

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 15<sup>th</sup> June, 2010

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.010*

#### NUMBER OF DAMS/RIVERS/LAKES DRYING UP IN KENYA

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

(a) how many dams, rivers and lakes in the country have dried up in the last decade, and how many people have been affected as a result of the water bodies drying up;

(b) whether any comprehensive assessment of the water crisis in the country has been done; and,

(c) what interim, mid-term and long-term actions the Government is taking to alleviate the situation.

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg your indulgence, since this Question requires a comprehensive answer, to give me adequate time to go through it. Being conversant with the rules of this House, I know that answers to Questions must be very brief. So, I seek your indulgence.

**Mr. Deputy Speaker:** Mr. Assistant Minister, are you asking for the Question to be deferred to another day?

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): No! No! I am just seeking your indulgence, so that I can be able to, quickly, go through it.

**Mr. Deputy Speaker:** Answer the Question. I will give you ample time.

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir.

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

(a) Over the last decade, 820 dams and water pans, 30 rivers and lakes have dried up or reduced their levels substantially. This has affected a population of over six million Kenyans.

(b) My Ministry has undertaken a comprehensive water crisis assessment in the whole country, covering Lake Victoria, Athi, Tana, Rift Valley and Ewaso Nyiro North basins. The sources of the country's water resources are from the five water towers, namely, Mt. Kenya, Aberdare Mountains, Mt. Elgon, Mau Complex and Cherengany

Hills, which discharge their flow into the five named water drainage basins with an annual total of 21 billion cubic metres of renewable fresh water under normal climate conditions.

In addition, ground water contributes another one billion cubic metres of water. This implies that the per capita water available is 650 cubic metres of water. Thus Kenya is classified as a water scarce country by the United Nations standards.

(c) My Ministry is aware of the fact that the five major water towers are sources of water for the rivers that flow into the various basins. In this regard, we have formulated the gazettelement of six water catchment management strategies, which have addressed all issues relating to water resources management in all the catchment areas. The implementation of these strategies is being done through the Sub-Catchment Management Plans.

My Ministry has also facilitated the formation of Water Resources Users' Associations in a number of catchment areas for the purpose of mobilising stakeholders to take active and inclusive participation in the sub-catchment management issues such as conflict resolution, monitoring water use and undertaking catchment conservation measures.

In the short-term, the Ministry is already constructing five large dams at a total cost of Kshs6.9 billion, which are scheduled for completion by the year 2012. These dams will increase the national water storage capacity by 21 million cubic metres. Also, 100 additional small dams are being constructed countrywide this financial year. Construction of water storage infrastructure is being accompanied by massive investment in afforestation.

Mr. Deputy Speaker, Sir, as part of the medium and long-term measures to be undertaken by the year 2012, my Ministry will construct 1,000 water pans, 24 large dams and drill 1,000 boreholes countrywide.

Further, my Ministry plans to procure dam construction units in order to cut down the cost of dam construction. In addition, my Ministry is exploring ground water recharge potential, especially in areas facing serious water scarcity.

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for a very comprehensive answer that is well informed. However, the Ministry of Water and Irrigation also has the responsibility of making sure that they are part of the solution to make sure that our rivers do not dry up. He has given us answers as to how we can go on from this point henceforth, but what preventive measures are we taking to prevent to make sure that our rivers and lakes do not dry up?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, we have come up with measures, in consultation with other relevant Ministries, including the Ministry of Environment and Mineral Resources, and the Ministry of Forestry and Wildlife. We have already undertaken a major afforestation initiative, and we are encouraging afforestation through the Ministry of Agriculture to ensure that Kenyans are also properly informed on the need to protect water catchment areas. That is why we have established the Water Users' Association.

Mr. Deputy Speaker, Sir, the Government cannot win this battle if politicians are not ready to step in and make this issue one of public interest. We have situations where when we discourage people from farming on river banks, politicians come out to protect them. They encourage people to continue with this sort of farming. So, it is a matter

which all of us should be consulting. If not handled properly, it is a matter that will lead to a national crisis.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, it is laudable that the Assistant Minister is thinking of drilling 1,000 boreholes, even though that number may not be enough. What assurance can he give to this House and to Kenyans generally, that the 1,000 boreholes that they are going to drill will not be dry wells?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, we will have to carry out enough research – hydrological reports are there – to ensure that we get boreholes that yield sustainable levels of water.

In order for us to achieve this objective, Parliament should come forward to assist us. For instance, in order for us to achieve our plans for the next three years, we require Kshs54 billion. It is only Parliament that can Vote this kind of money for us. Otherwise, we will do our level best to make sure that we forward our proposals to Treasury with a view to accessing the necessary funding.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, the Assistant Minister is asking the Legislators to do the work of the Executive as the Executive fails to do its work. He is asking us, as Members of Parliament, to go and talk, of course, with the exception of Minister Michuki. Does it mean that your Ministry is not able to do its work of talking to the people directly? Do you want the Legislator to go and do the work of the Executive?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, I have been very clear that we are doing our work, but we are also encouraging Members of Parliament and other leaders to have their input in this effort because, by the end of the day, it is just like having seminars and workshops. If these people are not properly encouraged; if the leadership is not seen, we shall be there to educate them. However, sustainability is very important. We, as leaders, are with our people each and every day and we can offer advice.

**Mr. Shakeel:** Mr. Deputy Speaker, Sir, could the Assistant Minister kindly advice the House what action he is taking to conserve the largest water body in this country, namely, Lake Victoria? Could he also inform the House what action they have taken to protest against the secret treaty between Uganda and Egypt, where more water is being drawn from our portion of Lake Victoria? How will the Nile Treaty affect the part of Lake Victoria which belongs to Kenya?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, it would be very bad for a country to make unfounded allegations against another country. I am the one who attends the meetings of the Council of Ministers on the Lake Victoria Basin Initiative. I want to assure you that we all agree on any water released to River Nile. We have a secretariat that is stationed at Entebbe and our participation is there. Representatives come from all the countries and, therefore, we cannot accuse Uganda of having done anything or being compromised by Egypt. That is not the position and it would be unfortunate to say so.

As the Government, I would like to inform this House that Uganda has never entered into any secret meeting or agreement with the Egyptians.

Mr. Deputy Speaker, Sir, a comprehensive Statement was issued on the question of protection of the Mau by the Prime Minister on how we are going to conserve that region, having in mind that 51 per cent of our water resources which is Kshs11 billion comes from the Lake Victoria Basin. Therefore, it would be very unfortunate if the Government will not take necessary action to save the Lake Basin Region.

**Mr. Shakeel:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has clearly said that they are not aware of any treaty between the Egyptians and the Ugandans, whereas in the meetings that we had in Kisumu and other meetings, we were able to point out the date and the particular agreement between Egypt and Uganda, where more water was being released than was allowed. The Ugandans were actually pumping water---

**Mr. Deputy Speaker:** Order! Order, Mr. Shakeel!

Mr. Kiunjuri, please, proceed!

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, the hon. Member is making very serious allegations which he is supposed to substantiate. If he is not able to, then he should face the relevant Departmental Committee. This is because either I am lying on behalf of the Government or I am misleading the House. What the hon. Member is trying to prove is that we are trying to mislead the House on this important issue.

Mr. Deputy Speaker, Sir, it is only good for the hon. Member to substantiate his claims. Otherwise, the Government's position is very clear. There is no such agreement. We are requesting that the hon. Member withdraws the statement. He should either withdraw or substantiate.

