determine the calendar for the CIC or their agenda. Once we have done our bit and the Bills have gone through, we have to wait for a feedback. Part of the process that is seen as a delay is not a deliberate delay but it is because the law has to be followed. We could not take shortcuts and bring these Bills here without that due process.

Madam Temporary Deputy Speaker, the task force worked very hard. We all worked very hard. Members made tremendous contribution and indeed, whenever we had a retreat the committees of Local Government--- I want to commend Mr. Ngugi here and Mr., Mwadeghu and their teams. They played a very important role in helping us develop and think through these processes all along. I believe their contribution tremendously enriched this Bill.

With those few remarks, I beg to move and request hon. James Orendo to second.

The Minister for Lands (Mr. Orengo): Thank you, Madam Temporary Deputy Speaker. I would like to thank the Minister for bringing this Bill. I am just going to make general remarks because we have been taken through the Bill by the Deputy Prime Minister.

Under the Constitution, the main organs for enabling or implementing legislation is the Kenya Law Reform Commission, the Constitution Implementation Commission (CIC), the Office of the Attorney-General and to some extent the line Ministries. However, the point here must be bid that specifically looking at the Sixth Schedule of the Constitution and Section 261 of the Constitution, the duty and functions of these three bodies are very important and critical. I initially have thought that the CIC has a peripheral role in terms of the preparation and tabling of these Bills before they are actually published and discussed in Parliament. If you look at the schedule, the work of the Commission is larger than it seems and, indeed, they are required to get involved in the preparation of the Bill and audit it against the Constitution to come up with a conclusion as to whether or not any legislation coming before this House not only meets the time lines, but is in consonance with the constitutional arrangement. So, within that context, I think the Minister has done a commendable job by first having a taskforce and secondly having a draft report and finally ending up with this Bill that we are discussing.

I for one am very happy in the sense that if you look at the pillars of this Constitution other than the Bill of rights which I think is critical – more than anything else, the Bill of rights is the foundation of this Constitution. Without it, even if you were to practice democracy--- The Bill of rights is not based on any majoritarian concept. You are either wrong or right on issues to do with the Bill of rights. In my view, other than the provisions found in the Bill of rights and on the representation of the people, the provisions to deal with the legislature either at the national level or county level, the most important and innovative chapter in this new constitutional arrangement is the chapter dealing with devolution. If you look at the general design in the Constitution and the architecture of the entire constitutional framework and audit this Bill against it, I think the Minister has thought outside the box and has actually come up with a very innovative legislation. I think that many countries where the debate is going on about devolution and one which is not necessarily a federal system are grappling with how to create entities that are autonomous and yet interdependent vis-à-vis the national parliament. Often, you would find that debate not well articulated in many other Constitutions. Whereas we tend to quote the South African Constitution as being a good Constitution, but in terms of devolution and the arrangements found in this Constitution--- I think if you look at this Constitution and juxtapose it with the South African one, the Minister has done a very good job.

The second reason I want to commend the Minister is that under the old constitutional arrangement, the Minister for Local Government was literally one of the most powerful Ministers. In fact, there was a Minister in this House who came from hon. ole Ntimama's neighborhood who said that in this nation only two people were important, that is, President Moi because he ran the national Government and hon. ole Tiptip because he ran the local Government. The power above rested with the President and the power below was with hon. ole Tiptip. For that reason, the Local Government Bill was changed so many times. Where people had spoken and elected councilors to county councils you would find that through a process of nomination the voice of the people would be undermined. In the 1980s you would find that the nominated councilors in a county council were more than the elected councilors. If it dawned on the Minister that the person he wanted to be Chairman would not be elected, all that he simply did was to either over nominate or if he could not do that and he had nominated somebody who was going to vote the right way, just before you took your sit, the DC would serve you with a

notice that from this minute you were no longer a councilor in the county council. I am reminded that DCs and DOs were councilors of some sort.

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

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

In this new arrangement, it is important to note that whereas we do not have a federal system, the Constitution itself tells us that there are two distinct governments which are separate. They are distinct and interdependent. That interdependency is not on the basis of which level of government is superior to the other. It is to the extent of the structure that is set out in the Constitution, that is, the architecture set out in the Constitution. The functions of both governments at the national and county levels are clearly stated in the Constitution. Where they are concurrent responsibilities, mandates and jurisdictions are clearly spelt out in the Constitution. Where there is conflict, again, there is a constitutional mechanism for addressing those conflicts. So, this Bill, in my view, addresses fully what is required of it by the Constitution. For my friend hon. Ogindo, and for what he desires to become, I think he should read this Bill more than the Constitution before he presents his nomination papers.

