

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 7<sup>th</sup> October, 2010

The House met at 2.30 p.m.

*[Mr. Temporary Deputy Speaker  
(Mr. Ethuro) in the Chair]*

### PRAYERS

### QUESTION BY PRIVATE NOTICE

#### ATTACKS ON NYATIKE RESIDENTS BY ROGUE LEOPARD

**Mr. Anyanga:** Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Forestry and Wildlife by Private Notice.

(a) Is the Minister aware that a rogue leopard has been terrorizing people in Osula/Ugoye Village in South East Karungu Location, Nyatike District and that Mr. Lazarus Otieno and Zachary Ochieng, aged 25 and 33 years respectively, were seriously injured;

(b) Is the Minister also aware that the wild animals have also killed several sheep and other domestic animals in Karungu Division?

(c) Could the Minister assure the House that the Kenya Wildlife Service (KWS) personnel will trap or kill the animals to avoid further destruction and threat to human life?

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

(a) Yes, I am aware that the stray leopard attacked the residents of South East Karungu Location on 11<sup>th</sup> August, 2010. The Kenya Wildlife Service Warden based at Homa Bay was given a report on 11<sup>th</sup> August, 2010 through a telephone call by Nyatike District Officer and the area councilor. It was established that two men, namely, Michael Ochiel Magaro and Mark Ochieng' Ochuodho, sustained head injury and left arm injury respectively, after a leopard attacked them on 11<sup>th</sup> August, 2010. The duo were admitted at Migori District Hospital and their families were issued with compensation forms and instructed on how to fill them in order to initiate the compensation process for the injuries.

(b) I am also aware that on 5<sup>th</sup> of September, 2010, Mr. Zakayo Odongo Odera's homestead in Ngira Sub-Location, South East of Karungu, a stray leopard attacked and killed four sheep and injured six others.

(c) I would like to assure this House that the KWS personnel will do everything possible to protect the lives and property of Karungu residents against wild animals. It is

in this purview that Homa Bay Problems Animals Complaint team was dispatched to Karungu immediately over the two incidents and has taken the following strategy:

(1) Lay traps with bait to capture the stray leopards. These were laid on 12<sup>th</sup> August and 6<sup>th</sup> September, 2010 and are on the ground to date.

(2) The team is working together with the community and the Provincial Administration to track down the wild animals. The communities have been given direct lines to call, should they see the leopard again.

(3) Patrols in the area have been recently carried out and the communities sensitized of the behavior of the leopard for safety. This has been done through public barazas and local radio stations, specifically radio *Namunorwe*(??). Lastly, the leopards will be trapped for translocation to other less habited areas to ensure that they do not put further danger to human lives.

**Mr. Anyanga:** Thank you, Mr. Temporary Deputy Speaker, Sir. Let me take this opportunity to thank the Assistant Minister for this detailed answer. This is a desperate case. Considering the fact that the injured had serious head injuries, what plans is he putting in place to ensure that these two people; Mr. Lazaro and Ochieng, are taken for more specialized treatment?

**Mr. Nanok:** Mr. Temporary Deputy Speaker, Sir, normally, the patients always get treated in the nearest Government facility and the compensation amounts which this House has passed is meant to take care of the costs incurred.

**Mr. Letimalo:** Thank you, Mr. Temporary Deputy Speaker, Sir. We understand that it is the responsibility of KWS or the Ministry to compensate those people who are either killed or injured by wild animals. But in a situation where two people have been injured, what is the responsibility of the Ministry to ensure that these people are taken to hospital and even the hospital bill paid because these wild animals are protected by the Ministry?

**Mr. Nanok:** The law which was passed by this House demands that we give compensation amounting to Kshs200,000 for death, and Kshs50,000 for injuries. Unless we amend the laws, and in fact, we have seen that this amount is even lower, and if the Bill that I have been talking of and is yet to be tabled in this House, we have even proposed to increase the compensation for death to Kshs1 million so that it can cater for the expenses that are incurred.

**Mr. Pesa:** Thank you, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has conceded that there was a stray leopard which is in Nyatike. Before we can actually think of capturing this animal, we call it a stray animal. Where did it come from? Did it come from some animal park or has it been living with the people of Nyatike?

**Mr. Nanok:** Mr. Temporary Deputy Speaker, Sir, I cannot confirm or deny whether the animal may have come from somewhere but I believe that it has been living around and it is one of those that have gotten into bad habits.

**Eng. Maina:** Mr. Temporary Deputy Speaker, Sir, we are aware that poaching has been going on and has actually increased in the recent past. In Marsabit area, elephants and rhinos have disappeared. Kenya Wildlife Service (KWS) and the Government know who the poachers are. The case we are discussing arose out of animals being scared out of their normal sanctuaries. Could the Assistant Minister tell us whether that trend is going to continue because there is no conservation of our wildlife which is

going on? The conflict is as a result of animals being scared out of their normal areas because of increased poaching. We are all aware---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! What is your question?

**Eng. Maina:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister confirm that poaching has been going on, especially around Marsabit area? What is the Government doing to ensure that our wildlife is not extinct before long; especially elephants and rhinos?

**Mr. Nanok:** Mr. Temporary Deputy Speaker, Sir, you will agree with me that, that is a different Question. Could the hon. Member file a Question and I will give him a substantive answer?

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Nanok! The answer is straightforward. You have even answered it before in the House. Just agree with him and proceed!

**Mr. Anyanga:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has confirmed that the two people were admitted at Migori District Hospital. They were issued with compensation forms. Even after filling the compensation forms, payment takes more than 20 years. Could he come out clearly and tell this House when the compensation will be processed and payment done to the affected families?

**Mr. Nanok:** Mr. Temporary Deputy Speaker, Sir, the compensation process begins at the district where the incident happened. After that, the Ministry liaises with the Treasury to pay up. That process takes about three months. That is from filling the forms and the sitting of the committee. Every hon. Member in this House is a member of that committee. If you can hasten that process on the ground, then from this end, we can do our bit. In this financial year, we have managed to approve in this House, Kshs200 million for such compensation. So, we have adequate funds to cater for that.

## ORAL ANSWERS TO QUESTIONS

### *Question No.360*

#### KENYA'S BID TO HOST PAN AFRICAN UNIVERSITY

**Mr. Pesa** asked the Minister for Higher Education, Science and Technology:-

(a) whether he is aware of what became of Kenya's bid to host the planned Pan African University meant to supply the bloc human capital investment;

(b) whether he could confirm that failure to quickly agree to host the University is likely to delay the process of establishing the hub and compromise improvement of education in the region, and what the government is doing to ensure that the project is rolled out as soon as possible; and,

(c) what is the envisaged budget of putting up the project alongside other African countries, and what are the details of professional programmes that were earmarked.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) During the Conference of Ministers of Education of the African Union (AU) Bureau Meeting held in Mombasa in November 2009, the report on a feasibility study commissioned by the AU on Pan African University (PAU) was presented and accepted for implementation.

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, hon. Members are consulting very loudly. The Questioner will not get his answer.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! Let us hear the Assistant Minister!

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, so, it was, therefore, agreed that AUC should organize regional consultative meetings for the member states to endorse the allocated thematic areas and to arrive at consensus on the country to host the regional PAU Institute. During the Eastern African Ministers of education round table meeting held on 20<sup>th</sup> and 21<sup>st</sup> April, 2010 at the Hotel Intercontinental, Nairobi, the meeting endorsed the thematic area of basic science technology innovation allocated to the region, but failed to reach a consensus on the host country after Uganda and Tanzania indicated that they were not aware that they could have a bid for the opportunity to host the institute. As such, the high level panel of experts from AUC recommended that all interested countries prepare proposals and submit them to the AUC by 6<sup>th</sup> May, 2010. The high level of experts evaluated the proposals and in its report, it was recommended that Kenya should host the Eastern African hub. The report was endorsed by Ministers during the COMEDAF 4 Bureau Meeting held in Addis Ababa, Ethiopia from 16<sup>th</sup> to 18<sup>th</sup> June, 2010. After the endorsement, the Ministers recommended that AUC communicates the decision of the bureau to all countries whose bids were unsuccessful. The other countries that had expressed interest in the objection in the EA region were Uganda and the Sudan and, so far, no objection has been received from the two countries. The official decision of AUC on allocation of the hub was, however, not yet communicated to our Ministry.

(b) There is no delay in making a decision to host the PAU Institute on the part of Kenya. As alluded earlier, the Ministry is waiting for the official communication on the decision of the AUC.

(c) The total cost of establishing the PAU Institute in Kenya has not yet been worked out. The exact cost of the EA regional institute will be determined by a team of experts through a needs assessment once the official communication is received from the AUC. On the professional programmes to be offered, the PAU Institute to be established in Kenya will offer post-graduate courses in the areas of basic sciences, technology and innovation.

Thank you!

**Mr. Pesa:** Mr. Temporary Deputy Speaker, Sir, thank you for the quite elaborate answer that has been given by the Assistant Minister. How prepared is Kenya to host that particular conference?

**Mr. Kamama:** Mr. Temporary Deputy Speaker, Sir, as a Ministry, we are more than prepared to put up the basic infrastructure to have that university. But we are waiting for official communication from the AUC. Once we receive that, we will set the ball rolling.

**Mr. Pesa:** Mr. Temporary Deputy Speaker, Sir, I am satisfied with the answer given by the Assistant Minister. I only want to thank him for that good answer.

*Question No.406*

REPORT ON ABUSE OF OFFICE BY FORMER  
POSTMASTER-GENERAL

**Eng. Gumbo** asked the Minister for Information and Communications:-

(a) what circumstances led to the investigations for abuse of office of the immediate former Postmaster-General, Mr. Fred Odhiambo; and,

(b) whether the investigations have now been concluded and, if so, whether he could provide the report to the House?

**The Assistant Minister for Information and Communications** (Mr. Godhana): Mr. Temporary Deputy Speaker, Sir, I had answered this Question exhaustively last week. I tabled supplementary reports in support of my answer. The hon. Member requested for more time to interrogate the reports. I now believe that he is satisfied with everything, unless he has more questions to ask.

**Eng. Gumbo:** Mr. Temporary Deputy Speaker, Sir, in the Assistant Minister's answer, he said that they had received a report that Mr. Fred Odhiambo, the Postmaster-General, was constructing a private house in his rural home using vehicles belonging to the Postal Corporation of Kenya. He also said in his answer that he had engaged staff of the Postal Corporation of Kenya to do his private work and he was paying them per diem from the Corporation.

This, according to the Assistant Minister's answer, has been confirmed by the Audit Department of the Postal Corporation of Kenya. As per this answer, what it simply amounts to is that Mr. Odhiambo was trying to defraud the Postal Corporation of Kenya. If Mr. Odhiambo, who was the CEO at the time, was trying to defraud the Postal Corporation of Kenya, why has he not been charged with a criminal offence?

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, in my response, I did indicate that the advice that we were given from the Attorney-General's office, which is also contained in a letter in my supplementary report, was that we deal with the matter administratively. That was exactly what we did.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister please clarify? I have read the letter from the Attorney-General and he says: "Deal with it internally because there is no abuse of office". Could the Assistant Minister clarify whether he knows more law than the Attorney-General or whether this was a case of ethnic profiling?

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, the Attorney-General did not say that Mr. Odhiambo could not be charged for abuse of office. He only advised that the

best action we could take was to deal with the matter administratively. That was the advice that the Attorney-General's office gave us and it is what we went by.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House when I have the letter that says very clearly: "He is not guilty of abuse of office; deal with it internally?" Dealing with it internally could mean that if you are jealous, then keep away your jealousy and let him deal with his work. I wish to table this.

*(Mrs. Odhiambo-Mabona laid the document on the Table)*

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, I also tabled a supplementary report last week while answering this Question, which has a letter from the CID giving us advice on the same. The letter states as follows:

"The nature of complaint is not criminal and Fred Odhiambo should not be charged with abuse of office offence. The Postal Corporation of Kenya should deal with the matter internally".

Dealing with a matter internally means that it is treated as an administrative issue. That is what we did as a Ministry. This was the advice from the Attorney-General that instead of dealing with it---

*(Several hon. Members stood up in their places)*

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, hon. Members. I am still going through the letter from the Attorney-General, but the Assistant Minister can continue explaining.

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, I have read the letter, and this is the advice that the Ministry was given from the Attorney-General; I have already tabled the supplementary report that contains the advice.

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, Mr. Assistant Minister. There is a letter from the CID. It states as follows:

"The Attorney-General in his letter Ref. AGCR/2014/602 has recommended that the nature of complaint is not criminal, and that Fred Odhiambo should not be charged with abuse of office offence; instead the PCK should deal with the issue internally".

So, you are both right. The Assistant Minister is right when he says that the recommendation was that the issue should be dealt with internally and the hon. Member is right when she says that the issue was not criminal.

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, the internal action that we took was to discipline Mr. Odhiambo. The disciplinary action we took was dismissal for the surmountable offences that he committed as CEO of PCK.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I would really like you to protect us from the Assistant Minister's careless answers. My colleague has tabled documents here that clearly show that Mr. Odhiambo was cleared of having committed any criminal offence by the Attorney-General's office, yet the Assistant Minister continues to say that the internal way of dealing with Mr. Odhiambo was disciplining by firing him? Is it in order for the Attorney-General to give advice to a parastatal and what

it does instead is sack a man whose personal integrity here is at stake? Could you give us guidance on this issue because it is of great national concern?

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Given the manner in which the Assistant Minister has treated this matter, and the fact that Mr. Fred Odhiambo has no capacity to be present in this House to defend himself and his job is on the line, would it be in order for me to ask the Chair to refer this matter immediately to the relevant committee for consideration? It is a very serious matter. The Assistant Minister is not explaining any offence that Mr. Odhiambo committed, yet Mr. Odhiambo has no job today.

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, I have no problem with that, but I seek your indulgence on this. This matter is already in court. If you look at my supplementary report, it shows that this officer has already taken this matter to the industrial court. Therefore, I think it is not proper for us to continue discussing this matter because it is already in court.

**The Temporary Deputy Speaker (Mr. Ethuro):** Mr. Assistant Minister, you cannot use the excuse of saying that the matter is before the court now when you admitted that the Question had been answered properly, and the hon. Member only needed more information. The issue before us is that the allegations were abuse of office which is supposed to be criminal. The CID advised you that there was no criminal offence. So, what were the reasons that led you to dismiss Mr. Odhiambo?

**Mr. Dhadho:** Mr. Temporary Deputy Speaker, Sir, I think we are mixing up two issues. In my reply last week, I said that apart from this particular case, which came after the dismissal of Mr. Odhiambo, there were other forensic audit reports that were out. I mentioned the (Lwat and Thush Report?)

**Mrs. Shebesh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. It has been clearly stated by the Attorney-General, who is the advisor of Government that there were no criminal charges. Therefore, there was no abuse of office. Is the Assistant Minister in order to talk about other charges when the Attorney-General has said there were no criminal charges? Is it in order for him to keep going back to issues that are not true? Why is it that he is continuing to build up this case of ethnic profiling?

**Mr. Godhana:** Mr. Temporary Deputy Speaker, Sir, the Question asked by the Member for Rarieda is about this particular investigation. I mentioned at the end of my statement that---

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, hon. Mbadi. There is already a point of order the Assistant Minister is attempting to respond to. The Chair is yet to respond to yours and hon. Shebesh's point of order. The Chair will respond to them shortly.