**Mr. Deputy Speaker:** Standing Order No.79 (1) indicates:-

“(1) Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country shall be referred to adversely, except upon a specific substantive Motion of which at least three days' notice has been given”

You have given a statement that is essentially on the relationship between two countries by claiming that Uganda has gone into a secret treaty with Egypt on the Nile waters. This is a statement the Assistant Minister says is misleading. Are you prepared to withdraw the statement, both in as far as the fact that you took up this issue without following the provisions of the Standing Orders and the statement is contested by the Assistant Minister as being misleading?

**Mr. Shakeel:** Mr. Deputy Speaker, Sir, I will withdraw it but I seek an opportunity---

**Mr. Deputy Speaker:** Order, Mr. Shakeel! You can seek an opportunity in conformity with the Standing Orders. Give a three-day notice, get your act together and come and present it on the Floor of the House. Members of Parliament have to be responsible for what they say inside and outside the House!

Mr. Bahari, please, proceed!

**Mr. Bahari:** Mr. Deputy Speaker, Sir, the issue of rivers and streams drying up is a common phenomenon in this country. One of the contributing factors is the fact that the Ministry has failed to regulate the use of water through the Water Catchment Board. Could the Assistant Minister undertake to ensure that the Board does its job? This issue has arisen here several times. The Ministry keeps promising but nothing is being done.

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, I know we are discussing two things here; availability of water and the rivers drying up as a result of that. Kenyans must learn to live with the consequences of their actions. Rivers drying up cannot be caused in a year or five years. It is as a result of destruction of our environment for the last 20 years or so. The little knowledge I have is that weather conditions cannot be affected by

destruction of the environment for a mere ten years. It must be a period of between 20 years to 30 years. Those are the consequences we are suffering now. We were not able to stop it 20 years ago, we are now reaping the consequences.

Mr. Deputy Speaker, Sir, it just like when you issue a hate speech this year. It might not affect you next year but come the next General Elections, you will start killing each other. It is the same way the environment cannot forgive you. Therefore, Kenyans must now learn to live with the consequences. The best way is to move forward, see what we can do, do afforestation of our land, reclaim what we have lost and move on.

I have already indicated the measures we are taking to make sure we save our environment so that we can get enough water for our people.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to avoid my question by answering what he knows and what he likes best? I know all the things he is saying about the environment. I know the Minister for Environment and Mineral Resources is next to him and is whispering to him but I am asking; bearing in mind that there is the issue of catchment areas which is not properly regulated, could the Assistant Minister undertake to ensure that the Board does its job?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, first of all I have not been consulting with my friend the Minister for Environment and Mineral Resources. In fact, if I would consult, every Member agrees that he can only give me very wise information or guidance.

Mr. Deputy Speaker, Sir, in my answer to part “c”, I said clearly that:-

(c) We have formulated and gazetted six water catchment management strategies which have addressed all issues relating to water resource management in all the catchment areas.

I have gone ahead to say that we have water users’ associations and we are training those people on management. That is what we have done and it is in consultation with the other relevant Ministries.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I want to commend the Assistant Minister for the very able manner he is answering the Question, and for confirming that he is the one who has been attending the Council of Ministers meetings with regard to negotiations on the usage of the Lake Victoria waters. I am aware that recently, a treaty was signed and this country has ratified it together with five other countries except Sudan and Egypt. Could he tell us what benefits this country will get out of that treaty?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, we have a corporate framework agreement that we signed. Sudan and Egypt are reluctant to sign. We are doing that to make sure that we repeal the other agreements that have been there before. I mean the pre-colonial agreements. To that end, Sudan and Egypt are able to consume over 80 per cent of the waters of the Nile while the rest of us---

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. I am sorry to interfere but I am asking: What are the benefits for this country arising out of that treaty? I know that Sudan and Egypt are reluctant to sign but it has come into force because majority of the countries have signed it. What benefits do we accrue as a nation from that treaty?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, we have the Nile Basin Initiative which we are converting now into a framework so that, at least, we can draw benefits from our development partners. That is because, as it is now, if you want to develop, for example,

Sondu Miriu, build a dam and Kenya cannot afford to do it, if you go to donors to seek for money, Egypt can intervene and say: "No! This is going to affect our usage of this river!" Therefore, they will not give us any money. When it comes to obstruction, the treaty as it is today can make Egypt intervene directly and say that we are violating an international agreement and, therefore, seek UN's action on Kenya because of that treaty. Otherwise, I can give a comprehensive statement on this because there is a lot of interest that Egypt is going to lose and Kenya and the other riparian countries are going to benefit from the signing of that CFA.

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for doing a good job. But most of those rivers in northern Kenya have dried up and yet, we build dams costing Kshs9.5 billion. Could he commit to this House that northern Kenya, with its all dry rivers, has a serious potential for dam construction and that, he will put a lot of emphasis for more dams as he has done in the past?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, unfortunately, it is not only the Uwaso Nyiro Basin, where we both belong, that is heavily affected. The area that is heavily affected is the Rift Valley which is supposed to have 14 per cent of water input. But the province is water deficient. The only area that has now remained water sufficient is the Tana Basin. Otherwise, we have a programme to do dams in the country. We are asking the Government to give us Kshs54 billion in the next three years so that, at least, we can stabilize the situation with a number of dams and 1,000 water pans.

*Question No.017*

UPGRADING OF ISIOLO-MODOGASHE ROAD

**Mr. Bahari** asked the Minister for Roads when the Government will upgrade the Isiolo-Modogashe Road to bitumen standards.

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

My Ministry has completed a design of various roads in northern Kenya, including the Isiolo-Modogashe and Garissa-Wajir roads with a view to upgrading them to bitumen standards on a priority basis. I notice in the Budget Statement that it is indicated as Isiolo-Garissa-Modogashe-Wajir and I think that is correct. It is Isiolo-Modogashe and then Garissa-Modogashe and Modogashe-Wajir. I now wish to confirm that we have received firm commitments from a consortium of development partners on tarmacking of Modika-Nunu-Modogashe section of Garissa-Wajir Road during the next financial year, 2010/2011. What brought this Question to this House a second time is with regard to the Kshs1.2 billion that was mentioned in the Budget Speech by my colleague, the Deputy Prime Minister and Minister for Finance. That expenditure was not factored in my Ministry's budget last year. The Minister mentioned the amount on the Budget Speech in the hope that before the Printed Estimates were made, there would be an agreement with a development partner. But that was never to be. So, the amount was, therefore, not factored in the Ministry's budget and so, nobody has diverted or utilized funds meant for that road at all. It was expected to be included in the Revised Budget but that was not possible, again, due to inability to secure a development partner so that we could have on our side a contribution as counter-part funding.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, I am a bit lost about the answer given by the Minister because my Question was very specific. I know that the Minister is an expert at reading scripts! I do not know why, but I asked a Question about Isiolo-Modogashe Road, which the Minister knows as B9. The other road - you know it very well because it is in your constituency - is exactly the opposite of what we are talking about. Could the Minister be specific on what he is doing on the Isiolo-Modogashe Road?

**Mr. Bett:** Mr. Deputy Speaker, Sir, I want to believe that Mr. Deputy Speaker belongs to the whole country. The Isiolo-Modogashe Road is 195 kilometers and the development partners have come, viewed and assessed that road. So, we are in a negotiation mood with the development partner for that particular section of the road, and it is estimated to cost approximately Kshs15 billion.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, the Minister has said that they are in a negotiating mood and he knows the amount. When is the mood going to become a contract and when can we expect work to begin?

