

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 1st December, 2010

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

DELAYED TREATMENT OF NYAYO STADIUM STAMPEDE VICTIMS AT KNH

(Mr. Ruto) to ask the Minister for Medical Services:-

(a) Could the Minister confirm or deny that some of the victims of the stampede that occurred on Saturday, 23rd October, 2010 at the Nyayo National Stadium died while waiting for treatment at the Accident and Emergency Unit of Kenyatta National Hospital because urgent and life-saving treatment was not administered?

(b) Does the hospital implement quality assurance systems to ensure acceptable levels of service delivery?

(c) Could the Minister explain why Kenyatta National Hospital, being the biggest referral hospital in East Africa, does not have a functioning CT Scan Unit and patients are referred to Nairobi West Hospital for the service?

Mr. Deputy Speaker: Is Mr. Ruto not here? Let us move on to the next Question.

REPAIR OF ILENGENI DAM

(Mr. Kiilu) to ask the Minister for Water and Irrigation:-

(a) Is the Minister aware that Ilengeni Dam in Mbitini Division, Nzau District, which has been undergoing repairs, was completely damaged and washed away on 10th November, 2010 causing a lot of damage to crops and other property downstream?

(b) What immediate remedial measures is the Ministry taking to reconstruct the dam and stop further damage?

Mr. Deputy Speaker: Is Mr. Kiilu not here? Let us move on to the next Question.

KIDNAPPING OF NICHOLAS OLENGO OF

MOSORIOT TEACHERS COLLEGE

(**Mr. Koech**) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that a student of Mosoriot Teachers Training College, Mr. Nicholas Olengo, was kidnapped on 1st November, 2010 and the body was found dumped five kilometers away from the college on 3rd November, 2010?

(b) Is he also aware that on 31st October, 2010 the homes of Ronald Kalya and Wilson Kalya were raided and a motor vehicle taken away and abandoned near Plateau area in Eldoret?

(c) What action has the Minister taken to ensure that the culprits are arrested and security in the area restored?

Mr. Deputy Speaker: Is Mr. Koech not here? Let us move on to Question No.568.

ORAL ANSWERS TO QUESTIONS

Question No.568

DISPUTE OVER ANGATA MWANGANGI'S
PLOT IN TAVETA SCHEME

Mr. Deputy Speaker: Is Ms. Karua not here? Let us move on to Question No.060.

Question No.060

PROVISION OF FREE HEALTH
CARE TO ELDERLY PERSONS

Mr. Deputy Speaker: Is Mr. Lekuton not here? Let us move on to Question No.405

Question No.405

LEVING OF CHARGES ON PATIENTS'
VISITORS AT NYANZA HOSPITAL

Mr. Deputy Speaker: Is Mr. Olago not here? Let us move on to Question No.448.

Question No.448

IMPACT OF RAW SEWAGE ON
AQUATIC LIFE IN LAKE NAIVASHA

Mr. Deputy Speaker: Is Dr. Otichilo not here?

Question No.540

OPERATIONS OF KINGS ROCK
COMPANY IN THIKA

Mr. Kabogo asked the Minister for Environment and Mineral Resources:-

(a) whether he is aware that Thika District Ministry officials authorized operations of Kings Rock Company to mine rocks without a valid licence or the nominal requirements of such an industry by NEMA;

(b) whether he is further aware that the operations of the quarry have occasioned agricultural produce loss, noise pollution and other health hazards both to *flora* and *fauna*; and,

(c) when the Ministry will halt the operations of the company due to raised health concerns and when the Ministry will compensate the victims whose right to a clean and healthy environment has been violated.

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the Thika District officials authorized the operations of Kings Rock Works Limited. What I know is that my Ministry issued an Environmental Impact Assessment Licence No.0007374 to Kings Rock Works Limited on 11th November, 2010 to undertake open cast quarry activities. Prior to that, the quarry was operated without full knowledge of my Ministry and officers in the Ministry were not involved at all.

(b) Regarding the issue of agricultural produce loss associated with the mining, I wish to clarify that my Ministry was not previously aware of any complaints raised. We have inquired and established that one farmer has complained of damage to his crops due to dust. The noise pollution, however, arising from the quarrying activities should be within permissible limits of the noise and excessive vibrations regulations which I gazetted recently. Because the quarry does not use any explosives, the noise is mainly from machinery operations.

(c) Having issued an Environmental Impact Assessment (EIA) licence, my Ministry does not plan to halt operations of the company. The licence details give the recommendations on mitigation measures that should be implemented by the company. Apart from the EIA licence, my Ministry does not license quarries because this is in the docket of local authorities.

Mr. Kabogo: Mr. Deputy Speaker, Sir, first and foremost, I do not have a copy of the written answer. I have been asking and waiting for it because some of these things are quite detailed. However, the Assistant Minister has said that initially these people were operating without her Ministry's knowledge. She has also said that Licence No.0007374 was issued. Is it not obvious that this is an undertaking that went on without the due process of law?

What is it that they have done so far? If you look at this quarry from Thika Road as you travel, you will realise that it is open. It is a ditch of over 300 metres deep that is left open. The Assistant Minister has said that the noise is not as a result of using explosives and yet the dust that comes out of that place is not as a result of the machinery being used. What will the Ministry do on this matter?

Prof. Kamar: Mr. Deputy Speaker, Sir, it is true that our officials were not involved. This is because the only licence that we give in the Ministry is the EIA licence. It is given upon application and recommendation from the county council. However, a county council can issue a quarry licence and that is not within the docket of the Ministry. The Office of the Deputy Prime Minister and Ministry of Local Government authorizes quarrying. However, we give EIA licences. We gave that licence upon application on 11th November, 2010. However, prior to that, it was not in the knowledge of the Ministry.

Mr. Yakub: Thank you, Mr. Deputy Speaker, Sir. In areas which are commonly known as residential where the Ministry is not informed or aware that there is an industry, what action would the Ministry take after receiving the report from NEMA that a particular industry is in a residential area?

Prof. Kamar: Mr. Deputy Speaker, Sir, when the Ministry receives any report that an industry is within an area which is prohibited by law, obviously, that is closed down. There have been a lot of closures of even quarries. Even last week, we had quarries in Kitui closed down by the District Environmental Officer. So, that takes place immediately it is known. But it is also true that before any industry is set up, it is very important that Kenyans get to know that it is their right to know if an EIA has been issued. It is the right of every Kenyan to ask for it. You will realize that we normally advertize for EIA before any industry takes off, and that is a procedure that is undertaken in the Ministry. But should anything arise before the Ministry issues the EIA, it is the right of every Kenyan to demand to know whether an EIA was done. If it was not done, it must be done, because it is not allowed in Kenya now to have an industry without an EIA.

Mr. Njuguna: Mr. Deputy Speaker, Sir, with the information given by the Assistant Minister; that a farmer has already lodged a complaint, what level of investigations has the Ministry done to convince the farmer that his health is guaranteed? Secondly, the Assistant Minister has admitted that there is what we call machinery noise emanating from machinery operation. What is the Ministry doing to reduce that form of noise in that area?

Prof. Kamar: Mr. Deputy Speaker, Sir, let me start with the last part of the question. I have said that the noise that is arising from this quarry is within permissible limits and we have gazetted the limits. The hon. Member can check the limits, because we now know how much noise should be allowed, beyond which we should be able to deal with it. So, yes, in this quarry, the noise is within permissible limits. Currently they are not using any explosives. So we are safe as far as that one is concerned.

On the issue of the complaint from the farmer, already we have taken up that issue. As I have said, it was established that one farmer has complained that there was dust landing on his crops, and that is being followed up.

Mr. Kabogo: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that they are relying on the EIA. They issue EIA before they blow up all these quarries. I am sure, Chair, you have travelled on Thika Road. If you look at the right hand side and

the left hand side of the road at Juja, they are death traps; as deep as 300 meters, and they are left open. If they relied on impact assessment, can the Ministry undertake to do a post impact assessment to assess the dangers and conditions of these quarries, because they are all over? I am even aware that the Ministry has issued directives that those quarries along the road should be closed, yet the Assistant Minister does not seem to understand or is even aware of this. When will they carry out a post impact assessment so that Kenyans may be aware that the Ministry is doing what it ought to do?

