

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 3rd November, 2010

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

REPORT ON CDF ALLOCATIONS FOR THE FINANCIAL
YEAR 2010/2011

The Constituencies Fund Committee Report on CDF allocations for the Financial Year 2010/2011.

(By Mr. Ethuro)

ORAL ANSWERS TO QUESTIONS

Question No. 474

NON-PROVISION OF FUNDS TO NGOTO AIC
PRIMARY SCHOOL

Mr. Kiilu asked the Minister for Education –

(a) why the Government has not been providing funds to Ngoto AIC Day and Boarding Primary School (Registration No.G/PE/456/09) in Makueni Constituency, Nzau District; and,

(b) when the Government will start availing funds to the school.

Mr. Deputy Speaker: The Minister for Education not here! Next Question, 506, hon. Warugongo!

Question No. 506

FAILURE TO HIRE EARLY CHILDHOOD
DEVELOPMENT TEACHERS

Mr. Warugongo asked the Minister for Education why the Government is not hiring Early Childhood Development Teachers (ECD) who are examined by Kenya National Examination Council (KNEC).

Mr. Deputy Speaker: Minister for Education not here again? Next Question, hon. Yakub!

Question No. 515

NON-PAYMENT OF SALARY TO ABDALLA M. ADAM

Mr. Deputy Speaker: Mr. Yakub not here? Next Question by Dr. Otichilo!

Question No. 497

PROGRESS OF NATIONAL POLICY ON DISASTER MANAGEMENT

Mr. Deputy Speaker: Dr. Otichilo not here?
Next Question by Dr. Kones!

Question No. 478

UNPAID SALARY ARREARS OF FORMER
TEA FACTORIES EMPLOYEES

Mr. Deputy Speaker: Dr. Kones not here?
Next Question, Mr. Mwangi!

Question No. 501

DISAPPEARANCE OF POLICE OFFICER PETER
MWANGI KARERU

Mr. Mwangi asked the Minister of State for Provincial Administration and Internal Security –

(a) to explain the circumstances surrounding the disappearance of Police Constable Peter Mwangi Kareru of Kakamega Police Station, who was on duty in January 2007; and,

(b) what progress the Ministry has made in tracing the whereabouts of the police officer.

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

(Mr. Mwangi stood up in his place)

Mr. Deputy Speaker: What is your point of order, hon. Mwangi?

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. I have not received the answer from the Assistant Minister.

Mr. Deputy Speaker: Do you wish to proceed on and prosecute the Question or you want it to be listed on the Order Paper when you have the written answer?

Mr. Mwangi: I have just received the answer, we may proceed, Mr. Deputy Speaker, Sir.

Mr. Ojode: Mr. Deputy Speaker, Sir, I beg to reply-

- (a) On 13th January, 2009, PC Peter Kareru Mwangi P/No. 67862, was deployed on bank guard duties together with PC Raymond Limo within Kakamega Town. They worked until 12.30 p.m., when they booked off duty and proceeded to their residential houses within Kakamega police lines.

On the same day at about 7.00 p.m., the two police constables went to Munyu Bar. Munyu Bar, which is within Kakamega, to take some drinks before moving to Franca Bar where they were joined by Sergeant Leonard Naibei. The three officers hired a taxi at around midnight which took them to Kakamega police lines and each retired to their respective houses.

On 24th January, 2009, PC Peter Kareru Mwangi had been assigned guard duties at the Deputy Provincial Police Officer's (DPPO) residence but did not report. His house was later opened and all his personal items including some money he had withdrawn the previous night were found intact. Nobody knows how he left his house or what happened to him.

(b) Immediately it was established that PC Peter Kareru Mwangi was missing, investigations commenced and a signal was dispatched to all police stations asking for information on the missing officer. An inquiry file, Kakamega No.2/2007, was also opened immediately. The officer's mobile phone was recovered in Eldoret from one Peter Kinyanjui who claimed that he bought it from one Mr. Odera Boniface. Mr. Kinyanjui further alleged that Odera Boniface had informed him that he picked the phone from Premium Club which is within Kakamega Town.

Unfortunately, Mr. Boniface Odera who is believed to hold the key to unraveling the mystery on the officer's disappearance was subjected to mob injustice and died on 19th August, 2007 within Kakamega Town. But this has not deterred the investigations and police officers are making efforts to trace the missing officer. It is unfortunate but we believe that later, we will definitely know the whereabouts of the PC Peter Kareru Mwangi. Whether he is dead or not, once the investigations are completed, we will definitely inform the family members.

End A

Mr. Mwangi: Mr. Deputy Speaker, Sir, I am dissatisfied with the answer, although the Assistant Minister has made an effort. You have heard the Assistant Minister talk of 14th January, 2010. This officer would not have been assigned duties in 2010 when he went missing in January, 2007. How can you assign duties to a person who died or got lost three years ago? This answer is incorrect. The widow has been writing to the Commissioner of Police since May, 2007. She has never received a reply as to what happened to her husband, yet in his answer the Assistant Minister says they are still investigating. It has been three years down the line. Has the Ministry taken into consideration the well being of the wife and children of the late officer, who died on duty?

Mr. Ojode: Mr. Deputy Speaker, Sir, he is right on the date. It was not 2010; it was 2007. Let me say this: one, the circumstances surrounding the disappearance of PC Peter Kareru is a sad affair. We have instructed the investigators into this matter to trace the whereabouts of this police officer, because I know the family are having sleepless nights. I want to assure the hon. Member that I will take it upon myself to try and speed up the investigation in order for us to know whether Peter is alive or dead.

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. Is three years not good enough time for this Government to have decided whether this man is dead or alive, and even assist his family, the wife with young children? The Assistant Minister keeps on telling us that they will investigate. Surely, is he in order to just tell us that he is investigating?

Mr. Ojode: Mr. Deputy Speaker, Sir, even if I had the information that he is dead, the law does not allow me to declare him dead. I would do that after seven years. That is what the law says. I am saying that because of the family, I would want to know the fate of this particular officer first. There is no need of rushing to declare him dead, and the law does not even allow me to do so. Let us, first of all, investigate and know whether the officer is alive or not. In the event that the officer is dead I will wait for seven years to officially declare him dead.

Mr. Njuguna: Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House of the precaution the Government is taking against disappearance of persons? We have seen children going to school and disappearing. We have seen youths and even security personnel disappearing. What clear measures is our Government taking to assure Kenyans that they are safe?

Mr. Ojode: Mr. Deputy Speaker, Sir, cases of disappearances are not many; they are very few. But we have put measures in place to enable us know the fate of those who have disappeared. We have even purchased certain equipment to help us know, using their mobile numbers, where the lost persons are. So, I think the issue of disappearance of individuals will be a thing of the past when we put this equipment into use.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, the cry here is that the family continues to suffer, because this officer was the breadwinner in his family. Considering the fact that senior Government officers who are accused of corruption, including Ministers and politicians, only step aside and continue earning their salaries, why can the Assistant Minister not consider this case as one of one being way without permission and

suspend him from duty. Since he has confirmed that he does not know whether Mr. Kareru is dead or not, he can continue paying the family his salary; this is an administrative matter. The family should not continue to suffer. The family should be paid until the seven years are over.

Mr. Ojode: Mr. Deputy Speaker, Sir, unfortunately, asking Ministers, or those who were involved in corruption, to step aside and then paying them a half of their salaries is not within my docket. If that was under my docket, I would have done exactly that. This is taxpayers' money which is being paid to those who are not serving the interests of Kenyans. Unfortunately, it does not fall under my docket.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. He missed my point. I just gave him an example. People have been accused of corruption. They have stepped aside. Others are suspended from office because of other offences and they continue earning part of their salaries. So, what I am asking the Assistant Minister is this: since this fellow has not been declared dead, why can he not be considered as an officer who is away from duty without permission, suspend him from office and pay him a half salary? That is what I am asking. If you are paying Ministers half a salary, why are you treating the small man differently?

Mr. Ojode: Mr. Deputy Speaker, Sir, ordinarily Government regulations require that once somebody absconds from duty, he stands interdicted. Interdiction means you are not performing your duties. Within that period of interdiction, you are entitled to half of your salary. I believe that once this officer had been interdicted, he must be on half a salary. Until such a time when we find out where the fellow is, that is what the regulation says.

Mr. Mwangi: Mr. Deputy Speaker, Sir, I disagree with the Assistant Minister. The wife has been writing to the Commissioner of Police for any assistance and for three years she has not even received a response. Could the Assistant Minister tell us when he will come back to the House to confirm that this widow has been assisted for three years by the Government? She has not even received a reply from your office.

Mr. Ojode: Mr. Deputy Speaker, Sir, the only advice I can give to my---

Mr. Mwangi: Why do you stand up when I am talking? Is he in order to stand up? Is he in order to stand up when I am on my feet?

The Assistant Minister is taking this case very casually. For three years this widow, and her young children, has not even received a reply from the Commissioner of Police to say what happened to her husband. Is the Assistant Minister in order? Could he confirm to this House that this Government will take care of the widow and the children while he is investigating to find out what happened to this officer?

Mr. Ojode: Mr. Deputy Speaker, Sir, I understand the plight of the family members. The widow wrote a letter to know the whereabouts of the husband and not to get any assistance. I would request the Questioner to ask the widow to write a letter to the Commissioner of Police asking for assistance. In the event of us receiving the letter, we will definitely consider what kind of assistance she requires and what assistance we can avail to her.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I thought this Government had systems in place, so that when a case of this nature arises you do not need to write to the Commissioner of Police. The point I am raising is that, is the Assistant Minister in order to say that for the Government to act the wife of this police officer has to write a letter to

the Commissioner of Police? This matter has already been brought to the House, and to the attention of the Assistant Minister and he has been told the facts. Why can the Assistant Minister not act on the facts we have been given in the House?

Mr. Ojode: Mr. Deputy Speaker, Sir, I want to confirm that if we get any requests from the family members we will act on it. It becomes very difficult for us to act without knowing the identity of the wife or the family members. I urge the Questioner to ask the family---

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

Mr. Ojode: Mr. Deputy Speaker, Sir, this is a very serious issue. I need time to explain to the Questioner, and not to---

Mr. Deputy Speaker: Order, Mr. Kabogo! Allow the Assistant Minister to give his reply and then you can rise on a point of order.

Proceed, Mr. Assistant Minister!

End B

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

Mr. Deputy Speaker: Order, Mr. Kabogo! Let the Assistant Minister finish first, then you can rise on your point of order!

Mr. Ojode, please, proceed!

Mr. Ojode: Mr. Deputy Speaker, Sir, the family members need to do a small letter to the Government requesting for assistance. For identification purposes we have to do the letter.

Mr. Kabogo: Mr. Deputy Speaker, Sir, this is a very serious Assistant Minister of the Government. You have heard him clearly state here that he does not know or he is not aware of where to find this lady and that she has to write. The information is already before the House. Is he in order to mislead the House? He is aware. He should take action just as he does all the other times. He is a very able Assistant Minister.

Mr. Deputy Speaker: Assistant Minister, ideally any employee of the State has something called the next of kin. That next of kin must be in the recourse to the Government. For the Assistant Minister to say that they do not know who the lady is, I think that is not being fair to that person.

Mr. Ojode: Mr. Deputy Speaker, Sir, I concur with your sentiments. However, there are those who are polygamous by nature. If you have three wives and they have mentioned the names of those three wives, whom do you pay the benefits? What I am requesting for is very simple. Let us get some form of request and then we will ask---

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. This widow has written to the Commissioner of Police. Could I be given time to bring the letters she has been writing since 2007?

Mr. Deputy Speaker: Has she been writing to be told where her husband is or has she been asking for assistance? That is the separation that needs clarification.

Mr. Mwangi: Mr. Deputy Speaker, Sir, she has written. She even travelled all the way from Murang'a, came to Pangani and was given escort all the way to Kakamega after she had written without getting a response. This officer was on duty and it is the responsibility of the Assistant Minister to have taken action. He should not have ignored the lady for three years.

Mr. Deputy Speaker: Mr. Mwangi, there are two issues here; you have asked a supplementary question on how much the Government has done in terms of efforts to assist the family. The Assistant Minister says that we do not have any request from the family seeking assistance. As for the disappearance of the officer, there is a statutory provision that one can only be declared dead after seven years. Are you confirming that the lady asked for assistance and there was never a response from the Government?

Mr. Mwangi: Mr. Deputy Speaker, Sir, can I be given time to bring documents to prove that she has asked for assistance?

Mr. Deputy Speaker: Under the circumstances and given that this is the life of a Kenyan and for the benefit of the Chair, if a member of the disciplined forces who are mandated with the security disappears and cannot be traced, is there no way the family of the officer who has given his life in the protection of the citizens of this country can be assisted? What is the provision in law or in practice?

Mr. Ojode: Mr. Deputy Speaker, Sir, you are right. There are several issues to look into. I advised the Questioner that in the event that the family members request for assistance, they should write a letter. It is very difficult to make a payment voucher without any letter attached. That is how the Government works. I am advising him that the only way we can assist the lady or widow is for them to write a letter in order for us to go to the regulations of the Government to see if there is a way we can help the lady.

Mr. Deputy Speaker: Under the circumstances, given the compassion that essentially is with every Member who is here for the family of the missing officer, the Question should appear on the Order Paper next week. Within that period it is the presumption of the Chair that both the Member and the Assistant Minister will act with speed to see how the family can be assisted. When answering the Question may be then you can give a definitive answer on how much has been done.

Mr. Ojode: On a point of order, Mr. Deputy Speaker, Sir, although you have ruled that the Question appears on the Order Paper next week, I do not know why it should appear. I thought that the Questioner could bring the details to the Office of the President and then we help the widow.

Mr. Deputy Speaker: Order, Assistant Minister! The hon. Member wants to go and find sufficient information.

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. If the Assistant Minister insists that he wants a letter requesting for payment, then I will request the lady to do that. There is no problem. What I am not happy about is the way the Assistant Minister has held this request for three years. A letter can be done but would you commit the Ministry that once the request is made, you will pay?

Mr. Ojode: Mr. Deputy Speaker, Sir, that is where I was at a loss as to why the Question should come here. With respect to the ruling of the Chair, what remains is a way to help the widow. The Question has been satisfactorily answered. I would request the Questioner to ask the widow to do a letter and then we go to the Commissioner of Police to see a way of helping the widow. That is what I am asking for.