**Mr. Bett:** Mr. Deputy Speaker, Sir, as soon as the mode and the moods are actualized. I am hoping that we will actualize those discussions before the end of this financial year.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, this is the most disappointing answer I have ever heard in this House. That is because in 2008, I was given another answer saying that, that road will cost Kshs8 billion. That figure has now nearly doubled and they have been negotiating ever since! They are negotiations - as Mr. Imanyara says - which do not end. Could the Minister take this matter very seriously because they have been tarmacking Class D roads when that Class B Road has not been attended to?

**Mr. Bett:** Mr. Deputy Speaker, Sir, I want to assure the hon. Member, who is my friend, that the Minister is serious. I also want to inform him that on the same section of the road, we have signed an agreement already with OPEC of US\$12 million. Awaiting signature is another agreement between us and BADEA of US\$10 million. Another agreement awaiting signature is with the Saudi Government of US\$16 million. The next one is Abu Dhabi Fund, worth US\$10 million. The Kuwait Fund is also awaiting signature with US\$20 million. I want to appreciate those development partners who are willing to fund this road. Their intention is to do the road up to Mandera. We would also want to give an opportunity to North Eastern Kenya to have a tarmacked road between Garissa and Mandera. That includes Isiolo-Modogashe. We will not discriminate against any section of this country.

**Mr. Deputy Speaker:** Fair enough and well said!

The next Question is No.084. Hon. Peter Gitau is not with us. The Question is, therefore, deferred to a day when he will be with us.

*Question No.084*

LIST OF ALLOTTEES OF SOUTH NGARIAMA  
SETTLEMENT SCHEME

*(Question deferred)*

*Question No.184*

ISSUANCE OF IDENTITY CARDS  
IN KURESOI DISTRICT

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

(a) how many people have applied for and been issued with national identity cards in Kuresoi District from January, 2010 to date; and,

(b) what measures he will adopt to speed up the registration of persons and issuance of national identity cards in the district.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Deputy Speaker, Sir, I beg to reply.

(a) A total of 4,168 people have applied for and been issued with national identity cards in Kuresoi District from January 2010 to date.

(b) The Ministry will organize a limited number of mobile registration teams this financial year using the scarce budgetary allocation to speed up the registration of eligible persons.

**Mr. Cheruiyot:** Mr. Deputy Speaker, Sir, the Minister has tried to answer the Question, although he did not really answer it fully. I am concerned that Kuresoi does not even have a fully-fledged district or registration office. It is served from the neighbouring district. I would have expected the Minister to confirm that he is going to send a district registrar of persons today. I know that he is so efficient and he can do that.

Secondly, there are so many Internally Displaced Persons (IDPs) who are living in camps, who have really no access to these services. Could the Minister assure us that he will take some action?

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, Kuresoi does not have a district registrar because it was made a district only recently. We have not been authorized to post district registrars because we have not been given the necessary budgetary provision. We are hopeful that this financial year, we may employ a few registrars and send one to Kuresoi to speed up the registration exercise.

On the issue of IDPs not getting identity cards, it is a new matter that has just come to my attention. I will look into it and see what we can do.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, could the Minister also apply the same speed towards registration of births and issuance of birth certificates because many students are still experiencing problems?

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, in fact, I may use this opportunity to inform the principals and head teachers that there are thousands of birth certificates that have already been processed and are awaiting collection from our district headquarters. In fact, there is a letter which I signed yesterday to the Minister for Education, to inform the District Education Officers (DEOs) and consequently, the heads of schools to be able to pick those certificates because we are afraid that by 30<sup>th</sup> June the registration for examination will be closed for those who will not have obtained their birth certificates. So, it is not because we are not registering. The issue is that, in fact, they are not being collected. Otherwise, we have tried to cope with everybody who needed speedy registration, and the progress is going on.

We have also now recruited all our head teachers and principals of schools as our agents for purposes of registration of births. They collect the primary data that we



require, hand them over to our registrars and we process the birth certificates promptly. So, I think that will solve the problem.

**Mr. Deputy Speaker:** Last question, hon. Cheruiyot!

**Mr. Cheruiyot:** Mr. Deputy Speaker, Sir, let me simply ask the Minister to continue doing the good work he is doing.

**Mr. Deputy Speaker:** Next Question by hon. Pesa!

*Question No.135*

NON-PAYMENT OF DUES TO RETIRED TEACHERS  
BETWEEN 1997/2007

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

(a) what the Ministry's position is on the dues of thousands of teachers who retired between 1997 and 2007 and are yet to receive money running into millions of shillings as was ordered by the High Court two years ago;

(b) why the Teachers Service Commission (TSC) has deliberately refused to implement court orders issued by the High Court sitting in Nakuru in 1997 soon after the negotiated salary deal between the Government and the Kenya National Union of Teachers (KNUT); and,

(c) whether the Minister could state the position of the Pensions Department and Treasury on the matter and also indicate how much interest will be paid on these monies, considering that the affected teachers have incurred a lot of expenses in the hope of being paid by the Government.

**Mr. Pesa:** Mr. Deputy Speaker, Sir, I am asking this Question for the sixth time in this House. I want to seek your indulgence, so that I revisit your directive when I last asked this Question on 13<sup>th</sup> April. By then, the Minister had failed to prove to this House that the matter was *sub judice*. Therefore, you gave a directive which I want to quote here. In one of your directives you stated:

"I direct that you furnish the hon. Member with the details of immediate action to remedy the situation even before you come to the House to answer this Question and that you do so within the next 14 days. I will monitor the hon. Member to confirm that you have complied with this directive."

Mr. Deputy Speaker, Sir, I want to report to this House that I have not heard any communication from the Minister regarding this Question, notwithstanding the fact that many retirees are currently suffering because of the failure by the Ministry to pay them their dues.

Mr. Deputy Speaker, Sir, why has the Minister refused---

**Mr. Deputy Speaker:** Order, hon. Pesa! Did you ask the Question in the first place?

**Mr. Pesa:** Mr. Deputy Speaker, Sir, yes, I did. I was trying to explain what transpired.

**Mr. Deputy Speaker:** Okay! Proceed!

**Mr. Pesa:** Mr. Deputy Speaker, Sir, why did the Minister not comply with your directive after 14<sup>th</sup> April?

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

The matter is still pending in court.

**Mr. Deputy Speaker:** Order. Hon. Assistant Minister! This Question is being asked for the umpteenth time now. It is being asked for the sixth time. There was a clear direction from the Chair that the Assistant Minister furnishes the honorable Questioner with information before he comes to the Floor of the House.

The Chair did, indeed, rule that this matter is no longer *subjudice* and there was a very elaborate communication from the Chair on the same. I want to remind you that among the directions that were given by the Chair were that; “I direct that you furnish the honorable Member with details of immediate action to remedy this situation even before you come to the House to answer this question, and that you do so within the next 14 days. I will monitor the hon. Member to confirm that you have complied with this direction.” Hon. Assistant Minister, did you do that? Did you execute the direction that was given from the Chair? Can you tell the House what you have done!