**Mr. Godhana:** Mr. Temporary Deputy Speaker, Sir, I said that before this report was out, Mr. Odhiambo was already dismissed. That is what I said. So, this is just part of the many surmountable issue that---

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, Assistant Minister! The Question before the House is very clear. What circumstances led to the investigation for abuse of office. Your answer was based on one item that on 8<sup>th</sup> June, there was a letter alleging--- You claimed to have investigated and found those allegations were correct. You wrote to the CID seeking for criminal liability. The CID responded that they did not

find any criminal liability. You were asked to deal with the matter internally. Therefore, since you had suspended the officer, you could have brought him back. So, I will go by the request by the hon. Member for Gwassi, that this matter be referred to the relevant Departmental Committee, so that it can unearth all the issues pertaining to the investigations.

Next Question!

*Question No.401*

US GOVERNMENT ACCESS  
TO COMMERCIAL BANKS IN KENYA

**Mr. C. Kilonzo** asked the Deputy Prime Minister and Minister for Finance why the Central Bank of Kenya has granted the US Government, through USAID, full and unfettered access to all physical and research data records of all commercial banks in the country from 2004 to date?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

I am not aware of any time that the Central Bank of Kenya (CBK) could have granted the US Government full and unfettered access to physical and research data records of commercial banks or any other institution that falls under its regulatory and supervisory jurisdiction.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I wish to table documents here which show very clearly that the Government of Kenya through the CBK, did grant full access and unloading of data bank to the US through USAID. I have a letter here by the Governor of CBK then, addressed to the then Minister for Finance in 2004. I wish to quote the specific relevant section. It says:

“The Central Bank of Kenya will provide full and unfettered access to all commercial banks, bank records and bank management, office space, telecommunication equipment, computers and full physical and electronic access to worldwide relevant research data and materials.”

The United States of America through USAID was to provide two officers; one a legal professional with expertise in commercial law. The other one was a professional with expertise in bank restructuring. This took a period six months.

Mr. Temporary Deputy Speaker, Sir, I wish to table another letter by the then Minister for Finance to the Governor, authorizing this to be done.

*(Mr. C. Kilonzo laid documents on the Table)*

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, the letters which have been tabled by the Member of Parliament are factual. It is true that the Governor of the CBK wrote to the then Minister for Finance requesting to be allowed to carry out a study on the non-performing portfolio or loans in commercial banks.

Mr. Temporary Deputy Speaker, Sir, it is also true that the Minister replied allowing them, but also cautioning that actually, there were other studies which had been done on the financial sector reforms, which took care of some of the issues he had raised



in the letter. But, however, the Minister had no objection to him going ahead with USAID study.

Mr. Temporary Deputy Speaker, Sir, on reviewing the Minister's letter, which indicated that the Minister was not quite happy with any further study, they did their own internal study and, therefore, they declined to take the grant from USAID. So, those letters did not give any excuse for any action to be taken. So, there was a study which was done internally by the CBK. They did not get the grant.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I have asked this because when the Kenya Anti Corruption Commission (KACC) wants to access data from these banks, the CBK will quote Section 32 of the Act and, therefore, they are denied that access. So, to find that the CBK had given access to USAID is in contravention of the law. Section 31(3) of the Act is very clear. With your permission, I wish to quote.

“The CBK may disclose any information required in Section (2) above to any monetary authority or financial regulatory authority within or without Kenya, where such information is reasonably required for the proper discharge of functions.”

Mr. Temporary Deputy Speaker, Sir, the word is very clear; monetary authority. USAID was not a monetary authority. Why would the CBK have imagined that they could actually grant that permission to it? Why would have CBK imagined they could actually do it? However, when KACC wants the information, they cannot be given. Unless, you are telling us whoever was there were puppets.

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, that is a factual statement by the Member for Parliament that, that provision in Section 3(A) talks about divulging information only to a monetary authority. I really have no information that information was downloaded to USAID. The information I have from the CBK is that, that study by the USAID was never funded and, therefore, there was no such information given to unauthorized people.

**Dr. Eseli:** Mr. Temporary Deputy Speaker, Sir, we should all be very scared. Not just us in this House, but all governments in Africa, if the USA can use its international NGO like USAID to access data of monetary value, which is not accessed by ordinary citizens. Could the Assistant Minister assure this House that such a thing will never be repeated? He should make sure that he will peruse everything at the CBK and make sure that such information is not leaking out to the likes of USAID.

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, I cannot say that it will not be repeated. As I said before, it never took place. So, it will not take place. We shall make sure that the Central Bank of Kenya (CBK) follows the law as quoted by the Member.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, it is of great concern when I hear that the USA Government can seek action from the CBK. This morning, we were discussing the Charterhouse Bank. We understand that the USA Government made some very damaging allegations about the Departmental Committee on Finance, Planning and Trade. If that is the case, and it appears that they have done this before, should they not change the name of the CBK to the Central Bank of Kenya care of USA? This is because this is going on and on.

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, I do not know the reason for doing that. The Member has not given me the reason for changing the name of our CBK to the CBK care of USA. I have said that the USA only offered us a grant through the

USAID. The grant was declined and, therefore, was never taken. I do not know if that is a reason enough for us to change the name of the bank.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that the study never took place, but, indeed, what took place was downloading of the information. He is very right. Why did the downloading of information from all the banks take place if there was no study required?

**Dr. Oburu:** Mr. Temporary Deputy Speaker, Sir, I have said and I want to repeat that the study took place, but it was done internally by the staff of the bank in the normal course of their duties. So, there was no need for us to even get the report because they did it internally and we have no access to it.

*Question No.278*

FLOUTING OF CLEARING PROCEDURE AT KPA

**Mr. Yinda**, on behalf of **Mr. Ochieng**, asked the Minister for Transport:-

(a) whether he is aware that more than 3,000 containers were cleared from the Kenya Ports Authority recently without proper procedure being followed and, if so, provide a list with details of the officers involved; and,

(b) what action the Ministry is taking against the officers involved.

**The Assistant Minister for Transport** (Mr. Mwau): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any containers that were cleared from the Port of Mombasa recently without following the proper procedure. However, 3,000 containers represented approximately 1.5 per cent of the total full domestic and transit containers that were handled in the port in 2009. It would, therefore, take a number of trips for such a large number of containers to exit from the port. Indeed, at least 10 containers would have to leave the gate daily. This would also have a telling impact on revenue collection. The gate management includes both the Kenya Ports Authority (KPA) and the Kenya Revenue Authority (KRA) staff, hence the possibility of such a large number of containers leaving the port undetected is remote.

(b) There is no action contemplated against any officer.

**Mr. Yinda:** Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for the answer he has given. However, we are all aware that many containers are stolen from the port every now and again. In 2009, many containers were stolen from the port. The stealing of containers is, of course, in collaboration with officers who are charged with the responsibility of looking after them. What will the Assistant Minister do to ensure that containers are not stolen from the port?

**Mr. Mwau:** Thank you, Mr. Temporary Deputy Speaker, Sir. The legislature, in its wisdom, enacted the Kenya Police Act. Section 14 of the Act provides that the investigation of all criminal matters is vested in the police force. Therefore, the port management has accepted that the police force within the KPA to investigate any theft of such items. That particular question should, therefore, be transferred to the Office of the President.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Assistant Ministers. Surely, the containers fall under your docket and you are in Government. You should be able to liaise within the Government and tell us what you have decided to do so that the containers are not stolen. The Chair directs that you answer the question asked by the hon. Member.

**Mr. Mwau:** Thank you, Mr. Temporary Deputy Speaker, Sir. The KPA is not aware of any theft of containers that amount to 3,000 which were not detected, reported or investigated.

**Mr. K. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is giving a very simplified answer to a very sensitive Question. As a practitioner in the area of clearing containers, he knows very well that there have been loopholes in the clearance of containers at the KPA. Could he tell us which documents they use to ensure that the containers are being recorded as they are being dispatched from the port? Do they check their list to ensure that the containers that have disappeared are traced?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I sincerely think there is a misunderstanding. The process of clearing containers at the port is vested with the Customs Department. The KPA is only a facility. The clearing process is handled by the KRA. So, if a question about the clearance of cargo is raised, the KPA will not be seized with any of that information.

**Mr. Yinda:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that the KPA is only a facilitator and has no responsibility over the custody of containers?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I have said that the port is only a facility and it makes money out of storage of the containers. Once the containers are discharged from the port's perimeter, it becomes the responsibility of the Customs Department under Section 12 of the Customs and Excise Act.

**Mr. K. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to avoid answering my question? How many containers were missing this year in terms of clearance? I have asked this question because there are forms which are used to clear containers. How many containers were recorded by the KPA as missing and had not been cleared procedurally? It is possible to get that information.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. K. Kilonzo! You have made your point.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, the Question did not require me to bring a list of all the containers which were missing in 2009. That is a new part of the Question that had not been asked.

**The Temporary Deputy Speaker** (Mr. Ethuro): Ask the last question, Mr. Yinda!

**Mr. Yinda:** Mr. Temporary Deputy Speaker, Sir, as you can see, the Assistant Minister is trying to avoid answering the question. We know that containers are stolen from the port and we are simply asking the Assistant Minister to give us the information through this House about the containers that were stolen in 2009.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I am not aware of the number of containers which could have been stolen in 2009, because such a report has not been available.

*Question No.419*

LIST OF DAMS IN KITUI DONE BY TANATHI/NWCPC

**Mr. Nyamai** asked the Minister for Water and Irrigation:-

(a) whether she could provide a list of all earth dams/sub- surface dams which were done in Kitui West Constituency by Tanathi Water Services Board and National Water Conservation & Pipeline Corporation by name, district, division, location, sub-location and capacity; and,

(b) how much money has been allocated to construct new earthdams/sub-surface dams and desilt existing ones in Kitui West Constituency in the 2010/2011 financial year.

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

- (a) My Ministry through the National Water Conservation and Pipeline Corporation and Tanathi Water Services Board have constructed six dams and 11 subsurface dams in Kitui West Constituency with the dams' total capacity being 47,000 cubic metres of water. I have already given the list as requested by the hon. Member.
- (b) My Ministry has allocated Kshs6,999,467 in this financial year 2010/2011 for construction of new earthdams and surface dams and desilting of existing ones in Kitui West.

Mr. Temporary Deputy Speaker, Sir, I will just make one observation, that even what the hon. Member maybe calling dams will just pass for pans .

**Mr. Nyamai:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for the answer. But the list she has given raises more questions than answers, because out of the 17 she has listed there, actually five of them are not on the ground at all. Could she confirm that the money which the Ministry allocated for this kind of work in Kitui West did not get lost?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, as I said, some of what the hon. Member is calling dams will pass for pans, because they are just small village water pans where livestock get water. But I want to also ask the hon. Member that as a good neighbour, he should be taking me round to see what is being done in his constituency. I think it is easier for us to go round the place than him asking a Question here.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Nyamai, the Minister has offered you a golden opportunity and you may wish to take it.

**Mr. K. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I happen to be also a neighbour in the same region. Could the Minister also undertake to come round with me in Mutito Constituency so that we can look at the pans and dams which are there, because some of them are, indeed, incomplete? I am sure that as much as she is trying to get the work done, there seems to be a problem with the Tanathi Water Services Board which is in charge of constructing these dams in our region. Could she offer also to extend the same gesture to my constituency?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, it depends on how he behaves!

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not know that Ministers offer services to constituencies, which hon. Members represent in Parliament, depending on the way they behave! Could the Minister be clearer on how

she wants me to behave? Is there a different way of behaving than conducting myself honourably to warrant my constituency to get those services?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, what I mean is that he really has got to be closer to his people and know, first and foremost, what they are doing. He cannot manage his constituency from elsewhere as has been the case. So, I would like to ask the hon. Member---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! Order, hon. Members! Madam Minister, it is not for you to determine the proximity of Members of Parliament to their constituencies. Restrict yourself to the questions you have been asked about providing water; whether they are sub-surface dams, earthdams or pans. I think you can clarify even the difference. It is not for the hon. Member to clarify!

**Mr. Keynan:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the gracious lady to cast aspersions on the Membership of one hon. K. Kilonzo, whom I know is a very able Member of the Tenth Parliament without moving a substantive Motion? It would be wrong to allow the Minister to get away because how hon. Members manage their constituencies is outside the realm of the Minister for Water and Irrigation. Secondly, if services to particular constituencies are going to be discretionary, then there will be no need to have a Minister for Water and Irrigation. These two issues must be clarified by the gracious lady before we allow her to respond to other issues.

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, sometimes, we do give better services when especially the hon. Member will tell me where a greater need is. Sometimes, I may give services and find that actually where we have done work is not where the need is. So, I just wanted to say that maybe---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Minister! The Chair cannot entertain that fact that a Government Minister can give better services where an hon. Member has demanded. I thought that the Government has better ways of identifying priorities. So, the Government must know where you need water most and that is where it should take it.

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister might be taking this matter lightly, but there is audience out there who are listening to the answers she is giving. To say that I have not been managing my constituency from wherever I come from, even if it is with a light touch, the audience out there will not take it that way. I do not need to behave in any different way. So, I demand that the Minister withdraws those remarks and apologizes to this august House, because she is casting aspersion on my character and my work as a Member of Parliament!

**The Temporary Deputy Speaker** (Mr. Ethuro): Madam Minister, I think those are very serious allegations.

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, in fact, quite honestly, I mean very well for the hon. Member in the sense that he is my neighbour. Surely, because he is my neighbor, if I go to his constituency in his absence, he will not be too happy. But I have offered him my promise. I will even give him the day when I can go round with him, so that we can serve people better.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! Order, hon. Members! Hon. Minister, I think you are confusing hon. Nyamai with hon. K. Kilonzo. You offered hon. Nyamai a visit and, in that spirit, hon. K. Kilonzo demanded one, for the reason you

gave of good neighbourliness. When you were responding, you said “unless he behaves.” Madam Minister, I think you need to withdraw and apologize to the House for asking the hon. K. Kilonzo to behave.

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, you may not be aware that Kitui West is far away from my place than Mutito Constituency. In other words, right now, we are in the same county. They know very well that we are the same people. So, quite honestly, I do not know why you would want me to apologize when I am giving the hon. Member such an offer that, as the Minister, I will take a lot of time to do work in his constituency. So, he also needs to choose---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! Hon. Minister, you are arguing with the Chair. The Chair has instructed you, as demanded by the hon. Member for Mutito--- The Chair has determined that you withdraw and apologize for asking him “to behave”. Whether you are in the same country or not is really immaterial.

**Mrs. Ngilu:** All right, Mr. Temporary Deputy Speaker, Sir. That is okay. I have heard you! It is okay!

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members. We are not using the time of this House properly. The Minister has been offered an opportunity by the Chair, to withdraw and apologize. She has deliberately and persistently refused to obey. It is, therefore, the considered opinion of the Chair that I give her the last chance or she faces the wrath of the Chair. Madam Minister, the choice is yours.

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, that is rather harsh. However, I accept that I should apologize and withdraw.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! She has apologized and withdrawn quite reluctantly. However, we will grant her for now. Madam Minister, take note that the Chair has noted your reluctance to obey the Chair.

**Mr. Nyamai:** Mr. Temporary Deputy Speaker, Sir, Kitui West has three districts. There is lower Yatta with about 25 dams and sub-surface dams. I would like to confirm to you that I know the difference. Matinyani has 13 dams and Mutungunyi has 88. I have a letter here from TANATHI which has done some work. They require Kshs283 million to desilt the subsidiary dams that we have. You have said that you have allocated Kshs6 million for desilting the sub-surface dams. That is not enough. In the spirit of good neighbourliness which you have alluded to, and which you have offered others and they have refused, could you extend it to my constituency? Are there any plans to increase the money you have set aside so that, at least, there is a substantial amount of money? We require more than the Kshs280 million in Kitui West?