Prof. Kamar: Mr. Deputy Speaker, Sir, we do not do post impact assessment. What we do is rehabilitation cost. Before you undertake any activity, we do the EIA to know if it is possible to do the quarry or if it is not possible to do any activity at all. So, the EIA is done before any activity is permitted, and that is what we normally advertize.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading the House by saying that “they do not do” It is not cast in stone! We are saying that these issues have an effect on the lives of Kenyans. Could the Assistant Ministry consider relooking at the matter and visit the quarries to make sure that the environment is safe for Kenyans? That is all! It is quite simple!

Mr. Deputy Speaker: Assistant Minister, given that the honorable Member claims that the EIA was carried out initially before the actual works of the quarries were started and that the quarry work is in place and he is convinced that the effects have an environmental impact on the people who live around there, will your Ministry be willing to go and carry out that, because this is probably an emerging danger that was not anticipated initially? I think that is the gist of the question.

Prof. Kamar: Mr. Deputy Speaker, Sir, I think what the hon. Member needs is the procedure that is undertaken when you are doing an activity. Before you do the activity, we do the EIA to evaluate first whether it is possible to do the activity. Once that is done, the licence is given alongside a detailed report of recommendations or mitigation when you are doing the activity. That should be followed throughout the activity itself. So, I think what the hon. Member is asking for is the mitigation measures; whether they are being obeyed on the ground or not.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. It appears that the two hon. Members are actually not communicating. The Assistant Minister is simply being asked whether her Ministry can issue a certificate to undertake an activity and after that, they leave the environment in a worse situation than they found it. Do you also do some superintending or policing to ensure that the environment is actually protected?

Mr. Deputy Speaker: Assistant Minister, I think the Questioner as well as the hon. Member who rose on a point of order are very clear in the sense that they want you to find out whether, indeed, the *post facto* study that was done conforms to the post photo of the area itself.

Prof. Kamar: Thank you, Mr. Deputy Speaker, Sir. At least, the last speaker has been clear a little bit, because I think he is using the knowledge he has about what should be done after. I have said that alongside the licence, you have details of mitigation measures that must be taken when you are doing the quarrying. Now, within that period, the measures must be done during the---

(Mr. Kabogo stood up in his place)

Mr. Deputy Speaker, Sir, can he have patience so that I can give the answer? If he is not patient, then he will not get the answer.

Mr. Deputy Speaker: Proceed, Assistant Minister!

Prof. Kamar: Mr. Deputy Speaker, Sir, when you have done an EIA, then we agree that you can do with the following mitigating factors: Immediately after you finish, you must return the land back to what it was. All those are contained in the EIA report. So, what I want to assure the hon. Member is that the licence has been given alongside a detailed report on what should be done for mitigation purposes. At the end of the quarrying---

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir.

Prof. Kamar: Mr. Deputy Speaker, Sir, if he could be patient again, and hear the conclusion; at the end of the quarrying, then he must bring the land that was excavated back. Now, during the quarrying, we have regulations that govern how you quarry. At the end of that, you must do the landfills again.

So, it is a whole three-stage process. I want to assure the hon. Member, and all Kenyans that where you have a quarry land cannot be left with whatever he is saying; it is an excavation that has not been recovered. So, we must recover it and that is part of the same report.

Mr. Deputy Speaker: Order, Madam Assistant Minister! The Question has not been answered. Mr. Kabogo is asking about the mechanisms you have in place to ensure that actually the licensee is seen to execute mitigation measures. We cannot wait until the quarry is no longer there. So, can you give the mitigating measures? Who polices the mitigating measures? Is it your Ministry?

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. You have heard clearly the professor say that if they have finished extracting stones, they are supposed to return the land to its original state. You are aware that all those quarries are open. I am only asking for protective measures to be put in place. If it is not possible for the Assistant Minister to visit the place, could she then refer this matter to the Departmental Committee on Lands and Natural Resources for further investigations to be carried out? It seems the professor does not have the capacity to answer this Question.

Mr. Deputy Speaker: Mr. Kabogo, you are out of order. The hon. Professor is the Assistant Minister---

Mr. Kabogo: Mr. Deputy Speaker, Sir, I withdraw the last bit of my statement. Could the Assistant Minister confirm that this matter can be dealt with by the departmental committee?

Prof. Kamar: Mr. Deputy Speaker, Sir, I want the hon. Member to understand that there is a process that you undertake when you are doing an EIA. That was part "a" of this Question. What he wants to know is what should be done after a quarry has been opened. We know the quarry is still active currently. When it is active, you cannot fill it. So, it is impossible for us to do the land filling when we are still quarrying; a licence has been issued to the licensee to do excavation. What I want to assure the hon. Member is that when the quarry has been closed, the land will be brought back to what it was. It does not mean that we will bring back the stones that will have been extracted, but we must do the land filling so that there is no damage after that. That will be done. It is the stage at which this process is. If the hon. Member would like us to visit the site, it is not a very distant place; I will be very happy to drive there with him and see what is going on, or

whether they have actually left the site and if we can embark on the third stage, which is refilling the quarry. I want to assure him that, that is being taken care of. We have a District Environmental Officer, a NEMA officer on the site; we are really in touch with what is going on, on the ground. The quarry is active.

Mr. Deputy Speaker: Madam Assistant Minister, for the benefit of the Chair, if the activities in the quarry pose environmental hazards to the environment and the people who live around the environment, do you have to wait until he finishes his job for him to restore the land to its original status, or do you have a way of dealing with this, so that lives of Kenyans are not affected?

Prof. Kamar: Mr. Deputy Speaker, Sir, we have a law that protects Kenyans, first and foremost. If we find that the activities of the quarry are damaging the environment, we will close it. We closed some in Kitui. So, we have been closing them. A DC even closed some last week in Western Province. So, closure is not a problem for us and we will do it.

Mr. Deputy Speaker: Mr. Kabogo, I hope you are satisfied?

Mr. Kabogo: Mr. Deputy Speaker, Sir, I would want to take the Assistant Minister to the site because she is not very well informed on the matter of quarries along Thika Road. She should give an undertaking as to when she will accompany me there. We are talking about lives of people and not of goats or cows. These are lives of Kenyans. I am prepared to go there even this afternoon.

Mr. Deputy Speaker: Hon. Assistant Minister, could you give an undertaking?

Prof. Kamar: Mr. Deputy Speaker, Sir, I am ready to travel with the hon. Member. I am travelling tonight to Cancun for the climate change conference. I am coming back on 14th. I am ready to travel with him to the place between 15th and 17th.

Mr. Deputy Speaker: Fair enough. I think you can arrange that between yourselves.

Next Question!

Question No.547

RESETTLEMENT OF KENYAN IDPS RESIDING IN UGANDA

Mr. Deputy Speaker: Is Mr. Kiuna also note here?

POINT OF ORDER

NAMING OF MINISTERS FOR FAILURE TO ANSWER QUESTIONS

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I wish to refer you to Standing Order No.46. With your permission, I would wish to read it as follows:

“It shall be disorderly conduct for a Member to fail to ask, or for a Minister to fail to answer a Question listed on the Order Paper without the leave of the Speaker”.

So far, eight Questions have not been asked and it has become a tradition. I would also wish to refer you again to Standing Order No.98, which reads as follows:

“Any Member may at any time, on a point of order, invite the Speaker or the Chairperson of Committees to name another Member for grossly disorderly conduct, but the decision whether or not to do so shall remain with the Speaker or Chairperson”.

Mr. Deputy Speaker, Sir, in order to instill discipline in the House, I wish to invite the Chair to name all those hon. Members who fail to ask or answer Questions, whether Ministers or Members of Parliament.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Many Members of Parliament who come here early on Wednesdays have usually already filed Questions which are queuing for time. Because of these hon. Members who do not want to keep time, our Questions keep on queuing and the Chair goes out of its way to call out the Questions a second time and to give those people an opportunity to come and apologize here. For the last two weeks, every Wednesday, we have been lacking the way forward because hon. Members do not come to the House on time. We should name these hon. Members, the Ministers and Backbenchers, so that they know that there are consequences, if they do not respect our Standing Orders.

So that you do not hesitate, may I also remind you that the Orders before us are posted on the website every morning. So, nobody has got any excuse in the current IT era. We should name all of them.

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, whereas I agree with the need to name hon. Members to instill discipline, I do not believe that, that Standing Order allows for guillotine in the process of naming. You have to name an individual and not a group.

Mr. Deputy Speaker: Fair enough. The Chair will give direction on the same after the second round. Our tradition has been that---

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Initially the Chair was allowing a second round, but hon. Members are already abusing that second round. It will move on even to a third round. Could I plead with the Chair that Questions be called out only once, and if hon. Members are not present, they be dropped?