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the hon. Member did not come to the Ministry of Education office. I do not meet him in the field and tell him the details in the office. He has to come to the office, so that we can provide him with the information which I have here.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. I am glad that you have reminded the Assistant Minister about the ruling of Mr. Speaker. Clearly, the hon. Assistant Minister is out of order and is trying to use everything he knows in the book to avoid answering the Question. On the day Mr. Speaker was in the House these were the actual words of Mr. Speaker when he raised the issue of *subjudice*. The Speaker clearly ruled as follows:

“Hon. Members, in the light of the foregoing, it is my considered view that the Assistant Minister has not passed the requisite test as provided for under Standing Order No.80. As expounded in my previous ruling, I order the Assistant Minister to proceed and answer the Question asked by the hon. Member for Migori.”

For the Assistant Minister to turn around this afternoon and raise the issue of *subjudice* once again is clearly grossly out of order. I plead with the Chair to declare him out of order.

**Mr. Deputy Speaker:** Indeed, Mr. Assistant Minister, you are out of order. There is no question about that. Could you explain yourself and apologize to the House, failing which, of course, the Chair will have no option but to apply certain rules of the House very firmly? Mr. Assistant Minister, could you apologize to the House and explain your situation? What do you have to say for not having furnished that information? When the Chair tells you to furnish information, it does not mean that you should keep it in your office for the hon. Questioner to come and collect it from your office.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the Ministry sent this information to Parliament. I have with me here a copy of the Court of Appeal papers dated 5<sup>th</sup> November, 2009 which indicate that the case is still in court.

**Mr. Deputy Speaker:** Hon. Assistant Minister, the issue as to whether a matter is *subjudice* in the House or not is a matter on which directions only rest with the Chair and nobody else. The Chair did, indeed, say that this matter is not *subjudice* and the strict definition of *subjudice* is a matter that touches on the Question.

Under the circumstances, the Chair did direct that not only were you to come and answer the Question but that you were also to proceed with speed and furnish the hon. Member with details of the immediate action taken to remedy the situation pertaining to the matter raised in the Question, before you came to the House to answer the Question; you were to do so within the next 14 days.

It is now apparent that you did not, in the first place, remedy the situation. You did not furnish the hon. Member with information on the same, that is the remedial action and steps that you had to take. You are not ready to answer the Question that essentially the Chair ruled is not *subjudice* under our strict Standing Orders.

Hon. Assistant Minister, the Chair will have to meditate on this issue and take a very firm action on you. In the meantime I am prepared to take a few more points of order. What was your point of order, Mr. Olago?

**Mr. Olago:** Mr. Deputy Speaker, Sir, my point of order was this: You have noticed that the Assistant Minister continues to raise the issue of *subjudice*. Either he is just being indignant or he does not understand. Under the circumstances, I wish to ask that the Chair becomes a little bit more harsh with the Assistant Minister.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that the Chair has made a ruling and the Assistant Minister continues to defy the Chair, would I be in order to request that you apply Standing Order No.97 against this Assistant Minister?

**Mr. Deputy Speaker:** Hon. Members, Standing Order No.97(1) states that:-

“Conduct is grossly disorderly if the hon. Member concerned creates actual disorder, knowingly raises a false point of order, uses or threatens violence against an hon. Member or other person, persists in making serious allegations without, in the Speaker’s opinion, adequate substantiation, otherwise abuses his or her privileges, deliberately gives false information to the House, refuses to answer a legitimate Question by an hon. Member, votes more than once in a division in breach of the Standing Orders, commits any serious breach of these Standing Orders or acts in any other way to the serious detriment of the dignity or orderly procedure of the House. The Speaker or Chairperson shall order any Member whose conduct is grossly disorderly to withdraw immediately from the precincts of the Assembly either for the remainder of that day’s sitting or for a period not exceeding two sitting days, including the day of suspension.”

The dignity of the House has got to be protected and respected, and by all. Under the circumstances, the Chair is left with no option other than to order you to stay out of the House for the remainder of the day.

Hon. Assistant Minister, withdraw from the precincts of the National Assembly.

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

Order, Dr. Khalwale. For as long as a stranger is in the House, we cannot transact the business of the House. Could you wait until the Assistant Minister is completely out of the House?

*(Prof. Olweny withdrew from the Chamber)*

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I would like to applaud your making sure that the dignity of the House is upheld. Could you go further and direct that this Question, which is very important to our teachers, is put on the Order Paper tomorrow, so that the substantive Minister can answer it?

**Mr. Deputy Speaker:** Fair enough. The Chair directs that the Question appears on the Order Paper tomorrow afternoon as a priority, as the first Question.

*(Question deferred)*

It is upon the Government side to protect its dignity and the dignity of the House. The Executive is a creation of the legislature. The House has to be respected by all.

Hon. Members, it should serve as a warning to all Ministers that in future, the Chair might be inclined to go to the extremes of the sanctions the Chair can apply on them.

Hon. Members, Questions Nos.181, 156 and 172 are all deferred to tomorrow morning and afternoon.

*Question No.181*

DELAYED PAYMENT OF CHRISANTUS  
WESONGA'S RETIREMENT BENEFITS

*(Question Deferred)*

*Question No.156*

NON-PAYMENT OF IMPORT DECLARATION  
FEES BY MOMBASA MAIZE MILLERS

*(Question deferred)*

*Question No.172*

SQUATTER PROBLEM IN TRANS NZOIA DISTRICT

*(Question deferred)*

Next order!

### **POINTS OF ORDER**

THE WIDENING RIFT BETWEEN "YES" AND "NO" GROUPS  
AND THE EXPLOSION AT UHURU PARK

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I rise to request for a Ministerial Statement from the Prime Minister in respect of the great concern amongst

Kenyans over the widening rift between the proponents of the “Yes” and “No” campaigns for the proposed constitution and the unfortunate, bizarre, outrageous and cowardly Uhuru Park explosion that has reportedly claimed six innocent lives of Kenyans and left several others injured.

Mr. Deputy Speaker, Sir, I would like the Prime Minister to clarify what the Government is doing to:-

- (i) restore the civility of our nation;
- (ii) reign in on the perpetrators of the hate speeches and speeches of ethnic incitement;
- (iii) ensure that the perpetrators of the Uhuru Park explosions are nailed long before they spread their cowardly and deadly activities to other parts of this country;
- (iv) exclude the possibility of any foreign hand involvement in what took place in Uhuru Park;
- (v) assure all Kenyans of their safety when they attend future rallies scheduled by either the “Yes” or the “No” teams; and,
- (vi) ensure that unsuspecting members of the public are not lured to attend evangelical crusades that turn out to be hot campaign rallies by the “No” team.

#### CIRCUMSTANCES SURROUNDING NOTIFICATION OF UHURU PARK RALLY

**Mr. Olago:** Mr. Deputy Speaker, Sir, I do not wish to under-emphasize the gravity of the issue Dr. Khalwale has raised in respect to the bombing at Uhuru Park. I also wish to request for a Ministerial Statement not from the Office of the Prime Minister, but from the Office of the Minister of State for Provincial Administration and Internal Security. My request is specific.

First, I would like the Minister to address the circumstances surrounding the notification to the police of the public meeting that was held at Uhuru Park; how the meeting turned into a rally; and the chronology of the explosions.

Secondly, the Minister should tell us the nature of the investigations that are being undertaken now; relevant evidence so far unearthed; the initial results of these investigations; and the individual suspects that are targeted for further investigations.