Mr. Deputy Speaker: It is the presumption of the Chair that there is a firm undertaking from both of you that you will deal with that. Ensure that the letter is written and in the event you feel that the matter has not been adequately addressed, you are free to file a Question or rise on a point of order and state that the Assistant Minister has not executed his undertaking.

Assistant Minister, is that okay? Make a firm undertaking to see how you can help the family.

Mr. Ojode: Yes, we will see how we can help the family but let them write a letter.

Mr. Deputy Speaker: Next Question by Dr. Nuh!

Question No.509

TENDER FOR CONSTRUCTION OF BOREHOLE
IN KATUMBA

Dr. Nuh is not in! Next Question by Mr. C. Kilonzo!

Question No.517

STALLED ELECTRICITY SUPPLY WORKS IN KALUKUNI
SECONDARY SCHOOL

Mr. C. Kilonzo asked the Minister for Energy:-

- (a) why electricity supply works for Kalukuni Secondary School of Yatta Constituency and its environs stalled; and,
- (b) when the works will be completed.

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

(a) The construction of Kalukuni Secondary School of Yatta Constituency estimated at a cost of Kshs4.4 million stalled because the Rural Electrification Authority (REA) chose to implement a bigger project, that is, Kiasiomi Secondary School and market at a cost of Kshs6.2 million in the same constituency in order to fully utilize the Constituency's budgetary allocation which was Kshs16.9 million.

(b) We are implementing the construction of Kalukuni Secondary School during this financial year at a cost of Kshs4.4 million and we expect to complete the projects by 31st December this year.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I am at a loss. This is because works were done at Kalukuni Project. The only thing which was not installed was a transformer. The works he is referring to at Kiasiomi started a year later. These were to separate projects; one is almost 80 per cent complete, it was abandoned and then you went to start another fresh project. I do not understand how the Ministry has been operating. What is remaining is barely 20 per cent. Whatever works were done, the poles and wires are falling. The Government will end up spending more than what has been spent. Could the Minister look into this matter to ensure that the project is completed as opposed to deferring it to the next financial year?

End C

Mr. Murungi: Mr. Deputy Speaker, Sir, we are already in the current financial year. This project will be completed by December, which is next month. So, I do not know what the hon. Member wants me to do because we are already implementing it.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. There has been a trend within the Kenya Power and Lighting Company (KPLC) where projects are started, abandoned and then they move on to start other projects. What I am asking is very simple. Was it fair for the Ministry to do a project 80 per cent, abandon it and then start another project another year, because these works were done last year and not this year? What was the rationale? This project was costing Kshs4 million and they had the money. They abandoned it and went to start another one for Kshs6 million while they had done 80 percent. Nobody seems to understand the rationale in that.

Mr. Murungi: Mr. Deputy Speaker, Sir, in the last financial year, 2009/2010, this constituency was allocated a budget of Kshs16.8 million. The hon. Member, indeed, gave Kalukuni Secondary School as one of his priorities to be implemented during that financial year. But when our officers from the Rural Electrification Authority (REA) looked at the risks of the project that the hon. Member had given, there was Kivingoni Secondary School which cost Kshs4.7 million. Then, there was Mayuni Secondary School which cost Kshs6 million. So, there was a balance of another Kshs6 million. So, they thought it was prudent to implement the project which was worth Kshs6 million, instead of the one which was worth Kshs4 million because it would have left a balance of Kshs2 million. So, it was more economical and a better use of resources in the constituency to exhaust the entire Kshs16 million budget through completion of those three projects. However, the Kalukuni Secondary School project which was costing Kshs4.4 million is being completed this year because the budget allocation for this year is Kshs10.4 million. So, we are spending the budget for this year to complete the project which was started last year.

Mr. Twaha: Mr. Deputy Speaker, Sir, we have a similar project which is co-funded by the Constituencies Development Fund (CDF) and the REA at Bukunumbi Secondary School in Lamu. The poles have reached the school but we are told that the cables have been stolen from the contractor who had left them lying about by the roadside. Could the Minister undertake to look into this matter and ensure that the project is completed?

Mr. Murungi: Mr. Deputy Speaker, Sir, I am hearing the hon. Member's complaint for the first time. If he addresses it to us, then we will look into it.

Mr. Twaha: On a point of order, Mr. Deputy Speaker, Sir. I have addressed it to him. It is called Bukunumbi Secondary School and I am just requesting that he undertakes to look into it.

Mr. Murungi: Mr. Deputy Speaker, Sir, I have said that we will look at it, but I would prefer if the hon. Member could do a letter to me.

Mr. I. Muoki: Mr. Deputy Speaker, Sir, I think what the Member for Yatta asked the Minister for Energy is an example of what is going on in the country. The truth of the matter is that we have so many projects in the country which are incomplete. For example, in my constituency, projects for 2008 and 2009 were left half way and now they

are doing a third project. I have raised this matter with REA and the situation on the ground is that many projects are left half way and then another one is started. Could the Minister undertake to, first of all, complete the projects which he started before starting new ones?

Mr. Murungi: Mr. Deputy Speaker, Sir, I think I said in this House yesterday that we are facing some challenges in completing some of the projects that we had started, because there had been a challenge in procurement of some critical materials, especially transformers. We are implementing a crash programme to complete those projects and I gave a date of end of this year, because we are monitoring them on a monthly basis. So, we are trying to complete the started projects by the end of this year, as we implement also the projects for this year. This is because even the money that we have allocated this year has got to be spent. So, as we finish the projects for last year, we also have to start implementing the ones for this year.

Mr. Pesa: Mr. Deputy Speaker, Sir, we have two entities giving us power in this country, that is, the REA and the KPLC. Is the Minister aware that the projects undertaken by the KPLC are usually installed as compared to the ones undertaken by REA for reasons which we do not know?

Mr. Murungi: Mr. Deputy Speaker, Sir, the REA and the KPLC have to work together to complete a project. The job of the REA is just to construct lines from point A to B. When they reach the destination, for example, the school or private customer, then the KPLC has got to take over because it is the one to provide the metering and billing services. So, the purpose of the establishing of REA was merely to construct lines. We have formed a team between the REA and KPLC, so that as REA finishes construction of a line, the KPLC immediately comes in and deals with the issue of meters and billing.

Mr. Pesa: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House? The projects undertaken by the KPLC, when the funds are directed to KPLC, are solely done by KPLC. The ones where the two actually come together is when the actual connection is now done by the KPLC at the end. Is he in order to mislead the House?

Mr. Murungi: Mr. Deputy Speaker, Sir, I have not misled the House.

Dr. Laboso: Mr. Deputy Speaker, Sir, I would like to know from the Minister why it takes even up to six months for that commissioning to be done. The REA does its part very well and completes the projects, but it takes up to six months or even more for commissioning to be done. Could the Minister, please, explain where the problem is?

Mr. Murungi: Mr. Deputy Speaker, Sir, in the past, there was the problem that the hon. Member has pointed out. The REA was working separately without proper co-ordination with the KPLC. But after we received a number of complaints, we brought them together and now you will see more improved and efficient commissioning of projects because a joint team has been formed between REA and KPLC. So, immediately REA completes the construction of the lines, the KPLC also come in. So, the problem was there but we are addressing it.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I think the Minister has done a good job in explaining what is happening. But on the ground there are always questions and cases of people not understanding what is happening. Could the Minister ensure that where projects will take longer than expected or appear to be stalled, the beneficiaries on

the ground are informed what is happening, because every hon. Member is under pressure to explain why these projects have stalled?

End D

Mr. Murungi: Mr. Deputy Speaker, Sir, in the long term, if you look at the new Constitution, you will see that the counties have been given some responsibility in the distribution of electricity. The problem we have now is the centralized national institution. As we move to the future, those services will go closer to the people. There will be an effective devolution of power distribution at the county level and it will be easier. For now, as the Minister, I am not able to know which project has stalled. I have to rely on information from my officers. I am appealing to my colleagues that when they discover projects which are not moving fast, they should let us know. You can write to us or come over. We do not have to wait and answer such questions here.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, Questions of this nature have been appearing in this House every other day. I am requesting the Minister, so as to save the time of this House and to avoid these kind of Questions coming before this House, to ensure that the implementers; REA and the Kenya Power and Lighting Company inform the people on the ground, where the projects have stalled and what is happening. That is a very simple thing. You should direct your Ministry to ensure that, that message is passed. We do not have to see such kind of Questions here every other day.

Mr. Murungi: Mr. Deputy Speaker, Sir, we have sent a circular to every Member of Parliament giving a name and telephone number of an officer so that if there are any complaints arising, they know who to contact. So, I will be very happy if hon. Members could make use of that information. They should start using the officers and the numbers that they have been given.

Mr. Deputy Speaker: The next Question is by Mr. Kiilu. Is he not here? The Question is dropped!

Question No.474

NON-PROVISION OF FUNDS TO NGOTO AIC PRIMARY SCHOOL

(Question dropped)

(Mr. Kiilu stood up in his place)

Mr. Deputy Speaker: Mr. Peter Kiilu, what is the matter with you?

Mr. Kiilu: Mr. Deputy Speaker, Sir, there were loud consultations and, therefore, I did not hear you calling out my Question.

Mr. Deputy Speaker: You did not hear because of loud consultations?

Mr. Kiilu: Yes!

Mr. Deputy Speaker: Proceed!

Question No.474

NON-PROVISION OF FUNDS TO NGOTO AIC PRIMARY SCHOOL

Mr. Kiilu asked the Minister for Education:-

(a) why the Government has not been providing funds to Ngoto AIC Day and Boarding Primary School (Registration No.G/PE/456/09) in Makueni Constituency, Nzau District; and,

(b) when the Government will start availing funds to the school.

The Assistant Minister for Education (Prof. Olweny): Mr. Deputy Speaker, Sir, I apologize for coming late and beg to reply.

(a) The Government has been providing funds to Ngoto AIC Day and Boarding Primary School (Registration No.G/PE/456/09) in Makueni Constituency, Nzau District. Given that, that is the position, Part (b) of the Question does not arise. We have given the school four tranches of the required amounts.

(Loud consultations)

Mr. Deputy Speaker: Order! The best that the Front-Bench can do is to be very attentive and listen to what hon. Members are asking. Hon. Mrs. Ngilu and Ms. Ndeti, could we have some silence so that hon. Members can be heard?

Mr. Kiilu: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for that answer, I would like to know why the Ministry of Education has not been giving money to the boarding wing of Ngoto AIC Primary School. What the Assistant Minister is giving us here is a general allocation that is sent to all the schools in the country.

Prof. Olweny: Mr. Deputy Speaker, Sir, the Question is asking the Ministry why we have not been providing funds to Ngoto AIC Day and Boarding Primary School. I have said that we have been providing funds. He did not specify by indicating the boarding wing. The Free Primary Education money that we have given to that school is as follows:-

On 29th December, 2009, the school was given a total of Kshs68,450. On 8th February, 2010, the school was given Kshs37,185. On 27th May, 2010, the school was given Kshs38,665 and on 30th September, 2010, the school was given Kshs39,610

Mr. Deputy Speaker, Sir, according to me, the Question has been answered. What the hon. Member is bringing up was not framed in the Question.

Mr. Letimalo: Thank you, Mr. Deputy Speaker, Sir. This is a common problem affecting low cost boarding primary schools that are even in my constituency. Could the Assistant Minister explain the formula they use to disburse funds to local boarding schools because we experience problems in those schools?

Prof. Olweny: Mr. Deputy Speaker, Sir, there is a way of supporting boarding primary schools. However, the information I have here, which was requested by the Member, to my understanding, is with regard to Free Primary Education Funds. He did not ask about the information he is bringing on the Floor. I have given information as per the Question. If the Member wants more information, I can go and bring more information.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I believe that the Assistant Minister is misleading this House because he is talking about Free Primary Education Programme. We are talking about boarding primary schools which have been registered. Could he answer the Question?

Mr. Letimalo: Mr. Deputy Speaker, Sir, I have asked about the formula they use for disbursing funds to boarding primary schools. How do they arrive at the formula? That is a general question!

Mr. Deputy Speaker: How did you arrive at the figures you have indicated?

Prof. Olweny: Mr. Deputy Speaker, Sir, the figures I have given are for tuition in the Free Primary Education Programme. They also take care of teaching materials, support staff in the schools and text books. What we have currently is based on a survey that was done by the Ministry to look into worth of money that we give to schools with regard to Free Primary Education and not boarding facilities. The allocation that is done is based on which school has more students and text book to student ratio. It is that ratio that we use, based on the survey that was done. We have categorized schools from number one to number five. If a school falls in category one, it receives more funding as opposed to a school that falls under category five.

End E

Mr. Njuguna: Mr. Deputy Speaker, Sir, now that it is the responsibility of our Government to make sure that access to education must be taken seriously, what mechanism has the Ministry put in place to ensure that children at Ngoto AIC Day and Boarding School access education through adequate funding?

Prof. Olweny: Mr. Deputy Speaker, Sir, with regard to boarding schools, we do not have a formula. In our programmes, we do not have Government boarding schools. We only support boarding schools in hardship area depending on their needs.

Mr. Kiilu: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell this House how much support, in terms of finances, he is giving to the boarding wing of Ngoto Boarding Primary School?

Prof. Olweny: Mr. Deputy Speaker, Sir, as I stand here, I do not have the information regarding the boarding wing. I have information regarding the free primary education. If he wants that information, then I can go avail it another day.

Mr. Deputy Speaker: Order, hon. Assistant Minister! The question is fairly self-explanatory. It is very comprehensive. Why has the Government not been providing funds to Ngoto AIC Day and Boarding Primary School? It is not for you to segmentalize and say that you will only give the answer regarding the support staff and other things. You have to give a comprehensive answer to that Question. So, it is not a different Question that the hon. Member needs to frame. This Question is comprehensive and you should come with a comprehensive answer. The answer is not adequate. That is what the Chair is telling you.

Prof. Olweny: Mr. Deputy Speaker, Sir, we do not have funds that capture boarding facilities under the Kenya Secondary School Support Programme (KESSP). As I said, boarding facilities in hardship areas may be supported based on the need and if the issue is brought to the Ministry. We look at it and make a decision on the way forward regarding the support for the boarding facilities in a particular school. Otherwise, we do not have mechanisms or a programme for boarding schools within our Ministry.