Mr. Linturi: On a point of order, Mr. Deputy Speaker, Sir. At times when hon. Members file Questions, it is for the benefit of the areas that they represent and the country as a whole. In certain cases, the Questions that are on the Order Paper are so critical that when answered, they tend to give some relief to most of the hon. Members in this country. It should not be assumed that a particular answer is only for the benefit of a particular Questioner. When I look at the Question that is next, it is about a matter that concerns the settlement of IDPs. This is a matter that is so passionate to most of us here. Kenyans have been living in these IDP camps for a long time, and the only mistake they made was to vote for the principals.

Mr. Deputy Speaker, Sir, I am appealing to you to use your discretion so that, instead of a Question being dropped--- The other day the Speaker also ruled that when a Question is asked by Private Notice, it becomes the property of the House, and enables us to interrogate the Minister, if he is here and is willing to answer the Question.

Mr. Deputy Speaker: Order, Mr. Linturi!

(Mr. Ndambuki stood up in his place)

Order, Mr. Ndambuki! You have been in Parliament for a long time. This is not a Motion. It is a Question and the hon. Member rose on a point on of order.

(Mr. Ndamuki continued standing in his place)

Order, Mr. Ndambuki! You are out of order! The Chair is going to give direction on the same. Can we proceed now and exhaust the Questions that are there?

Question No.562

FORMULA USED BY KSB TO PAY SUGAR-CANE FARMERS

Mr. Washiali asked the Minister for Agriculture:-

(a) what formula is used by Kenya Sugar Board (KSB) to pay sugar-cane farmers; and,

(b) whether Mumias Sugar Company (MSC) is in compliance with the formula.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, as much as I want to answer this Question, I have talked to the hon. Member. I have already called the Pricing Committee. We had a meeting last week. We are going to have another meeting this coming Tuesday. I have already talked to the hon. Member and agreed that this Question be deferred. We will deal with it on Thursday.

While I am standing, what has been raised by hon. Members--- For the last two weeks, I have been coming here with answers and I go back with them because there are no hon. Members to ask the Questions. So, we should have some order in the House. So, if you have a Question, you should be here. If you have to answer a Question you should also be here on time.

Mr. Deputy Speaker: Mr. Ndambuki, the Standing Orders cut both ways. Have you, for a moment, paused to also think about the fact that you, yourself, do not have your answer ready this morning?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I have!

Mr. Deputy Speaker: You do not have a ready answer to Question No.562! You have failed to answer the Question today.

Hon. Members: Yes!

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I have not failed to answer the Question. I have thoroughly discussed with the Questioner and we have agreed. So, it is not that there is no answer.

Mr. Deputy Speaker: When was this Question filed?

Mr. Washiali: Mr. Deputy Speaker, Sir, I filed this Question about three weeks ago.

Mr. Deputy Speaker: Three weeks ago!

Mr. Washiali: Although, Mr. Deputy Speaker, Sir, indeed, I had talked to the Assistant Minister---

Mr. Deputy Speaker: Order! That is not the issue! The presumption of the Standing Orders is that Ministers should do all their back room work. Any work that

needs to be done should be done before they come to the Floor of the House and ask for more time. Under the circumstances, it is both the hon. Members, the Backbenchers as well as the Government side. The Government side also consistently asks for more time to answer Questions. How soon will you be in a position to answer this Question, Mr. Ndambuki?

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I have said on Thursday.

Mr. Deputy Speaker: Thursday is tomorrow.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, no, next week. That is because the team is out of the country. It is in the UK attending to matters to do with sugar-cane.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. You heard the hon. Member say that he filed this Question three weeks ago and the excuse given by the Assistant Minister is that he wants to sit with the Pricing Committee. That Committee is not an *ad hoc* Committee of the Kenya Sugar Board (KSB). It is actually a standing committee and this matter, I am afraid, if the Chair does not use its discretion to push this Assistant Minister, they are planning to have a meeting where the Managing Director of Mumias Sugar Company (MSC) wields so much influence that he literally dictates to them the kind of answer they should give us here and, in the process, our farmers keep on suffering. We have an MD who even prepares board papers---

Mr. Deputy Speaker: Order! Mr. Washiali, are you comfortable with Thursday next week?

Mr. Washiali: Mr. Deputy Speaker, Sir, I had talked to the Assistant Minister and he promised to do some consultations. For me, I really do not have any objection as long as whatever kind of consultations he is going to have will benefit farmers. I will want to remind him that on 30th September, 2010, and it is captured in the HANSARD---

Mr. Deputy Speaker: Order! Do not ask the merits and demerits; do not debate the Question at hand. Are you comfortable with the answer on Thursday next week? You said that you had consultations!

Mr. Washiali: Mr. Deputy Speaker, Sir, we had consultations. I do not have an objection, but I hope he will remember that considering the answer he brought to this House on 30th September, where he declared that as far---

Mr. Deputy Speaker: Order! The Question is deferred to Thursday next week!

(Question deferred)

Mr. Linturi: On a point of order, Mr. Deputy Speaker, Sir. I am really seeking your guidance on this matter because one of the reasons why we ask Questions is for the Back Bench to get information from the Government which, in most cases, is not willing to give without being prompted. I am getting concerned because the pricing of sugar-cane is so critical to the people who grow sugar-cane in western Kenya. I would want to know whether it would be---

Mr. Deputy Speaker: Order!

Mr. Linturi: In order to allow this issue to run that way, in most cases, the Government or the Executive will---

Mr. Deputy Speaker: Order, Mr. Linturi! When the Chair says “order” you freeze! You are out of order! Next Question by Mr. Yakub!

Question No.581

DELAYED PAYMENT OF BENEFITS TO MOMBASA
MUNICIPAL COUNCIL RETIREES

Mr. Yakub asked the Deputy Prime Minister and Minister for Local Government:-

- (a) whether he is aware that a number of retirees from Mombasa Municipal Council have not been paid their dues; and,
- (b) when the retirees will be paid.

Mr. Deputy Speaker, Sir, I have not received a written answer.

Mr. Deputy Speaker: Do you wish to proceed and prosecute the Question or do you want to have a written answer?

Mr. Yakub: Mr. Deputy Speaker, Sir, I want to read the answer beforehand.

Mr. Deputy Speaker: Where is the Deputy Prime Minister and Minister for Local Government? Let us go on to the next Question by Mr. Letimalo!

Question No.332

CONSTRUCTION OF BRIDGE ACROSS RIVER SEIYA

Mr. Letimalo asked the Minister for Roads:-

- (a) what plans the Minister has to construct a bridge at lower Seiya River on E473 Road; and,
- (b) whether he could consider undertaking the project in the 2010/2011 Financial Year.

Mr. Deputy Speaker, Sir, I want to bring it to the attention of the Chair that I have not been supplied with a written answer.

Mr. Deputy Speaker: Do you wish to proceed with the prosecution of the Question without the written answer or you must have a written answer first?

Mr. Letimalo: Mr. Deputy Speaker, Sir, I am ready to proceed!

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, I want to indicate to the hon. Member that this Question came up after it was dropped another time and I had given him a written answer then. Yesterday, my Office duly supplied the answer to the Clerk of the National Assembly, but I sympathize with the hon. Member that he does not have the answer.

However, I beg to reply.

(a) My Ministry has no immediate plans for construction of a bridge across Seiya River due to the enormous cost that will be involved in putting up the structure whose pan is estimated at 200 metres. However, the Kenya Rural Roads Authority is under instructions to carry out site investigations for design of a bridge across Seiya River. The exercise is expected to provide a reliable estimate of the cost of the construction of the bridge.

(b) In the meantime, my Ministry has set aside Kshs12 million for construction---

(Loud consultations)

I seek your indulgence, Mr. Deputy Speaker, Sir. Hon. Members are consulting loudly.

Mr. Deputy Speaker: Order, hon. Members!

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, in the meantime, my Ministry has set aside Kshs12 million for the construction of a 200-metre long drift. The procurement process for the construction of the drift has begun and the project is expected to be awarded before the end of the year.

Mr. Letimalo: Mr. Deputy Speaker, Sir, it is important for the Minister to understand that in May 2010, we lost seven people who drowned as they tried to cross that flooded river. Three locations in that area have been cut off because the river is inaccessible, particularly when it rains. If we are losing people every other time when it rains because of the flooded river, what is the purpose of constructing a drift that is not going to assist the people? Why does he not consider getting funds to do the bridge across that river?