Lastly, the Minister should tell us what security steps he is taking to ensure that all future gatherings for or against the Draft Constitution shall be conducted in peace and without threats of violence.

Mr. Deputy Speaker, Sir, the reason my question is directed to the Minister of State for Provincial Administration and Internal Security is because by the very nature of the structure of Government, what happened at Uhuru Park was a breach of security. By the nature of the structure of Government and the National Accord, that falls within the docket of the Ministry of State for Provincial Administration and Internal Security.

**Mr. Deputy Speaker:** Fair enough. That point is taken.

**Mr. K. Kilenzo:** Mr. Deputy Speaker, Sir, while on the same issue, I request the Prime Minister to tell us why he decided to exonerate the “Yes” Team from the investigations whereas it is the work of the police to investigate circumstances surrounding the bombings.

Lastly, I would like us to be told the outcome of the investigations pertaining to the insertion of two words in the Draft Constitution. This was supposed to be given by the Government in two weeks time. Up to today, the same has not been given.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I rise to request the Speaker to consider expunging all the remarks made by Mr. K. Kilonzo. This is because it is not procedural in this House that a Member requests for a Ministerial Statement and then on the strength of the same Ministerial Statement another hon. Member rises to seek further clarifications. His remarks should be expunged so that if he has other clarifications, he raises them when the Prime Minister will be responding.

**Mr. Wamalwa:** On a point of order, Mr. Deputy Speaker, Sir. This is a matter of great national importance. Dr. Khalwale has sought certain clarifications which might not be exhaustive on this matter. May I also seek that the Minister, in his answer, also gives further clarifications on not only verbal threats that have been issued, but also written threats in areas like Trans Nzoia where leaflets have been thrown threatening certain communities to be evicted. What measures have been taken by the Government to arrest the authors of these leaflets of hate and fear amongst the people?

**Mr. Deputy Speaker:** Hon. Members, this is a matter of national interest because it touches on the national security of this country. Should a Member seek to enrich the Ministerial Statement that was sought by Dr. Khalwale, he or she can enrich it. Proceed if you intend to enrich it. However, if you intend to contest it, wait for another moment.

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

**Mr. Deputy Speaker:** Mr. Mbadi, do you intend to enrich it by seeking further clarification?

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, I want to raise an issue on procedure. I do agree that this matter is weighty and probably it requires more ventilation. However, I thought that when the Prime Minister, hopefully, brings his Statement tomorrow afternoon these hon. Members will have a chance to interrogate it. We are now setting a precedent that we will have to live with in this House that a Member of Parliament can seek for a Ministerial Statement and another one uses the same to raise other Ministerial Statements without passing through the Speaker's Office as is a requirement.

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. Now that the Minister of State for Provincial Administration and Internal Security will be issuing the Statement tomorrow, I would also like him to confirm that arrests have been made, and that they are not limited to politicians, but also to certain church leaders who have been issuing hate speeches.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I would like to issue a Ministerial Statement which will address the issues raised in this House.

**Mr. Deputy Speaker:** Order, Mr. Minister! In the first place, the Chair wishes to direct the Minister of State for Provincial Administration and Internal Security to issue a Ministerial Statement on the same in that this is not a matter that is cross-cutting. It is a matter that is essentially in his docket because it is a matter on breach of security.

Hon. Minister, you have taken note of all the weighty concerns of the representatives of Kenya who rose on this occasion. Given the fact that today the debate is on the Financial Bill and the Order Paper states, "Not Later Than 3.30 p.m." the Chair directs that you issue your Ministerial Statement tomorrow morning.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Will the Prime Minister also respond to my request tomorrow?

**Mr. Deputy Speaker:** No! The Prime Minister will not respond to your question. In the considered view of the Chair, the matter is a breach of national security. We have a Minister who is in charge of Provincial Administration and Internal Security. The Chair, therefore, directs that the Minister issues a Ministerial Statement that takes cognizance of all the issues raised by the Members of Parliament tomorrow morning. Hon. Minister, you need to do a little bit more on the homework than you probably have done so far. In any case, we cannot entertain any other matter because if you look at your Order Paper, you will realise it says, "Not later than 3.30 p.m." and it is now 3.30 p.m.

Let us move on to the next Order!

**Mr. K. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. Kiema Kilonzo! You are out of order!

Let us move on to the next Order!

## PROCEDURAL MOTION

### LIMITATION OF DEBATE ON ANNUAL ESTIMATES

**Mr. Midiwo:** Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, the following limitation shall be applied to the Business of the Annual Estimates:-

(i) The debate on the Financial Statement on the Annual Estimates shall be limited to three days exclusive of the Mover's Speech and reply pursuant to the provisions of Standing Order 148(2).

(ii) Each Speech in the debate on the Financial Statement of the Annual Estimates shall be limited to ten minutes, excluding the Mover's Speech and reply, which shall not be limited and the Chairperson of the Budget Committee who shall be limited to thirty minutes.

(iii) On the Motion "THAT, Mr. Speaker do now leave the Chair" to enable Ministers to initiate debate on policy, the Mover shall be limited to a total of thirty minutes, twenty minutes for moving and ten minutes for replying to the debate; fifteen minutes to the Chairperson of the relevant Departmental Committee and that each other Member speaking shall be limited to five minutes; provided that one hour before the Question of the Vote is put, the House shall go into Committee and the Chairman shall put every question necessary to dispose of the Vote.

(iv) Each speech in Committee of Ways and Means shall be limited to ten minutes and that debate in Committee of Supply to five minutes.

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

**Mr. Muthama:** Mr. Deputy Speaker, Sir, I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

## POINT OF ORDER

### TREASURY'S FAILURE TO COMPLY WITH PROVISIONS OF FISCAL MANAGEMENT BILL

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, before we start debate on Order No.9, I want to bring to the attention of the House that the Deputy Prime Minister and Minister for Finance and the Treasury did not fully comply with the provisions of the Fiscal Management Act of 2009.

Mr. Deputy Speaker, Sir, he is not only required to table the Estimates under Section 9(2) of the Act, but also the Annual Estimates together with a Treasury Report. For ease of reference, I wish to give a copy and Table this section for ease of reference.

*(Mr. Mungatana laid the document on the Table)*

Mr. Deputy Speaker, Sir, the Treasury Report is a clear report specifying all the measures by departments that the Government has taken to implement specific audit requirements by the National Assembly in the previous year. The most critical National Assembly audit query that was put by this Parliament was the audit made by the Finance and Budget Committees on the discrepancies of the Supplementary Estimates for 2008/2009. I also wish for ease of reference by him to table the extracts of the entire debate. I want to table further the report of the joint Committee of Finance, Planning and Trade and the Budget Committee on the inconsistencies contained in the Supplementary Estimates of the Financial Year 2008/2009.

*(Mr. Mungatana laid the documents on the Table)*

Mr. Deputy Speaker, Sir, if you look at page 14 of that Report which was adopted by this House, there were clear recommendations which have not been done by this Ministry. The recommendations by the Departmental Committees were:-

- (i) Since there were inconsistencies in the Supplementary Estimates, they should be withdrawn and the correct estimates be resubmitted. That was complied with.
- (ii) That the Fiscal Management Bill be approved and enacted as a matter of urgency. That was also complied with.
- (iii) An independent forensic audit be done. This was a specific audit order that was given by this National Assembly. This was not complied with.