Mr. Kiilu: Mr. Deputy Speaker, Sir, the Assistant Minister is avoiding this question. As late as Friday last week, the Ministry headquarters asked the head teacher of this primary school to bring the boarding account of the school to the Ministry. The Ministry has those details now. Could he confirm that he will disburse the money that has not been disbursed to this school?

Prof. Olweny: Mr. Deputy Speaker, Sir, I am not aware of the money that we have not disbursed as alleged by the hon. Member. I have given a breakdown of four installments to the school account, which I can read if the Member wants to know the school account number. I have it here. We have made four installments to the school account. They gave us two accounts which I have here. I can read all the details regarding the school account, the code and the amount.

Question No.506

FAILURE TO HIRE EARLY CHILDHOOD DEVELOPMENT
TEACHERS

Mr. Warugongo asked the Minister for Education why the Government is not hiring Early Childhood Development (ECD) Teachers who are examined by Kenya National Examination Council (KNEC).

The Minister for Education (Prof. Ongeru): Mr. Deputy Speaker, Sir, I beg to reply.

It has been the policy of the Ministry to employ early childhood development and education teachers. The teachers for public ECD centres are hired by the School Management Committees (SMCs). Beginning 2006, the SMCs have been recruiting ECD teachers with KNEC certificates. The salaries are also paid by the SMCs. The Ministry supports over 8,000 ECD centres by providing community support grants to supplement the teachers' salaries. However, as I had previously explained to the House on a similar Question No.206, the hiring of ECD teachers by the Ministry was expected to commence in January 2010, but the process has delayed due to inadequate funding from the Treasury.

Mr. Warugongo: Mr. Deputy Speaker, Sir, I would like to draw the attention of the Minister to the fact that in some of these schools, the SMCs are not able to cater for the salaries of these teachers. In some cases, these teachers do not earn even a single shilling depending on where they are and the circumstances. We know that a child's life is determined by the early education that he or she receives. What immediate arrangement he making to take care of these teachers?

Prof. Ongeru: Mr. Deputy Speaker, Sir, I said quite clearly that the ECD education is being managed and run by the SMCs in various respective centres. However, my Ministry has always given some grants to some of the EDC centres that may not be in a position to support some of these programmes. As I had earlier said, in the 2010/2011 Budget that I presented before this august House, I had requested for a sum of Kshs1.6 billion to run and start employing, at least, one manager for each of the ECD centres. That money was not captured in the Budget. Instead, I was given Kshs220 million. I am planning to look at the needs of each centre and grant the money in accordance with the need of each particular centre. This may be one of the centres that may benefit if we have the correct information on the current status.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, when will the Minister make ECD centres compulsory in all primary schools? We have so many primary schools, which do not have ECD centres.

Prof. Ongeru: Mr. Deputy Speaker, Sir, as I said, the policy in accordance with the Sessional Paper No.1 of 2005 under KESSSP, the ECD centres were being run by the SMCs. It was expected in KESSSP I, that we will mainstream the ECD into the Budget provisions by 2010/2015 started in January. That did not happen because we did not have resources from the Treasury. However, whatever resources we now have in our hands, we will try and help them. This is Kshs220 million. I may also remind the hon. Members that, indeed, with the new Constitution, the programme of the ECD will be funded by the county governments.

Mr. Warugongo: Mr. Deputy Speaker, Sir, the Minister has told us that the process has been delayed due to inadequate funding from the Treasury. When is he going to receive enough funds?

End F

Prof. Ongeri: Mr. Deputy Speaker, Sir, I cannot give the specific time. It depends on how this august House is able to convince the Treasury to give additional funding to the Ministry of Education. I have every single good will that this should be carried out.

Mr. Warugongo: On a point of order, Mr. Deputy Speaker, Sir. I wanted the Minister to tell us whether it will be this year, next year or the year after that.

Mr. Deputy Speaker: He tells you that he does not know.

Prof. Ongeri: Mr. Deputy Speaker, Sir, yes, indeed, what I have in the budget in the current financial year is Kshs220 million. So, I will be misleading the House to say that I will do so within this financial year. However, in the next financial year, I will be in a position to again ask for additional funding for the Ministry.

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. The Minister referred to a document he calls Kenya Education Sector Support Programme (KESSEP). He is also aware of Education for All (EFA) for this country by 2015. Is he in order not to commit the Government and tell this House that Kenya Government is ready to fulfil what they have promised the nation?

Prof. Ongeri: Mr. Deputy Speaker, Sir, I am certainly in order. I have categorically stated that under the KESSEP which is based and predicated upon Sessional Paper No.1 of 2005, it is envisaged that the mainstreaming of ECD will start in January, 2010. Accordingly, we did proceed with speed and made a substantial request from the Treasury to the tune of Kshs1.6 billion. Currently, we have in the Budget is Kshs220 million. That is the one I have already said we shall be able to look at the needs where it is possible to be able to support.

As for the EFA goals by 2015 and the Millennium Development Goals by 2015, certainly, the Government is committed. I may, in fact, inform this honourable House that because of the concern I have for ECD, I wrote a letter to the Treasury. I have received reply from the Treasury that they will be able to mainstream as a matter of priority the ECD funding in the next Budget.

Question No. 515

NON-PAYMENT OF SALARY
TO ABDALLA M. ADAM

Mr. Yakub asked the Minister for Education whether he could clarify why Mr. Abdallah M. Adam (TSC No.252668) was not paid his salary for the period between May and November, 2005 and when he will be paid.

Mr. Deputy Speaker: Order, Mr. Yakub. You came late. At least apologize to the House for coming late.

Mr. Yakub: Mr. Deputy Speaker, Sir, I wish to apologize for coming late.

The Assistant Minister for Education (Prof. Ongeri): Mr. Deputy Speaker, Sir, I beg to reply.

Mr. Abdallah M. Adam of TSC No.252668 was not paid his salary for the period between May and November, 2005 since he was on interdiction. He was not, therefore,

on duty. As a result, he was not entitled to a salary as per the teacher's code of regulations.

Mr. Yakub: Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for the answer. However, I wish to inform him that Mr. Abdallah M. Adam was not interdicted by May. I have a letter here from the Ministry of Education dated 26th April, 2005, addressed to the Principal of Shimo La Tewa Secondary School, informing him that Mr. Abdalla should be transferred to Witu in May. This means by May he was not yet interdicted. I beg to table the letter.

(Mr. Yakub laid a document on the Table)

Could he confirm that by May this particular teacher was not yet interdicted?

Prof. Olweny: Mr. Deputy Speaker, Sir, Mr. Adam was transferred to Witu Secondary School on 26th April, 2005. By 19th May, 2005, he was working and was on duty. However, he failed to report as expected to Witu Secondary School. So, by 20th May, 2005, he was interdicted. He was given a casualty as from 20th May, 2005. So, for 19 days of May, he was paid. But from 20th of May to November, he does not deserve a salary.

Mr. Deputy Speaker, Sir, may I tell the hon. Member that Mr. Adam was overpaid by an amount of Kshs81,759.55 because he was given a salary for the whole of May, June and July. During that time, he was supposed to be on interdiction. From 20th May, all the way to the end of July, he was given salary. That was an overpayment which will be recovered from his salary, if at all, he will be reinstated.

Mr. Pesa: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say here that this teacher was not given his salary because he was on interdiction. As far as I am concerned, when someone is on interdiction he gets a half salary. Could he clarify that?

Prof. Olweny: Mr. Deputy Speaker, Sir, the clarification is that in the rest of the Public Service, an officer under interdiction, gets a half salary. But in the TSC code of regulations, the rules that govern the appointments and work of teachers, once a teacher is under interdiction, he does not get anything. It depends what you are interdicted for. If it is a casualty that means a teacher is not on duty. Therefore, he does not get anything.

Mr. Yakub: Mr. Deputy Speaker, Sir, I do not want to use the word misleading. But I have another letter here from TSC dated 2nd November. It is informing Mr. Abdalla M. Adam for a posting to post primary teaching. However, the Assistant Minister says he was on interdiction May to end of November. This is not true. He was not on interdiction. Could he go through these two letters and give us a proper reply to my Question.

(Mr. Yakub laid a document on the Table)

End G

Prof. Olweny: Mr. Deputy Speaker, Sir, Adan was interdicted for not reporting to Witu Secondary School because he had several complaints which were not acceptable to the Teachers Service Commission (TSC). He was again posted to Mombasa Technical Training Institute (TTI) and the Principal of the institution wrote back to TSC that his subjects were irrelevant to that training institute. That was on 2nd December---

Mr. Yakubu: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is completely contradicting himself. First of all, he said that Mr. Adan was interdicted from May to November, and now he has said there was a letter which was sent to the TTI before November. How can the same teacher be interdicted and then get a letter to go to Mombasa TTI?

Prof. Olweny: Mr. Deputy Speaker, Sir, after he was interdicted, it does not mean that he was sacked. The case was subjected to a disciplinary committee by TSC. He was then given a posting letter to another institution, that is, the Mombasa TTI. The Principal of that college said that Mr. Adan did not have the relevant subjects for the institute. The TSC reconsidered the issue again and was posted to Sacred Heart Secondary School on 1st December, 2005. That is where he reported and was reinstated. That is the story of Mr. Adan.

Mr. Deputy Speaker: How can somebody who has been interdicted be posted?

Prof. Olweny: Mr. Deputy Speaker, Sir, when Mr. Adan was posted to Witu he refused to report giving some reasons which were not accepted by the TSC. Then he was interdicted because he was not on duty. During the period that he was under interdiction, a disciplinary committee was convened to look at his case. The Committee resolved that he should go to work. So, they posted him to the institute and the Principal said that the teacher did not have the relevant subjects. So, he was still not on duty. A month later, he was posted to another school where he works now.

Dr. Nuh: Mr. Deputy Speaker, Sir, the Assistant Minister has contradicted himself time and again. Whose fault is it that they were unable to post Mr. Adan to a school relevant to his subjects? The question here is on the month of November. The Ministry did not pay the teacher the month of November alleging that he did not report to work allegedly still on interdiction. The Assistant Minister again says that by 1st November the teacher was posted to Mombasa TTI. So, was the teacher under interdiction or was he serving the TSC in November? Why was he not paid?

Prof. Olweny: Mr. Deputy Speaker, Sir, the information we have as of now is that he was not working by November because the subjects that he was supposed to teach---

Mr. Deputy Speaker: Order, Mr. Assistant Minister! Whose fault was it that the teacher was not working because the subject that he taught was not relevant to the institution that he was posted to?

The Minister for Education (Prof. Ongeru): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Your Minister wants to inform you. Are you prepared to take the information?

Prof. Olweny: Yes, Mr. Deputy Speaker, Sir.

The Minister for Education (Prof. Onger): Mr. Deputy Speaker, Sir, I had the opportunity to look at the two letters. One was a transfer of a post-primary school teacher who had been posted to a school which he did not report and he had to face disciplinary action in accordance with the TSC Code of Regulations, Section 25(a) and (b). That was effected. Therefore, the issue was rested.

Secondly, I have seen the letter of the same person being posted to Mombasa TTI. I am not clear whether that teacher appealed to the TSC. That is the information that we do not have. I think it is only fair that we are seized with that information to be able to reply to that question effectively.

Mr. Deputy Speaker: So, you are informing you Assistant Minister that you actually need more time.

The Minister for Education (Prof. Onger): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Assistant Minister, request for more time now because you are the one on the Floor?

Prof. Olweny: Mr. Deputy Speaker, Sir, I request for more time to deal with the issue of November only.

Mr. Deputy Speaker: How much more time do you need?

Prof. Olweny: I think we can handle the issue by next week.

Mr. Deputy Speaker: Under the circumstances, the Chair directs that this Question appears on the Order Paper on Wednesday morning.

(Question deferred)

Let us move on to the next Question by Dr. Otichilo!

Dr. Otichilo: Mr. Deputy Speaker, Sir, I want to apologise for coming late.

Question No.497

PROGRESS OF NATIONAL POLICY
ON DISASTER MANAGEMENT

Dr. Otichilo asked the Minister of State for Special Programmes:-

(a) whether she could appraise the House on the operationalization progress of the National Policy on Disaster Management;

(b) what measures have been put in place to deal with disasters like droughts, fire, floods, diseases, epidemics and urban sprawl; and,

(c) whether she could provide to the House the number of major disasters the country has experienced since 2000, indicating how each was handled.

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, I beg to reply.

Mr. Deputy Speaker, Sir, with the onset of the new Constitution commencing on 27th August, 2010, it became necessary to convene a stakeholders meeting on 21st September, 2010 to revise the policy document in order to ensure that it is in tandem with the provisions of the new Constitution particularly on the issue of provision of services at the county levels. It is envisaged that the team will finalize its work by the end of

November, 2010 which is this month. We appreciate that as a Ministry this Question came up sometime last year and when we were in the process of forwarding the same to the humanitarian committee, one of the stakeholders suggested some amendments which we took into consideration and, therefore, delayed the process of submission to the Cabinet Sub-Committee.

(b) Measures taken to address various disasters in the country are as follows:-

(i) On droughts, my Ministry utilizes weather reports from the Meteorological Department and Drought Early Warning Bulletins to create awareness and sensitize the people on the areas that are likely to be affected by the drought. In addition, the Ministry maintains relief and Strategic Grain Reserves for quick interventions whenever there is need.

(ii) In the same light, my Ministry provides relief food to millions of affected needy Kenyans; one million by the Government of Kenya every month and in collaboration with World Food Programme (WFP) relief food is provided to another two million Kenyans through protracted relief and recovery operations.

(iii) On fire disasters, the Ministry has drafted the National Fire Safety Management Policy which provides comprehensive measures to address risk associated with fire. The Policy proposes the establishment of the Kenya Fire Safety Agency to be responsible for co-ordination and promotion of fire safety management in the country.

(iv) On floods, the Ministry has embraced an elaborate approach in addressing perennial floods. District Disaster Management Committees have been sensitized to formulate flood contingency and mitigation plans in all flood prone areas.