Mr. Bett: Mr. Deputy Speaker, Sir, I appreciate that many lives have been lost and we sympathize with the situation. That is why I have already said that I have instructed the Kenya Rural Roads Authority (KERRA) to quickly do a design to give me the estimated cost of a bridge. We think it can easily cost more than Kshs450 million. So before that can be factored into the budget, we have to know from the designers the estimated cost of that bridge.

Mr. Letimalo: Mr. Deputy Speaker, Sir, now that the Minister has allocated Kshs12 million for the construction of a drift, when is the project going to be started?

Mr. Bett: Mr. Deputy Speaker, Sir, I have already indicated that the procurement process has started. I expect to award the contract before the end of the year; this December.

Mr. Deputy Speaker: Mr. Letimalo, is that right?

Mr. Letimalo: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough!

Next Question by Mr. Pesa!

Question No.600

CONSTITUENCIES/COUNTIES THROUGH
WHICH ROAD C13 PASSES

Mr. Pesa asked the Minister for Roads:-

(a) to state the constituencies and counties through which designed Road C13 passes; and,

(b) to state the plans in place to tarmac the road and also indicate the amount of money (both from development partners and the Government) to be allocated in the financial year 2011/2012 for the purpose.

The Minister for Roads (Mr. Bett): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The designed Road C13 traverses several constituencies namely; Nyatike, Migori, Uriri, Kuria and Kilgoris. It only traverses two counties; Migori County and Transmara County.

(b) Designs for the proposed upgrading of this road to Bitumen standard are already completed. The budget process for the financial year 2011/2012 is currently ongoing. The amount of provision for this road has not been determined since the Treasury has not issued budgetary ceilings. The road is 95 kilometers and we expect it to cost Kshs3.8 billion.

Mr. Pesa: Mr. Deputy Speaker, Sir, I want to thank the Minister for this brief and accurate answer. However, I think I asked the Minister to tell us whether he was going to approach development partners to assist the Ministry. The amount of money may be a huge sum to be spent from the Treasury. So my interest is: Will the Minister involve our development partners to assist in developing this road?

Mr. Bett: Yes, Mr. Deputy Speaker, Sir. In fact, we are already in the process of discussing with possible development partners including the World Bank.

Mr. Deputy Speaker: Mr. Pesa, I presume that you are satisfied.

Mr. Pesa: Mr. Deputy Speaker, Sir, I am almost satisfied especially if the Minister can undertake to assure this House that he is committed to putting up this road in the next financial year and that he will allocate some money towards the construction of this road.

Mr. Bett: Mr. Deputy Speaker, Sir, I like the question. Yes, we are committed to making our roads across the country better and this includes Road C13. That is the commitment we have and the reason we have spent money to design the same road. It has cost the Government money and that is the extent of the commitment by the Government to doing that road.

Mr. Deputy Speaker: Fair enough!

Question No.1 by Private Notice!

QUESTIONS BY PRIVATE NOTICE

DELAYED TREATMENT OF NYAYO STADIUM VICTIMS BY KNH

Mr. Ruto: Mr. Deputy Speaker, Sir, I must apologize for being late. However, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Could the Minister confirm or deny that some of the victims of the stampede that occurred on Saturday, 23rd October, 2010 at the Nyayo National Stadium died while waiting for treatment at the Accident and Emergency Unit of Kenyatta National Hospital because urgent and life-saving treatment was not administered?

(b) Does the hospital implement quality assurance systems to ensure acceptable levels of service delivery?

(c) Could the Minister explain why Kenyatta National Hospital, being the biggest referral hospital in East Africa does not have a functioning CT Scan Unit and patients are referred to Nairobi West Hospital for the service?

Mr. Deputy Speaker: Is the Minister for Medical Services here?

Could we have the Leader of Government Business or the Deputy Leader of Government or any senior Minister to explain why the Minister for Medical Services and his Assistant Ministers are not here today?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, let me undertake to ask the Minister to come and answer this Question on Tuesday next week, if not, tomorrow.

Mr. Deputy Speaker: So which is which; tomorrow afternoon or Tuesday?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I will ask the Minister to come and answer the Question.

Mr. Deputy Speaker: It is so directed!

(Question deferred)

Next Question by Mr. Kiilu!

REPAIR OF ILENGENI DAM

Mr. Kiilu: Mr. Deputy Speaker, Sir, first of all, I want to apologize for coming in when my Question had already been called out.

However, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that Ilengeni Dam in Mbitini Division, Nzau District, which has been undergoing repair was completely damaged and washed away on 10th November, 2010 causing a lot of damage to crops and other property downstream?

(b) What immediate remedial measures is the Ministry taking to reconstruct the dam and stop further damage?

Mr. Deputy Speaker, Sir, I want to bring to the attention of the Chair that I have not received a written answer from the Minister. However, I am prepared to proceed with the Question.

Mr. Deputy Speaker: Questions by Private Notice do not necessarily have to have written answers!

Minister, please, proceed!

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Ilengeni Dam in Mutembua Location, Mbitini Division, Nzau District was constructed in November 2009 by the National Water Conservation and Pipeline Corporation (NWCPC) and surely was washed away by heavy floods on the night of 9th and 10th of November 2010. There was no damage to property and crops downstream.

(b) The NWCPC is redesigning the dam to accommodate unexpected floods of such magnitude if they do occur again, based on the studies that are going to be undertaken. The dam, therefore, will be reconstructed during the next financial year, 2011/2012.

Mr. Kiilu: Mr. Deputy Speaker, Sir, you have heard the Minister confirm that this dam---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Please, consult in very low tones!

Mr. Kiilu, please, proceed!

Mr. Kiilu: Mr. Deputy Speaker, Sir, you have heard the Minister confirm to this House that Ilengeni Dam was washed away twice in less than ten months. Could she confirm to this House whether she is satisfied that the NWCPC and the engineers who were supervising the construction of this dam did a good job? A lot of money has been wasted in less than ten months.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I am not satisfied. This is because this size of dam is called a pan. It is just where one takes a bulldozer and excavates soil without checking the structures of the soil or putting in a lot of engineering work. It has been washed away twice; it was done the first time and washed away, then done again this year and washed away. This, to me, confirms that the structure of the soil is very weak. This means that we need to put more money and our engineers to redesign the dam so that we can give better services to Ilengeni people of Mutembua Location.

Mr. Nyamai: Mr. Deputy Speaker, Sir, the issue of dams or pans being washed away, indeed, has been affecting the National Water Conservation and Pipeline Corporation. I have been to the Minister's office over the issue of Kangunda and Malimule dams which were done in my constituency in the same period by the same corporation and they were washed away. The contractors were paid even before they completed the work. The Minister and the National Water Conservation and Pipeline Corporation gave a commitment that they were going to be done. The Minister has given hon. Kiilu the same commitment. Could she just confirm that the commitment she has given to hon. Kiilu is not the same one I was given and that the one I was given is going to be implemented?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, yes, that is true. The commitment I have given to hon. Kiilu will be done in the financial year 2011/2012 simply because once money has been put in a pan of this size and it is washed away, then we do not have money to do the same pan immediately. But, for sure, it is important that we put more work to this dam so that we do not spend even Kshs3.5 million that was spent and then the pan is washed away. But I am going to make a commitment that this needs to be looked into once again.

Mr. Chanzu: Mr. Deputy Speaker, Sir, the Minister has said that these pans cost about Kshs3.5 million. Is she not taking into account some preliminary studies for whatever work is being done on the nature of the soil so that we do not keep on wasting money like this, because ten times of this is Kshs35 million?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I agree that a lot more work needs to be done, but mostly, you will find that these are small community pans that we had to do through the Economic Stimulus Programme or Kazi kwa Vijana. It is the community that comes forward and says: "We would like some water here because there is a catchment where water passes through." There is not too much engineering put into this size of dams. Therefore, we really have to go back to it to ensure that some design work can be checked. We will also look at the structure of the soil so that this does not happen to communities. It also causes damage and sometimes, we lose even animals and lives, but this needs to be done again.