Mr. Deputy Speaker, Sir, the National Assembly actually adopted this report on 13<sup>th</sup> May, 2009. I want to table also that document.

*(Mr. Mungatana laid the documents on the Table)*

Mr. Deputy Speaker, Sir, thirdly, there were audit queries by the Controller and Auditor General pending since 2008. I have taken the liberty also to Annex page 265 of the 2007/2008 which indicates that the Controller and Auditor General refused to certify certain accounts. That means that the Controller and Auditor-General was not happy with



some of the things. Recommendations on funds which are being managed from the Treasury like the Agricultural Information Centre Revolving Fund, the Asian Officer Family Pensions Fund, Asiatic Widows and Orphans Pensions Fund, Civil Servants Housing Scheme Fund, European Widows and Orphans Pensions Scheme Fund and others were not again complied with according to the Fiscal Management Act.

Finally, there were also other serious pending audit queries by the Controller and Auditor-General which have been pending since 2007. Again, I have annexed as annexure No.5, the audit queries that the Minister and the Treasury did not comply with. I will lay on the Table these documents for the Treasury to look at and comply with the requirements of Section 92 of the Fiscal Management Act.

The purpose of this point of order is to drive the point home to the Treasury and its officials that the making of this Budget is not going to be business as usual any more. We want the Act to be adhered to. When the Act says that they must lay on the Table the financial estimates together with the Treasury reports explaining what they have done about what Parliament has ordered them to do, they must do so. So, the Budget Estimates are not complete. There is no complete---

*(Mr. Mungatana laid the document on the Table)*

**Mr. Deputy Speaker:** You have made your point clear!

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I urge you to give the necessary order for the compliance.

**Mr. Deputy Speaker:** Hon. Deputy Prime Minister and Minister for Finance, indeed, the Fiscal Management Act of 2009 Section 9(2) says:-

“The Annual Estimates laid before the National Assembly under the provisions of Sub-section 1 shall be accompanied by Treasury reports specifying by department of the measures taken by the Government to implement the audit recommendations made by the National Assembly in the previous year.”

Hon. Minister, I am convinced that you have not complied with the provisions of the Act. What do you have to say for yourself?

**The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta):** Mr. Deputy Speaker, Sir, I am hearing this for the very first time. So, I would like to wait for the direction of the House.

**Mr. Deputy Speaker:** Fair enough! The Chair directs that you, indeed, comply with the provisions of the Act and you re-table the Treasury reports specifying the same by tomorrow morning. We have just moved a Procedural Motion and it has to be done before debate is concluded. You cannot conclude debate on the Financial Statement without laying on the Table those reports.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Mungatana has raised the issue of queries that were raised by the Controller and Auditor-General. I think it is responsible of me as the Chairman of the Public Accounts Committee to confirm that on Friday last week, the Treasury furnished us with a Treasury memorandum that has responded adequately to all the issues that had been raised by the Controller and Auditor-General. That could save you the trouble of bothering about my side of the story.

**Mr. Deputy Speaker:** Nonetheless, that does not in any way absolve the Minister or the Treasury for that matter, from conforming to the provisions of the Act. The Chair is inclined to believe that if the Treasury knows what it is supposed to do, it must have those reports in place. Debate on this Financial Statement cannot be concluded.

**The Minister for Environment and Mineral Resources (Mr. Michuki):** On a point of order Mr. Deputy Speaker, Sir. I rise to seek your guidance on this matter, particularly in relation to the existing procedures where public money is accounted for. Given that the Treasury appoints Accounting Officers, who then become directly responsible to this House in terms of expending what has been allocated to them, and that the action by Parliament is guided by Report of the Controller and Auditor-General, is it clear – and it is not to me – that responsibility must be placed where it belongs? Accounting Officers by law are responsible and the Treasury will Act on the Report of the Controller and Auditor-General in requiring the Accounting Officer to explain. Here, there are two things which are not very clear to me. During any financial year, the Controller and Auditor-General always carries out what is now being called forensic audit of every Ministry. Is it intended that this work should be duplicated? I am not clear about this matter.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I rise on a matter related to what hon. Michuki has just stated and what hon. Dr. Khalwale has said, and as a person who initiated the procedure that led to the joint sitting of the two committees. I want to seek your clarification because it was a resolution of the House. A resolution of the House requires the House, itself, to take certain actions. When the House committees called for an independent audit report, was that responsibility shifted to the committee to supervise the appointment of that audit so that, in fact, the audit is not supervised by the same Government departments that we were complaining about? Therefore, should the Office of the Clerk not have initiated a process of appointment of an independent audit in accordance with the recommendations that were made by the joint committees? To expect that the Office of the Deputy Prime Minister and Ministry of Finance can conduct an independent audit on queries that are directed to them would be running contrary to what the intention of the House was; and which was to appoint an independent forensic audit. Therefore, that audit report could not have been prepared by the Treasury.

**Mr. Deputy Speaker:** Hon. Members, the same Act – which is essentially an Act of Parliament – the Fiscal Management Act, 2009, Section 9 says:-

“(i) The Minister shall, not later than 20<sup>th</sup> June of each year, lay before the National Assembly the annual estimates of revenue and expenditure for the succeeding financial year.

(ii) The annual estimates laid before the National Assembly under the provisions of Sub-section (i) shall be accompanied by a Treasury Report specifying by department all the measures taken by the Government to implement the audit recommendations made by the National Assembly in the previous year.”

How do we deal with the provisions of this Act?

**The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta):** Mr. Deputy Speaker, Sir, I want to thank hon. Khalwale because many issues that have been raised by hon. Mungatana, as Dr. Khalwale has said, were, indeed, addressed before the appropriate committee. Therefore, this is just a question of bringing that Report. That is something that can be done as debate continues. I see no reason for us to withhold the

debate when that is a document that can be tabled, as it has been tabled before a Parliamentary Committee.

**Mr. Deputy Speaker:** Precisely! The Chair is also inclined to believe that the Treasury cannot miss out on this basic law which is there. Under the circumstances, because the debate is likely to be concluded tomorrow afternoon – since we have just passed a Procedural Motion, it is only fair that you bring it tomorrow morning and lay it on the Table.

Proceed!

**Mr. Ogindo:** On a point of order, Mr. Deputy Speaker, Sir. I want to thank you for your direction on the Treasury Memorandum as far as the routine audit by the Controller and Auditor-General is concerned. However, a separate issue is being pursued here by hon. Mungatana on the forensic audit that was resolved by this House. The House resolved to have an independent forensic audit. The word “independent” here refers to independent from the Executive. I was the Chairman when this resolution was made. Hon. Imanyara alluded that it was left to this House to ensure that an independent forensic auditor is identified to carry out the independent forensic audit. This is still outstanding. We were doing this because there was a discrepancy in the Budget. Today, we have another Budget. It is important that we get over this issue conclusively, so that the budgeting process can regain its credibility. I seek your direction on this.

**Mr. Deputy Speaker:** Indeed, the Chair will study the Papers that have been laid on the Table by hon. Mungatana. The Chair now is guided by the Fiscal Management Act, 2009. Its provisions are very expressed. The Chair has also directed that the Minister conforms with them.

**The Minister for Environment and Mineral Resources (Mr. Michuki):** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, hon. Michuki! Under the circumstances, the Chair directs that the debate proceeds. With regard to the matters raised by hon. Mungatana, and subsequently, by hon. Ogindo, the Chair will study the Papers and give a direction at an appropriate moment. Why can we not proceed with the debate? Hon. Michuki, I thought the matter was put to rest!