Mr. Deputy Speaker, Sir, in the long-term for us to be able to access catchment areas, 500,000 seedlings have been planted in the Nzoia River Basin to counter the perennial flooding. The construction of dykes has been taken into consideration and is progressing. Design for multipurpose dam is also at hand.

On diseases and epidemic, as the hon. Member requested, the Government has intensified health and nutrition surveillance for early detection and management of diseases and epidemics through relevant Ministries.

End H

[**The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali)**]

Mr. Deputy Speaker, Sir, on urban response, the Government, through the City Council of Nairobi, has made commitment to lobby for resources that will be used to improve resilience of affected persons whenever disasters occur in Nairobi and other cities are expected to follow suit.

Further, the Government has recently got grants from the Government of Japan to the tune of Kshs438 million and we are in the process of purchasing several equipment to be able to enable the Government to counter the disasters whenever they occur.

On man made disasters, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Order! Order, hon. Assistant Minister! You can table that answer. You can be precise but you cannot read four or five pages of the answer.

The Assistant Minister for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, I am sorry. But if you look at the Question, I am following exactly what it asked.

Mr. Deputy Speaker: Why do you not just table the information? In any case this is an ordinary Question and I am sure the questioner has already got the written reply.

The Assistant Minister for Special Programmes (Mr. M.M. Ali): Okay, Mr. Deputy Speaker, Sir. I agree. Then he can interrogate the question further because he has a copy of the written reply.

Mr. Deputy Speaker: Proceed and table it!

(Mr. M.M. Ali laid the document on the Table)

The Assistant Minister for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, part "c" is very elaborate detailing the disasters that have occurred since 2000 to date. I will wait for the hon. Member to interrogate the question further.

Dr. Otichilo: Mr. Deputy Speaker, Sir, I want to take this opportunity to thank the Assistant Minister for giving me a very elaborate answer to this Question. Thank you very much!

Having said that, what is the Assistant Minister doing on the issue of fires? Based on your answer here, most of the disasters we are experiencing in this country are fires. What urgent measures are you taking to ensure that the fire disasters are capped and, specifically, the disasters that emanate from oil tankers which are parked in the various townships in the whole country? What are you doing about the issue of these tankers so that they do not run a risk of causing fires?

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Order! I can hear the voice of hon. Nkaisserry from where I am. Hon. Nkaisserry, hon. Gabbow, can we have some silence so that the hon. Member can be heard? The Government must have an interest in every

Question that is being raised by a Back Bencher so that the Government works in tandem!

Proceed!

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I appreciate the hon. Member's concern. I do agree that most of the disasters that we do face in the country are fire-related. In that regard, if you listened to my answer, I said that the Ministry has already drafted a comprehensive fire safety policy which I have tabled here today.

Mr. Washiali: Mr. Deputy Speaker, Sir, what has the Assistant Minister done about the lightning strikes that we have had in western region, where there is a lot of rain? Many of our institutions, especially schools, have a lot of lightning strikes and I believe that they are part of the disasters that you have been addressing. I would want to know how you have handled that kind of disaster.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I have said that we have an elaborate plan to follow and it is contained in the disaster policy which is ready for submission and which I will table right away. It contains all the measures to be taken to handle all the disasters of all sorts. With time, once it is approved, we shall be able to handle the same.

(Mr. M.M. Ali laid the document on the Table)

Mr. Ochieng: Mr. Deputy Speaker, Sir, the Assistant Minister has not told us, if we have a disaster like what happened in Chile regarding miners; how they would go about evacuating these people who are buried underground when mining. How will the Ministry deal with such a situation?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I have just said that in addition to the comprehensive policy for consideration, the Ministry is in the process of acquiring several equipment which will be able to help us handle those kinds of complicated disasters. I have just mentioned that although we are in deep financial constraints, we have got support from our friends in Japan, who have given us a grant of Kshs438 million. Here, I have a list of equipment which we are in the process of procuring so that we shall be able to undertake those activities.

Mr. Mungatana; Mr. Deputy Speaker, Sir, again, I want to join those who said that the Assistant Minister has been doing a good job in the House in terms of answering Questions. In terms of disaster preparedness, what plans are there to set up disaster management centres on each susceptible county? In particular, there are counties like the Tana County, where we know for a fact that we have been susceptible to the seasonal flooding. While he is addressing that, can he tell us, in terms of the equipment that he has purchased, how many of these are going to be stationed in those areas or is he just putting up a centre here in Nairobi and forgetting the rest of us?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I thank hon. Mungatana for the complements and I also appreciate his concerns. If he was keen when I was giving the reply, I said that the policy was delayed to be submitted to the Committee because of the need to ensure that county levels are considered. That is exactly what is being done. I want to assure the hon. Member that such counties, as he has raised will be considered. In fact, we will endeavor to ensure that all the 47 counties are trained and that we have officers stationed in those places. The equipment that you have mentioned and which we are procuring will be distributed fairly across all the constituencies in the Republic.

Mr. Litole: Mr. Deputy Speaker, Sir, we know the history of shanties in this country. What emergency plans does the Ministry have so that these shanties in Kenya and in Nairobi, in particular, can be taken care of when it comes to fires in the shanties?

Mr. M.M. Ali: Again, Mr. Deputy Speaker, Sir, I refer to my answer where I said that the team which is looking into this policy is liaising very closely with the City Council of Nairobi to particularly deal with the problem of sprawling shanties, such that we shall be able to handle those problems whenever they occur.

Mr. Deputy Speaker: Dr. Otichilo, the last supplementary question!

Dr. Ottichilo: Mr. Deputy Speaker, Sir, information on disasters is very important. I wish to know from the Assistant Minister whether there are plans to carry out an intensive inventory of all the disaster-prone areas in this country so that this information can be readily available to Kenyans and Kenyans can know which areas are prone to which disaster so that they can be able to take earlier preventive measures.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I thank the hon. Member and I appreciate his concern. For your information, we have an elaborate disaster rescue centre based at our Ministry Headquarters and it has got all this information that you are seeking. For your information, I have got over 200 pages of documented disasters that have occurred in the country and that information can be availed to you.

End I

Mr. Pesa: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has said that they have elaborate plans to help people during such disasters, but, as I speak, there are bodies in Lake Victoria, which have not been retrieved. So, what elaborate plans was he talking about?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I am aware of the disaster that occurred on Lake Victoria. As we speak, high level delegations from my Ministry, in collaboration with the Disaster Rescue Centres, are on site. The delegation from my Ministry includes none other than hon. Esther Murugi Mathenge and my Permanent Secretary (PS). So, we are aware of that situation, and we are handling it appropriately.

Next Question by Dr. Julius Kones!

Question No.478

UNPAID SALARY ARREARS OF FORMER
TEA FACTORIES EMPLOYEES

Is Dr. Kones out of the country, or out of the Chamber on any official parliamentary business? The Question is dropped!

(Question dropped)

Mr. Deputy Speaker: Next Question, Dr. Nuh!

Dr. Nuh: Mr. Deputy Speaker, Sir, I apologise for coming late.

Question No.509

TENDER FOR CONSTRUCTION OF BOREHOLE IN KATUMBA

Dr. Nuh asked the Minister for Water and Irrigation:-

(a) when the tender for the construction of the borehole at Katumba in Bangale location was advertised;

(b) whether she could state when the contract was awarded and to which company; and,

(c) what the terms of the contract are with regard to the depth to be drilled, geo-survey work, total sum of the contract and commencement date.

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

(a) The tender for the construction of Katumba Borehole in Bangale Location was advertised in *the Daily Nation* and *The Standard* on 12th March, 2010. Bids were submitted and evaluated, but after having a non-responsive bidder, the tender was re-advertised on 25th June, 2010. Bids were re-submitted and evaluated, and the responsive bidder awarded the tender.

(b) The tender was awarded to the responsive bidder, M/s Atesian K. Limited of P.O. Box 126190 – 400, Nairobi on 5th October, 2010.

(c) The scope of works in the contract is to carry out hydrological surveys and drill boreholes to a maximum depth of 280 metres. This implies that the driller can only be paid after drilling and getting water.

The total sum of the contract, which includes other four boreholes in Kaloleni, Kilifi, Malindi, Tana Delta and Tana River, is Kshs10,775,730. The contractor is on the ground, and has completed the hydro-geological surveys. The works are to be completed in two-and-half months. The completion date is, therefore, expected to be 18th December, 2010.

Thank you, Mr. Deputy Speaker, Sir.

Dr. Nuh: Mr. Deputy Speaker, Sir, the residents of Katumba Village were at the mercy of Constituencies Development Fund (CDF) water tank system for the last two months, and I have brought that fact to the attention of the Ministry. It is not only this village which is affected, but also seven other villages within Bura Constituency. The Minister has said that the bids that were tendered in March were non responsive, but even for the bids that were tendered in June, it has taken the Ministry five months to evaluate them and award the tender, when they know that the residents of that village, and many other villages in Bura Constituency, have been in perpetual lack of water. Why does the Ministry drag its feet when it comes to availing essential services like water?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I appreciate the hon. Member's concerns. You notice that the first advertisement was on 12th March, and there were no responsive bidders. Even when we re-advertised the tender in June, it took a long time because most of the contractors were saying that they would not want to undertake works in those far away places. So, we tried to look for locally-based contractors. What we are trying to do is build capacity of local contractors, including connecting them with some of the local financial institutions, because a big contractor based in Nairobi may not want to go and do work in the coastal area, where they have to spend too much on mobilisation.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, two things are very suspect. First, to drill five boreholes to 280 meters at a cost of Kshs10 million, which is an average cost of Kshs2 million per borehole, is not possible. Chances are that this work will stall.

Secondly, on the condition that the contractor will only be paid if water is found, which contractor would want to enter into such contract? Can the Ministry consider using the Kenya Army or the National Youth Service (NYS). The Kenya Army is busy drilling boreholes for politically-correct individuals in this House. Can the Ministry consider using either the Kenya Army or the NYS, because no contractor will agree to such a contract?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I agree with the hon. Member. To expect a contractor to drill a borehole to a maximum depth of 280 metres for Kshs2 million, for me, is a tall order. However, now that this contractor has signed the contract papers, maybe, he has a way of doing it. I cannot tell him that he cannot do so when he has already signed the contract. However, I know that he may fail to the work.

On the issue of using the NYS and the Armed Forces, that is something we sometimes try, but we find that sometimes they do not have ready equipment for the work. Otherwise, I appreciate what the hon. Member has said.

Mr. Mwathi: Mr. Deputy Speaker, Sir, now that the Minister has also expressed her fears about the amount of money to be paid for the kind of depths contained in the contract documents, has she taken trouble to ask her experts to advise her on how much it costs to drill boreholes of such depth, so that she can satisfy herself that her answer to this House is credible?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I have, but if something is advertised in the newspapers, and you get the lowest bidder but you do not award the tender to him, as you know, there will be a problem. The lowest bidder will ask: "Why was I not awarded the tender?" So, we have got to do what the Public Procurement and Disposal Act requires us to do.

Mr. Mwathi: On a point of order, Mr. Deputy Speaker, Sir. I would like the Minister to know that I have been in the Civil Service for a long time. You do not always have to award a tender to the lowest bidder. For example, if you know that the cost of a ball point pen is Kshs10, and the lowest bidder has quoted Kshs1, you do not just give the tender to the lowest bidder. In the tendering process, there are two kinds of evaluations, namely financial and technical. So, you do not just consider the financial one. You must also look at the technical aspect. So, you cannot come here and tell us that because a contractor was the lowest bidder, you were bound to award the tender to him. Those two evaluations must go hand-in-hand. That is the procurement regulation.

(Mr. C. Kilonzo stood up in his place)

Mr. Deputy Speaker: Proceed, Mr. C. Kilonzo!

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. On the same point, I have two boreholes which were drilled by the Ministry of Planning, National Development and Vision 2030. They used the criterion of the lowest bidder. One of them is in one of the centres of excellence. The other one is near our home. The contracts were awarded on the basis of the lowest bidder and to date, none of them is operational. So, is the Minister in order to say that the Ministry can only rely on the lowest bidder instead of relying on a technical evaluation report? Normally, the financial aspect should be the second criterion.

End J

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I do appreciate the concerns of the hon. Members, but this contractor has said that he will do it. I have no reason to doubt that he will do it until he fails to do it.

Mr. Mungatana: Mr. Deputy Speaker, Sir, even where the contractors are able to drill the boreholes especially in Kilelengwani area of Kipini Division, Tana River County, there is a lot of water salty water coming up. This has resulted into a lot of wastage. Has the Minister considered setting aside some money to do proper hydrological surveys and map the Tana River County? This is because we have a problem in that county. The assumption has been that since we have a river we are okay and yet we are not. We have huge areas which have problems. Has the Minister set aside some funds for the maps so that when the Government allocates funds for drilling proper results are obtained?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I want to share with the hon. Member that only last week we signed a contract with the Japanese Government to give us a master plan of where water is in this country. So, that will be included.

However, the cost of Kshs10 million is for drilling five boreholes. There is no component to cater for equipping the boreholes. This means that money for equipping will be set aside. The probability is that you could drill a borehole and get water at a depth of 100 metres and not necessarily the depth of 280 metres. So, this varies from one area to another and this is okay.

Dr. Nuh: Mr. Deputy Speaker, Sir, we would like to have a copy of the contract that was signed between the Ministry and this contractor. This is because we want to know whether this contractor did some work in this terrain. The reason as to why he gave such a low bid could be because he does not even know what he does. More importantly, we want an assurance from the Minister that they will not vary the depth of this borehole or the works that are supposed to be done. Time and again engineers have gone to vary figures for their convenience after the contract document has been signed.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I will give him a copy of the contract. I ask the hon. Member to be vigilante and check whether the contractor is doing it. If he finds out that he is not doing it, let me know. I will also be using my officers on the ground. If he is not doing it, I will certainly take action as soon as possible.

I have a copy of the contract here and I can give it to the hon. Member.

STATEMENTS

DISQUALIFICATION OF GLADYS C. TARUS FROM MILITARY RECRUITMENT

The Assistant Minister of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, the attention of the Ministry of State Defence has been drawn to the public discussion in respect to the alleged unfair disqualification of one Gladys Chepkechei Tarus from military recruitment. This discussion has occupied space in both the print and the electronic media. There have also been statements attributed to an NGO and my colleagues, hon. Members of Parliament, including some hon. Members of the Departmental Committee on Equal Opportunities. They have insinuated that the lady was

unfairly and unjustifiably disqualified from recruitment at the Recruit Training School in Eldoret on medical grounds.