If you look at this Bill, especially the section on responsibilities of the county governments, the Governors, the county assemblies and, for that matter, the specific issues each county government is supposed to deal with like having a county integrated development plan in trying to make sure that every county has a sectoral plan which contains specific programmes that are to be undertaken in respect of each county and then each county to have special plans--- We are dealing with a Government that cannot be run like a *baraza*. This is because once we are not conscious of the duties and responsibilities of this county government then within six months or the first year of the establishment of the county governments; situations may arise where, unfortunately, Part XIII of this Bill may have to apply, that is, the procedure for suspension of county governments.

I think it is good that those situations are clearly spelt out. However, what I am trying to emphasize is that we do not want academics necessarily or intellectuals to head this particular governments. These are responsibilities which are given under the Constitution and people who can run for these positions as spelt out in the Constitution. In respect of the voter, I think between now and the elections, the Minister may have to have this extra responsibility of undertaking civic education, so that people fully appreciate what is required of them once elected as members of the assembly or elected as Governor, or appointed to serve in the County Governments.

I remember one time when I was first elected in this Parliament; there was a Minister, who came to Siaya. He went to Yala and said the President has given me Kshs200 million to bring to Yala Town Council. After two days, he was in Siaya Town, and said the President has given me Kshs120 million to bring to this Town Council. Then, he went to Bondo and Busia county councils. Again, he gave a lot of millions. In Siaya, the best road in Siaya at that time, it was half tarmacked and it was not very beautiful, but people were excited about it. When he came to my constituency, he said because I did not respond to the Nyayo metre very well, we did not get any money. Fortunately for me, all those millions, not even a single shilling was given to all these places the Minister had gone to. The sign on that road had to be brought down after a year of chasing that money.

We are bringing more responsible Government which will work with budgets as clearly spelt out in this Bill. I would obviously, with the anticipated Bill, which will come before this House regarding public finance. That ensures that we are creating structures of Government that will make sure that Kenya can, indeed, in terms of Vision 2030 translate into a middle income market economy because there is also the political pillar. That political pillar will be in many respects enforced and protected by this Bill that we are now discussing.

Mr. Temporary Deputy Speaker, Sir, without any further ado, I beg to second.

(Question proposed)

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill. I think it is an important document that this House needs to look at and support because it is prepared properly. I also want to commend the Minister for the professional presentation of this Bill.

Mr. Temporary Deputy Speaker, Sir, this country adopted this new Constitution because the people wanted a Constitution, a principle law that will give them the opportunity to manage their own affairs on the ground. The majority of us struggled in this country to bring this Constitution to be. Most of this is because we wanted to empower the people on the ground to be in charge of their own destiny. Indeed, that is what the world should be. So, I always say, and I have said many times, that we have never had a Constitution since Independence. The Lancaster House Constitution was abrogated by a few people. We know that. As I said, we were ruled under dictatorship. This is because it was a one-man rule or a cartel rule.

So, Mr. Temporary Deputy Speaker, Sir, this Constitution, which has brought us here now, is the one that I think is the only Constitution we have got since Independence. This Constitution is for the people which have been made by the people which according Abraham Lincoln is the real democracy as it were. It is important to realize that, this Bill here has been written, prepared for the County Government. The County Government is the basis for democracy. It is the basis for devolution. Call it devolution, it does not matter, what you call it. You can call it federal or majimbo, but it is for the people on the ground to be able to manage their own affairs. I think it has done properly.

If we are not careful and if the Government is not careful, especially the Office of the Deputy Prime Minister and Ministry of Local Government, we could devolve some bad things or corruption. We must end corruption at this level, so that it does not go to the people, so that we do not devolve stealing, so that we do not devolve embezzlement of public funds, so that we do not devolve anything that really messes the county as it were. The counties need money to develop the people. That money, apart from the money that is coming from the Government, is from the County itself. It must be properly managed. It is a fact that local authorities are the second most corrupt institution in this country after the police. That is a fact. So, we must be very careful to make sure that this corruption does not devolve there. Once let little genes of corruption go into the county, then we will be in a mess because we will, probably, never able to clean that huge thing called the county with everybody around, especially when they all get involved in this kind of things.

Mr. Temporary Deputy Speaker, Sir I have to talk more about my own county, Narok. Right now, we have a problem and the Minister knows it very well because I wrote to him a letter saying that I was really agonized by the kind of malpractices there. I mentioned malpractices that were taking place in Narok County Council right then. The Local Authority

Transfer Fund (LATF) is being used like a personal donation by the people who control the county, from the chief officers to the councillors and other people. So, unless he does something like overhauling that council, there is going to be a problem.