**Mrs. Ngilu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I do not wish to disobey you. The hon. Member has a letter that says we need Kshs283 million to do all the work in his constituency. However, we do not have that kind of money in the current financial year. I would like to request the hon. Member to have a meeting with some of the people who are doing work in his constituency under the Water Services Trust Fund and a programme under the United Nations International Childrens’ Education Fund (UNICEF). They can help him and his people to do some of the work that has to be done on the ground.

I really want to help the hon. Member.

*Question No.314*

MANDATE OF NATIONAL WATER SERVICES BOARDS

**Mr. Chachu** asked the Minister for Water and Irrigation:-

(a) whether she could give the specific mandate of the National Water Services Boards under the Water Act of 2002;

(b) where the boards derive their mandate to drill boreholes and pans in the country; and,

(c) how the Ministry will streamline the conflicting mandate of the boards and the eight regional water bodies in the country.

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

(a) The specific mandate of the National Water Conservation and Pipeline Corporation as stipulated by the Water Act, 2002 is development of works and management of assets for the purpose of a State's scheme for the provision of bulk water supplies for the use by licencees and water service providers, and shall be undertaken on the Minister's behalf and other works which the Minister is empowered to undertake on her behalf by that Corporation or by such other public bodies as the Minister may appoint.

(b) As part of State schemes, the National Water Conservation and Pipeline Corporation carry out drilling of boreholes, especially in areas where private contractors are less interested due to high cost of mobilization and long distances, especially in northern Kenya.

(c) There are no conflicting mandates of the National Water Conservation and Pipeline Corporation and the eight regional water bodies. The roles are complementary and not conflicting as the Ministry is utilizing the capacity that exists in the National Water Conservation and Pipeline Corporation pipeline to implement projects, as the construction and implementation arm of the Ministry. Those projects are then handed over to the Water Services Boards for management.

**Mr. Chachu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I appreciate the Minister's response. However, we have eight regional water boards in this country. Where they have the technical capacity to drill boreholes, why do we continue to use the National Water Conservation and Pipeline Corporation instead of capacitating the boards to do the work that they are mandated to do?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, the Water Act, 2002 gives mandate to the National Water Conservation and Pipeline Corporation to implement projects on behalf of the Ministry and water services boards, and then hand them over once the projects and schemes are complete. They are handed over to the water services boards which in return, contract the water service providers who then, on their behalf, sell water or take care of that. The National Water Conservation and Pipeline Corporation has no assets at all. It implements the projects on behalf of the boards. They do it together and there is no conflict at all.

**Mr. Chachu:** Mr. Temporary Deputy Speaker, Sir, realizing that the Northern Water Services Board covers regions in three provinces--- There is the whole of North Eastern Province and Upper Eastern, as well as Samburu and Laikipia in Rift Valley. That is such a vast area and the headquarter is based in Garissa. Could the Minister consider splitting that water board into two by curving out one for upper eastern?

**Mrs. Ngilu:** Mr. Temporary Deputy Speaker, Sir, we have realized that the eight water services boards that we created as a Ministry are still making it very difficult for many people to access the services. By using the new Constitution, we have formed a team to see how we can increase the number of water services boards in the country. In this case, we are proposing to have 12 water services boards. That way, for the 47 counties, every four counties will have one service board. That is in the process.

**The Temporary Deputy Speaker (Mr. Ethuro):** Minister, you have talked of North Eastern Province, upper eastern and Laikipia/Samburu; that is a huge area and with the headquarters in Garissa, you may really wish to consider the case of the Member.

**Mrs. Ngilu:** Yes, Mr. Temporary Deputy Speaker, Sir. There will be consultation because I cannot do it from my office or just sitting in a board room. Among the stakeholders will be Members of Parliament.

**The Temporary Deputy Speaker (Mr. Ethuro):** Next Question!

*Question No.408*

NUMBER OF PRIMARY/SECONDARY SCHOOLS IN OL KALOU

**Mr. Mureithi** asked the Minister for Education:-

(a) how many primary and secondary schools are there in Ol' Kalou Constituency and how are they distributed among Nyandarua Central, Nyandarua West and Mirangiine districts; and,

(b) how the teachers recently hired on contract basis were distributed in the three districts and what criteria was used.

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

(a) There are 111 primary schools and 43 secondary schools in Ol'Kalou Constituency which are distributed as follows:-

District	Primary Schools	Secondary schools
Nyandarua Central	39	20
Nyandarua West	42	13
Mirangiine	30	10
<b>TOTAL</b>	<b>111</b>	<b>43</b>

(b) For primary schools in Ol'Kalou Constituency, there was an under-staffing of 206 teachers. There was a shortage of 99 teachers in Mirangiine, 66 in Nyandarua West and 38 in Nyandarua Central District. The criteria for distribution was calculated on a formula as follows:-



Under-staffing of the district times the availability of vacancies, in this case 66, over the under-staffing of the constituency which was a total of 206. When you calculate for each area, Mirangiine got 32 teachers, Nyandarua Central got 12 teachers and Nyandarua West got 22 teachers.

Mr. Temporary Deputy Speaker, Sir, for secondary schools in Ol'Kalou Constituency, there was an under-staffing of 191 teachers against the allocation of 20 teachers under the Economic Stimulus Programme (ESP). There was a shortage of 53 teachers in Mirangiine, 97 in Nyandarua West and 37 in Nyandarua Central districts. Again, the criteria for distribution was calculated on a formula; under-staffing of the district times the available vacancies (in this case 20) over the under-staffing of the constituency which is 91. This translated to Mirangiine having six teachers, Nyandarua Central having six teachers and Nyandarua West eight teachers. Nyandarua West District was allocated additional two teachers due to the highest number of shortages at 97.

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for the distribution in secondary schools. However, what has shocked me as a member of the District Education Board (DEB) is the calculation for the primary schools. Nyandarua Central had a shortage of 78 teachers when we had a meeting. I do not know where the figure was changed to 38 such that the district is the lowest now in terms of performance. I would like to know where the figure of 38 came from. As members of the DEB, we indicated the district has a shortage of 78 teachers.

**Prof. Ongeri:** Mr. Temporary Deputy Speaker, Sir, the DEB figure is not a verified figure and it depends on whether DEB based it or not. You can have figures of shortages. Even in my constituency, I can have a shortage of so many teachers and yet when we come to actual curriculum-based provision of teachers, that may not be the number we are talking about. This is based on the number of students in each class.

**Mr. K. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I want the Minister to confirm that he is aware that some areas have been left out on these teachers who are being employed on contract basis. A good example is Tovoo Location of Mutomo District. What is the Minister doing to ensure that, that part of the district which was left out is given extra slots?

**Prof. Ongeri:** Mr. Temporary Deputy Speaker, Sir, first point; the recruitment was constituency-based. Point number two; the Members of Parliament of respective constituencies were fully consulted. Point number three; the DEB looked at each individual division of the constituency. If Mutomo area that the hon. Member is referring to had relatively better teacher ratio, the teachers were recruited in areas with greater need. It was not based on a pro rata basis.

**Mr. Sambu:** Mr. Temporary Deputy Speaker, Sir, the shortage of teachers is not just a constituency matter. It is a serious national issue. The shortage of teachers is serious in the whole country. What is the Minister doing to overcome this problem?

**Prof. Ongeri:** Mr. Temporary Deputy Speaker, Sir, for the umpteenth time I have repeated in this House and I think for purposes of clarity, we now know there is a shortage of 66,000 teachers representing 43,000 in primary schools and 23,000 in secondary schools. In the last brokered agreement between ourselves, the unions and the Treasury, we have been able to recruit more than 18,000 teachers through the contract. These teachers have already reported to classrooms. Obviously, with attrition and teachers recruited about two months before, we now stand at 21,000 teachers recruited. If

you subtract that from the 66,000 teachers, we still have a shortage of 45,000 teachers on the overall global figure.

It is my intention and I think I have already issued a Ministerial Statement to that effect that in the next budget, we intend to pursue and agree with the Treasury that we be allocated additional resources in order to reduce the shortage further. Come 2012, by God's grace, we should be in a position to level out the shortage. We are dealing with a way to phase out the contract teachers to permanent and pensionable level.

**The Temporary Deputy Speaker** (Mr. Ethuro): Last question, Mr. Mureithi!

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, whereas I sympathize with the Minister for Education, I get very concerned because in each district, I have a fully qualified District Education Officer (DEO). It actually baffles me that the other two DEO's figures were accepted as we had passed them in the DEB. However, the Nyandarua Central District figures moved from a shortage of 78 teachers to 38 teachers. Whatever formula was used, I do not think the DEB---

Is the Minister telling us that the DEO in Nyandarua Central District does not have the capacity to calculate the vacancy availability and present the figures as done by the DEB?

**Prof. Ogeri:** Mr. Temporary Deputy Speaker, Sir, before the recruitment was done, all the DEOs had a one week session with the senior officials in the Ministry and the Teachers Service Commission (TSC). They were all required to provide a statistical data base on the shortages within their own areas of operation. Now, if the hon. Member feels that the DEO in his area may have erred in the figures that he gave us as a final data, based on CDE, it is a matter we can discuss separately. Those were the figures which were verified by the District Education Officers (DEOs) and the Teachers Service Commission (TSC) while sitting in Nairobi before the exercise kicked off.

**The Temporary Deputy Speaker** (Mr. Ethuro): Next Question, Member of Parliament for Mutito!

### *Question No.308*

#### POSTING OF CRUCIAL PERSONNEL TO MUTITO/NZAMBANI DISTRICTS

**Mr. K. Kilonzo** asked the Minister of State for Provincial Administration and Internal Security when the Minister will post such crucial personnel as the District Development Officer, District Procurement Officer and District Personnel Officer to the newly created Mutito and Nzambani districts.

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

The Government has posted a District Development Officer (DDO) to Mutito District. Nzambani District is yet to get a DDO, a Procurement Officer and a Human Resources Officer. Arrangements are at an advanced stage with the Treasury, the Directorate of Personnel Management, and the Ministry of Planning, National Development and Vision 2030 to fill the vacancies in Nzambani and Mutito districts. In

the mean time, the two districts will continue to receive these professional services from Kitui Central District.

**Mr. K. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I wish to thank the Assistant Minister, who has been able to go an extra mile to even confirm with our District Commissioner the position on the ground.

Mr. Assistant Minister, are you aware that apart from the officers referred to in this Question, we do not have a Fund Manager in the constituency as of now? You can imagine a situation where such officers are not there, and where we also do not have a Constituency Fund Manager. What are you doing to ensure that these officers are put in place in the shortest time possible to make operations in the two districts possible?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, I am aware that the CDF Board is currently handling the question of filling vacancies of CDF Fund Managers. I believe that there is a reshuffle going on right now. I can raise the matter with the Chief Executive of the CDF Board.

With regard to the shortage of the other professionals, I want to assure hon. Members that, indeed, the Treasury, which is the implementing agency for the scheme of service for Procurement Officers, has advertised the positions. I believe that within the next one month, not only shall we be able to fill up the vacancies in his constituency, but also those in the rest of the country. Indeed, there will be 911 Procurement Officers.

With regard to Human Resource Officers, again, the Directorate of Personnel Management is in the process of posting Human Resource Officers to the various districts, beginning with the counties, but I will ensure that he is given priority, because his shortfall is greater than in any other constituency.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Ethuro): Last question, Mr. K. Kilonzo!

**Mr. K. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, other than to commend the good Assistant Minister--- I hope that other Ministers will emulate this Assistant Minister. I really want to thank him.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, Question No.319 has been deferred due to constraint of time. Also, the hon. Member has had to attend to some urgent matters.

*Question No.319*

INCREASED ALLOWANCES FOR OFFICERS  
OF KISUMU MUNICIPALITY

*(Question deferred)*

Next Question, Member of Parliament for Gatundu North!

*Question No.362*

MEASURES TO ADDRESS UNEMPLOYMENT  
AMONG YOUTH IN GATUNDU NORTH

**Mr. Waibara** asked the Minister for Youth Affairs and Sports:-

(a) whether he is aware that there are thousands of youths in Gatundu North Constituency who are either unskilled or unemployed;

(b) what plans the Government has to ensure that the problem is tackled; and,

(c) what measures the Government will take to establish a Resource Centre or Digital Village in the constituency.

**The Temporary Deputy Speaker** (Mr. Ethuro): Minister for Youth Affairs and Sports!

Hon. Members, I am made to understand that this Question has been determined.

*(Questioned dropped)*

Member of Parliament for Mosop!

*Question No.382*

#### DELAYED PAYMENT FOR MAIZE DELIVERED TO NCPB

**Mr. Koech** asked the Minister for Agriculture:-

(a) why the farmers in the North Rift who have supplied maize to the National Cereals and Produce Board (NCPB) have not been paid for the deliveries;

(b) when the farmers will be paid; and,

(c) what informed the decision to reduce the price of maize from Ksh2,300 to Ksh1,500 per bag, and what measures the Government is putting in place to ensure that the maize farmers do not incur losses.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Farmers in the North Rift who supplied maize to the National Cereals and Produce Board (NCPB) have been paid.

(b) In view of the answer to part “a” of the Question, part “b” does not arise.

(c) The reduction in the price of maize by the NCPB from Kshs2,300 to Kshs1,500 was informed by the prevailing market forces. The Government has put in place the following measures to cushion farmers against making losses:-

(i) establishment of warehouse receipt system to enable farmers to store their grain in the NCPB silos, so that they can sell it at a time when prices are good;

(ii) reduction of cost of production by providing low cost mechanization of farm operations through our mechanized services; and;

(iii) provision of cost-effective subsidized fertilizers.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for being open. First, farmers in the North Rift supplied maize to the NCPB last year in November, and payment of the same was done as late as June/July, this year. Our farmers rely on the proceeds from the sale of their produce to do farming; they plough it back in the next season. This year, most farmers in the country did not plant maize because they did not have money to use due to the delay by the NCPB. What mechanisms

has the Ministry put in place to ensure that in this year, farmers will not supply their maize and wait for another six months before they are paid? Can the Assistant Minister give an assurance to the farmers of this nation?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, the NCPB has come up with another way of receiving maize from farmers. That is the warehouse receipt system. If you want to sell your maize, you can take it to the NCPB, and you will be paid. If you want to keep the maize there and sell it at a later date, when the price will be good, that is also acceptable. There will not be any cost for keeping the maize there. So, those who will deliver maize will be paid.

**Mr. Kutuny:** Bw. Naibu Spika wa Mda, inasikitisha sana kwamba wakulima wamepewa kisogo na Serikali. Kwa sasa, wakulima wanafanya kilimo-biashara – siyo kilimo cha kuzalisha chakula peke yake – lakini inasikitisha kwamba Serikali imepunguza bei ya mahindi kutoka Kshs2,500 kwa gunia la kilo 90 mwaka uliopita mpaka Kshs1,500 hivi sasa. Waziri Msaidizi, afua ni mbili: Utangaze kwamba mtaongeze bei ifike Kshs2,500 kwa gunia ama ninakupatia ilani kwamba sisi, kama Wabunge, tutaitisha maandamano ya wakulima katika taifa la Kenya; watusia kupeana mahindi yao kwa Serikali. Tayari Serikali imetangaza kwamba mwako ujao kutakuwa na---

**The Temporary Deputy Speaker (Mr. Ethuro):** Bw. Kutuny, huu ni wakati wa kuuliza maswali wala si wakati wa kutoa ilani.