In public interest, the Ministry has decided---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members who are seated at the back! Order, Dr. Kuti! If you want to consult with your Cabinet colleague, we have some lounges outside the House where you could go and consult.

Proceed, Mr. Assistant Minister!

The Assistant Minister of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, the Ministry has considered that in the public interest we issue the following Statement: The main allegations have been that the lady, Gladys Chepkechei Tarus was unfairly disqualified from the Recruitment Training School and that her position was taken by someone who paid Kshs300,000.

Mr. Deputy Speaker, Sir, we would like to state as follows. We categorically deny the allegation that this lady was unfairly excluded from recruitment. As hon. Members are aware, military recruitment exercise all over the world follows some specific requirements for recruiting potential candidates. For the Kenyan military, women candidates must among other requirements not be pregnant at the time of enlisting and during training. Potential women candidates are expected to be screened for pregnancy using an immunological test where the presence of some hormones is checked in the urine.

In the case of Gladys Tarus, she underwent a medical test on 8th October, 2010 at Kabarnet in Baringo Central District. Her pregnancy test then was negative. In fact, I would like to tell hon. Members that she was the best candidate in that recruitment centre. She was excellent. She ran and was the first. In fact, after she finished her race, the recruiting officers had to wait for three minutes before the second person arrived. This means she was excellent and the records will show that.

Mr. Deputy Speaker, Sir, having undergone the initial medical exams and other pre-military qualification tests, she was deemed a successful candidate and was issued with a calling letter to report to the RTS in Eldoret on 25th October, 2010. It is a requirement that upon reporting at the RTS in Eldoret, all candidates undergo a further medical test and other military competitive tests. During these tests that were conducted in Eldoret on 25th October, 2010, Gladys' tests on pregnancy were positive. She was duly informed of the results. She was informed that she was no longer qualified for military placement.

I want to go on record and emphatically state that Gladys was not unfairly disqualified. Her case was not in isolation. Several other potential recruits numbering not less than 28 were also disqualified on that day for various reasons, including two other girls who tested positive along with Gladys. However, all in all, we were able to recruit a total of 418 women who have now joined the military.

End K

[The Assistant Minister, Ministry of State for Defence (Mr. Musila)]

Mr. Deputy Speaker, Sir, Gladys Tarus, on her own volition went, to Eldoret Town to conduct a further repeat of pregnancy test after she was declared unfit. Later that night, she went back to the school with documents suggesting that she was not pregnant. She presented to the college the results of her medical examination which showed that it was actually an ultra-sound, which I have here and I would like to read the results by the doctor who examined her. This is ultra sound - The doctor is Dr. Kimutai. He said that there is no evidence of pregnancy. However, he proposed and recommended that it should be repeated using urine test because obviously hon. Members are aware that if it is a pregnancy of, say, two or three weeks, it will not be detected in ultra-sound. Therefore, Dr. Kimutai recommended that way.

Mr. Deputy Speaker, Sir, our doctors agreed with the recommendation of Dr. Kimutai that they repeat the test. I want to say now that this was going to be a third test because two tests had already shown that Gladys Tarus was positive in pregnancy. But when the doctors now attempted to do a further test, they found that there was vaginal bleeding and, therefore, discontinued that test. Since her earlier pregnancy tests had indicated that she was pregnant and a further clinical examination, she was found to have vaginal bleeding, she was, therefore, declared unfit for military training. That is the position and our Ministry will not change this position.

Mr. Deputy Speaker, Sir, on the allegation that Gladys Tarus was replaced after disqualification and her place taken by someone who paid Kshs300,000, I wish to state that the military recruitment officially ended on 22nd October, 2010 and the training school in Eldoret is not a recruitment centre. I want to say that candidates who reported on 25th October, 2010 went there simply to be received. There was no recruitment going on. No recruitment or replacement of those people who were not fit took place. All together, over 28 candidates were disqualified for various reasons and no replacement took place. Therefore, the question of someone paying Kshs300,000 to replace Gladys Tarus does not arise. In any event, the Ministry had repeatedly cautioned the public against corruption. If there is anyone including the NGO in question with information indicating that money changed hands to secure anyone a place in military training any time, they should report these facts to the Kenya Anti-Corruption Commission (KACC) or to any other law enforcement agency. These are the facts and I hope that this matter will settle. I would like to be available to respond to any clarifications that hon. Members may have.

Mrs. Shebesh: Thank you, Mr. Deputy Speaker, Sir. I know normally we are supposed to thank Ministers for their comprehensive answers but on this occasion, I cannot. In fact, I am totally offended.

I want to draw the attention of this House to the new Constitution and the fact that I know we were on the same side of the campaign with this Assistant Minister, I guess there are some areas he did not read. Article 27, Equality and Freedom from discrimination, I would like to read Section 4 which states:-

“The State shall not discriminate directly or indirectly against any person on any ground including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.”

Mr. Deputy Speaker, Sir, I know there are limitations for the security forces. I do not see any limitation on this particular section for limitations. Another issue I just want to bring to the Assistant Minister’s attention before my colleagues also seek for clarification is that vaginal bleeding can also mean periods; menstruation. So the insinuation by the Assistant Minister that if she was not pregnant, then the way she was bleeding is that she had carried out an abortion, I believe that on moral grounds, he is not that high to pass judgment on a woman whether or not she is pregnant by suggesting that vaginal bleeding must lead to something that you are leaving unanswered. Vaginal bleeding is also called menstruation which many of us women go through.

(Applause)

Ms. Karua: Mr. Deputy Speaker, Sir, I heard the Assistant Minister talk about vaginal bleeding. I did not hear him distinguish between the normal monthly periods which cannot be a disqualification for the army. Could the Assistant Minister therefore clarify what he means and whether the doctor went further to state what type of vaginal bleeding so that this young girl is not victimized for a natural phenomena?

(Loud Consultations)

Mr. Affey: Mr. Deputy Speaker, Sir, it is very clear that the Assistant Minister did not answer this question and he is very evasive. He has told us that this lady was the best. In fact, she ran very well and she was very fit. She was tested on 26th and according to the Assistant Minister, she was pregnant. This wonderful lady went to other doctors other than the military doctors and they found her negative in Eldoret, twice. That is what the report says. We want you to take back this girl now that you know she is not pregnant. Since she has done very well, you have no reason to deny her an opportunity to serve in the army. Secondly, even in the event that you decided not to take her, did you replace her with another female from the same place?

(Mrs. Kilimo stood up in her place)

Mr. Deputy Speaker: Hon. Mrs. Kilimo, I hope you are supporting your Assistant Minister.

The Assistant Minister for Co-operative Development and Marketing (Ms. Kilimo): On a point of order Mr. Deputy Speaker, Sir.

Hon. Members: You are a Minister!

The Assistant Minister for Co-operative Development and Marketing (Ms. Kilimo): Yes, I am an Assistant Minister but I am also a human being and I am a lady, a woman. I am the Chairperson of the Women Parliamentarians. Now I want to be given the opportunity to state my case---

(Mr. C. Kilonzo stood up in his place)

Mr. Deputy Speaker: Order, Mrs. Kilimo! Yes, Mr. C. Kilonzo!

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I want to understand whether we are going to change procedures of this House to allow Assistant Ministers to seek clarification on issues of the Government they are serving. If that is the case, then we should you know from tomorrow that Assistant Ministers will be asking questions.

The Assistant Minister for Co-operative Development (Mrs. Kilimo): On a point of information, Mr. Deputy Speaker, Sir. I think we are here and we have a right to stand---

(Loud Consultations)

End L

[Mr. Deputy Speaker]

The Constitution of the land is also in place. I want to have the pleasure of one day sending a Minister out of this House for failing to adhere to the Constitution of the land. The Constitution of the land is a supreme document. You can have your feelings. As Members of Parliament you represent your constituencies also in addition to being Ministers; it will be that way until we get to the next elections of 2012.

You can consult privately. You can talk to your Government as its Minister. But a Government Minister cannot stand on the Floor of the House to oppose a Government position. I have made it clear before, and I will have the pleasure of sending a Minister out of this House in future if they do so.

Hon. Kilimo, are you on a point of information?

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Do you want to inform the hon. Assistant Minister?

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): I want to inform my colleague.

Mr. Deputy Speaker: Hon. Assistant Minister, do you want the information?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): I do not want it, Mr. Deputy Speaker, Sir.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): May I speak then and I can withdraw if what I say is not acceptable?

Hon. Members: No!

Mr. Deputy Speaker: Not unless you want to tell us that you have resigned from the Government; of course, you are at liberty to do that. As long as you are a Minister of the Government and a fellow Minister does not want your information, then the matter rests at that.

Dr. Laboso: Thank you, Mr. Deputy Speaker, Sir, for allowing me this chance. We are particularly aggrieved as women that a woman has been discriminated against. Ms. Shebesh has just read to us the Constitution, which I believe is the highest authority in the land. Is there a law then that is higher than the Constitution that should be taken into account even if it concerns the army? This girl deserves to go back to the army. As three hon. Members have already said, normal monthly periods should not be used to prevent a woman from joining the military. That is part of fertility. It is part of building the nation.

Mr. Deputy Speaker: Hon. Members, our practice is that when a Ministerial Statement is given, you seek clarifications. If you seek clarification from the Assistant Minister as to whether he actually knows the provisions of the Constitution, that is also a way of seeking clarification. But do not say: “Minister do this; Minister do that”. Could you seek clarifications?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I hold a slightly different opinion; I want to commend the Assistant Minister for responding to public pressure. This is the way we want the Government to operate, and I think I appreciate that bit.

We have heard a lot of complaints and not just this one. This one has been highlighted. What are the clear appeals procedure that exist within the military when someone feels aggrieved as in this situation? It seems even if she is to go back nothing is clear cut. The decision you have taken is inconclusive; if it is vaginal bleeding, then there is no conclusion either way. I think it is unfair for the Assistant Minister to lean on one side. I am seeking a clarification on what the clear channels for appeals are. In this case, where appeal channels are not clear, why can the Assistant Minister not interpret the rules in favour of the applicant in the spirit of the new Constitution? He should accept that vaginal bleeding is a normal thing, so that she can be taken back. Under the new Constitution interpretation is always in favour of promoting human rights, and not against human rights.

Mr. Koech: Mr. Deputy Speaker, Sir, I have listened very keenly to the Assistant Minister, and he has made it very clear that several tests were done. I have a document here from Uasin Gishu District Hospital. The letter states very clearly that a pregnancy test was repeated on the day at Uasin Gishu District Hospital and she was found to be negative.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): What is the date?

Mr. Koech: That was on 26th October.

Mr. Deputy Speaker, Sir, there is a request for a laboratory test report, which is attached to the same; part of the report states as follows:

“(Includes microscopic examination. PT negative)”

I table this document.

(Mr. Koech laid the document on the Table)

Mr. Deputy Speaker, Sir, the clarification I want from the Assistant Minister is: Is he convinced that the tests done by his officers are correct? Could he consider, with all these differences, inviting one Gladys to his office and carrying out a test in Nairobi to confirm her status? He has clearly indicated that Gladys was the best; he has also really made it very clear that after she completed running it took almost five minutes for the others to arrive. This definitely is a wonderful lady.

Secondly, he has also indicated that several others were also sent away and that he has got 28 candidates. Could he table the names of those 28 for us to interrogate?

Mr. Deputy Speaker: I see that it is by the Ministry of Health. It is signed. Proceed, Mr. Assistant Minister.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I want to appreciate the points of clarification.

(Loud consultations)

Mr. Deputy Speaker, Sir, you will have to protect me because I cannot---

Mr. Deputy Speaker: The sad part of it is that, that is the Front Bench. The Front Bench ideally should be mum and listen to every word that is said on the Floor of this House.

Proceed, Mr. Assistant Minister.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I was saying that I appreciate very much the points of clarification that have been raised by hon. Members. I would like to start with the last point by Mr. Koech. Mr. Koech has produced a report from a doctor, purporting that this lady was now negative in pregnancy.

He has also raised a very important issue as to whether we can call the lady and I speak to her.

Hon. Members: Yes; speak to her!

End M

[**The Assistant Minister, Ministry of State for Defence** (Mr. Musila)]

I agree and what I am saying is that we have made every effort to get the facts about this matter because the Ministry would not like to be in a manner that it is perceived or seen to be discriminating against any citizen of this country.

Mr. Deputy Speaker, Sir, let us understand that these doctors for the armed forces are the same as any other doctors in other hospitals. They carried out these tests and I have the results here. They were positive and because of the public outcry, we went further and even sent more senior doctors to address this issue. They even carried out personal interviews. I want to state that this report that has been produced was done on the 26th and the tests were done on 25th. The bleeding, which I will come to was found on the 25th. So I want the hon. Member to also see the possibility of there having been interference with whatever was developing in the womb of this lady so that by the time this test was done on the 26th it is possible, even to date, it could be negative.

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

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I want to be allowed to finish.

Mr. Deputy Speaker: Order, Assistant Minister!

What is your point of order, Mr. Pollyns Ochieng'.

Mr. Ochieng': On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead this House? The request by Mr. Koech is very straight forward. If he has several medical reports produced by several doctors, why can the Ministry not convene a medical board so that this girl can be examined?

(Loud consultations)

Mr. Deputy Speaker: Order! The practice of the House is that you can take so many clarifications at the same time and the Assistant Minister responds to a maximum of five. However, it has never been the practice of the House that the Minister would take so many points of order! The practice is that when there is a point of order raised, the Assistant Minister responds to it. You cannot have one point or order on top of another point of order. You wait until that point of order is disposed of then you rise on your point of order.

Proceed, Mr. Musila!

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

Mr. Deputy Speaker: The Assistant Minister is responding to a point of order, Dr. Nuh!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I am just saying that if the hon. Members gave me time to explain, in fact, there is no question of assembling a medical board to examine a recruit. This is a simple matter. Doctors have realized the---

Dr. Nuh: On a point of order! On a point of order!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, you have to protect me.

Mr. Deputy Speaker: Dr. Nuh, what is your point of order?