Mr. Kiilu: Mr. Deputy Speaker, Sir, now that the Minister has agreed that something will be done, could she give an indication of how much money she is committing to the reconstruction of this dam and the timeline for doing this? Could she also arrange before she commits that money to visit that dam with me at an appropriate time; maybe early next year?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the right time to visit and see is when it is not raining. However, this dam will be reconstructed during the financial year 2011/2012. That is when we can put money in the Budget. I cannot say how much it will be until the engineers come to me and tell me how much it will cost to reconstruct this dam. So, I cannot undertake to say the amount of money to be allocated at the moment.

KIDNAPPING OF NICHOLAS OLENGO OF MOSORIOT TEACHERS COLLEGE

(Mr. Koech) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that a student of Mosoriot Teachers Training College, Mr. Nicholas Olenko, was kidnapped on 1st November, 2010 and the body was found dumped five kilometers away from the college on 3rd November, 2010?

(b) Is the Minister also aware that on 31st October, 2010, the homes of Ronald Kalya and Wilson Kalya were raided and a motor vehicle taken away and abandoned near Plateau area in Eldoret?

(c) What action has the Minister taken to ensure that the culprits are arrested and security in the area restored?

Mr. Deputy Speaker: Hon. Koech still not here? Is hon. Koech out today on any official parliamentary duties? The Question is dropped!

(Question dropped)

ORAL ANSWERS TO QUESTIONS

Ms. Karua: Mr. Deputy Speaker, Sir, I apologize for coming late. It was due to heavy traffic. This Question was deferred to today after the Assistant Minister had answered saying that he was not aware of the court order. I tabled it and he has now read it. I hope we will begin from there and not from scratch.

Question No.568

DISPUTE OVER ANGATA MWANGANGI 'S PLOT IN TAVETA SCHEME

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

(a) whether he is aware that police officers from Taveta Police Station have been harassing the family of Angata Mwangangi through

arbitrary arrests relating to a dispute over plots No. 1-45 in Taveta Settlement Scheme in spite of a court order that protects the family; and

(b) what measures he will take against the officers involved.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, it is true that the Question had already been answered, but there was just one bit which was remaining. What was remaining was the court order issue. I have since learnt that, yes, indeed, there was a court order. My police officers moved to this particular site for purposes of restoring order. There is a stay which was given and at that particular time, the police officers and Ministry of Lands had not received the court orders. But since we have the court order, we are going to enforce it until they conclude this particular matter.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer, but also point out to him that the stay order in this case means that Angata Mwangangi and her family should be left to have quiet enjoyment of these plots Nos.1 to 45, until the court determines the issues between them and the Land Adjudication Office. Could the Assistant Minister, therefore, confirm that the police will desist from harassing the family of Angata Mwangangi and burning their houses the way I produced documents here that their houses and crops have been razed to the ground by police and that five of her children are in court for miscellaneous charges?

Mr. Ojode: Mr. Deputy Speaker, Sir, let me confirm to this House that the police officers will go by the court orders. If there is a stay, the police will respect and enforce it. Equally, the Ministry of Lands should also know that there is a stay in order for this lady to stay in that particular parcel until the court determines the case.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, now that the Assistant Minister has confirmed to the House that the police moved in to restore order. There is evidence here that the police went in, beat up people and even burnt the property of one Ms. Mwangangi. Could he undertake to send an investigation team to take an inventory of what was burnt and destroyed by the police and take action and table the report to this House?

Mr. Ojode: Mr. Deputy Speaker, Sir, it was quite unfortunate that the issue of destruction of property was done by the family of Angata Mwangangi and some of them have been charged in a court of law. We are trying to encourage people not take the law into their own hands. If there was any problem, they should have gone to court themselves in order for their case to be heard. In this particular case, the family of Angata has been charged with destruction of property. It is *sub judice* now and we have to wait until the court determines what action is to be taken. So, as at now, we are going to restore that order which is required of them and stay away until the court concludes this particular matter.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, in my constituency, there is a settlement scheme known as Ndalani which has been occupied by squatters for the last 30 years. As recently as 2007, police officers would come with court orders to demolish the buildings. Others would be hired by absentee landlords to evict tenants. Could the Assistant Minister consider leaving issues concerning land to the Provincial Administration which has the necessary structures of dealing with land matters so that the mainstream police do not get involved in matters of land?

Mr. Ojode: Mr. Deputy Speaker, Sir, it is true that I have given instructions that police officers should keep away from matters relating to land because land is an emotive topic. Cases of land should be dealt with by the Ministry of Lands and if they need any protection or any services of the police, that is where the police will come in. However, as of today, I have given instructions that they should not be anywhere within land matters unless they have been called upon by the Ministry which deals with land matters.

Ms. Karua: Mr. Deputy Speaker, Sir, the Assistant Minister has, in his subsequent answers, contradicted himself. The family cannot burn their own house and destroy their own land. I believe that before the police appreciated the effect of the court orders, they are the ones who moved in and destroyed the family property. Could the Assistant Minister confirm that he will direct the police to leave this family to enjoy the benefits of the property until the court determines the case? Secondly, could he also check the police file and note that the five children of Angata who were arraigned in court were arraigned during the period that the court order was in force, meaning that there has been harassment of the family and to order it to stop?

Mr. Ojode: Mr. Deputy Speaker, Sir, as I have said, the family members were arrested because they were creating disturbances to the Ministry of Lands officials who went there to survey the land for purposes of subdividing it. The Ministry of Lands officials called in the police so as to restore law and order. They succeeded in doing that very well.

With regard to what hon. Karua has requested, yes, it is true and I will ask the police not to interfere with the family of Ms. Angata until the court determines the case.

Mr. Deputy Speaker: Next is Question No. 060 by Mr. Lekuton. Is Mr. Lekuton out of the country on parliamentary business? Is he out of Nairobi?

Question No.060

PROVISION OF FREE HEALTH CARE TO THE ELDERLY

(Question dropped)

Question No.405

CHARGES LEVIED ON PATIENT'S VISITORS
IN NYANZA HOSPITAL

Mr. Olago asked the Minister for Medical Services: –

(a) what informed the decision by the management of Nyanza Provincial General Hospital to charge all relatives and friends who visit patients at the hospital Kshs.200/= per day; and,

(b) whether it is now a policy of the Ministry to charge the Kshs.200 in all Government hospitals or whether it only applies to Nyanza Provincial General Hospital.

Mr. Olago: Mr. Deputy Speaker, Sir, I would like to apologize for coming late. I was absent when this Question was called out.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg the indulgence of the House. The Minister is not available at the moment. I request that the answer be given tomorrow afternoon in line with the earlier answer that you had directed.

Mr. Deputy Speaker: It is so ordered!

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. You accepted the request by the Minister. However, could we have it on Tuesday next week? I will not be available tomorrow.

Mr. Deputy Speaker: Mr. Deputy Leader of Government Business, are you comfortable with that?

The Minister for Transport (Mr. Kimunya): I will communicate that to the Minister.

Mr. Deputy Speaker: Fair enough! We will have it on Tuesday next week.

(Question deferred)

Question No.448

IMPACT OF RAW SEWAGE ON ACQUATIC
LIFE IN LAKE NAIVASHA

Mr. Mututho, on behalf of **Dr. Otichilo**, asked the Minister for Fisheries Development:-

(a) to state the short and long term impact of raw sewage on the aquatic life in lake Naivasha in view of confirmation by the Ministry of Environment and Mineral Resources that Naivasha Municipal Council is releasing raw sewage directly into the lake;

(b) to state the annual fish production and value from the lake during the period 2000 to 2009 and the future impact on the lake if the discharge of the raw sewage continues; and,

(c) what measures the ministry will take to ensure that the ecological function of the lake is restored.

Mr. Mututho: Mr. Deputy Speaker, Sir, I apologize that I did not get the message in good time but I now have it in writing. I can now ask the Question on his behalf.

The Minister for Fisheries Development (Mr. Kingi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) In theory, when raw sewage is released into aquatic ecosystems, the short term impact include emergence of algae blooms, especially the toxic ones, which thrive in such polluted waters, taking advantage of the high nutrient loadings/levels, with resultant aquatic biodiversity losses due to competition for oxygen characterized by suffocation and, in certain instances, death of animal biota such as fish. In addition, semi-treated and untreated sewage has deleterious effect on the health and integrity of aquatic ecosystem in terms of reduced water quality for sensitive biota, thus resulting in death and/or migration.