**Mr. Ndambuki:** Bw. Naibu Spika wa Muda, ningependa kuhakikishia Bw. Kutuny kwamba Serikali haitaongeze bei ya mahindi hadi Kshs2,500 kwa sababu Serikali haitaamua bei ya mahindi kuanzia sasa.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, it is a pity that Kenyans from Turkana are today facing the challenge of hunger and in fact some are dying when the stores in Moi's Bridge, Kitale and Lugari are full. What has the Assistant Minister done to ensure that the maize is urgently released to the areas that urgently require relief food to create room for the farmers to sell their maize?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, that is the work of the Ministry of State for Special Programmes; to get food to the areas where there is famine. That is not the work of the Ministry of Agriculture.

**Dr. Eseli:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to contradict the Right Hon. Prime Minister who gave a Statement in this House assuring us that they will buy maize through the National Cereals Produce Board (NCPB) which is a parastatal in the Ministry of Agriculture? He said that they will buy maize in order to replenish the Strategic Grain Reserve. This is the case and yet the Assistant Minister now stands up and says that they will not determine the price of maize. So, how will they buy this maize? Is the Assistant Minister in order to do that?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, currently, the NCPB is buying a 90-kilogramme bag of maize at Kshs1,500. However, I have said that from now on, the Ministry or the Government will not determine the price of maize.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister should come out clearly. It is not about the determination of prices but the purchase of maize from farmers by the Government. Yesterday, the Deputy Prime Minister and Minister for Local Government announced here that *La Nina* is about to set in and they have put in place plans to ensure that the bumper harvest that the farmers experienced will not go to waste. He also said that they will ensure that they increase the Strategic Grain Reserve

from what we have currently, because we have not reached the maximum of eight million bags that we are supposed to have. So, it is up to this Ministry to provide leadership to the Government in terms of ensuring that the Ministry of Agriculture does not lose. When will the Assistant Minister advise the Government and ensure that the maize price is increased to Kshs2,300?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, it is true that the Government will increase the Strategic Grain Reserve from four million bags to eight million bags. The NCPB is buying a 90-kilogramme bag of maize at Kshs1,500 and not Kshs2,300.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister confirm to the House that the price of fertilizer has gone up as the price of maize has come down? What is the current price of a 50-kilogramme bag of DAP fertilizer?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, the NCPB sells a 50-kilogramme bag of DAP fertilizer at Kshs2,000.

**Mr. Koech:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The price of DAP fertilizer as we speak now is Kshs4,500. Is the Assistant Minister in order to mislead the House that the NCPB sells the fertilizer at Kshs2,000 and yet it does not have a single bag of the DAP fertilizer?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, we brought in 5,000 metric tonnes of DAP fertilizer and it is being distributed to all the depots this week.

**Mr. Gabbow:** Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that Samburu District alone will harvest 10,000 bags of maize this year and yet the NCPB says that it does not have any money to buy that maize?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, I will act on that. I will find out the details and inform the hon. Member accordingly because all the NCPB depots opened from yesterday to receive maize from farmers.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, we have given a lot of time to this Question.

**Mr. Kutuny:** Kwa hoja ya nidhamu, Bw. Naibu Spika wa Muda. Hatujatosheka na majibu ambayo Waziri Msaidizi ametupatia kuhusu Swala hili la nafaka. Tungependa, kupitia kwako Bw. Naibu Spika wa Muda, kuomba kwamba tunahitaji wakati mwafaka ili Waziri Mkuu apewe nafasi atupatie majibu kwa mapana na marefu na kwa kina ili tuweze kutatua kitendawili hiki.

**The Temporary Deputy Speaker** (Mr. Ethuro): Bw. Kutuny, ningependa kusema kwamba Bw. Spika atakubali maombi yako kulingana na sheria za Bunge, na unajua la kufanya. Unaweza kuleta Hoja kuhusu nafaka katika nchi na Bw. Spika atakuruhusu kulingana na utaratibu wa Bunge.

**Dr. Eseli:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has just said that he has left the farmers to the mercy of the market forces with regard to food security in the country. Is he in order to abdicate his role in ensuring that Vision 2030 is met by refusing to set adequate prices for maize for the farmers? He is impoverishing the farmers of this country and defeating the whole purpose of Vision 2030. Is the Assistant Minister in order to do that?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, I said that currently the NCPB is buying a 90-kilogramme bag of maize at Kshs1,500. I have also said that the Government wants to get out of the setting of maize prices in future. It wants to leave that

to the market forces. At the moment, we are buying a 90-kilogramme bag of maize at Kshs1,500.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Assistant Minister! You are even entering into murky waters. The Government has a commitment to the Strategic Grain Reserve. At what price will it be buying the maize?

**Mr. Wamalwa:** On a point of order, Mr. Temporary Deputy Speaker, Sir. During the Prime Minister's Question Time yesterday, I raised the issue of maize prices and the Deputy Prime Minister and Minister for Local Government was very clear that they were consulting and that they will announce a new price for maize. Is the Assistant Minister contradicting the Deputy Prime Minister and Minister for Local Government?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, I have no objection to that. The Prime Minister is higher than me. If they reverse the decision from what I have now, I have no choice.

**The Temporary Deputy Speaker** (Mr. Ethuro): Last question, Mr. Koech!

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I sympathize with the farmer of this country including many, many hon. Members of Parliament who are farmers, that the Minister can state without blinking his eye that the price was reduced last year from Kshs2,300 to Kshs1,500 – a whole Kshs800 per bag reduced!

I am also sympathizing with the farmers because the Ministry seems to have completely absconded from its work. The Minister has indicated here that they have established a warehouse receipt system where farmers are going to store their grains in the National Cereals and Produce Board (NCPB) silos and they can go and retrieve back the maize and sell it thereafter. Can you tell us how this system is going to work in this country? Is this not another way of delaying the payments of the sales by even more than two years?

**Mr. Ndambuki:** Mr. Temporary Deputy Speaker, Sir, there are so many parts of this country which do not have silos and where people cannot also have that facility. I know that you have the facilities for storage in the north rift. But what the NCPB is doing is that, it is coming up with a system and it is even going to go further to start commodity exchange, whereby you can use your warehousing receipt to sell your produce.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! That is the end of Question Time. Question No. 421 is deferred to Wednesday, 13<sup>th</sup> October, 2010. Question No. 319 is also deferred to Tuesday afternoon.

Next Order!

*Question No.421*

APPOINTMENTS TO DIPLOMATIC SERVICE

*(Question deferred)*

*Question No. 319*

INCREASED ALLOWANCES FOR OFFICERS  
OF KISUMU MUNICIPALITY

*(Question deferred)*

## **POINTS OF ORDER**

### **DELAY IN APPOINTMENT OF KEBS CEO**

**Dr. Eseli:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Industrialization regarding the delay in appointment of the chief executive officer of the Kenya Bureau of Standards (KEBS).

While giving the Statement, could the Minister clarify the following: What are the specific causes of the delay since the process has gone on for over nine months without having a substantive appointment? What caused the failure of the process done by KPMG and how much money was paid to KPMG to do the process which was prematurely terminated?

Finally, is it true that the Ministry has failed to follow the due process in the recruitment, which has resulted in consideration of factors other than merit in sourcing for the chief executive, hence putting the Permanent Secretary and the Minister on a collision course?

Thank you.

**The Temporary Deputy Speaker** (Mr. Ethuro): Minister?

**The Minister for Industrialization** (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I undertake to give the Statement next week on Thursday.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Wamalwa?

### **WITHHOLDING OF SCHOOL CERTIFICATES BY SCHOOL PRINCIPALS**

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, I had raised the issue of withholding of school certificates by principals and there was direction that the Minister gives the Ministerial Statement today, in view of the urgency of the matter.

**The Temporary Deputy Speaker** (Mr. Ethuro): Is the Minister for Education not here?

*(Prof. Olweny entered the Chamber)*

Prof. Olweny! Let somebody brief him.

Hon. Waititu, did you have a request for a Statement as the Leader of Government Business is briefing Prof. Olweny?

### **DELAY IN AWARD OF CONTRACT FOR FRESH PRODUCE MARKETS**

**Mr. Waititu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy prime Minister and Minister for Local Government. In the statement, I would like the Minister to clarify why most of the contracts for construction of fresh produce markets have not been awarded. I would also



like the Minister to clarify why funds have not been released from the Treasury to the Ministry of Local Government and when the funds for construction of fresh produce markets will be released.

I would also like the Minister to clarify why the funds are supposed to be retained at the Ministry headquarters and not to be released at the district level. We understand that the contracts are at the district level and some of the districts are very far. Payments should be made at the district headquarters.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Waititu! Make your request to the Minister; do not put across your arguments.

**Mr. Waititu:** Mr. Temporary Deputy Speaker, Sir, the Minister should clarify why funds should not be released to the districts but be retained at the Ministry headquarters.

I would also like the Minister to clarify whether all the local authorities have allocated land for the fresh produce markets and whether they are ready to co-operate with the Economic Stimulus Project committees at the constituency level.

**The Temporary Deputy Speaker** (Mr. Ethuro): Is the Minister here?  
Leader of Government Business!

**The Vice President and Minister for Home Affairs** (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, we will have the Deputy Prime Minister and Minister for Local Government give this Statement next Thursday.

**The Temporary Deputy Speaker** (Mr. Ethuro): Prof. Olweny, I am sure you have been briefed enough.

**The Assistant Minister for Education** (Prof. Olweny): Thank you, Mr. Temporary Deputy Speaker, Sir. Yesterday in the morning sitting, hon. Wamalwa requested for a Ministerial Statement from my Ministry. I just got the printout of his request this afternoon. So, I have not prepared a statement. I, therefore, beg for the indulgence of the House so that I bring a comprehensive Statement on this issue on Tuesday in the afternoon.

Thank you.

**The Temporary Deputy Speaker** (Mr. Ethuro): That is fair enough!  
Leader of Government Business!

## MINISTERIAL STATEMENT

PARLIAMENTARY BUSINESS FOR THE WEEK  
COMMENCING TUESDAY, 12<sup>TH</sup> OCTOBER, 2010

**The Vice President and Minister for Home Affairs** (Mr. Musyoka): Thank you, Mr. Temporary Deputy Speaker, Sir. Pursuant to Standing Order No. 36 (4), I wish to make the following Statement as regards the Business for the week commencing Tuesday, 12<sup>th</sup> October, 2010.

Mr. Temporary Deputy Speaker, Sir, first, I wish to thank the House for the goodwill and unanimity demonstrated by hon. Members on Tuesday in passing the names nominated by parties in the Grand Coalition to sit in the Constitutional Oversight Committee. This was consistent with Section 4 of the Sixth Schedule of our new Constitution.

In the recent past, our partners in the civil society sector and even some hon. Members of this House have expressed their displeasure with the Government's rush to prepare and publish constitutional Bills without the establishment of the Constitution Oversight Committee. Let me state here that the Government, through the Ministry of Justice, National Cohesion and Constitution Affairs had no intention of usurping the role of the yet to be formed Constitution Implementation Commission. The timely preparation and publication of the Bills was a pace setting gesture which also underpinned Government commitment to meeting the timeline as stipulated in the implementation schedule, in line with the Constitution Implementation Action Plan as approved by the Cabinet.

Mr. Temporary Deputy Speaker, Sir, with regard to the Bills, the following two Bills will be listed for First Reading, assuming of course, the Oversight Committee will be ready by Tuesday: The Vetting of Judges and Magistrates Bill, Bill No. 16 and the Judicial Service Bill, Bill No. 17. The following two Bills will be listed for Committee Stage after having successfully gone through the Second Reading: The Tea (Amendment) Bill, Bill No. 2 and secondly, The Insurance (Motor Vehicle) Third Party Risks (Amendment) Bill, Bill No. 10.

As the House is already aware, there are some three Bills which were returned to the House by his Excellency the President with recommendations.

These are: The Animal Technicians Bill, 2010, the Price Control (Essential Goods) Bill of 2009 and the Indemnity (Repeal) Bill of 2010. These three Bills will be considered by this House during the week as you may wish to direct. The House will also debate the Report of the Joint Departmental Committee on Administration and National Security and Defence and Foreign Relations on a fact finding visit to Garissa, Dadaab and Voi. The House will also consider any reports by the Departmental Committees which may be tabled in the course of the week.

Mr. Temporary Deputy Speaker, Sir, the House Business Committee (HBC) will be meeting on Tuesday 12<sup>th</sup> October, 2010 at the rise of the House to be able to consider any other urgent business that the House may be required to consider. The HBC is also concerned at the lack of business originating from the Back bench such as Private Members' Motions and urges Members to be able to make use of the Wednesday morning sittings. After all, these are sittings that are reserved for Private Members' Business.

With regard to pending Ministerial Statements, yesterday some Members of this august House voiced their displeasure to the Chair over the failure by Government Ministers to deliver Ministerial Statements as promised.

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

*[Mr. Speaker took the Chair]*

Mr. Speaker, Sir, I want to confirm that I am committed to making sure that these Statements are delivered, including the one requested from me by my friend, Dr. Khalwale, regarding funding for parties upon promulgation of the constitution. I want to say that this will be read in time. I want to be ready by next Thursday as well. I also urge

my Cabinet colleagues to take these Statements very seriously. However, I have observed over time that some of the Ministerial Statements requested could as well pass for Parliamentary questions to be placed on the Order Paper. Listening just a few minutes ago to the request by the hon. Member for Embakasi for a Ministerial Statement from the Office of the Deputy Prime Minister and Ministry of Local Government, I had no doubt in my mind that that could actually come in the form of a Parliamentary question; the matter of establishment of these fresh produce stores.

On the same note, Mr. Speaker, Sir, I wish to remind my cabinet colleagues of the need to ensure timely submission of minister's reports, consistent with Standing Order No.183(1) as failure to submit the same is deemed to be disorderly conduct within the meaning of Standing Order No.90(7).

Finally, Mr. Speaker, Sir, I wish to refocus my fellow Members and colleagues in the House on the enormity of opened expectations from Kenyans of our new and very central role in implementation of the new Constitution. We have to rise above partisan, regional and even gender differences and move in one direction to be able to fulfill this historic obligation bestowed on us by our country, and by our motherland.

Thank you, Mr. Speaker, Sir. If any Member wishes to raise any issue, I think I will be only too glad to respond.

**Mr. Chanzu:** Thank you, Mr. Speaker, Sir. I want to thank the Vice-President and Minister for Home Affairs, who is also the Leader of Government Business, that at least from what he has outlined here, we are going to uphold the level and standards within which this Parliament should operate. But I just wanted assurance from the Leader of Government Business that he will also relay the same information to his Cabinet colleagues at Cabinet meetings so that the two principals can also participate in ensuring that what he is telling us here is complied with by the Front Bench.

**Mr. Speaker:** Hon. Vice-President and Minister for Home Affairs, please, take note.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. The Vice-President and Minister for Home Affairs has implied that Members are not too clear about the difference between a Ministerial Statement and Ordinary Questions or Questions by Private Notice. I just want him to tell the House whether he is aware that according to the Standing Orders, before a Member has an opportunity to rise on a Ministerial Statement, he gets the clearance of the Chair. Is he, therefore, casting aspersions on the ability of the Chair to award that permission or what exactly does he mean?