Dr. Nuh: Mr. Deputy Speaker, Sir, my point of order is the same as was raised by Mr. Ochieng'. I would want to forgive the Assistant Minister because he does not have a medical background. He might have been misled by his officers. However, more importantly, he wants this House to assume that this lady had conducted an abortion. They are unable to prove this beyond any reasonable doubt and any Kenyan is innocent until proven guilty, yet he wants this House to assume the guilt of this lady in conducting an abortion. Just because they saw blood, they were not able to verify whether it was natural or from an abortion.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I ask that you rule that hon. Members allow me to present the matter.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): On a point of order, Mr. Deputy Speaker, Sir.

(Loud consultations)

Mr. Deputy Speaker: Order! Mr. Orwa Ojode and Maj-Gen. Nkaisserry will spend the rest of the day outside the Chamber! You are strangers in the House.

(Applause)

You are strangers for all practical purposes!

The Assistant Minister of State for Provincial Administration and Internal Security (Ojode): But why?

Hon. Members: Out! Out!

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): On a point of order, Mr. Deputy Speaker, Sir. I want to know why I am to be sent out of the House. I want to be given the reason! I can go out but I want to know the reason before I go. I have done nothing!

Mr. Deputy Speaker: Order! Order!

*(Mr. Ojode and Maj-Gen. Nkaisserry
withdrew from the Chamber)*

(Applause)

Mr. Deputy Speaker: Order, hon. Members! You realize we cannot turn the dignity of this House into a fish market. You cannot have Ministers or otherwise as if this is a place other than the dignified institution it is. The Chair will not tolerate that anymore!

Proceed, Mr. Cheptumo! It is the presumption of the Chair that you want to support your fellow Assistant Minister.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Deputy Speaker, Sir, I would like to say that the

proceedings of this House are aired live. The young girl has undergone serious suffering since the time---

Mr. Deputy Speaker: Order! I do know that the proceedings of the House are live. The Chair is conscious that you are all Members elected from constituencies. You have duties to your own voters and constituents but we have a Constitution in this country that overrides that. You cannot hunt with the wolves and graze with the sheep. You cannot be Members of the Government enjoying the privileges of being Assistant Ministers and Ministers and at the same time being Backbenchers in the House. That is the rule of the House and the rule of democracy itself. Under the circumstances, as a Minister, you can only support your fellow Minister.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. You heard the Assistant Minister say that he cannot constitute a medical board because this is a very simple matter. Is he in order to take this as a simple matter when the poor girl has been crying day and night?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I humbly request the Chair that I be afforded an opportunity to respond.

Mr. Deputy Speaker: Proceed and respond!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I was just making a point that the Ministry has conducted investigations on this matter. Indeed, we have even dispatched a very senior officer of the rank of a brigadier to deal with this matter and ensure that fairness is done in interviewing this girl.

This is a matter I have been avoiding to disclose but in view of the fact that hon. Members want more information I want to say that this girl did admit that on the 9th, the day after the recruitment in Kabarnet, she had unprotected sex. Therefore, that must be seen in the light of confirming---

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

(Loud consultations)

Mr. Mwathi: I beg to be heard, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Members!
Proceed, Mr. Mwathi!

Mr. Mwathi: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to imply that because the girl may have had unprotected sex at whatever time after, that resulted in a pregnancy. He has medical support and if he is not, is he in order to mislead the House?

End N

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I have six clarifications to address and I have not even finished one. If hon. Members would allow me to finish---

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. The Standing Orders provide for relevance in all the matters before the House. The issue is whether this young girl was pregnant as of the time she was being examined. Is it in order for the Assistant Minister to bring unsubstantiated and unfounded allegations just to increase the mental torture of this poor young girl, who is now being denied her fundamental rights and tortured?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I think the issue of relevance is there because tests were done on 8th and the lady was negative. On 25th, she was positive. Therefore, if any activity took place in between it is possible that, that is why she was positive. That was her own confession.

Mr. A. Abdalla: On a point of order, Mr. Deputy Speaker, Sir. I rise under Standing Order No.82 which says that a Member shall be responsible for the accuracy of any facts which the Member alleges to be true, and may be required to substantiate any such facts instantly.

Mr. Deputy Speaker, Sir, the Assistant Minister claims that this lady had sex on 9th and on 25th, she tested positive. The test of pregnancy is based on blood. How can he tell the House that because the person has had a miscarriage the same day, the blood is going to automatically change for her to test negative? The Assistant Minister might be trying to protect his officers, but sincerely, there is no way he can claim here scientifically that these tests can be different. Even if you do not want to readmit this person, please, substantiate under Standing Order No.82, otherwise, you are out of order!

Mr. Deputy Speaker: Mr. Assistant Minister, you realize that the Standing Order itself talks about “the accuracy.” The very fact that you are saying that she has had sex, I do not want to get into a situation in which hon. Members will ask you to substantiate every statement you have made.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, if it is a matter of substantiation, I have a medical report here from the doctor showing that the lady was positive and, therefore, pregnant on 25th. This is a medical doctor---

Mr. Deputy Speaker: How do you explain a similar one also from a reputed Government institution that says that she is negative?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, the only medical report we have other than the ones we produced is the one by Dr. Kimutai which was ultra-sound. That is the only report that Gladys Tarus presented to us. It suggested that there should be repeat of urine test because admittedly, the doctor did accept that ultrasound cannot detect any development of a human foetus which is not even yet developed in the womb. The report that has been produced by hon. Koech is new to us. We have never seen it because it was never presented to us.

Mr. Deputy Speaker, Sir, the interview was relevant because she had to be interviewed in order to determine if something could have happened between the time

she was recruited and when she reported to the school. She admitted on her own volition that this actually took place.

Mr. Deputy Speaker, Sir, let me proceed. There was the issue of discrimination.

Mr. Deputy Speaker: The Chair would like you to have a look at the same one from Uasin Gishu District which essentially is probably information that you might need to look at. It has already been tabled and the Chair has ruled that it is---

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I would be happy to look at it, but I wanted to say that the only report that was presented to us was the ultra-sound medical report which suggested that a repeat was necessary.

Mr. Deputy Speaker, Sir, on the issue of discrimination---

Mr. Deputy Speaker: Order! Order! Allow the Assistant Minister to finish.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has repeated time and again, that the only report they have is by Dr. Kimutai and yet, a document has been produced here from a Government hospital. Would I be in order to request that the Assistant Minister looks at that document, acquaints himself with what we are saying and then maybe he can say whether he can continue addressing this Ministerial Statement?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, even Army doctors are also Government doctors. So, you cannot say that because Army doctors made reports, there is another doctor from another hospital who can overrule those doctors. Those are also Government doctors, but as agreed, I will look at that report.

Mr. Deputy Speaker, Sir, the issue of discrimination was raised and I want to say that there is no discrimination in the military. Indeed, I have said that we this time took 421 women recruits out of 1,800, which is within the parameters.

Mr. Deputy Speaker, Sir, can I be guided?

Mr. Deputy Speaker: Order, Mr. Assistant Minister!

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister even to confirm to this House that they have violated the requirement of the Constitution? Out of 1,800 a third is 600. Mr. Assistant Minister, why have you violated the requirement of the Constitution?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, that is really not the issue we are dealing with---

Hon. Members: No!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): But I can tell the hon. Member that you can only say they are being discriminated if you look at the total number of men and women in the forces. The recruitment could have been 421 but that does not necessarily mean that every recruitment must be---

(Several hon. Members stood up in their places)

Mr. Deputy Speaker, Sir, can I continue?

Mr. Deputy Speaker: Allow the hon. Assistant Minister to present his facts!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, what I am saying is that the overall numbers in the Military will

reflect that we are not discriminating. I want the hon. Members to appreciate that here we are dealing with the Military and we cannot recruit ladies who are expectant. I have already explained that in recruiting, you do not take expectant people, although later on when they get pregnant, they can continue.

Mr. Deputy Speaker: Hon. Assistant Minister, you seem like you are missing the point. The issue that is at hand right now and being advanced by the hon. Members is not an admission that actually the lady is pregnant. The issue is the pregnancy or non-pregnancy of the lady.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, it is only that the hon. Members have extended it further.

Mr. Deputy Speaker, Sir, hon. Karua raised the issue of distinguishing between bleeding which is monthly, and otherwise. The report that I have from the Army doctors is that they think that this particular bleeding was related to an apparent interference---

Mr. Deputy Speaker, Sir, can I finish?

(Mr. C. Kilonzo stood up in his place)

Mr. Deputy Speaker: Can he conclude that statement? What is your point of order, Mr. C. Kilonzo?

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. You notice that when the Army doctors saw the blood, they did not do any tests. Now the Minister has introduced something called "a feeling," which I do not think is even medical in any way. So, is he in order to continue insisting that there are tests which were done while doctors never did any blood tests? That is a fact. Why was the blood test not done and why is he misleading the House?

End O

Mr. Musila: Mr. Deputy Speaker, Sir, probably, the word “feeling” is misplaced. The word should be “opinion”. In the opinion of the doctors, the bleeding was not as a result of monthly period but as a result of interference with the pregnancy.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. This House is entitled to statements of facts. The Assistant Minister has said that it is the opinion of the doctors. Could he give evidence or the basis upon which the doctors arrived at that opinion and lay it on the Table?

Mr. Deputy Speaker: Mr. Assistant Minister, we have public institutions which are entrusted with some of those things. We have institutions like medical boards. Would you be willing to get the information?

Mr. Musila: Mr. Deputy Speaker, Sir, as I said, those tests were done on 25th October. We cannot rely on any other tests which were done two to three weeks after. Those tests cannot be relied upon. The tests were done by qualified medical doctors on 25th October. The tests were positive and we cannot repeat them.

Mr. Deputy Speaker: Order! Hon. Members, you will realize that the Chair has no authority to direct the Government on what to do. You will also realize that there are provisions in the Standing Orders as well as in the Constitution to deal with such matters if you are not satisfied. You will also realize that we cannot spend the whole day dealing with one issue. Mr. Assistant Minister, the issues of Constitution that you have raised and the practice itself--- It is the opinion of the Chair that this is a weighty matter and, under those circumstances, the Chair can only do what it can do; which is to direct the matters to the relevant Departmental Committees. In matters of the Constitution which the Chair is seized with, and the issues which have been raised, I direct the relevant Committees to move with speed and report back to the House in one week’s time. In the event that hon. Members would want to pursue this any further, you have provisions in the Standing Orders to do that.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. Yesterday, you ordered that today, the Minister for Industrialization should give a statement on the hiring of the MD of KEBS. I notice that he is not here.

Mr. Deputy Speaker: Order, Ms. Karua! Indeed, yes. Initially, the Chair had ruled that the hon. Minister brings the Statement. However, within a minute, the Minister indicated that he would not be in a position to issue the Statement in the morning. The Chair granted that and the Statement will be issued today in the afternoon.

Mr. Mungatana: On a point of Order, Mr. Deputy Speaker, Sir. I stand to seek a Ministerial Statement from the Treasury.

Mr. Deputy Speaker: You wish to seek a Ministerial Statement from the Treasury?

Mr. Mungatana: Yes.

Mr. Deputy Speaker: But you do not have a copy of that? Ideally, the practice has been that the Chair must have a copy of that and approve it before you seek it.

Mr. Mungatana: Mr. Deputy Speaker, Sir, you approved it yesterday, but he was not able to issue it.

Mr. Deputy Speaker: Could you seek it in the afternoon?

Mr. Mungatana: Yes.

Mr. Letimalo: On a point of order, Mr. Deputy Speaker, Sir. Yesterday, you directed the Minister of State for Defence to respond to a Ministerial Statement that was requested by hon. Lekuton and I request that it is issued now.

Mr. Deputy Speaker: Since we have taken a lot of time on one statement, the Chair directs that this statement, which is equally a serious matter, be delivered today in the afternoon.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. There is a contestation between me and the Ministry of Information and Communications as to the fate of a Ministerial Statement that I requested before the House rose. The Speaker was to give a ruling to that effect.

Mr. Deputy Speaker: Indeed, yes. I will have to acquaint myself with the matter and give a ruling on the same at a later date.

MOTION

APPLICATION OF GEOGRAPHIC DIMENSION REPORT OF 2005 IN ALLOCATION OF CDF/DEVOLVED FUNDS

THAT, noting that the Kenya Integrated Household Budget Survey Report Should be used to objectively determine poverty levels in the country in an effort to effectively tackle poverty; aware that the Geographic Dimensions of Well Being in Kenya Report published in 2005 contains the objectivity required for such a report as an accurate reflection of the reality on the ground; noting that the subsequent Kenya Integrated Household Budget Survey Report of 2005/2006 published in 2007 shows marked changes in poverty levels without any known interventions and that it is not a reflection of the reality on the ground; mindful that the survey forms the basis of allocation of Constituency Development Funds and may be used to allocate other devolved funds which could result in skewed allocation of resources thereby further entrenching economic marginalization of more deserving areas; this House resolves that the Government continue to use the Geographic Dimensions of Well Being in Kenya Report published in 2005 in allocating CDF including in the Financial Year 2010/2011 and other devolved funds, until a more objective and consultative survey is carried out.

(Mr. Ogindo on 27.10.2010)

(Resumption of Debate interrupted on 27.10.2010)

Mr. Deputy Speaker: Hon. Lesonnet was on the Floor.

Mr. Lesonnet: Thank you, Mr. Deputy Speaker, Sir. I would like to continue from where I left last time and, specifically, I would like to oppose the Motion.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir, I rise on a point of order under Standing Order No.47(3) and specifically (b), (d) and (e). I am asking for your indulgence.

If you look at 47(3)(b), it says:-

If the Speaker is of the opinion that any proposed Motion-

- (a) is one which infringes, or the debate on which is likely to infringe, any of these Standing Orders, or
 - (b) is contrary to the Constitution, without expressly proposing appropriate amendment of the Constitution; or,
 - (c) is too long; or,
 - (d) is framed in terms which are inconsistent with the dignity of the House; or,
 - (e) contains or implies allegations which the Speaker is not satisfied that the Mover can substantiate; or,
 - (f) calls for the commitment of public funds for which no provision is made in the Annual Estimates as adopted by the National Assembly;
- the Speaker may direct either that, the Motion is inadmissible, or that notice of it cannot be given without such alteration as the Speaker may approve.