In addition, the long term impacts include bioaccumulation of toxic heavy metals such as lead, cadmium, and mercury whose levels should not exceed acceptable FAO standards of 0.02, 0.05 and 0.50 mg/kg, respectively. Accumulation of these heavy metals

in animal tissues has been shown to reduce life expectancy, changes in morphological, physiological and reproductive parts of animals in aquatic environments. Therefore, we can expect delayed reproduction due to the environmental stress, altering and reducing aquatic animal diversity as a result of dominance of more tolerant species or organisms that out-compete the less tolerant highly sensitive fauna.

Human beings and other animals feeding on aquatic life are generally exposed to these metals which have carcinogenic qualities and can cause genetic deformities besides affecting vital organs such as brain, heart, kidney, lungs and bones of the human body. That can ultimately lead to death. However, according to elaborate laboratory analysis done on water, sediment and fish samples from Lake Naivasha by KEPHIS in March 2010 when fish deaths were reported, heavy metals such as lead, cadmium and mercury were below detectable levels. Other harmful substances such as organochlorides, polychlorinated biphenyls and organophosphates were below the limits of detection.

(b) The fish production in metric tonnes was 384 in 2000, 2 in 2001, 95 in 2002, 39 in 2003, 64 in 2004, 108 in 2005, 189 in 2006, 203 in 2007, 255 in 2008 and 680 in 2009.

(c) The Ministry of Fisheries Development alongside other Government Agencies is taking deliberate measures to make sure that Lake Naivasha and its environs is restored to its ecological function. An inter-ministerial committee to ensure sustainable management of the Lake has been put in place and is working. Other members of the taskforce include the Water Resource Management Authority, the Ministry of Public Health and Sanitation, the Ministry of Agriculture, the Ministry of Local Government, the National Environment Management Authority (NEMA) and the Egerton University. The terms of reference for that Committee include the following:-

- (a) Assessing the current status of activities impacting on the lake.
- (b) Determining the abstraction levels of water from the Lake and their sustainability.
- (c) Environmentally auditing the establishments discharging waste into the lake environs.
- (d) Taking appropriate legal actions on non-compliance.
- (e) Developing a state of environment with actionable recommendations.

The Committee has been constrained by lack of funds to discharge the planned activities. But, that notwithstanding, the following activities have been undertaken by the Committee:-

(i) It has carried out environmental audits for flower farms, hotels, sewerage companies and other establishments bordering Lake Naivasha. A total of 31 establishments out of 63 have been audited during that period. Of those, 17 were given improvement orders. Ten establishments have responded to NEMA in writing, committing themselves to the environmental restoration orders.

Mr. Deputy Speaker: Hon. Minister, could you table the bulky document that you are reading? Please, summarize it and then table it!

The Minister for Fisheries Development (Mr. Kingi): Mr. Deputy Speaker, Sir, I am concluding.

Mr. Deputy Speaker: Proceed!

The Minister for Fisheries Development (Mr. Kingi): Mr. Deputy Speaker, Sir, apart from the activities that the Committee has so far discharged, it needs more funding amounting to Kshs12 million to continue with the remaining tasks, which include audit and inspection of the remaining establishments, enforcement or prosecution of non-

compliant firms and strengthening the capacity of the inter-Ministerial Committee and lead agencies to discharge the functions.

Mr. Mututho: Mr. Deputy Speaker, Sir, the Minister has given a very detailed answer to this Question which has come here quite often. However, could we have the actual results of the analysis that he mentioned in his answer? He should also confirm that, indeed, only ten out of 63 farms are willing to comply in respect of all those pollutants.

Mr. Kingi: Mr. Deputy Speaker, Sir, we, as a Ministry, are yet to get this report. The report was undertaken by a team that was constituted across Ministries. Immediately the report is given to us, I undertake to table it before the House. When I said ten farms out of 63, those are the ones that have been given improvement orders. Auditing is still going on. As I have already stated, the committee is constrained by lack of funds. I believe that when funds are available, they will audit the entire list and see the ones that need to be given improvement orders.

Mr. Mwangi: Mr. Deputy Speaker, Sir, while I appreciate the efforts being made by the Ministry, about 140 constituencies are required to prepare fish ponds. What arrangements has the Ministry put in place to make sure that we do not get an embargo from the export market in readiness for fishing from these ponds?

Mr. Kingi: Mr. Deputy Speaker, Sir, you will agree with me that, that is a totally different Question touching on the fish ponds. Just to correct the Member, they are not 140 constituencies, but 160 constituencies. That is a totally different Question which if the Member raises appropriately; I will give it an appropriate response.

Mr. Yakub: Mr. Deputy Speaker, Sir, it is very encouraging to hear the Minister's response to part "b" of the Question that production has been increasing since 2004 from 62 tonnes to 680 metric tonnes. What arrangement is the Ministry putting in place to have special storage facilities, so that the fishermen benefit from this?

Mr. Kingi: Mr. Deputy Speaker, Sir, under the Stimulus package we are covering 160 constituencies. We will construct 80 semi-processing and cold storage facilities, which, I believe, will assist the farmers to store their products, so that they do not go to waste as they look for markets.

Mr. Kigen: Mr. Deputy Speaker, Sir, the Minister has said that out of the 63 farms around Lake Naivasha, he has audited 31. How come then that all the 63 farms are operational? How are they licensed to operate without the audit as required by the NEMA report?

Mr. Kingi: Mr. Deputy Speaker, Sir, the mandate to issue licenses for these establishments does not fall within my Ministry. It falls within NEMA, which falls under the Ministry of Environment and Mineral Resources.

Mr. Kigen: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Minister say that this does not fall within his Ministry. This is a Government function. As a Government Minister, he is bound by the principle of collective responsibility. Therefore, he should tell us how the farms got their licenses.

Mr. Kingi: Mr. Deputy Speaker, Sir, that is like asking me how people are recruited into the Armed Forces. I am in the Government, but I have a specific mandate within the Executive because even the Member is a member of the Government. However, within the larger Executive, I have a specific mandate. Certainly, my mandate does not extend to the licensing of these establishments. My Ministry came in when fish

deaths were reported in Lake Naivasha. We constituted an inter-Ministerial team, so that we could work together to find out exactly what caused these deaths. However, the issue of licensing is under NEMA, which falls within a different Ministry all together.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, could the Minister clarify that very important point that seems to be getting lost in the inter-Ministerial debate? The Question talks about raw sewage going into the lake. From his answer, he has admitted that there is a level of investigation in terms of the involvement of NEMA. If NEMA is involved in the work that the Ministry does, how can he say he is not aware of the licensing issued by NEMA?

Mr. Kingi: Mr. Deputy Speaker, Sir, the inter-Ministerial committee that was constituted is supposed to come up with recommendations. It will be upon the lead Ministries to effect those recommendations. A recommendation on licensing of these establishments certainly cannot be implemented by the Ministry of Fisheries Development. It will be implemented by the Ministry of Environment and Mineral Resources. Although it is a larger team that drew membership from different Ministries, the recommendations, certainly, will be implemented by different Ministries. We, in the Ministry of Fisheries Development, cannot implement the issue of licensing these establishments. That is within the mandate of the Ministry of Environment and Mineral Resources, although we are working as a team.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, with the release of raw sewage and other chemicals from the flower farms into Lake Naivasha, how can the Minister guarantee the quality of the fish from the lake for local and international consumption?

Mr. Kingi: Mr. Deputy Speaker, Sir, so far, according to the analysis that was done, the presence of metals such as lead, cadmium and mercury was below detectable levels. Therefore, the fish is still very much safe. Before fish is allowed into the local market or exported, it must go through quality checks.

Mr. James Maina Kamau: On a point of order, Mr. Deputy Speaker, Sir. Could the Minister table the report showing that those chemicals are below detectable levels?

Mr. Kingi: Mr. Deputy Speaker, Sir, I have said that once the report is made available to the Ministry, I undertake to table it before this House.

Mr. Mututho: Mr. Deputy Speaker, Sir, you have heard the Minister admit that out of 63 firms which are operating there, they have only been able to audit 31 firms. You have also heard him admit that there are some people who have been taken to court, because there is raw sewage in Lake Naivasha. You have heard him also say that tests have been carried out on various samples, and that certain amounts have been detected, even though they are not of significant level. Would I, therefore, be in order to request you to direct that this Question be directed to the Minister for Environment and Mineral Resources, under which the National Environment Management Authority (NEMA) falls, so that we can know whether the 35 companies are actually discharging dangerous chemicals into Lake Naivasha? We now know that people have been taken to court, and that presence of heavy metal has been detected, though not of significant levels.