**Mr. Affey:** Thank you, Mr. Speaker, Sir. I also want to thank the Vice President and Minister for Home Affairs for that statement. He referred to the Indemnity (Repeal) Act. I would like to find out from him if indeed he is aware that of the limitation of time. Within 21 days after the President had signed that Memorandum, this House was supposed to debate it. However, because we went on recess, it is within 21 days after the session has started. We have been informed that the Attorney-General who was supposed to have moved this matter has gone out of the country. I do not know what arrangements the Government has put in place to allow this matter to be disposed off as soon as possible.

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Speaker, Sir, I want to agree with my friend, hon. Chanzu, who had occasion to serve with me in previous sittings; I think we were together in the 5<sup>th</sup>, and I suppose the 6<sup>th</sup>

Parliaments. Clearly the matter that he raised with regard to making sure that all the Members of the Cabinet including those who do not sit in the Cabinet but strictly for purposes of Standing Orders, a Minister includes an Assistant Minister; that they will also be reading from the same script. I want to assure him that we will be communicating the seriousness of what I have just read. I want to commend the Assistant Ministers and Ministers because I notice tremendous improvement over the last few weeks since the Fourth Session started. I see that there is a seriousness of purpose demonstrated by the Front Bench with regard to answering of questions and also taking seriously the matter of Ministerial Statements. I see tremendous improvement here and even from the point of view of the HBC, we have taken serious note of that.

My friend, Dr. Khalwale, thinks that I am casting aspersions on the integrity, indeed the ability of the Chair to determine which is a proper Ministerial Statement and a question. I think I was just volunteering information. I do not think it has ever occurred to me that I would want to challenge the ruling of the Chair. I think for my long history in this House, I have serious regard for the Chair, this being understood that I actually sat where you are as deputy for five years. I think I am fairly conversant with the rules of procedure. Once the Chair has made a ruling and even hon. Waititu's Question will go in as a request for Ministerial Statement, Obviously that will stand. But I think that we need to also give time to the Chair because even before you go before Mr. Speaker to ask that he allows you to ask or request for a Ministerial Statement, I think it behooves you also to be able to know that actually you can ask a substantive question. I am sure the Speaker will equally be pleased and the House will also be pleased. Depending on the urgency and the gravity of the matter, you can ask that question to take the category of a Private Question.

Hon. Affey has raised a fairly important matter as well. I want him to know that when he was out of the country we had to oblige. This matter of the Indemnity (Repeal) Act which he takes Mr. President has acted upon, was listed for debate in this House and because he was out of the country, we could not. I think he actually left a specific request. Similarly the Attorney-General, who was supposed to present this matter before the House, is also out of the country. I am sure the 21 day rule may have to be applied with a bit of flexibility, but we are taking the matter with all the seriousness it deserves.

Thank you!

## CONSIDERED RULING

### PROCEDURE FOR MAKING REQUESTS FOR STATEMENTS

**Mr. Speaker:** Hon. Members, I have listened to what has transpired under Order No.7 pertaining to Statements and, in particular, I have heard the sentiments of the Leader of Government Business. I just want to reassure the House that the Chair, which includes the Speaker, the Deputy Speaker and the four Members of the Speaker's Panel, exercises its collective responsibility, power and authority strictly in accordance with the Standing Orders, and in conformity with all the relevant law and that, at no time has this discretion been exercised injudiciously. But that notwithstanding, Leader of Government Business, we have had certain concerns, some of which you have also covered. I just want to remind hon. Members that we have put in place a *modus operandi*; a method by

which Statements will access the House. This method respects the provisions of Standing Order No.36(3) - and I want to reiterate this so that all hon. Members will comply. Allow me to read this *in extenso*. Paragraph 3 of Standing Order No.36 reads:-

“A member who wishes to make or request for a statement under paragraph 1(a)(7) shall notify the Chair of the substance of the statement to be made at least one hour before the Sitting of the House”

It ought to be strictly so. We have, however, had instances where hon. Members have ambushed whoever is in the Chair out of that Panel, when the House is already sitting. That, therefore, disallows the Member who is presiding an opportunity to be able to look, scrutinize and evaluate the request to see whether or not it passes for a request for a Statement. So, I am directing that from now on, there will be no approval for requests for Statements when the House is already sitting. None of the Panelists will approve that request. So, all requests must be made to Mr. Speaker as the Standing Orders provide, at least, one hour before the Sitting of the House.

Secondly and importantly, that only two persons will approve requests for Statements. This is a matter that we have thought about very carefully. The first person will be the Speaker and the second person, in the absence of the Speaker, will be the Deputy Speaker. No other Panelist will approve a request for a Statement so that we ensure strict compliance with Standing Order No.36(3). As I have said, I reiterate that we have thought about this matter very carefully and, in fact, we were in the process of preparing a Communication to this effect. But now that it became necessary to address this matter, I have done so and, please, ensure that we are all guided accordingly.

**Mr. K. Kilonzo:** On a point of order, Mr. Speaker, Sir. We stand guided by your ruling. However, there are instances where matters of national importance have come in and we find both the Speaker and the Deputy Speaker are not in. Members of the Panel are sitting on the Chair on behalf of the Speaker. Could you give further directions on what hon. Members would be required to do at such points in time?

**Mr. Speaker:** Very well; I will do that! I have, in my directions, guided that requests for Statements will be approved by one of two persons; one, the Speaker and two, the Deputy Speaker. I have not said in that direction that the Speaker or the Deputy Speaker will have to be physically present with the hon. Member. Our system of operation is such that the Clerk has access to either the Speaker or Deputy Speaker at any given time. There is no lacuna! There is no time when either of these two persons cannot be accessed. So, we will work in that manner.

Next Order!

## **BILL**

### *First Reading*

#### THE COMMISSION FOR THE IMPLEMENTATION OF THE CONSTITUTION BILL

### **POINT OF ORDER**

#### UNPROCEDURAL PRESENTATION OF THE CONSTITUTION

## IMPLEMENTATION COMMISSION BILL BEFORE THE HOUSE

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. It is so nice that we are finally doing the First Reading of this very important Bill. But I have serious concerns about the manner in which it is being brought before this House. You will notice that it is being brought by the Minister for Justice, National Cohesion and Constitutional Affairs. I have agonized, read and re-read the new Constitution, especially Schedule Six that indicates how this Constitution will be implemented. Specifically, Part V describes the Commission of Implementation which is very clear about the functions and, if you allow me, I will refer to the new Constitution. It is very clear that under the Commission of Implementation of the Constitution in Part V, they describe how it is supposed to be formed. In Part VI, especially part (b), it tells us exactly the functions. This part reads:- “The function of the Commission will be to co-ordinate with the Attorney-General and the Kenya Law Reform Commission in preparing for tabling in Parliament the legislation required to implement this Constitution. In part (c) it tells us: The Commission will report regularly to the Constitution Implementation Oversight Committee.” Nowhere in this Constitution is the word “Cabinet” mentioned. And more importantly, nowhere is the Ministry called “the Ministry of Justice, National Cohesion and Constitutional Affairs” mentioned. Nowhere!

I, therefore, find it touching on unconstitutionality to allow the Minister for Justice, National Cohesion and Constitutional Affairs to be the one presenting the Bill before this House. I would request the Chair to guide the House as to whether we can or cannot allow, so as to be seen to be complying with the new Constitution, the Attorney-General, as contemplated in this Constitution, to be the one doing what Mr. M. Kilonzo is seeking to do.

Thank you!

**Mr. Mbadi:** On a point of Mr. Speaker, Sir. I am just rising to add my voice to the point of order that has been raised by Dr. Khalwale. If you read the transition and consequential provisions, Article 261(4), it says: “For the purposes of Clause 1 – clause 1 talks about enacting legislations that are required by this Constitution – the Attorney-General, in consultation with the Commission for the Implementation of the Constitution, shall prepare the relevant Bills for tabling before Parliament as soon as reasonably practical to enable Parliament to enact the legislation within the period specified.”

Mr. Speaker, Sir, I am alive to the fact that the Commission is not in existence. For any piece of legislation presented before this House, we need to be sure that it is the Attorney-General who has participated in its preparation. It would only be more acceptable to us if the Attorney-General presented the Bill before this House. I do not understand how we can confirm, when the Minister for Justice, National Cohesion and Constitutional Affairs, who is not the Attorney-General, presents a Bill before this House, that the particular Bill has the blessings of the Attorney-General. So, I am asking the Chair to ask the Government to present this Bill before the House procedurally.

**The Vice President and Minister for Home Affairs (Mr. Musyoka):** Mr. Speaker, Sir, I am aware that the Minister for Justice, National Cohesion and Constitutional Affairs is in the House, but I want to confirm to this House that this is a matter that has engaged our minds. Your own mind has been applied to it substantially.

This is very interesting. It is a very exciting time in the history of our country; we are having to implement a completely new Constitution. We have some set deadlines. I have no doubt in my mind that if we were to await the setting up of the Commission which will then consult with the Attorney-General before the very First Reading of this Bill, then we would be dead before we begin.

Mr. Speaker, Sir, this is the reality of the situation. We are being faced with a chicken and egg situation. What is before the House is just the plain First Reading of the Bill that seeks to establish this Commission. This is the all-important Commission without which the Work of implementation of the Constitution cannot seriously begin.

Therefore, if it was the case that the Minister for Justice, National Cohesion and Constitutional Affairs was moving the second reading--- What will happen is that the Clerks-at-the-Table will simply read it. If it is that my colleagues are offended by the word “Minister for Justice, National Cohesion and Constitutional Affairs” I want to confirm to them that the Cabinet consulted extensively over this matter. I am sure the Minister for Justice, National Cohesion and Constitutional Affairs might want to confirm what I am saying; there is even a document between the Attorney-General and the Minister for Justice, National Cohesion and Constitutional Affairs. The interest the Cabinet has is to expedite this process.

My worry, even as I speak before you, is that we will not be able to put in place the Judicial Service Commission by the 27<sup>th</sup> of this month if we will have to debate some of these technicalities. Even if the words “Minister for Justice, National Cohesion and Constitutional Affairs” were not there, the Clerks-at-the-Table would read out the Bill in order for us to move and enable the oversight committee to be able to make sure that this matter is brought expeditiously before the House.

Mr. Speaker, Sir, I beg of all of us to be able to see the challenge. If we begin by violating the timelines, which we are bound to do now, the country will not understand. So, that is what I wanted to observe with regard to this very learned approach by my good friend, Dr. Khalwale. He and I know that we have actually been discussing this matter extensively and some progress has to be made.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Thank you, Mr. Speaker, Sir. Allow me to thank Dr. Khalwale and the hon. Members who are raising this point, because it is an important point. I think it is good for the country that it be put to rest. Therefore, allow me to make a few remarks.

The first one is to draw the attention of this hon. House to the legislative authority of Parliament in the old Constitution. These are Sections 30 to 40, Sections 43 to 46 and Sections 48 to 58, which have been expressly preserved under the scheme of things.

Let me read out Section 3; this is very important and should go on record. If you look at Section 3 of Schedule 6 it is so clear. The heading is: “Extension of Application of Provisions of the Former Constitution”. It says:

“Sections 30 to 40, Sections 43 to 46 and 48 to 58 of the former Constitution; the provisions of the former Constitution concerning the Executive and the National Accord and Reconciliation Act, 2008 shall continue to operate until the first general election held under this Constitution where the provisions of this Constitution concerning the system of elections, eligibility for elections and electoral process shall apply to that election”.

Therefore, it is my very humble, but extremely firm position, that, sadly, Dr. Khalwale and hon. Members may not have seen the Ministry of Justice, National

Cohesion and Constitutional Affairs mentioned, but that Ministry is mentioned in the Executive Section of the old Constitution, specifically under Section 18 of the old Constitution and it has been preserved. It says:

“Responsibility for any business of the Government of Kenya including the administration of any of the departments of the Government may be assigned to the Vice-President and the several Ministers as the President may, by directions in writing determine”.

I do not know whether the hon. Members are saying that I am not the Minister for Justice, National Cohesion and Constitutional Affairs; that is the docket that I currently hold.

Mr. Speaker, Sir, having said that, it is also important that we bear in mind that, under the Constitution of Kenya, at Section 2 of Schedule 6, you will find that the provisions regarding the Executive in the current Constitution have been suspended. That means for clarity, the Ministers serving now until the next general election are the Ministers contemplated by the National Accord and Reconciliation Act, Act No.4 of 2008. After August 2012 Ministers will not be Members of Parliament and the issue that is being raised will not arise.

Therefore, for purposes of both Section 2 of Schedule 6 and Section 3 of Schedule 6, I am the line Minister responsible for constitutional affairs, including review and, until the President says otherwise, implementation. Therefore, these issues were raised in the Cabinet, and there is a view making rounds suggesting that the Cabinet may be almost unaware of these provisions. I want to dissuade hon. Members from that perspective. The Cabinet is very well aware of this provision.

Therefore, if you allow me, I would like, very exceptionally, because this is a very critical matter, to table before the House the Cabinet memorandum that I presented by virtue of that extension in Section 3 for authority to publish these Bills. It is co-sponsored and signed by my learned friend, fellow senior counsel, hon. Amos Wako, Senior counsel of the Republic of Kenya. You will see that authority was then granted by the Cabinet for the publication of these Bills on the understanding that this is a joint effort between my Ministry and the Office of the Attorney-General.

*(Mr. M. Kilonzo laid the document on the Table)*

I would like to go further; if you allow this debate to proceed to the Second Reading, I will come with the actual Bill that I took to the Government printer. Before I took it there, the Attorney-General endorsed it with his signature.

Therefore, the issue that arises is that if you accept the extension of the Grand Coalition Government, you would have to accept that it has an Executive and a Cabinet. Therefore, in preparing the Bill, we are not violating the Constitution at all.

The other point that I wish to make is that the National Accord and Reconciliation Act, itself, as I have said, is extended. If you look at it, under Sections 16 and 17 of the old Constitution, it would be quite clear that Ministers have those functions that are assigned to them.

The other thing - and it is very critical - is that the Committee we have appointed itself for oversight is sourced from this Parliament. This Parliament has also been



extended. So, therefore, the authority of Members to be in this Chamber is under Section 10 of Schedule 6. It says:-

“The National Assembly existing immediately before the effective date shall continue as the National Assembly for the purposes of this Constitution for its unexpired term.”

Therefore, one cannot have the National Assembly comprising my very good friend, hon. Khalwale, and a National Assembly not comprising Mutula Kilonzo. I think we have to carry this baby together until the end. So, therefore, when you read Section 10 of Schedule 6, you are left with no doubt whatsoever, as to what to do.

Mr. Speaker, Sir, allow me to make this point because it is very important and there is a question that is being asked left, right and centre by some people, and some lawyers have even sued me, saying that they do not want me to present any Bill before this House. I welcome those law suits. Since Article 10 of our Constitution now requires consultation and, above all, participation of the people, allow me to make this point. Looking at page 194, the Commission for the Implementation of the Constitution, the one, which is pending First Reading, right now, you notice under Section 6, it says:-

“The functions of the Commission shall be:

- (a) To monitor, facilitate and oversee the development of legislation and administrative procedures required to implement this Constitution”
- (b) To co-ordinate with the Attorney-General and the Kenya Law Reform Commission in preparing for tabling in Parliament the legislation required to implement this Constitution”.

Mr. Speaker, Sir, arising from what I have said, one cannot dismiss the Cabinet. Therefore, even the Attorney-General himself, in preparing these Bills, will still have to work with the Executive, extended by Section 3 of Schedule 6. It simply means, and I stand to be corrected--- Luckily you are such an able lawyer among other things, I am sure you will see where I am going. Are we saying that the Attorney-General can sit in his office together with the Commission on Implementation, draft the Bills, publish them, bring them to the House without consulting the Executive, comprising the President, the Prime Minister, the Vice-President and Minister for Home Affairs, and other Ministers?