I am saying that this Motion is unconstitutional in the sense that it is discriminatory in effect. This Motion is requesting the House to disregard the published results of the Kenya Integrated Households Budgets Survey of 2005/2006 which were more comprehensive and covered all the constituencies as opposed to the Geographical Dimensions Report of 2005 which the Motion is insisting must be continued to be used. I have a report here from the Kenya National Bureau of Statistics, itself, and I will give a poverty profile of its work. The first poverty profile was undertaken in 1982.

There was NACEP 1, of 1982/1984. All provinces were covered except North Eastern Province. Turkana and Samburu districts of Rift Valley, Marsabit and Isiolo districts of Eastern Province were also excluded due to insecurity. We come to the Welfare Monetary Survey 1 of 1992 and again, in Isiolo, Garissa and Mandera, only urban clusters were covered. Again, Turkana, Marsabit and Samburu were not covered. How can we continue using a survey that was not comprehensive and disregard a survey that was comprehensive? Welfare Monetary Survey III did not cover the districts of Turkana, Mandera and Samburu due to insecurity. That is what went on into 2005 without the areas that I have mentioned.

The Kenya Integration Survey Budget, the survey of 2005/2006 was more comprehensive. All ASAL areas were covered.

End P

[Mr. Ethuro]

Mr. Deputy Speaker, Sir, the key difference between the welfare geographical dimensions survey and the Kenya Integrated Survey is a matter of geographical coverage. It is more comprehensive and includes everybody. So, if we proceed to prosecute this Motion with this kind of information, we will be engaging in an exercise in futility. This will take us back to where we have come from. We still to be living in the old Constitution. This House must be alive to the fact that there is a new Constitution. Article 10 of the Constitution says:-

“The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them:-

- (a) applies or interprets this Constitution;
- (b) enacts or applies or interprets any law and
- (c) makes or implements public policy decisions”.

Mr. Deputy Speaker, Sir, we are being asked to make a resolution of the House that is very offensive to the Constitution. Is that something that we, as a House, are willing to entertain?

Article 10(2) of the Constitution provides as follows:-

“National values and principles of governance include human dignity, equity, social justice, inclusiveness, quality, human rights, non-discrimination and protection of the marginalized”.

If that is not unconstitutional, then I would want to invite what you would consider unconstitutional.

Mr. Deputy Speaker, Sir, my second point in opposing this Motion is that the effect of this Motion is to amend the Statistics Act, No.4 of 2006. This Act authorizes only one institution to be the official Government gatherer and custodian of data. This is the Kenya National Bureau of Statistics. By a law which was passed by this House in 2006, we mandated the Kenya National Bureau of Statistics to do so. So, when the Motion is asking the House to put this report in abeyance while waiting for a more positive and favourable option, where does it expect that to come from? Is this House going to be the one generating and supplying data to Government institutions that we are being asked to pass a resolution to that effect? I find that also objectionable according to the Motion before us.

The third consideration is that the Motion before the House is framed in terms which are inconsistent with the dignity of the House to the extent that it requires the House to resolve on a matter which Parliament has already relegated to another authority by law. This is the Constituencies Fund Development (CDF) Act. Allowing this Motion will be tantamount to allowing Parliament to alter statutes by resolutions rather than bringing in specific amendments to the necessary statutes. It is my considered opinion that for us to proceed with this particular Motion, we will be breaking all the rules that you can imagine of in terms of transacting our business. The Motion states that the Kenya Integrated Household Budget Survey is not correct. I am wondering on whose authority he is opining the report is not correct when I have produced a document that shows the nature and the comprehensiveness of that particular report.

The other contention is that the Government has already acted on these statistics. You have LATF which has already been released. You have the Secondary Schools Bursary Fund, which this House demanded of the Minister for Education to release. That money has already been released.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am on a point of order.

Mr. Deputy Speaker: Order! The hon. Member is on a point of order.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am on a point of order. I have raised the grounds, namely, 3(b), (d) and (e). I am just giving effect to the things that are already in the Standing Orders. There is no other way in which I can discuss such things. I, therefore, wish to table the necessary documents.

(Mr. Ethuro laid the documents on the Table)

This is the constituencies report on the wellbeing in Kenya based on the Kenya Integrated Household Budget Survey, 2005/2006. This is for the Republic of Kenya and not “the republic of Turkana.” The other document which I have said is limited in coverage and designatory because it was not comprehensive in its nature is the geographical dimensions of wellbeing in Kenya, namely, who and where the poor are. These two documents are already the property of this country. Anybody who cares for this country should be at liberty to look at the difference on what was covered and what was not covered.

Lastly, the House approved the Estimates of Expenditure for the Government in 2010/2011 and the Vote on the CDF was already granted by the Deputy Prime Minister and Minister for Finance. The Minister for Planning, National Development and Vision 2030, according to Section 19(2) of the CDF Act, laid the Paper in this House and nobody contested that. What will happen if the House passes a resolution as prayed by this particular Motion which is in conflict with the Government, the Minister and even with the Constituencies Development Fund Committee of this House? We have that mandate and according to Section 27(4) any matter that must come before the House must originate from the Committee.

I rest my case and I plead for your consent. I also want to appreciate that Members will go by the rule of law and not by the old interpretations.

The Assistant Minister for East African Community (Mr. Munya): Mr. Deputy Speaker, Sir, this Motion is properly before the House. The Motion is cushioning the accuracy of the survey. So, there is nothing unconstitutional about this Motion. The responsibility of this House is to interrogate Government policies and statistics. If Members have an issue on what a Government department has done, questioning its accuracy is not unconstitutional. So, the Members arguments would have been very useful in opposing the Motion and not in preventing the Motion from being debated in the House.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! Hon. Munya is not on a point of order! Hon. Ethuro was on a point of order and he raised an important issue; an issue that is pertinent to the

debate at hand. Now the Chair is entertaining contributions on the same, namely, on the admissibility or the constitutionality or not. So, proceed, hon. Munya!

The Assistant Minister for East African Community (Mr. Munya): Mr. Deputy Speaker, Sir, you are correct that I was contributing on the admissibility of the opposition to the Motion. I was arguing that there is absolutely nothing unconstitutional about this Motion. The Motion is questioning the accuracy of the survey, which is being used to allocate resources to constituencies. This is not a small issue when you realize that after the CDF Budget is increased by more than Kshs2 billion, constituencies receive less than what they received in the last year's allocation. This is not a small matter.

If you talk about discrimination, you are talking about those constituencies being discriminated against by being denied what they are already entitled to. They received money. However, this year when the Budget is going up, the economy is growing and the population is also growing, they are given less money.

End Q

[The Assistant Minister for East African Community (Mr. Munya)]

What explanations do we give to our constituents to tell them their constituency allocation has gone down from what they received last year, when the budgetary allocation by the Government is going up? So, this Motion is properly before the House. It is questioning the criteria of allocating CDF. It is also questioning the accuracy of the survey that comes out and say certain areas, some of them ASAL areas, like my area has become richer by more Kshs6 million.

Mr. Deputy Speaker, Sir, remember the census was done by this same Ministry. The census was done and it was said to be the most comprehensive census ever undertaken by the Ministry. It was delayed because the Ministry itself realized that it was inaccurate and certain sections of those censuses affecting certain areas were cancelled and the Ministry ordered a repeat. So, to urge in the House that it could be inaccurate, we are not far from the truth because we have seen it happening before. Not long ago, the same Ministry carried out a census. It had all the officers and all the money and yet it said this census was fictitious. So, we are saying that this survey could also be fictitious because it is the same department. That inefficient department that is not able to collect statistics is the same department that has done this household survey. How can we rely on that department that has not yet acquitted itself to allocate CDF? This is what we are questioning. When we questioning this, we are not saying certain sections are not entitled to the money they had been given. That is not the issue.

Mr. Deputy Speaker, Sir, when we question this we are not saying that certain sections are not entitled to the money they had been given. That is not the issue. We are Kenyans. We think Turkana and other areas should receive enough money to be able to get them out of poverty. But we are saying that in doing so, certain areas should not be penalized. Certainly areas should not be penalized by removing what they already have towards those areas.

Mr. Deputy Speaker, Sir, the right approach should have been and I am proposing a compromise on this Motion, the Ministry maintains the levels of funding that were there last year in those areas and then give more money to those areas that have problems. If that was done, we would have no quarrel.

Ms. Karua: Mr. Deputy Speaker, Sir, it is unfortunate that as Members we are now polarized on this issue. But Section 19(b) of the Constituencies Development Fund on the amount to be given says that we should use the National Poverty Index. Now, the National Poverty Index is normally by the Ministry of Planning, National Development and Vision 2030. We were using the earlier one. Now that this one is realised, I do not know see how the Ministry can avoid using this one.

Mr. Deputy Speaker, Sir, given that as hon. Members we are not satisfied with it, the compromise should be to use the report released, but to immediately call for a survey remembering that we are going into a period where there will even be a bigger cake divided on that survey. The compromise should be we must follow the law. So, the National Poverty Index should be used. But we should immediately call for a survey, which will then bring us results to tell us how to move forward.

Mr. Deputy Speaker, Sir, I was for a Kamkunji being called before. However, on the basis of this Motion, the end part of which is asking that the Economic Survey of 2005/2006 not be used, it would appear to contradict Section 19. I am saying up front that I would welcome a new survey. But it looks the compromise is we use the survey now released and then we call for another survey immediately.

Mr. Deputy Speaker: We are debating the constitutionality of the Motion at hand. The constitutionality of the Motion at hand is the inclusivity or the lack of inclusivity; discrimination or lack of discrimination. This was a timed Motion. Essentially, it is supposed to have ended by 12.00 o'clock.

The Chair will give a direction, but will entertain one very quick interjection from both sides.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I want to agree with my colleague hon. Munya. I also want to agree with the contributions of hon. Karua that the House is polarized on this issue.

Mr. Deputy Speaker, Sir, I want to plead that the right way forward with this Motion is for us not to polarize with these arguments. There is no way we can explain to Kenyans that a constituency headed by a former Assistant Minister for Planning and the Chairman of the CDF Committee is now going to get Kshs43 million while some constituencies are getting less.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! Mr. Ethuro, stood up on a point of order. The point of order was the constitutionality of the Motion at hand. The wish of the Chair would have been the hon. Members confine themselves to that. Not to debate the merits or demerits, or who gets what and who does not get what. The constitutionality was purely the prayer that essentially was advanced by the hon. Ethuro. This is what the Chair will give a ruling on.

The Motion itself was a timed Motion in that it was supposed to have ended two minutes from now; 12 o'clock. However, the Chair has deferred the Motion. The Chair will study the prayer advanced by the hon. Member and will make the relevant communication from the Chair by Thursday, afternoon this week.

End R

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Mr. Midiwo has made certain serious allegations on my character. The individual that he is referring to as the former Assistant Minister for Planning and the Chairman of CFC is the same one standing here. He should bring a substantive Motion to discuss my conduct. Secondly, he is implying that I was the Director-General of the Kenya National Bureau of Statistics and I actually conducted the same survey and yet there was a Minister in that particular Ministry. Could he confirm that the same Minister's constituency is also getting the same amount of money like the Assistant Minister? Could he withdraw and apologize.

Mr. Deputy Speaker: Order! Order, hon. Members! We can have our emotions and our convictions, but as a civilized nation and as a supreme institution of this country, we have a certain basic decorum to carry ourselves with. The very list we can do is respect our own rules. In any case, we are lawmakers. We make laws and we expect Kenyans to respect them. If we cannot respect our own basic rules, what image are we sending to Kenyans out there? By the way, Kenyans are watching us. We are no longer like the Eighth or Ninth Parliament. This is the tenth Parliament which is live. Mr. Midiwo, you actually cast aspersions on the character of the hon. Member. You cannot do that without a substantive Motion. Can you withdraw and apologize?

Mr. Midiwo: Mr. Deputy Speaker, Sir, if you could bear with me, I stated facts. He needs to say which one of those things I said was a lie. The reason why this Motion is bringing so much controversy is because we have gone through this part two years ago. I ask the hon. Member as the Whip that we call a Kamukunji and resolve it. We owe this to Kenyans. I want to beg your indulgence. I do not mean to offend my colleague but I have suggested with all humility that we take this thing away from public eye and agree.

Mr. Deputy Speaker: Mr. Midiwo, everything else you have said, the Chair has no problem with it but we have basic rules. Nobody can cast aspersions on you and your character as the Whip, much as you hold that position. The point is that you cannot cast aspersions on the character of another hon. Member. Mr. Midiwo, for the benefit and dignity of this House, can you withdraw the remarks that you have made against Mr. Ethuro?

Mr. Midiwo: Mr. Deputy Speaker, Sir, I withdraw them only as far as the subject for the debate is but I will make them during my contribution if this debate comes to the public because I know I am speaking the truth.

Mr. Deputy Speaker: Fair enough!

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

Mr. Deputy Speaker: Is it on the same? The Chair has ruled the Motion itself is--

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Mr. Ogindo: It is on a different matter.

Mr. Deputy Speaker: What is it then?

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. I am grateful for your ruling on this but as the Mover of this Motion, I feel frustrated. Together with the supporters of this Motion, we are getting frustrated. Under Standing Order No.82, the issue about the propriety of this Motion, it was duly approved by the Speaker. Under Standing Order No.82---

Mr. Deputy Speaker: Order, Mr. Ogindo! The Chair is going to make a communication on the same on Thursday afternoon. The Motion will either, in the opinion of the Chair, be deemed unconstitutional or properly before the House and it will be concluded. The Chair has already given a ruling on that. The Chair needs to study the prayer, consult with Clerks Chamber and come up with a ruling and a communication from the Chair on the same. That is going to be done on Thursday afternoon. In the event that the Chair rules that the Motion is admissible, then it is going to appear on the Order Paper next week Wednesday. In the event that the Chair is going to be convinced that the Motion is unconstitutional given the facts which will be elaborately spelt out, we will proceed from there. In the event that it will be found to be unconstitutional, then it will not be admissible.

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

Mr. Deputy Speaker: On the same? When the Chair gives a direction on some of these things, it is final.

Mr. Ogindo: Mr. Deputy Speaker, Sir, I am not challenging your ruling.

Mr. Deputy Speaker: So, the direction of the Chair is final on this.
Next Order!