Mr. Deputy Speaker: Whereas the bulk of the substance of the Question itself – raw sewage and its effects on fish – and raw sewerage emerges as an environmental issue within the NEMA mandate, can I have clarification from the Minister as to why this

Question had to be sent to his Ministry? The portion relating to his Ministry seems to be very small. It is only the effects of the same on fish.

Mr. Kingi: Mr. Deputy Speaker, Sir, when this Question was brought to the Ministry, we were of the same view as hon. Mututho has just stated. We wrote to the Clerk of the National Assembly, indicating that this matter fell largely within the Ministry of Environment and Mineral Resources, because of the environmental issues that cut across the Question. However, we were instructed to proceed and answer the Question to the best of our ability, and that is what I have done.

Mr. Deputy Speaker: The Chair is satisfied that this Question cannot be adequately answered by your Ministry. The mandate of your Ministry is limited in as far as dealing with the bulk of the Question. It is not that we are in a vacuum. There is a Ministry of the Government that is charged with the matter raised in the Question. Therefore, the Chair directs that this Question be deferred and be re-directed to the Ministry of Environment and Mineral Resources.

Under our practices, it is your Ministry which is supposed to send this Question to the Ministry of Environment in order for NEMA to be able to adequately deal with it.

(Question deferred)

Question No.547 by hon. Joseph Kiuna!

Question No547

RESETTLEMENT OF KENYAN IDPS RESIDING IN UGANDA

Mr. Deputy Speaker: Is Mr. Joseph Kiuna away on parliamentary business? The Question is dropped!

(Question dropped)

Question No.581, hon. Mohamed Sheikh Yakub.

Mr. Yakub: Mr. Deputy Speaker, Sir, before I ask the Question, I wish to inform the Chair that I have received my written answer.

Question No.581

DELAYED PAYMENT OF BENEFITS TO MOMBASA
MUNICIPAL COUNCIL RETIREES

Mr. Yakub asked the Deputy Prime Minister and Minister for Local Government:-

- (a) whether he is aware that a number of retirees from Mombasa Municipal Council have not been paid their dues; and,
- (b) when the retirees will be paid.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Deputy Speaker, Sir, first, let me apologise for not being in the House on time. I am normally able to make an estimate of how I can get

here by 9.00 a.m. There is very heavy construction works going on around Museum Hill Roundabout. Because of those works, there was a serious traffic snarl up. So, please, accept my sincere apologies.

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

(a) I am not aware that a number of retirees from the Municipal Council of Mombasa have not been paid their dues. The Council has remitted their dues to the LAPRO Fund, LAP Trust and the National Social Security Fund (NSSF) as can be attested by copies of clearance certificates from their pension schemes. The copies are attached to the answer.

(b) They have all been paid their dues.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Yakub: Mr. Deputy Speaker, Sir, I have gone through the written answer from the Assistant Minister and the attached copies from the LAPRO Fund. I wish to inform him that all these funds, which have been transferred, are for the year 2005/2006. None of the retirees of 2003 has been paid. Could he take some more time to go and get more information on the retirees of 2003? This answer deals with only 2005/2006.

Mr. Nguyai: Mr. Deputy Speaker, Sir, the clearance certificates indicate that the Council has no debt whatsoever, as far as the LAP Trust is concerned. Probably, the problem might be with the remittance from LAP Trust to the pensioners. I would appreciate if we could get the particular people who have not been paid and have very specific answers as to why they have not been paid.

Mr. Deputy Speaker: Hon. Yakub, would you like to file a Question which has very specific information, including the names of the retirees who have not been paid?

Mr. Yakub: Yes, Mr. Deputy Speaker, Sir. I am very willing to assist my good friend, the Assistant Minister, on the issue of the retirees of 2003, who have not been paid to date. In fact, the Mombasa Municipal Council requested the retirees of 2003 – because there were no funds at that time – to go back to work for 18 months. The retirees worked for 18 months but still, they were not paid. So, I will try to assist the Assistant Minister by getting the names of all those who have not been paid to date, and who retired by 2003.

Mr. Anyanga: Mr. Deputy Speaker, Sir, early this year, the Assistant Minister ordered that the retirees of Nyando and Kisumu County Councils, who have not been paid their dues since 1999, be paid by 30th June, 2010. However, up to now, the retirees have not been paid. So, could he also try to give an undertaking to this House that he is going to order the two councils afresh to pay the retirees, who are really suffering?

Mr. Deputy Speaker: The Assistant Minister must have heard your sentiments.

Mr. Nguyai: Mr. Deputy Speaker, Sir, much as the question might not be specific to this particular case, I concur that there was instruction that by 30th June, 2010, all outstanding dues, in terms of pension funds across the country, should have been paid. I will urge hon. Members to, through raising Questions in this House or by raising specific cases, get in touch with us, if there have been problems. Sometimes, councils might give misleading information by saying that they have remitted the funds. If they have remitted funds, there might be some miscommunication between the LAPRO Fund and LAP Trust, and we might not have the information. LAPRO Fund and LAP Trust fall within our Ministry's mandate, and we will follow the matter through to the right stage.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! Next Order!
I can see that there are no statements to be sought or given.
Next Order!

MOTION

ESTABLISHMENT OF TWO WATER SERVICE BOARDS IN NORTH RIFT

Mr. Kaino: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, aware that the power to establish Water Service Boards vests in the Minister for Water and Irrigation; concerned that the entire North Rift, inhabited by millions of people residing in urban centres such as Eldoret Municipality and semi-urban and rural areas, is currently served by a single water board; aware of the need to have an efficient and effective water services delivery and management all over the Country, this House urges the Government to establish two Water Service Boards in the North Rift in order to take services closer to the people.

Mr. Deputy Speaker, Sir, while moving this Motion, my mind reflects the importance played by water in our health and for general use. Most diseases in tropical Africa are related to water. Sometimes, water is available, but it is contaminated. Whether we have contaminated or no water at all, it is related to cause of several diseases like cholera, diarrhoeal diseases and typhoid, among others.

Mr. Deputy Speaker, Sir, supply of water is so paramount to us that we thought it was a very serious omission by the Ministry not to establish water boards in North Rift bearing in mind there are several rivers flowing into Lake Victoria from this region. We also have eight rivers flowing into Lake Turkana. Therefore, it was a very serious omission that we have water in our region, but we do not get water. We only see water flowing into lakes, but the Government has not supplied water to us. This is what prompted me to come up with this Motion, so that we have water boards created in this region. We are serving one Government and we deserve water just like other Kenyans. As much as I am moving this Motion, we have had consultations with the Minister about this omission.

Mr. Deputy Speaker, Sir, the Ministry carried out some reforms which are very useful. Today, we have Water Regulatory Board, Water Services Board, National Water Resource Management Authority and the Water Trust Fund. That is why even reforms in education and other sectors are very important. After these boards were formed, we saw some development in the water sector. In many places, we are now getting water. We also have reforms in the roads sector. We have the Kenya Rural Roads Authority. If we go by what the Minister has said, we are lucky because she is concerned with areas with no water.

Mr. Deputy Speaker, Sir, Rift Valley Province is a vast region which cannot be served by only two water boards. We have the Rift Valley Water Services Board and Lake Victoria North Water Services Board. We have no water service board in Kericho and Eldoret. I do not know why this omission when Rift Valley is a source of water. If

the Ministry has to create more water boards in this region, then this will be the first time a Motion is implemented before it is tabled in the House.

The Ministry should provide water in the whole country. This is a national House and we should see to it that all the regions with no water get it. Since we have plenty of water underground, we need more boreholes where there is no surface water. If we supply water, our people will live in happiness and our children will not die at the age of five. People will have good health. Water is health and without it, there is no health.

Mr. Deputy Speaker, Sir, I will stop there and ask my brother Ochieng to second this very important Motion.

Mr. Ochieng: Mr. Deputy Speaker, Sir, I want to second this Motion that the Ministry moves very fast to establish more water boards in this country, including in North Rift, which has been left behind for a very long time, without any water services board.

Mr. Deputy Speaker, Sir, taking into account that the region has a large population and taking into account that all the water that we use even down in the Lake Victoria, emanates from North Rift, it is important that more water boards be put in place, and this particular region should also be catered for.

I also want to request the Ministry that we have had water companies in the country and some of them have failed members of the public. In my place, we have one called NYANAS. This has completely failed to deliver. Even as I am speaking here today, the electricity at Nyakach Water Supply was disconnected almost three weeks ago for a bill of Kshs1.9 million which they have not been able to pay to Kenya Power and Lighting (KPLC). Because of this, my people are going without water and I fear cholera outbreak is eminent. Many of the people will lose their lives in case of cholera outbreak.