Mr. Speaker, Sir, therefore, my argument begs your finding that the position I am advocating is correct. Notwithstanding the words “monitor”, “facilitate” and “oversee the development,” the fact of the matter is that the policy that generates Article 1, Article 2 and Article 3, will for the time being, until we have fresh elections, still be sourced from the various Ministries recognized by the National Accord and Reconciliation Act. I cannot see it being done otherwise. My arrangement - and I do not mind it saying because it is not a secret - we have agreed with the Attorney-General that when this Commission is established, my Ministry will retreat to the extent that the Law Reform Commission reports to it, and yet, it is one of the organs for the drafting. But we will retreat to only facilitate that Commission to work. Under Schedule 5, each Minister will accompany the Attorney-General to the Implementation Commission and they will hold consultations, so that the draft then reflects the policy, the joint memorandum, joint manifesto that has been hammered out of the various memoranda of the Grand Coalition Government partners, which as you see, has been done. We speak with one voice. Sometimes, it does not look like so, but that is exactly the position.

Mr. Speaker, Sir, my argument, therefore, remains that the position is that, I am the right person to present this Bill and two others that I will bring because I am the line Minister for the Judiciary, justice system and issues pertaining to legal policy. I am afraid, I have the skills, manpower, resources and the interest to continue generating these Bills. Once they go through the First Reading, if anybody in Kenya thinks that they want to carry them forward, they are free to do so. They can adopt them and present them, improve and work on them. But above all, do not block them unless you have an alternative.

Mr. Speaker, Sir, I beg to rest my case there.

*(Dr. Khalwale stood up in his place)*

**Mr. Speaker:** Order, Member for Ikolomani, we have already heard you on this matter.

Member for Chepalungu.

**Mr. Ruto:** Mr. Speaker, Sir, we have heard with a lot of eloquence the presentation by the two Government Ministers. But we must not lose the spirit and intentions of the constitutional review. Even Jesus Christ, 2000 years ago, said that you do not make new wine and put it into old wine skins.

Mr. Speaker, Sir, I think the constitutional drafters took a bit of that advice into their own advice. Much as we have the Executive, this same Constitution under Article 61 gives this Parliament a window to allow the Executive another two weeks. If you think the deadline of next week is too much, you cannot beat it--- It will be 27<sup>th</sup> November, 2010. But it does not give you, the leeway to decide as a Cabinet to completely flout the Constitution on the basis that you have been saved by this same Constitution.

Mr. Speaker, Sir, Article 261(2) says that:-

“Despite Clause one, the National Assembly may by resolution supported by the vote of at least two-thirds of all the Members of the National Assembly, extend the period prescribed in respect of any particular matter under Clause one, provided it does not exceed one year”.

Mr. Speaker, Sir, if their problem is about the deadline, we can give them an extra two weeks. But the point is that the intention of bringing the Commission on Implementation together with the Attorney-General and others to discuss these things is so that there is input from a wide cross section of Kenyans.

The speed with which our friend the hon. Minister for Justice, National Cohesion and Constitutional Affairs is generating these Bills make us wonder whether he had these Bills under his drawer before the Constitution was passed. We want to look at those Bills, Mr. Minister, and ensure that they maintain the spirit and intention of Kenyans to ensure change. You should not bring us Bills which, by the time they are debated, they have already been passed.

Mr. Speaker, Sir, there is nothing wrong in us putting in place the provisions that require Commissions be put in place and that it is the Attorney-General to sign. When this Constitution was being passed, it was very clear to everyone that we have the Minister for Justice, National Cohesion and Constitutional Affairs. We were already even aware that the schedule of duties included the one he has just elucidated so well here. We knew all about that. But we passed the Constitution and indicated that it is the Attorney-

General to bring us these Bills. We know you can volunteer to do so many things. But in this one, you have not been invited to volunteer on anything, Mr. Waziri!

Mr. Speaker, Sir, I urge you to rule that this Government should stick to the letter of this Constitution, which we passed four weeks ago.

**Mr. Speaker:** Very well. Mr. Mbadi.

**Mr. Mbadi:** Thank you, Mr. Speaker, Sir, for allowing me this opportunity to just react to what the Minister for Justice, National Cohesion and Constitutional Affairs has said. Listening carefully to the Minister, he said that Section 18 of the former Constitution, which he went ahead to read, is saved by this Constitution. I do not see anywhere where Section 18 of the former Constitution is saved in the current Constitution.

Actually, the sections that are saved by this Constitution are explicitly stated as extension of application of the provisions of the former Constitution. In fact, they are listed and they start from Section 30. Not anywhere in the current Constitution can you find--- Even the one before states: “---until Parliament passes the Act and it is effected in Articles 15 and 18 of the current Constitution, Section 93 of the former Constitution continues to apply.” So, Section 93 of the former Constitution is what is saved and not Sections 15 and 18 of the former Constitution. I think the Minister is misleading the House by referring to those sections of the former Constitution which are not saved anywhere by the current Constitution.

Further, even after this Constitution has saved some sections of the former Constitution, the Committee of Experts (CoE) in their wisdom decided to go ahead to explicitly state the functions which the Attorney-General needs to carry out. That was not in vain but for a purpose. So, the Minister needs to respect the current Constitution.

**Dr. Eseli:** Thank you, Mr. Speaker, Sir, for giving me this chance to contribute to the current issue. In my short stint in this House, I have discovered that what might appear to be very complicated has a very simple solution.

Consequential legislation under Section 261(4) states that for the purposes of Clause 1, the Attorney-General in consultation with Commission for the Implementation of the Constitution shall prepare the relevant Bills for tabling before Parliament as soon as will be practicable to enable Parliament to enact legislation within the period specified. This one says: “The Attorney-General, in consultation with the Commission for the Implementation of the Constitution---” Now, we have to set up that Commission for the Attorney-General to consult in order to bring the Bill. Right now, that Commission is not there. If the Attorney-General was to bring anything here, we could equally refuse and say that he has not consulted the Commission for the Implementation of the Constitution. So, we have to let somebody set up that Commission so that the Attorney-General can have somebody to consult.

*(Applause)*

**Mr. Speaker:** Very well. We must endeavour to come to an end.

Yes, Ms. Amina Abdalla.

**Ms. A. Abdalla:** Mr. Speaker, Sir, it is clear that we have a serious issue of divergence of opinion over what the functions of the Commission for the Implementation of the Constitution are. There is a view that it will have to see every single Bill that

comes to this House and that no Ministry will produce its legislation. In actual sense, every Bill will be coming from the Attorney-General and the Commission for the Implementation of the Constitution. There is another group, to which I subscribe, that looks at the Commission for the Implementation of the Constitution as a facilitator and co-ordinator to push things forward. I wish to request that you carefully look at this matter because what Dr. Khalwale and his colleagues are asking you to do is to usurp the powers of the Supreme Court to interpret the Constitution.

Mr. Speaker, Sir, since I would like you to give this House a balanced opinion on this matter, I would like you to deal with the matter of whether the Cabinet will retain its function of bringing the Bills. I also want you to determine whether all these Bills that we need to produce here given the time lines that we have will have to wait for the Commission for the Implementation of the Constitution that we are now arguing whether to bring the Act on. Again, we need to know whether those who subscribe to the other view want the Commission for the Implementation of the Constitution to be formed and yet its functions are limited by legislation, which again goes against the Constitution.

I serve in the Departmental Committee on Justice and Legal Affairs. Today we had a meeting and we realized the need to have a meeting between the House Business Committee (HBC), the Speaker's Office, and the entire House outside this Chamber so that we can come to an understanding. I believe that the misunderstanding is as a result of the different interpretations of what the roles of the Commission for the Implementation of the Constitution are.

Mr. Speaker, Sir, I beg that before you make a ruling, this consultation takes place so that we can come to a middle ground on this matter.

**Mr. Ruto:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Ms. Amina Abdalla, do you wish to be informed by the Member for Chepalungu?

**Ms. A. Abdalla:** Mr. Speaker, Sir, he is a Member of the Departmental Committee on Justice and Legal Affairs and he did not attend the meeting. So, I do not know what he should be informing me on.

*(Laughter)*

**Mr. Speaker:** Order! Is that, therefore, to say that you decline?

**Ms. A. Abdalla:** Mr. Speaker, Sir, I decline.

**Mr. Speaker:** Yes, Mr. G.O. Nyamweya!

**Mr. Oyongo Nyamweya:** Mr. Speaker, Sir, I am going to make a very specific plea to all the Members of Parliament and Kenyans. We have gone through a very difficult process to come to a point where we have accepted a new Constitution. Please, let us not become technical about how we will implement it. We want to move the country forward. We have agreed that this is our new Constitution.

In my understanding, the Attorney-General, whether in the new or the old Constitution remains the Chief Legal Advisor of the Government. What is being propagated to me sounds as if he will exist on his own with the Commission for the Implementation of the Constitution. That cannot be sound jurisprudence. Now that it has been tabled here that the Cabinet has approved this approach, why should we, as Members of Parliament, want to complicate it by simply saying; "No, that one should be

the one doing it and not the other one.” If we have issues with the content, is that not what we should raise rather than argue on who and how it has been presented?

I am a Member of the Departmental Committee on Justice and Legal Affairs. If you look at the schedules, programmes and timelines, you will find unless we are deliberately saying that we do not want this Constitution to come into effect properly and, therefore, we are seeking the courts to dissolve Parliament because that is what could happen if somebody goes to court to say that Parliament has failed to pass the necessary laws and, therefore, should be sent home for a new Parliament to come and do so--- If that is what we are saying, we should be plain. However, if, indeed, we want to implement the new Constitution, let us do so.

## CONSIDERED RULING

### COMMISSION FOR IMPLEMENTATION OF THE CONSTITUTION BILL SHOULD BE READ THE FIRST TIME

**Mr. Speaker:** Order, hon. Members! I have listened to the point of order raised by the Member for Ikolomani, Dr. Khalwale. I have also heard the subsequent contributions made by the Minister for Justice, National Cohesion and Constitutional Affairs, the Leader of Government Business, the hon. Member for Gwassi, the hon. Member for Kimilili, hon. G.O. Nyamweya, hon. A. Abdalla and the hon. Member for Chepalungu among others.

As far as I see the matter, the subject that I ought to address myself to is fairly straightforward and simple; namely, whether or not this House should proceed to transact the First Reading of the Commission for the Implementation of the Constitution Bill of 2010 as it appears on the Order Paper as Order No.8.

The point of order raised by the hon. Member for Ikolomani is premised on Chapter 18 of the Constitution, specifically Section 261(4) of the Constitution which reads as follows:

“For the purposes of Clause 1, the Attorney-General, in consultation with the Commission for Implementation of the Constitution, shall prepare the relevant Bills for tabling before Parliament as soon as reasonably practicable, to enable Parliament to enact the legislation within the period specified.”

What is key there is that the Attorney-General shall prepare the relevant Bills in consultation with the Commission for Implementation of the Constitution.

Hon. Members, I want to refer you back to Section 259 of the Constitution which tells us what we ought to do in interpreting this Constitution. It does provide as follows: The subheading there is “construing this Constitution”, in other words, interpreting, understanding or giving meaning to this Constitution. It says:

“This Constitution shall be interpreted in a manner that:-

(a) promotes its purposes, values and principles.”

We might want to pose there and ask ourselves, for the purpose of the point of order which has been raised this afternoon: What is the purpose of the Constitution? The purpose of the Constitution after the effective date is that it be implemented. So, as we interpret this Constitution, we must give effect to that purpose. I want to cite a basic concept of law, much as I am not in the Supreme Court now, but just like the Minister for

Justice, National Cohesion and Constitutional Affairs, I also have had the privilege to train and practise as a lawyer. This doctrine says: "Equity looks at the substance and not form." What is the substance? The substance here is whether or not the Bill listed at Order No.8 should proceed to Second Reading. The substance further is: Has it been properly published?

In my considered opinion given the Memorandum that has been tabled by the Minister for Justice, National Cohesion and Constitutional Affairs, dated 23<sup>rd</sup> August, 2010, I am satisfied that the Attorney-General has had his input in this Bill. If anything, he has acquiesced to it. This is because he says that the Minister for Justice, National Cohesion and Constitutional Affairs can continue and progress this Bill. So, we have the acquiescence of the Attorney-General that he is aware of this Bill. He may not have physically and personally drafted it but after the Minister for Justice, National Cohesion and Constitutional Affairs, by whatever process, caused it to be generated, the Attorney-General was satisfied with the Bill.

What is the second limb? "The Attorney-General shall, in consultation with the Commission for Implementation of the Constitution, prepare---" Now, the situation prevailing is that the Commission on Implementation is not yet operationalized, but as to establishment, it is, in fact, established. I want to refer you to page 194 of the Constitution, Sixth Schedule, Section 5(1). It expressly says:

"There is established the Commission for the Implementation of the Constitution."

It goes ahead and sets out who that Commission shall be constituted of. Otherwise, it is expressly established by the Constitution. There can be no other interpretation. It is simple and straightforward. What we then have in the Bill that is captured at Order No.8 is a Bill to operationalize the Commission as established by the Constitution; to ensure that, that Commission is in place and functions as anticipated by the Constitution. You will find that in the preamble to the Bill. Among other things, it says:

"To provide for the appointment procedure for Members of the Commission." Without this Bill, there is no procedure for appointment of Members of the Commission. So, this Bill becomes a matter of necessity, but we have to enact it so that there is a procedure for constitution of the Commission as anticipated by the Constitution.

Having said all that, it is my finding on this matter, as the Speaker of the Legislature and not a Judge of the Supreme Court, that it is necessary that this business proceeds. I will direct that Order No.8 be read.

Hon. Members, I want to put a rider. Note that the Constitution itself has adequate provisions as supplemented by our Standing Orders to check anything that is unlawful as the process of enactment continues. So, after this First Reading, there will be a Second Reading. If there is anything the matter in the Bill, hon. Members are at liberty and, indeed, have the power and can terminate the process of enactment of this Bill.

*(Applause)*

## **BILL**

*First Reading*

THE COMMISSION FOR THE IMPLEMENTATION OF CONSTITUTION BILL

*(Order for First Reading – Read the First Time and ordered to be referred to the relevant Departmental Committee)*

**Eng. Gumbo:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Not on the same matter! What is it?

**Eng. Gumbo:** Mr. Speaker, Sir, I stand on a point of order to seek direction from the Chair on a matter that I think has the effect of affecting the functions of the Commission whose Bill has just been read.

Mr. Speaker, Sir, the Bill that has been read finds anchorage and leverage in the Constitution, through Article No.262, which is, transitional and consequential provisions as set out in the Sixth Schedule. Transition Clause No.54 states that Articles 248 to 254 will apply to this Commission, which is the Commission on Implementation of the Constitution. Articles 248 to 254 are actually the building blocks of Chapter 15 of the Constitution, which is, Commissions and Independent Offices.

Mr. Speaker, Sir, Article 250(b) states very categorically that a Member--- In other words, Articles 248 to 254 shall be part of this Commission on Implementation. Article 250(6) reads:-

“A member of a commission or the holder of an independent office, unless *ex-officio*, shall be appointed for a single term of six years and is not eligible for reappointment.”

Article 57 of the transition states--- We have been told that all Articles of Chapter 15 apply to this Commission.