**The Minister for Environment and Mineral Resources (Mr. Michuki):** On a point of order, Mr. Deputy Speaker, Sir. Under the current Constitution of Kenya, the Controller and Auditor-General is responsible to this House directly. He is not responsible to the Executive although the information he audits arises from the activities of the Executive. So, if you are looking for an independent forensic auditor – and these words sound very sweet, except that they do not mean what they are supposed to say – unless we are looking for duplication, I do not think it is necessary. We need a clarification on this.

**Mr. Deputy Speaker:** Order, hon. Michuki! The Chair has not given any direction on the independence, non-independence or rather the separation of the Controller and Auditor-General from the Executive or the relationship between the two. I have given a direction right now on the matters that are statutory and I think the matter has been put to rest. As I said, the Chair will study the documents which have been laid by hon. Mungatana. If there is going to be need to give direction, the Chair will do so at an appropriate moment. As of now, we have a debate. Let the debate proceed!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Bow to the Controller and Auditor-General!

**Mr. Deputy Speaker:** Fair enough! The independence of the Controller and Auditor-General is there, both in the Constitution as well as in our statutes. It is not a matter for the Chair always to give a direction on. In any case, the Chair has said it is going to study the documents that were laid by hon. Mungatana. If there is need for a direction to be given on the issue, it will be done at the appropriate time. At the moment, that matter has been put to rest!

## COMMITTEE OF WAYS AND MEANS

*(Order for Committee read)*

### MOTION

THAT, MR. SPEAKER DO NOW LEAVE THE CHAIR

*(The Deputy Prime Minister and  
Minister for Finance on 10.6.2010)*

*(Resumption of Debate interrupted on 10.6.2010)*

*(First Day of Budget Debate)*

Proceed! Who was on the Floor! Hon. Mbau!

**Mr. Mbau:** Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute to the Budget Speech.

**Mr. Deputy Speaker:** You have 30 minutes as the Chairman of the Budget Committee! You can take it all, part of it or substitute. Proceed!

**Mr. Mbau:** Thank you, Mr. Deputy Speaker, Sir. The matter that has preceded the commencement of this debate regarding the need to lay, together with the National Budget, the Treasury Memorandum, which has been contested and which you have kindly resolved, is a matter that I was also going to raise. I want to thank hon. Mungatana as well as Dr. Khalwale for bringing it to the fore, so that the Executive can begin to know. When we brought the Fiscal Management Bill, and the same was discussed in this House and it went through the necessary stages, I believe the Members took it seriously. We want to continuously keep the Executive on its toes by ensuring that matters of public resources and allocations are done in accordance with the law and the priorities of this nation.

Furthermore, it has also been stated here that the Controller and Auditor-General should report to this House directly according to the Constitution. The Act requires that when the Controller and Auditor-General tables his or her report and the same report is discussed by the relevant Departmental Committees of this House; the Public Accounts Committee (PAC) and the Public Investments Committee (PIC), their reports are also discussed in the House and adopted. The recommendations of those reports are supposed to be executed and complied with by the Treasury who is the appointing authority of the

various Accounting Officers. When the Budget is being read, Treasury is supposed to table a report explaining the extent to which various Accounting Officers in the various Ministries, Government Departments and agencies have complied or what actions they have taken to the satisfaction of the Members of Parliament. This has to continue to happen. The far that we have come, there is no turning back. We must continue to demand accountability for and on behalf of the people of Kenya and the taxpayers. When we brought the law, we said that taxes must be applied where there are needs. The same can only be veritably confirmed through the representatives of the people who are the Members of Parliament.

Mr. Deputy Speaker, Sir, turning to the Financial Statement that was presented in this House on 10<sup>th</sup> June, 2010, I want to begin by stating that no other Minister for Finance has had a better time to present the Budget Statement than the current one.

*[The Deputy Speaker left the Chair]*

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

We are being presented with a Financial Statement when the state of the economy is clearly looking up both locally and internationally. We have received a statement of the Budget when the weather conditions in this country are favourable giving good signals for potential growth and moving forward. It is also true that the effects of the global financial meltdown that was felt across the globe and affected trading and businesses locally has now eased off and the global environment is also looking positive. We are also debating the state of our national Budget when we know that the Treasury and the Central Bank of Kenya (CBK), to a great extent, have been able to tame interest rates to manageable levels of 5 per cent down from as high as 14 per cent last year as well as inflation rates which have also come down as low as 7 per cent.

Mr. Temporary Deputy Speaker, Sir, we are saying that the Budget that was presented here, therefore, comes against the background of very positive and forward-looking economy where the growth of the Gross Domestic Product (GDP) is on the rise from as low as 1.6 per cent last year. Currently, the GDP stands at 2.6 per cent and is moving upward to what Kenyans expect to be more than 5 per cent by the end of next year.

It is good to note that Kenyans have expectations. We all know that during the Budget Day, nearly every Kenyan who can access a television set or listen to a radio usually have their ears and eyes glued to what is presented and those who do not have the same are keen to read in the media the following day what was presented. This means that Kenyans have expectations, and this year is not different at all. So, I would like to state one, two or three key expectations for Kenyans as they analyse or look at the Budget.

First, Kenyans in this country are looking and assessing the Budget and asking these questions: In this viable economic environment, where will jobs be created? Which sectors of the economy will create returns and output that are capable of being exported so that we create gainful opportunities locally and enhance consumption of local goods instead of waiting for us to create employment and opportunities outside by always importing? Out of our taxes, which are the key sectors of the economy where the Deputy

Prime Minister and Minister for Finance and the Government have put huge resources? For what purpose and why? These questions are critical and crucial. So, they require to be analyzed disseminated for the benefit of the people who pay taxes. Kenyans also ask the following questions: When the rain has been that good and over 80 per cent of the population of Kenya rely on agriculture which also contributes about 25 per cent of the GDP, how much goes into this sector? Will we, as a country, live up to what the Government committed itself through the signing of the Maputo Declaration that requires that over a period of time, we should ensure that we invest or put our money in sectors that have high potential to revitalise the economy? One of these sectors is agriculture. We want to know how much has gone to the sector so that we can know that the majority of our people will benefit. Kenyans are also asking: Has the Budget ensured equity in its distribution across the country? How much has gone where? Is there equitable distribution of resources?

In March, this year, the Deputy Prime Minister and Minister for Finance laid on the Table a Budget Policy Statement that detailed the broad macro-economic framework he would use to come up with the final Budget. The same was discussed by hon. Members, a report was laid on the Table, discussed and adopted. Hon. Members are asking: To what extent did the Deputy Prime Minister and Minister for Finance comply with the recommendations of hon. Members through their various Departmental Committees in coming up with the final Budget Statement? I want to thank the Chair because you have confirmed that he tried as much as he could to ensure that the various sections of the Fiscal Management Act were complied with as well as complying with some of the recommendations that were contained in the report of the Budget Policy Statement.

Mr. Temporary Deputy Speaker, Sir, in his Budget Policy Statement the Deputy Prime Minister and Minister for Finance has shown a discrepancy of Kshs59 billion which was not initially projected in his Budget Policy Statement but which now appears within March, April and May. He now has sources that can increase this outlet. On the outlet of an extra Kshs59 billion, what guided him in allocating the extra money which was not foreseen by the time he laid his Statement on the Table of this House?