(Loud consultations)

Mr. Ethuro: Mr. Deputy Speaker, Sir, there are loud consultations in the House.

Mr. Deputy Speaker: Order, Members of the Front-bench and those hon. Members at the Back-bench. Can we proceed on with the business of the House? If hon. Members want to consult, they can consult from other places reserved for that.

MOTION

PARLIAMENTARY SELECT COMMITTEE ON RESETTLEMENT OF IDPS

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

THAT, conscious that this country witnessed serious breakdown of law and order as a result of the post-election violence of 2007/2008; aware of the multiple forced displacement inducing factors and the current status and deplorable plight of the Internally Displaced Persons (IDPs) in the Country; considering the obligation of parliamentarians to the people they represent including those Internally Displaced, through their legislative, oversight and representative role, this House urges the Government to speed up the resettlement of IDPs and further constitute a Select Committee on Internally Displaced Persons to look into how the government has addressed the current plight of IDPs in terms of basic food rations, shelter and compensation; review existing institutions and organs addressing forced displacements; examine policies and laws governing all forms of forced displacement with the aim of promoting protection and improving the well being of forced migrants and make recommendations

on the way forward and that the Committee shall comprise the following and shall table its report within six months of its appointment:-

The Hon. Ekwee Ethuro, M.P.
The Hon. Martin Ogindo, M.P.
The Hon. Kiema Kilonzo, M.P.
The Hon. David Koech, M.P.
The Hon. Gitobu Imanyara, M.P.
The Hon. Jeremiah Kioni, M.P.
The Hon. Charles Kilonzo, M.P.
The Hon. Hussein Ali, M.P.
The Hon. Erastus Mureithi, M.P.
The Hon. Sophia Abdi, M.P.
The Hon. Millie Odhiambo-Mabona, M.P.
The Hon. (Dr.) Joyce Laboso, M.P.
The Hon. Shakila Abdalla, M.P.
The Hon. Boaz Kaino, M.P.
The Hon. Ntoitha M'Mithiaru, M.P.

[Mr. Deputy Speaker left the Chair]

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

Madam Temporary Deputy Speaker, in moving this Motion, first and foremost, I want to thank the House because this Motion is sponsored by the Amani Forum memberships who have taken upon themselves on behalf of this House to give the face of Parliament in terms of handling the issues of handling Internally Displaced Persons (IDPs). This Parliament is fully aware that we started our new political career in very trying terrible times.

End S

[Mr. Ethuro]

This Parliament is fully aware that we started our new political career in very trying and terrible times. The Coalition Government came at the start of the National Accord and Reconciliation Act, which this House passed in 2008. In the agreements of the Principles of Partnership of the Coalition Government, it is recognized that with this agreement and I quote the Schedule,

“We are stepping forward together as political leaders to overcome the current crisis and to set the country on a new path. As partners in a Coalition Government, we commit ourselves to work together in good faith as good partners through constant consultations and willingness to compromise.”

Madam Temporary Deputy Speaker, another paragraph reads:-

“To resolve the political crisis and the spirit of the Coalition and partnership, we have agreed to enact the National Accord and Reconciliation Act, 2008, whose provisions have been agreed upon entirely by the parties.”

Madam Temporary Deputy Speaker, one of the agreements that was considered is what came to be known as “Agenda Five – Long Term Solutions.” We have realized – and I want to thank each and every one of us who has played a role in this country – that one achievement of the Accord, when it was signed, was secession of hostilities. That one we did. We also went ahead to form a Government of National Coalition in April, 2008, and appointed the positions of the Prime Minister and Deputy Prime Ministers. That one we did!

We have also recently promulgated a new Constitution, giving this country a new breath of life, a new excitement and optimism. As we speak now, this country is tackling corruption in a way that has never been witnessed before.

Madam Temporary Deputy Speaker, again, we are very grateful to each and every person who has contributed to the realization of the long term solutions. But the situation of the Internally Displaced Persons (IDPs) remains blight on our political leadership. The situation of IDPs in the country remains a concern to hon. Members of Parliament. It is one of those statements we seem to be making quite loudly; that we have forgotten the people who brought us to power; we have forgotten the people who suffered for the consequences of us pursuing leadership positions.

Madam Temporary Deputy Speaker, this Motion is intended to ensure that, first and foremost, the IDPs are settled wherever they are; that our people cannot continue living in camps as if we do not have a stable country, a country that is democratic and which operates on the basis of the rule of law and order. So, that is the first job that we want to realize.

We also want to ensure that Government promises and commitments, because all of us are fully aware that every time the Minister of State for Special Programmes in particular – and I can see my sister, the former Minister of State for Special Programmes here – they have gone around the country, they have made pronouncements that IDPs will be resettled by a particular time. Unfortunately, like all kinds of things in the Government, they do not seem to come to a conclusion.

Madam Temporary Deputy Speaker, this Select Committee will work with the Minister of State for Special Programmes to ensure that there is a clear-cut time frame in which the IDPs are resettled once and for all. This is because some of the issues we are talking about are issues for which money has been released by the Government to resettle the IDPs— about Kshs3 billion – through the Ministry of Lands. We are talking about IDPs who have been receiving rations, but those rations are inconsistent and they are being misused!

We cannot be planning for another election in 2012 with a new Constitution whereas the issue of IDPs cannot be settled. I want to believe that the Minister has made a commitment that come December, 2010, all IDPs will be resettled. We want to welcome that. We want to appreciate it and we want to support it. But from experience, unless this Committee is formed to ensure that we interrogate the Government on a regular basis; to ensure that we bring the Government to account on their promises and actions, even that promise of resettling the IDPs by December, 2010, will remain a pipe dream. It will remain a pronouncement that will not be honored by the Government.

Madam Temporary Deputy Speaker, one other issue that we want to realize with this Motion is for the country to realize that Parliament, unlike the Government, has not abandoned the IDPs. That Parliament, as an institution that represents them, Parliament as an institution that has oversight over the Government cannot just ignore a situation like this one. So, after the resettlement, we would like to consider, as part of the national framework to ensure that the effects of the national cohesion and integration; to ensure that there are standard procedures and practices. We are not praying that this will happen; we are actually praying that it should not happen again. The only way to ensure that is when you have made provisions to ensure that it cannot happen.

Madam Temporary Deputy Speaker, you remember that even after the First World War, the UN committed itself and said “never again.” After the Second World War, they said again “never again.” After the Rwandan genocide, the world said again “never again to genocide.” But these things keep on happening. We want to acknowledge that the problem of the IDPs may be this. This is why we have governments in place. This is why we have institutions like Parliament in place. There is no task that we should consider bigger than the responsibilities that Kenyans have given us. We must rise to the occasion as Parliament. We must look at our priorities because it is our consideration that part of the problem of not resettling IDPs in good time is corruption. That even when the Government has set aside money, there are people who are not using that money properly and we know that already there are cases in court.

The second issue, that we have considered that is affecting the resettlement of IDPs is the fact that there are turf wars being played out by the major actors in the Government on who is responsible for what in terms of the Ministry of Lands, in terms of Special Programmes and also in terms of the Office of the President. It will only take a Committee of Parliament to ensure that these various organs of Government can be brought together and straightened up for the sake of the people who are suffering and who should not continue suffering.

Madam Temporary Deputy Speaker, I also want to submit that I do not believe that money is the problem in resettling of IDPs. We seem to have enough money to think of relocating the Office of the President – billions of money! We seem to have money to continue the construction of the house of the Vice President. We seem to have money and

we have actually expended in purchasing and rehabilitation of the office space for the Prime Minister. I have no quarrel with all these initiatives for they are good. But in a situation where people are living in camps, what will be your priority? We would like the Government, from the same resource envelope, to reallocate resources according to the urgent and desperate need of the people who are living as IDPs.

This country has acquired a new status; this country is a regional leader in the east and central Africa block. In fact, at the rate at which we are moving as a nation, we are going to be the leaders of Africa and even the leaders of the world. There is no reason - I am convinced - why we cannot sort out this problem once and for all. We believe that once we have this Committee in place examining the role of each player, looking at the legislation with a possibility of even coming with a draft Bill, this particular matter will be resolved once and for all so that our people can be able to be resettled properly.

End T

[Mr. Ethuro]

We will also be working with other Committees of the House. I want to recognise the contribution made by the Departmental Committee on Labour and Social Welfare, headed by hon. Sofia Abdi, which had already visited places like Mai Mahiu, Gilgil and Kurbanyat on 3rd and 4th May, 2010. It is some of these insights which are really making us say: “Maybe, we need to prioritise even the time of Parliament. Maybe, we must give priority to the IDP issue”.

Madam Temporary Deputy Speaker, I want to plead with the House that this is an opportunity for this House to be identified with the down-trodden in society. It is an opportunity for the House to show leadership and responsibility in terms of ensuring that we alleviate the suffering of people in IDP camps, as well as that of those who are considered “Integrated Displaced Persons” simply because they have been absorbed by very good Samaritans. We should not ignore them.

I hope that this Motion will also assist victims of cattle rustling, who are also “internally displaced pastoralists”. Every Kenyan who has been relocated from his normal place of residence requires the attention of the Government.

With those remarks, I want to call upon my good friend, hon. Jeremiah Kioni, who is also a member of Amani Forum, who has participated fully and effectively in most of the activities of that organisation to ensure that inter-community dialogue takes place amongst communities which have had problems, to second this Motion.

With those remarks, I beg to move.

Mr. Kioni: Madam Temporary Deputy Speaker, I rise to second this Motion. As I do so, I want to thank hon. Ekwe Ethuro, for bringing to Parliament this Motion, which is timely. You will recall that it was only yesterday that we had a Question raised on the Floor and, for the first time, after a couple of years, the answer that was given by the Minister was very comprehensive. The Motion talks about many other aspects which need to be looked into – aspects relating to IDPs which can easily be forgotten.

The answer talked about IDPs in transit, IDPs who have constituted themselves into self-help groups, Kenyan refugees who are actually people who were displaced from their places of habitation after the elections we had in 2007. We have IDPs in far-flung places like Turkana. As the Mover has mentioned, we also have those people who are evictees from forests in various parts of this country. We have integrated IDPs, who are living within our own homesteads, and they are quite a number. We also have squatters, who also require attention as the issue is delt with.

Madam Temporary Deputy Speaker, what is also important to note from the answer we were given yesterday is the fact that the Government has constructed 797 houses for IDPs, whereas we are looking at a total of more than 7,328 IDPs, who are still in need of help. It is important that we pay attention to these facts. Every time a Motion of this nature is moved, the issue of those proposed to sit in the Committee crops up. It is not possible for all of us to sit in this Committee. Amendments are possible, but the crucial issue is what it is that the Committee will do.

Madam Temporary Deputy Speaker, we need to know that the issue of IDPs in this country started way back in 1992, and it has continued to exist. Even before then, we

had people who were evicted from forests in various parts of this country. It is, therefore, important that this issue is not left to die with time. The IDPs plight continues to be forgotten, and this is something we need to take up as Members of Parliament.

Every single hour that passes, which takes us nearer to the elections of 2012, IDP issues continue to take a back seat. It was just last month when my constituency received over 2,000 IDPs. When they got there, I really had to work hard to find out where they were coming from, and who had been taking care of them.

End U

[Mr. Kioni]

It is like they were forgotten and they found their way into my constituency. I need the support of this House and other agencies like every other Member of Parliament who has IDPs in his or her constituency. The issues we are raising about the IDPs should be addressed. These Kenyans voted for leaders in 2007 and when they were doing so, they were looking for representation. They need to feel that they are still being represented. They need to feel that their concerns, as Kenyans, have not been forgotten. They need to feel that they are not another type of people. Sometimes they have referred themselves as people from Uganda and other countries. It is important that this House shows commitment, concern and takes a decisive action such as the formation of this Committee to look into the issues of these people. This should not be with an aim of bringing the problem of IDPs faster than it should, but to ensure that their concerns are always heard and that there is always a forum that will talk comprehensively on their issues.

If you visit any of the IDP camps, especially the ones that have moved from their original areas, you will realise the difficulties that families go through. An example is those IDPs who moved into my constituency. They have a problem accessing education. There are those who are in primary school. There are those who are expected to sit for their Standard Eight examinations. However, none of them is able to access education as it were. This means that the lives of these young people are affected for life. It is not a one-off thing. Their lives are affected forever more. It is important that proper recommendations are made on the Floor of this House so that we can discuss them and take a position that will be respected by Parliaments after the Tenth Parliament.

Madam Temporary Deputy Speaker, we all know, and this morning, we had a heated debated on the recruitment into the army. One of the criterion for one to be recruited as a member of the armed forces is that one needs to be a member of the district within the recruitment centre. The IDPs who have moved out of their areas to other districts have IDs that show the districts where they came from. Automatically, those young people have no opportunity of ever joining the Army. This is because their IDs disqualify them from attending recruitment within that recruitment centre. These are issues that will be brushed aside. These are issues that we can talk about casually but it is important that the House takes a position and is cognizant of these issues. That way, we will have a document that can be referred to. The document will be used by subsequent Parliaments and Ministries.

I have IDPs in my constituency and we would like to know whether they are accessing education bursaries. Have the committee opened up? What are the difficulties they are faced with? As Members of Parliament, I believe we are trying to do our best. However, it is important that a unified position is taken to look into this issue in a special way.

We have the Ministry of State for Special Programmes. The budget that was allocated to that Ministry this year was far much less. Why is that so? It is because the perception within Government circles is that the issues of IDPs have come to an end and we have sorted out all their problems. This is the case and yet we know very well, as

Members of Parliament, that that is far from the truth. The IDPs need a lot of help in order for them to resume normal life.

Madam Temporary Deputy Speaker, Sir, we are aware that the Government has done a lot in resettling the IDPs, but we also get worried when we hear that the Ministry of Lands or the Government has allocated some Kshs2 billion or Kshs3 billion that is still held up somewhere. As a result the Ministry has been unable to buy land to resettle the IDPs. It is, therefore, important that this Committee looks into these issues. Why is it that it takes that long to buy land in this country to resettle people?

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Hon. Kioni, you will continue next Wednesday for two minutes.

Hon. Members, we have come to the end of today's sitting. Therefore, the House stands adjourned until today at 2.30 p.m.

The House rose at 2.30 p.m.

End V