The Article states:-

“The Commission for the Implementation of the Constitution shall stand dissolved five years---“

**Mr. Speaker:** Order, Member for Rarieda. What page of the Constitution are you reading from?

**Eng. Gumbo:** Mr. Speaker, Sir, I am on page 195, Article 57. It states:-

“The Commission for the Implementation of the Constitution shall stand dissolved five years after it has been established or at the full implementation of this Constitution as determined by Parliament, whichever is sooner, and that the National Assembly may, by resolution, extend its life.”

Mr. Speaker, Sir, I beg to seek direction from the Chair as I find those two Articles, which are part of the same, contradictory to one another.

**Mr. Speaker:** Thank you. That is a matter that I will address myself to and give directions on Tuesday.

**MOTION**

ADOPTION OF REPORT ON RUSSIA/AFRICA HORIZONS  
OF CO-OPERATION CONFERENCE

**Mr. Keynan:** Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Kenya Parliamentary Delegation to Russia/Africa Horizons of Co-operation Conference which took place between 15th and 16th June in Moscow, laid on the Table of the House on Wednesday, June 30, 2010.

The International Parliamentary Conference, which is the Russia/Africa Horizons Co-operation Conference, was held in Moscow between June 15th and June 16th, 2010. The conference was organized by the State Duma of the Federal Assembly of Russia and brought together 29 African Parliaments. The main objective of the conference was to strengthen the role of the African /Russia parliamentary diplomacy in addressing various topical issues in the modern world in the spheres of emerging politics, economics, environment, humanities as well as other issues of mutual interest regarding the inter-parliamentary co-operation between Russia and Africa.

Mr. Speaker, Sir, in today's world, just like Kenya, every country is trying to adjust its diplomacy from political diplomacy to economic diplomacy. Since the disintegration of the old Soviet State, Russia has also been struggling. As we know, Russia is a permanent member of the United Nations. Russia has also a veto power. Russia is also one of the members of the industrialized nations. Just as we are doing today, they are moving from political diplomacy to environmental, parliamentary, tourism, economic, environmental and security diplomacy. Russia has tried to rediscover diplomatic relations with the African Continent. One of the things they are trying to provide is democratic development of the African Continent to avoid creating a scenario of dependence syndrome from the African Continent.

Mr. Speaker, Sir, I want to take this opportunity to thank your office for giving us the opportunity. I was the leader of the delegation consisting of hon. Ngata Kariuki. Ms. Maison Leshomo, Mr. Simon Ogari Nyakundi - and I want to congratulate him for being appointed as an Assistant Minister. We had a Clerk Assistant, Mr. Peter Ochieng Adika.

The dynamics of today's world have completely changed. One of the things we were told in Russia was: "Do not ask for favours, ask for technological transfers." One of the things we learnt is that the fertilizers we use here in Kenya come from Russia, but through a third country. The flowers that are used in Russia come from Kenya, but through a third country. One of the things we were considering is that since Kenya is the source of one of the most expensive products in Russia, then why can we not establish a direct route between Kenya and Russia, instead of relying on our traditional partners like Netherlands? We found that to be very acceptable.

Our Kenyan tea is very popular in Russia. It is used for blending other teas. Our tea is taken to Russia through a third country. Why can we not establish a direct link between Kenya and Russia and we have a mechanism? On the issue of tourism, there are many Russians – in fact, millions - who visit Egypt. Egypt is not far from here. The facilities and tourism attraction sites that we have here cannot be compared to what is in other countries in the continent. What we are saying is that we need to change. We have one of the oldest missions in Russia. The psyche is political representation. On the face of it, as far as the politics are concerned, there is a shift. We need to have an economic diplomacy. We need to re-energize and invigorate our diplomatic policy, so that we can have a policy that is geared towards the achievement of Vision 2030.

We cannot achieve Vision 2030 unless we are a vibrant economy and a strong economic base. We need to have a sustainable annual growth. For us to achieve this, we must be pragmatic in what we do. If the activities in our Russian mission are the same as



they were in 1967, when we had the cold war, Berlin Wall and conflicting ideologies in the name of communism and capitalism, then we are not being very fair to Kenya. One other thing that we learnt is that last year, we were given 30 scholarships. However, due to laxity by some individuals and key Ministries, we failed to utilize those 30 chances. Either the applications were late or the documents that were sent from here reached Russia very late. Therefore, the Russian Ministry did not have ample time to prepare the necessary admission documents. They asked us: “Are there no Kenyan students who are willing to come and study medicine in Russia or join technical institutions here?” Obviously, you know we have thousands of students who are eligible and who are lacking the opportunity to go and further their education in those key institutions.

Another thing we learnt at the plenary and during the round-table discussions was the issue of self-reliance. In Russia, they do not give aid. Under normal circumstances, they do not give aid. However, they give technological transfers. They will offer you avenues to do business and transfer technology. That way, you can plough back what you have learnt to the society.

The theme of the meeting was that there was a bit of lacuna from the time of the break-up of the old Soviet Union up to now. The Russia of today is totally different in every aspect; geographically, economically and socially. It is totally different from what used to be the old Soviet Union. To a large extent, Russia is also rediscovering itself as far as its relation with Africa is concerned. Russia has one of the old missions here in Kenya. It is a key nation in the African Continent and it is greatly appreciated. If you look at trade between Africa and Russia it is about two per cent of the total international trade by Russia.

Mr. Speaker, Sir, because of what is happening in Russia and the enormous resources that Russia has, we feel that if Kenya takes a pragmatic approach in sending institutions like the Kenya Investment Authority (KIA), the Export Promotion Authority (EPA) and the Kenya Airways we feel there is something we can learn from Russia. We know in Russia gold and diamonds are all over. Russia has a lot of natural resources including petroleum. Therefore, the theme as they said is Russia should be “Return to Africa and build bridges”. We are also saying that Kenya should also build bridges and go to Russia and learn the same.

The other day when we were in Ireland we went to a shop and we were told that we were going to be given Kenyan tea. But when we sat down, we realized that the taste was totally different from the Kenyan tea. We asked the person and he told us, “Look, here in Ireland we get Kenyan tea and we use it to blend tea from Sri Lanka and other parts of the world”. That in itself is very unfortunate.

Mr. Speaker, Sir, we do appreciate that the new constitutional dispensation which we promulgated on 27<sup>th</sup> August will require a very strong economic base because of the change of institutions. We will have institutions at every level. For us to check the phenomena of rural to urban migration, if we do not work hard as a country, then I think some of the key issues and expectations demanded by the new constitutional dispensation might just be a mirage as far as Kenyans are concerned.

The bilateral trade between Kenya and Russia between the years 2004 to 2008 was just a paltry US\$49.2 million. If these avenues will have been optimized, Kenya would have done better. Therefore, the trade balance for the last five years is almost insignificant.

Mr. Speaker, Sir, Russians are very eager. They have a lot of resources and have heard about Kenya. One of the things they have memorized is the 2007 unfortunate Post Election Violence (PEV). When we talked about tourism they asked us, “You people, have you sorted out this?”. That is why today I fully concur with the ruling that the Chair has made that we need to move. As the Chair rightly said, the interpretation of law can remain argumentative and only semantics. We have chosen to have a new Constitution and it requires a lot of soberness. It requires a lot of seriousness. The kind of leadership provided by the Chair today is one of the steps that are likely to enable us achieve that thing.

Mr. Speaker, Sir, one of the other things we said when we were hosted by the Dumas--- They are also struggling. Just recently, Russia was a closed society. Now, they would want to establish relationships with other emerging democracies like Kenya. One of the things that we promised and we will be consulting your office very soon is the establishment of the Duma Kenya Parliamentary Friendship Group. It was a request and they had put it in writing. I do not know whether that has come but it is one of the things we feel if done would enhance the relationship between Kenya and Russia.

We managed to interact with parliamentarians from over 39 African countries and we learnt Kenya is a transport hub, diplomatic hub and security hub. Kenya enjoys an immense infrastructural system which is almost second to none in the whole region. One of the things they told us was that five years ago they allowed Kenya Airways to have direct flights to Moscow. Since then, they have been waiting for our Minister for Transport and the Minister for Foreign Affairs and key officials from the Kenyan Government to go there because that is prime. That has not been achieved. If Egypt Air has direct flights daily, if Turkish Air has almost 15 to 20 flights per day to Moscow, then why not Kenya? These are some of the issues we need to ask ourselves.

Mr. Speaker, Sir, if, for example, Botswana which we helped to establish the Botswana Meat Commission (BMC) in 1968, today directly exports thousands of tonnes of beef to Russia, why not Kenya? Is it because we are lacking opportunities? Is it because we do not have the technical knowhow? Is it because we do not have the will?

In 1968 the Gross Domestic Product (GDP) was at par with the one of South Korea, Malaysia and Singapore and today the GDP of South Korea is 30 times the one of Kenya. The GDP of Malaysia is almost ten times of Kenya. These are some of the challenges we have to face as a group. One of the things we said we were going to do was to request the Ministry of Trade in conjunction with the Russian Embassy to organize for a trade exhibition so that Russians get to know the kind of products that we have, whether primary or secondary.

Mr. Speaker, Sir, we also said that the Ministry of Foreign Affairs needs to contact and encourage our missions to psyche themselves to this reality. It is a reality. This is something we have chosen. The concept of economic diplomacy is something that is here to stay if we have to survive as a country and achieve some of the missions stated in Vision 2030.

Kenyan mission in Moscow should also be given the requisite authority by the Ministry of Foreign Affairs to do some of these things. For example, it is not a must for the Kenya Tourist Board (KTB) to have an office in Moscow. It is not a must for Kenya Investment Authority (KIA) to have an office in Russia. These activities can be coordinated by an all-round staff in our mission. This is why we are saying policy-wise,

the Ministry of Foreign Affairs said we have moved our policy from political diplomacy to economic diplomacy. However, at heart has that aspect been inculcated in the minds of our mission staff? This is one of the issues that we need to address.

Mr. Speaker, Sir, on the issue of the Ministry of Education, one of the sad things that we have learnt is that quite a number of Kenyans who have gone to Russia are suffering simply because of administrative events. There are hundreds of Kenyan students in Russia. Recently, there was an administrative or jurisdictional conflict between the Ministry of Foreign Affairs and the Ministry of Education on the issue of administrative attaché. Certainly one thing we have learnt is that at the time we went there we had an active ambassador who has now been recalled, who really appreciated the needs of the Kenyan students in Russia. That itself was not part of the policy. These students get visas in Russia which are not compatible with the educational stay there. This is something that requires the intervention of both the Ministry of Foreign Affairs and the Ministry of Education. The ambassador simply said he was waiting for an education attaché. Policy-wise we know the post is now contentious. This issue needs to be sorted out by the Ministries concerned so that the Kenyans all over know what to expect.

You take the example of India; there are over 10,000 students from this country but the aspect of education attaches is still contentious. It has not been sorted out. The Ministry of Education posted an individual but the Ministry of Foreign Affairs refused to sanction the posting of that individual. This has been the case for the last two and a half years. This is something that needs to be sorted out if we are to assist those students.

Mr. Speaker, Sir, one of the things we are suggesting is that since the Higher Education Loans Board (HELB) has been pragmatic in even assisting students who study parallel programmes, why do you not extend the same help to students studying professional courses outside the country; in particular students studying medicine and engineering? These are the fields that we require. Why do we not extend the same so that in addition to the courses or assistance, they can also get that support?

We are suggesting that because of air transport. We are urging the Departmental Committee on Public Works and Housing to urgently convene a meeting between the Ministry of Public Works, the Ministry of Transport and the Ministry of Trade and Kenya Airways to urge them to fill this vacuum. If we make commitments as a country and they are not honoured and every now and then you are being nagged that blame goes to all of us.

Mr. Speaker, Sir, the essence of having a mission in any foreign country before 1991, that was before the collapse of the Union of Soviet Socialist Republics (USSR), or before the collapse of the Berlin Wall, was purely ideological. I can gladly say that in 2009 we participated in the official drafting of our foreign policy, which is right now in the official website of the Ministry of Foreign Affairs.

The entire diplomatic staff, and ourselves as Parliamentarians, need to familiarise ourselves with what that document says, so that we can all proudly, as a team or as a country or even as one of the arms of the Government, pursue the economic gains that we can easily achieve as a country.

Mr. Speaker, Sir, diplomacy is a very difficult thing. The basic definition of “diplomacy”, including parliamentary diplomacy--- If you look at the Executive, diplomacy was the day-to-day activities of the Executive. Parliament, in all democracies,

was considered as unnecessary irritant. Therefore, to that extent, parliamentarians were not considered as part of parliamentary diplomacy.

However, the changing trends in diplomacy today require that parliamentarians become one of the agents of diplomacy of any country, which wants to achieve meaningful diplomacy. To that extent, as Members of the Kenya National Assembly, we will not be exempted. We must play a role, whether the Executive wants it or not, and ensure that anywhere we go we promote and protect the image of this country. Whether we are told to do so or not, that is necessary.

Mr. Speaker, Sir, to the best of my knowledge, over the last two-and-half years, the number of functions you participated in and the number of friendship groups that your Office has helped to establish is part of the dynamism the Kenyan Parliament is expected to engage in. When we have a parliamentary friendship group, for instance, between Kenya and France, interaction at that level exists.

When we have a parliamentary friendship group between Kenya and Russia, between Kenya and China, and between Kenya and Turkey, there is a context. There is an aspect of appreciation, and such a development will assist Kenya and the other countries. I want to thank you because of allowing that aspect of our parliamentary democracy.

Mr. Speaker, Sir, finally, as part of our engagement with the developing countries, this Parliament is unique in every aspect. It is during our tenure collectively, with you as our head, that we, first of all, operationalised one of the most pragmatic Standing Orders. Unfortunately, because of the new constitutional dispensation, we will have to review those Standing Orders, so that we can have sections of the same being in line with the new constitutional dispensation.

Right now, there are issues of freedom of the Press. There are other issues which even Parliamentarians are still not familiar with. Other than issues that are purely at the discretion of the chairpersons of the Committees, all other Committee deliberations are open, just like those of the House. That is not the case all over the world. Even where we went, the issue of Press freedom is something we can explore. Of course, it was not there before the Tenth Parliament. So, it is something we can proudly say it is a Kenyan product and, therefore, other developing democracies must learn from Kenya.

Mr. Speaker, Sir, with those remarks, I want to express my gratitude to your Office, and to the Office of the Clerk of the National Assembly, for giving given us that opportunity. It was also a learning experience to us Members of Parliament, and we were also your agents.

At this juncture, I call upon hon. Gunda to second the Motion.

**Mr. Gunda:** Mr. Speaker, Sir, the emerging role of parliamentary diplomacy cannot be over-emphasized. Modern parliaments, including that of Kenya, are expected to play a more proactive and definitive role in the development of relations between our countries. Parliament, on the one hand, represent the people, and on the other enact legislations, ratify international treaties, and engage in inter-parliamentary dialogue. Thus, the delegation which attended the two day conference in Moscow took that into account.

Parliamentary delegations to conferences, workshops, or visits are not done in vain. The conference discussed, among other things, the role of the Russian Parliamentary diplomacy in solving the problems of providing safety and democratic development on the African Continent; enhancing co-operation in the sphere of the

economy between Russia and Africa, and in particular, what our parliamentarians can do to identify, widen and strengthen bilateral trade and economic co-operation, and how they should do it. The Conference also held discussions on the humanities front within the focus of the Russia/Africa Inter-Parliamentary co-operation. This forum is expected to be regular, and will be targeted to translate recommendations into actions.