Mr. Deputy Speaker, Sir, more water services boards should be created around the country. With those few remarks, I beg to second.

(Question Proposed)

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Deputy Speaker, Sir, I rise to support this Motion. In doing so, I am aware that the Minister for Water and Irrigation is ahead of us because she has actually implemented this Motion. That is a very good gesture by the Ministry.

Mr. Deputy Speaker, Sir, having said that, it is very important that she revisits the Water Act, 2000, so that it can be structured in a way that all this can be captured in line with the new Constitution. If you look at these water services boards, for instance, the one that serves my area, the Tana and Athi River Water Service Board that covers four counties; Kajiado, Machakos, Makueni and Kitui, you really need to do a lot of restructuring such that the process is very clear. As it is now, there a lot of ambiguities from the top to the water companies at the constituency level.

If you take, as the Seconder of the Motion has said, the water companies that are mostly based at the constituency level, especially those pumping water using electricity, a good case is the Loitoktok Water Company, that actually goes up to over Kshs1 million a month. I think this is really doing a disservice to the people who pay their water rates on time. I do not know whether it is at the water company level or at the Ministry level that the money is not remitted to the Kenya Power and Lighting Company (KPLC) that a lot

of interruptions in terms of disconnection of electricity are being experienced now and then.

But, more importantly, I would like to kindly request the Minister that these water companies at the constituencies should be structured and their boundaries redrawn so that they do not overlap over one or two constituencies like in my case, we have the Oloitoktok and Nolle Turesh water companies. They overlap over two constituencies or even three; that is Makueni, Loitoktok or Kajiado South and Kajiado Central. The Tanathi Water Services Board finds it sometimes difficult in really giving services to the people using those structures. So, as much as we debate this Motion, it is good that the Minister really looks at that structure of the water services board to the constituency level because there is a lot of ambiguity.

Mr. Deputy Speaker, Sir, again, in the water sector, we have so many offices at the district level to an extent that it is causing a lot of confusion to people. They do not know which office to go to when they need a certain service. For instance, we have what we call WARMA. This is an office under the Ministry of Water and Irrigation that is supposed to take activities or to be in charge of water from rivers or you need to get a permit in order to use river water. We also have a district water officer or engineer and then we have another one in charge of the pipeline or under the water service board. It becomes so confusing that the Minister for Water and Irrigation really needs to use the water service boards to streamline the offices so that there is a lot of clarity in terms of the role and responsibility for people to get proper services.

But coming to the main issue on the water service boards, it is also good that the objective and functions of these water service boards be made very clear. If it is a matter of distribution of water based on the water basins, it is important that we define the whole country or using the counties as it is now because I believe provision of water should actually be a service or a function of the national government rather than even a county for that matter. Then you really need to take an inventory of the water basins within the country based on the county levels and the county boundaries and look for ways of redistributing it so equitably within the counties. You will find, for instance, a certain county like the Mover of the Motion has said, that where he comes from there are four or eight rivers that drain into Lake Victoria and another one into Lake Turkana. That county has legitimate claim to have a water service board that distributes water based on the river basin. But you will find that another county that has no single river within the county is the one that is housing the water service board. So, we deny the source of the water actually the right to have water. Taking of the inventory is very important for equitable distribution of this very important resource called water based on those county levels.

Mr. Deputy Speaker, Sir, otherwise, it is a good motion and I must really support the Ministry. I am aware that they have gone ahead in really coming up with such structures. I urge them to put more effort and try to redistribute the water service boards in the whole country as equitably as possible.

I beg to support.

The Minister for Water and Irrigation (Mrs. Ngilu): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also rise and support this Motion.

I want to commend the hon. Member for bringing this timely Motion and say that yes, it is true that the Water Act of 2002 has vested the power to establish water services

boards on the Minister. When I took over the Ministry in 2008, the former Minister had established seven water services boards. I established one water service board called Tanathi Water Services Board.

Mr. Deputy Speaker, Sir, Rift Valley is served by five water services boards and these are: The Lake Victoria South Water Services Board which is headquartered in Kisumu, Lake Victoria North Water Services Board which is headquartered in Kakamega, Rift Valley Water Services Board which is headquartered in Nakuru, Northern Water Services Board which is headquartered in Garissa and Tanathi Water Services Board which is headquartered in Kitui.

Mr. Deputy Speaker, Sir, looking at these, you see that it is very difficult indeed, to deliver services to people in Kericho, Eldoret and other places. It is upon this realization that I have held several meetings with leaders from that region and we have decided, as is the Government policy, that we need to establish more water services boards so that we can bring services closer to the people.

What the hon. Members are asking for is not difficult indeed to implement because as you have heard, it has been very difficult for people to get to the headquarters due to the distances. Therefore, I have put in place a task force that has already started its work to ensure that we will put at least four more water services boards that will take into account the counties. We have also said that we will be able to go out to the people and see how convenient it is to them so that whenever they need these services, they are able to come to our offices. The one that caught my attention, for instance, is the Northern Water Services Board which is based in Garissa, where you would expect somebody to come from North Horr to Garissa for services. Surely, that is not bringing services closer to the people. Therefore, having held these meetings with hon. Members of Parliament and leaders from these regions, we are going to put four more services boards as I said, taking into account how these counties have been now aligned and to ensure that by the budget of 2011/2012, we can have these boards in place so that the budget will take into account these water services boards. Therefore, the Ministry accepts and supports this Motion in its entirety.

Hon. Members have talked about the water service providers. It has not been easy to educate people on how the water service providers or water companies work. The Water Act of 2002 gives authority to the water services boards. We have also put in place officers who will educate people on the use of water. It is important that we, as the Ministry of Water and Irrigation, that does the regulation, ensures that people get water for domestic use, livestock, irrigation and hydro-power. Therefore, I do not have to belabour that point because we have already taken the necessary action to ensure that the water services boards are increased in the country and are gazetted as required before the next financial year.

With those few remarks, I beg to support the Motion.

Mr. Kigen: On a point of order, Mr. Deputy Speaker, Sir. Since the Minister has demonstrated that she supports the whole idea, would I be in order now to ask that the Mover be called up on to reply?

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

Mr. Kaino: Mr. Deputy Speaker, Sir, as much as I would have liked more hon. Members to contribute--- Let me thank my colleagues, and especially the Minister who has shown interest in this Motion due to the plight of the suffering people in the rural areas. Those people deserve to get water.

I request the Minister to consider including few people, at least two or three from the areas where there are water problems in the task force that she has constituted so that those people can be represented. I would like to commend the Assistant Minister for Regional Development Authorities because of the issues that he has brought up about people who are surrounded by water but they have no access to it. It is important for the Ministry to appoint directors from the areas that have conserved natural resources. The Ministry should also supply those people with water to encourage them to conserve forests and the environment.

Mr. Deputy Speaker, Sir, I commend the Government and the leaders, particularly the president for appointing a woman as a Minister in this Ministry. I am saying this because the people who suffer most due to lack of water are women. I hope the Government will always appoint women as the Minister for Water and Irrigation and the Minister for Health so that they can handle the problems of women. Women carry water like donkeys in the rural areas. If you visit the rural areas, you will sympathise with the way they carry water along the way. It is very painful. So, the person who feels it is a woman. I commend the Government for appointing a woman to manage the Ministry for the last 20 years. It will be unfortunate if such a Minister neglects his or her colleagues.

With those few remarks, I beg to move.

(Question put and agreed to)

ADOPTION OF REPORT ON
APPOINTMENT OF KBC BOARD

THAT, this House adopts the Report of the Committee on Energy, Communications & Information on the Appointments of the Kenya Broadcasting Corporation Board of Directors laid on the Table of the House on Thursday 18th November, 2010.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, I seek the indulgence of the House because I am unable to move this Motion because the Chairman of this Committee is out of the country on parliamentary business and all the other Members who could have seconded me are not in the House. I propose that we defer this Motion to either Wednesday or Thursday, next week.

Mr. Deputy Speaker: That is fair enough! You have made the same representation to the Chair and I have taken note of that. Therefore, this Motion is deferred until Thursday, next week.

(Motion deferred)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, that concludes the business on the Order Paper. Therefore, the House is adjourned until this afternoon at 2.30 p.m.

The House rose at 11.00 a.m.