Mr. Temporary Deputy Speaker, Sir, we have got the Mara. That is the jewel of Kenya. That is the seventh wonder of the world. It is making a lot of money, but unless the Government goes in and controls these funds, so that they are not stolen, we could be in big trouble. Right now, all of you must have heard lots of commotion and demonstrations going on now in Narok, just because the electric ticketing has been established. I am happy that the Minister supports it and I do support it too, because it is the way to stop stealing. People had fake receipts and other things that were instruments for stealing. Now, they are going slow, but you know where there is democracy these days, people will go and destroy computers and still get away with it. It is important that we really make sure that the electric ticketing there succeeds, because we know it is good. What is really going to happen is that the e-ticketing will bring in so much money to that council that we have to watch it, otherwise it will be very easy for people to start stealing again.

So, the Mara must be united; I have told the Minister this many times. We cannot have the Mara divided now that we are going into one county. It has to be managed as one unit; we have to remove people who steal, mess around and mismanage things. It is also important to consult because this is the Government of the people and, hopefully, by the people. We should continue according to my friend, Abraham Lincoln, who is my hero. What makes him my hero is that he saved the black slaves; people travelled with chains across the Atlantic and poor old Abraham Lincoln stuck his neck out until there was a civil war in America.

Mr. Temporary Deputy Speaker, Sir, I am pleading with the Minister in this Parliament that we need an overhaul in Narok County Council and, probably, in the whole of the Mara and Kilgoris County Council; we need to come together, so that we have a viable council in which the funds are going to be used for the benefit of the people.

Thank you very much indeed.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me the opportunity to also make my thoughts known on this very good Bill. I also want to congratulate the Minister for all the good work they have done. I want to congratulate the taskforces that have been involved in developing the Bill that is before us today. Our duty in the House is to make what is good better. So, I want the Minister to note some things. I want to make specific suggestion. I will avoid generalities, so that we can think together and make the Bill even more effective than it is right now.

Mr. Temporary Deputy Speaker, Sir, the first thing that I want to point out is on the county assembly that is under Part III. There are very many good provisions there; but if we think together, we can improve certain articles that the Minister has brought us to look at.

Mr. Temporary Deputy Speaker, Sir, the first thing I want the Minister to think with me is on Section 10. The proposed Section 10 of the Bill provides for the leader of majority and minority in the county and there is a clear provision in terms of the order of protocol from the beginning up to the leader of the minority of a party.

What is practical is that national politics hardly affects the way operations take place in the local areas. Therefore, in terms of the coalitions that will help create the leader of the majority and the leader of the minority, while here in Parliament, the Leader of the ODM, NARC (K), PNU and whatever is so important, down there, people work differently as brothers and sisters. So, I was going to ask the Minister to think with me how we can make a provision that will allow for a loose coalition so that we are not stuck with arrangements that are relevant

nationally but are not relevant in Tana River County. There could be a clause that will allow the county representatives to sit in together and agree on who will be their leader of majority and who will be their leader of their minority and make effective the functioning of that County Assembly.

Mr. Temporary Deputy Speaker, Sir, just above that in Clause No.9 I want, again, the Minister to think with me how we can improve the process of securing the Deputy Speaker of the County. That is very clearly provided for in the main national Parliament and it is constitutional. I think we should import those provisions. I find it very loose the way it has been done. We should make it very clear that on the first sitting of that County Assembly, after the election of the Speaker, we should proceed with the election of the Deputy Speaker. This is not there and the procedure is just left hanging. I would rather we are very clear about that. We are clear about the steps that should be taken and make this Bill as huge as possible than to leave it hanging loose which gives it an opportunity for abuse.

I also want to ask the Minister to think with me about Clause 11. This Clause talks about how we can remove the Speaker of the County Assembly in Sub Clause 1. They have put an irredeemably high level and high threshold. Under what circumstances in any seat in Parliament or County Assembly will you muster 75 per cent of the membership for you to remove the Speaker? This is like saying that the Speaker cannot be removed. I do not know why they have come up with clauses like those when practically, even accessing a two-thirds majority in this House or in any Assembly is enough threshold. Unless there is good reason for us to maintain 75 per cent, I urge the Minister to re-think this Clause. In particular, I would, personally, want to bring an amendment to make sure that we do not have people who are Speakers being dictators in the County Assemblies.

On Clause 12 and I want the Minister to think with me, there are counties where it is very difficult to get enough people who have high degree qualifications. Let us not lie to ourselves. Every county would not like to import any person who is not from that county to be the Clerk of the County Assembly. Genuinely, in some counties you will find it very difficult to find degree holders who have, at least, five years relevant professional experience. I would like the degree to remain if necessary. However, let us remove the provision on the years of experience. Maybe we can think together to make---

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Mungatana, you will have 12 minutes to proceed when this matter is before the House again.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, you may wish to recall that earlier in the afternoon, you passed a Procedural Motion to allow sittings and especially for tomorrow morning. Therefore, the House stands adjourned until Thursday, 16th February, 2012, at 9.00 a.m.

The House rose at 6.30 p.m.