Mr. Speaker, Sir, “Russia should return to Africa” was the overriding spirit of the conference. As we are aware, Russia was one of the first countries to open missions here in Kenya at Independence. If I am not mistaken, it was the first. When they say “Russia should return to Africa” one wonders why and what happened.

An answer can be obtained from the fact that the cold war placed a hindrance on the Russia/Kenya relations. They were not able to propagate, maybe, what they had wanted to do. As a result, they lost out. We have now seen it proper that they should return to Africa, and to Kenya in particular.

That is why this conference was organised; it was only befitting that the Kenyan delegation was invited to the conference to be part of Africa in learning more from Russia, and what it wants to do upon their return to Africa, and Kenya in particular.

Mr. Speaker, Sir, one of the issues which came up at the conference was, obviously, that of trade. We were informed that Africa accounts for less than 2 per cent of Russia’s total international trade. There is a lot we can do as a continent, and as a country, to improve this percentage in terms of trade.

Russia is one of the countries which today offer Kenya a lot of support in terms of education. We get a lot of support from Russia in terms of partial scholarships. Sometimes one wonders why all the partial scholarships are not taken up. The delegation learnt that many of the places which have been offered have not been taken up.

Thus there are interactions not only with the conference participants but also with the Russian Duma. The delegation learnt that the leadership of the Parliament of Kenya and the State Duma Federal Assembly of the Russian Federation can, if a recommendation is made, nominate members and staff to form a permanent joint friendship group that will spearhead the co-operation between the two parliaments. It is also a recommendation of the delegation that a joint Ministry of Trade and the Russian Embassy in Nairobi joint trade council or team be formed to expedite the organization of trade exhibitions, fairs and expos to showcase products from the two countries on a regular basis. This will, of course, open avenues for potential investors and attract investment.

Mr. Speaker, Sir, it is also during the interactions with Kenyans in the Diaspora, and this has become a feature of delegations which you approve to go out--- Whenever the delegations are out of the country they make sure that they interact with Kenyans who live in those particular countries. The delegations learn from them what problems they have and what ideas they have to improve our country Kenya. In one of those discussions with Kenyans in the Diaspora, it was learnt that a company or a private agent who sends Kenyans to Russia for study may not be providing the correct information about the situation in Russia. For example, the agent avoids telling the students the fee that is supposed to be paid. The students are only told that they are sponsored by the Russian Government but in effect that sponsorship is partial. That information is not passed on to the students. They are also not told that while they are in Russia the opportunity for them to work and supplement their incomes from Kenya is not there. This leads to many of the

students sent to Russia finding the going to be very difficult and eventually drop out of school and come back to Kenya. It is also during those discussions that a request was put across by the students that they be considered for loans through the Higher Education Loans Board (HELB).

Mr. Speaker, Sir, I would like to thank your office for having made it possible for this delegation to go for this two-day conference and for them to learn what Russia intends to do in its return to Africa.

With those few remarks, I beg to second this Motion.

*(Question proposed)*

**Mr. Wamalwa:** Mr. Speaker, Sir, I rise to support the Motion for the adoption of this Report. May I start by thanking you for allowing this delegation to travel all the way to Moscow to represent us and to be part of 39 African Parliaments that were part of this Russia/Africa Conference held in Moscow. Personally, I have never been to Russia or Moscow. I have the history of Russia given through history books and news. I believe that there are many Members in this House and Kenyans who have also not been to Russia. Given the history of this country, we have limited horizons in terms of knowing exactly what Russia is all about given the ideological differences that were there at Independence; that is during the Cold War. Our founding fathers set our nation on the path of capitalism. Those were clear choices made at Independence and the Cold War had painted Russia as ancient and evil empire.

Personally, I do recall the most scary story of the last Czar of Russia; that is the Romano Family that was murdered in the most cruel execution that took place then. With time, after the end of the Cold War, our horizons have been expanded to see Russia differently. The world has become a global village. For the Chair to have allowed this delegation to represent us there and come back with this Report, it tells you of a new Russia that has a lot to offer to Kenya and to the world.

On farming, given the vast land and the great potential that the Russian nation has in terms of farming and the fact that our fertilizer comes from Russia tells you that we have a lot that we can gain from Russia through closer co-operation. Through this conference that was titled “Expanding Horizons of Co-operation”, we can expand our horizons of co-operation to include farming. Our biggest problem is input in terms of fertilizer for farmers. Russia, being a great source of this very essential input in farming, we can, through this diplomacy that we have achieved expand this co-operation and see how, as a nation, we can find a way of developing fertilizer at cheaper rates. If we have cheaper inputs for our farmers, it will increase their income and alleviate poverty. Those are areas that we need to start looking at.

Mr. Speaker, Sir, if you look at the balance of trade between our two countries, you will find that it is heavily tilted in favour of Russia. Russia talks about US\$166 million in terms of imports to this country whereas our exports to Russia is about US\$49 million. If you look at that, you will realise that we have a lot to do. There is a great and vast market out there. Kenyan tea is one of the finest tea in the world and it is sought after. This is not just in Russia but in the entire of Europe. I was surprised when I visited Egypt and realized that Kenyan tea is very popular there. With greater co-operation and development of this product we can improve our exports. It is not only Kenyan tea that is

popular out there, but also Kenyan flowers, coffee and tobacco. Through such co-operation, we will strengthen bilateral ties between the two countries, open up markets and improve our economic earnings.

Mr. Speaker, Sir, it is surprising that even after the Russian Federation had clear direct flights between Nairobi and Moscow, we have not, up to now, taken or seized the opportunity to ensure that we have direct flights between our two countries. It is not only Russia we are talking about; in the US, we do have a clearance that, in fact, there was a scheduled direct flight between Washington and Nairobi and it is a shame that, up to now, several years after this clearance by the US and Moscow, as a country, we have not seized the moment to ensure that we have these direct flights that will boost our tourism and strengthen our ties with these great nations. Through this co-operation, we want to adopt this Report, we want to have a follow-up through the recommendations that the delegation has made so that we have continuous relations between our two parliaments and our two countries.

Mr. Speaker, Sir, I do believe that apart from traditional diplomacy, which has been purely political; it has been military in terms of security, we are also widening horizons of diplomacy. In the 21<sup>st</sup> Century, the emphasis is more towards economic diplomacy, parliamentary diplomacy and environmental diplomacy. Our delegation being in Moscow is a step forward in advancing parliamentary diplomacy through such delegations and conferences. I believe that it is not only hon. Members of this delegation that learnt a lot about Russia, but I believe that many other people who were there – Russians and other countries who participated – also learnt a lot about Kenya through our delegation, led by my good friend, hon. Keynan. I do believe that we want to encourage more delegations in order to be able to advance this.

With those few remarks, I beg to support.

**The Assistant Minister for Trade** (Mr. Ogari): Thank you, Mr. Speaker, Sir. I rise to comment or make my contribution on the adoption of this Report. First and foremost because it is a good Report and, secondly, because I was an hon. Member of this delegation that was in Moscow courtesy of you and your good office and for which I am very grateful that you gave me that opportunity together with our team.

Mr. Speaker, Sir, the trip to Russia, to Moscow particularly, was a serious learning experience and it was a discovery experience. As my colleagues have put it, quite a number of us, including me had never been to Moscow. I have travelled quite a lot in other European countries. But, again, as it has been put in this House before, Russia is one of those countries which have been looking at us as an evil society or something which is very different. This is something we can share with fellow Kenyans. Russia, whatever they were before, is a very, very clean society; it is a very welcoming society and it is a society which is ready to do business with us.

Mr. Speaker, Sir, as it has been said before, the overriding spirit of this conference, if I can read one paragraph of the Report on page 5 says:-

“The overriding spirit of the conference was captured by the declaration by Russian political leaders that Russia should return to Africa and that the envisioned partnership and bilateral relations should be based on mutual respect, mutual benefit and free from all ideological dogmas.”

Mr. Speaker, Sir, we want to appreciate the fact that we made it very clear, all of us among the Kenyan delegation and the African delegations which were there, that we

had not gone to Russia to beg; we had gone there to look for partnerships, to learn, build friendships and build partnerships in many, many spheres. I think according to us and the Report, we did not come back empty handed; we came back with a lot of knowledge which the Report highlights. We also left them with a lot of knowledge.

Quite a number of Russians are not very, very clear about what Kenya is. Again, as it was said before, the hallmark of Kenya or Kenya is known in the whole world, including Russia, because of the 2007 post election violence and the unfortunate incident that we had in our country. But it was our duty as the delegation from Kenya to clear the air about it and condemn it as unfortunate. For me, this is something that all Kenyans have undertaken never to happen again.

Mr. Speaker, Sir, all said and done, I would also like to highlight a few items that I have noted. A lot of recommendations have been made, especially with regard to the Ministry of Foreign Affairs and Ministry of Education. I do not know whether, in their wisdom – the recommendations we have made, a lot of them touch on the Ministry of Trade – since I came back, I think, maybe, that is why the Principals, in their wisdom, decided to appoint me in the Ministry of trade in order to take the action myself. So, as for the Ministry of Trade, definitely, I am going to try and see what we can implement there.

Most important to me, what I could highlight is the issue of the students and the education sector, which I think our Ministry has to be very serious because we know we have limited learning institutions in this country and the Russians have been offering us quite a number of bursaries for our students to study in Russia. Like now, we have been having about 30 students who have been given scholarships to Russia by the Russian Government. This year alone, only 25 were taken. I think five were yet to be taken. There are many others and if we requested, we could get much more. It has not happened and we wonder why. Maybe, the students in Kenya and the parents are thinking that Russia is what it used to be – that issue about racism – unless it is somewhere outside Moscow or elsewhere, we would like to state and confirm that Russians are not as racist as we perceive them to be here. We would like to assure our students that from the tour we had and from the talks we had with the residents and from our own students studying in Russia, their problems are very different from racism. So, we would like to clear the air that Russia is a friendly country. If there is any issue or problem like racism, it is what is all over the world; it is not something to fear. It is something they are also trying to address and they are aware of it and our students should continue going there.

Mr. Speaker, Sir, I want to appeal to the Ministry of Education to also try and see if they can implement the recommendations by encouraging our students to go to Russia and read. We have to renegotiate the scholarships because some of them are partial scholarships. Maybe we will ask the Ministry to try and get full scholarships instead. Also on the other hand, we have quite a number of students who are privately sponsored and some are in a lot of financial stress knowing very well that Moscow is one of the most expensive cities in the world. But then one wonders why we cannot allow those students who are already in Russia to take full scholarships that have not been taken. They are Kenyans and they are qualified.

The other issue which has been highlighted on education is that of our Ministry engaging the Ministry of Education in Russia so that our students can be allowed to have attachments because quite a number of students are doing technical courses; engineering,



medicine and the rest which require attachments and practical learning experiences before they graduate. Kenyan students in Russia are not allowed to do attachments there. It becomes quite difficult and cumbersome and expensive for Kenyan students to do their attachments here in Kenya. The Russians have nothing against it only that it has not been addressed. I think that is why we were there. We started the ball rolling and I am sure with these recommendations, we urge the Ministry of Education to take up this matter and make sure our students are allowed to practise or to do their attachments there.

The issue of loans from here also came up because these are Kenyan students. They are as Kenyan as the others studying in the University of Nairobi or US or India. We made that recommendation at the request of the students themselves that they should be treated like other Kenyan students and have access to loans from the Higher Education Loans Board.

My colleague has touched briefly on an agency in this country which is organizing or which organizes these scholarships or trips to Russia. I even ended up meeting one of the students from my constituency who had a very bad experience. This agency is called Kenyarus and is based in Nairobi. It is the one which has been organizing for students to go to Russia to study there. But just like it was put before, they are never given full information and by the time they get there, they find the cost of living is much more than they anticipated. We all know once a parent has been convinced that the tuition fee is this much and the cost of living is US dollars 500 or 500 Russian Roubles per week, that is what the parent will send. We talked to the students and we were able to assess for ourselves that actually they are right that the information they get from here and the information the parents are given is not the whole truth about the life there and about the expenses there. So we are requesting the Ministry of Education to try and investigate this agency so that we can find out what exactly they are doing with our students. We do not want students to go there and become beggars.

I also had the opportunity to represent the delegation when we came back home, on behalf of our team leader, in paying a courtesy call on the Russian Ambassador to Kenya on 30<sup>th</sup> June, 2010. It was basically a courtesy call and to brief him on our experience in his home country and also on whatever recommendations we had done. It happened that, that is the same day that this Report was being tabled in the House here, so it was not public yet. But we were able to discuss in general and he also reminded us about the issue of those scholarships which are not taken up. He also told us that they are going to invite our Speaker at any time, which by now I hope has happened, but they were very ready to invite him to go to the Duma to discuss on our relationship and friendship with Russia. This is aimed at strengthening the recommendation that we had made to our own Speaker about having a special team of Parliamentarians from Kenya and Russia having constant meetings and trying to arrange ways of working together as friendly countries. We also reported that to him and he was very receptive about it. He agreed that he is going to contact his counterpart. I believe by now something is moving.

So, I would like to finalize by saying that Russia is ready to do business with Kenya. Russia wants to come back. We cannot over-emphasize the reasons why Russia, which was supposed to be very strong in Africa, left. It left because of the Cold War but that is no more. We also want to emphasize to our friends in the West that we are not looking for ideological dogmas from the Russians. In fact, now, they do not have

anything different from the rest of us. We are just looking for friendship, partnership and, maybe, business together.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity. I rise to support this Report and also commend Members of the delegation that went to Moscow. It is very clear from this Report that the things we have been told about Russia are incorrect. Russia is a peaceful country. It is an economic power. It is not a third rate country as we are told by the western media.

We must also recognize the fact that Russia, or the former Soviet Union, used to support most of the African countries in their quest for independence. That is the time when most of the western countries were against the independence movement; when the western countries were not even supporting the independence movement. So, we must commend Russia or the former Soviet Union for the very enlightening way it adopted towards the independence movements.

It is also clear from this Report that we can benefit a lot from Russia. It is an economic power. It may not be a world power but it is definitely a power and it has a lot of resources. So we need to extend our relationship. We need to visit this country more; learn their systems more, get to know their people more and extent co-operation into other areas. One of the areas that Russia has assisted most African countries is on education bursaries. But we need to extend our relationships beyond bursaries. I know quite a number of people, even in this House, who benefited from those bursaries by the Russian Government. So, we must say thank you to them for giving some of our employees that opportunity to learn in Russia.

I am also told that the problems that students used to undergo in Moscow like racism or Russians not wanting African men to date their girls has now almost come to an end. That open racism is no longer there in the universities. With all the resources that Russia has, we need to strengthen our relationship with it, so that we can benefit more from these resources. It has a lot of oil, gas and forest products. Therefore, we need to strengthen our relationship with Russia, so that we can benefit.

Mr. Temporary Deputy Speaker, Sir, lastly I would like to commend the Speaker, the Clerk and other members of staff who accorded this team that went to Russia a lot of assistance.

With those words, I support.

**The Temporary Deputy Speaker** (Prof. Kaloki): Let me now call the Mover to reply.

**Mr. Keynan:** Mr. Temporary Deputy Speaker, Sir, I have very few words to say. I want to take this opportunity to thank all the hon. Members who have contributed to this very important report.

I want to appeal to them to now adopt the Report. Thank you.

*(Question put and agreed to)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, there being no other business, the House stands adjourned until next Tuesday, 12<sup>th</sup> October, 2010 at 2.30 p.m.

The House rose at 6.21 p.m.