I would like to make a small statement regarding last year's Budget. Hon. Members now say that the dispensation and allocation of resources in this country must continue being business as usual. We want to know how last year's Budget was executed and to what extent it achieved the goals and objectives for which it was set to achieve. It is not enough for a certain department or Ministry to have been allocated Kshs20 billion and spend it. It is more important, as hon. Members, to know the manner in which value for money was realized.

The other day various departments were given prizes and trophies because they were number one, two or three in terms of performance contracting. What criteria were they using? Yes, a certain Ministry or department has been able to implement so effectively and efficiently whatever was put on its docket so that every shilling that Kenyans have put in the Exchequer has value for money. We want to come to terms with the principle of performance budgeting so that when we are told this and that department are the ones that performed best, we know they are being evaluated on a known criteria.

Mr. Temporary Deputy Speaker, Sir, you remember very well a little while ago, just recently about a month or so ago, one Permanent Secretary complained in public that

Kshs30 billion was lying somewhere in Central Bank of Kenya unutilized when we are nearly coming to the close of the financial year. We would want to know which Ministries and departments have no capacity to utilize the resources they have been allocated by Parliament. If you look at the current Budget, we already have a budgetary deficit of not less than Kshs230 billion which is going to be raised either locally or externally and will attract very huge interests. So it is very unfair that we can be having money lying in our banks when we are borrowing from outside, where we shall pay with interest and our children and our people continue to suffer under the burden of this lack of co-ordination.

Talking about debts, I know the Deputy Prime Minister and Minister for Finance will tell us that the Budget, which we must commend, was hailed by various quarters and we have no problem with it. The only problem we have is about the deficit and the question of public debts. We are seeing a trend where the Government does not appear to be committed towards reducing further consecutively what debts this country inherits or creates moving forward. In 2005, if I may just give some figures, our public domestic debts measured 18.3 percent as compared to 28.4 percent in 2009. That has continued to rise and is set to rise with the current Budget.

Mr. Temporary Deputy Speaker, Sir, you remember even though in the Financial Year 2009/2010, the budget deficit was Kshs109 billion, we still rushed to the local market and borrowed a further Kshs15 billion making it a whopping Kshs124 billion from local sources. This does not auger well for local investors and businesses. We want the Deputy Prime Minister and Minister for Finance to seriously address the terms of borrowing. Whether they are new, local or foreign, these should be brought to this House and to be able to advise on behalf of the country. We want to have reliable information, accurate records and the same needs to be publicised as necessary so that the monitoring of this debt burden we are creating for future generations is done appropriately by hon. Members.

Mr. Temporary Deputy Speaker, Sir, it may as well be good for us to note that the total public debts as of now equals Kshs1.19 trillion. This is more than our budget for one year. The budget currently is estimated at around Kshs998 billion, nearly Kshs1 trillion. When you compare this with what we owe foreign governments, multinationals, foreign bilateral agencies and financial institutions as well as local lenders, we have a whopping public debt. We need to ask ourselves: Is this sustainable and for how long? We need to come up with a debt management policy that ensures that future generations as well as current consumers do not continue to feel like decisions were made because they had to be made and those people who recommended what monies were to be spent did not care much because it is easy to spend public money. It does not feel like it is coming from somebody, but at the end of the day, the same public money comes from somebody's pockets. That single individual may have been saved the anguish of having to produce more as he or she purchases the goods.

I also want to state that we are going to be asked to approve taxation measures to enable the Deputy Prime Minister and Minister for Finance to raise money from various sources. I want to commend the Deputy Prime Minister and Minister for Finance because this Budget appears like it had a heart for the low income earner. When you look at the sources of the ordinary revenue, you will find at least for the 2009/2010 Financial Year, revenues were sought in rising order; Import Duty 7 percent, Excise Duty, 13

percent, Value Added Tax (VAT), 25 percent, Appropriations-in-Aid, 8 percent and Pay As You Earn (PAYE), 37 percent. I would like to recommend very strongly that this sector called Appropriations-in-Aid has for a long time remained uniform. It has not increased or reduced. Even when the economy appears to be growing, this item continues to be constant. I would like to call the Deputy Prime Minister and Minister to ensure more is done on collections and more can be done through implementation of collections by use of Information and Communication Technology (ICT). Some few sectors are doing that so that we are able to guarantee that this A-in-A, which, of course, relates to various fines, fees and charges that are collected in every point where Government gives services, rises. If this rises, it will ensure that we do not raise money by increasing PAYE, taxes on VAT and Excise Duty. Can we get a policy for ensuring that we hold items like Value Added Tax (VAT) and Pay as You Earn (PAYE) constant for two or three years during which we ensure that we enhance and streamline incomes or revenues from Appropriations-in-Aid (A-i-A) as well as expand the tax band to net minimal people so that, at least, we are able to ensure distribution or redistribution of taxes fairly and favourably?

Mr. Temporary Deputy Speaker, Sir, when you look at where money has gone or ought to go, it is good as a country, to address and ask ourselves whether we are putting money where our mouths are. Looking at the current economic survey, you will find that our economy currently is being driven by about four or five sectors. The tourism sector is now contributing about 42.6 per cent of the Gross Domestic Product (GDP). The building and construction sector is contributing 14.1 per cent. Amazingly, number three is the fishing sector with 7.4 per cent, and transport and communication contributing 6.4 per cent, with agriculture towing along with a negative 2.6 per cent. What are we saying? We are saying that we need to put money and synergies where sectors already promise huge potential, so that the same potential can be multiplied a lot more so that we are able to realize more revenues from these sectors. These are also sectors that have a capacity of creating a lot of employment, which a majority of our people, especially the young, need.

Mr. Temporary Deputy Speaker, Sir, in his Budget Policy Statement, the Minister alluded to the need to conduct the process of budget rationalization, so as to reduce wastage as well as to ensure that money is not going to non-priority sectors. The Minister promised that such expenditures as luxury cars were going to be reduced, and various departments were going to surrender their vehicles, and that these vehicles were going to be auctioned in a public auction. We would like to know--- It is good to know, and it would be wise to know between then and now, one year down the line, how much has the auction of vehicles realized? And that which has been realized, which Votes has it been allocated to? Was the same done prudently and openly?

**The Temporary Deputy Speaker:** Your time is up!

**Mr. Mbau:** Thank you, Mr. Temporary Deputy Speaker, Sir. To wind up, it is good for us to also know that, on the same principle of budget rationalization, the Minister promised to rationalize salaries and allowances of the bloated Government employees, so that we do not need to utilize 62 per cent of our revenue, as is now going to happen, on non-discretionary expenditure as opposed to only 32 per cent that is going to go towards the development expenditure.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I want to say I appreciate; this is good and I want to stop there.



**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the Budget Speech, which was read here last week.

Mr. Temporary Deputy Speaker, Sir, as we debate the Budget Speech, I think it is important that we look at how much the Estimates and the allocations that we deal with here every year do go towards improving the lives of Kenyans; in some quarters, the Budget reading sometimes appears to have become just a mere annual ritual. I think it is important that we start to ask some pertinent questions. For example, to what extent has the annual Budget helped to bridge the gap between the rich and the poor in this country? The evidence that is available tends to suggest that this may not be so. I think it is important to ask why.

Mr. Temporary Deputy Speaker, Sir, I think we should now start to look at State and statutory enterprises just to see to what extent the Kenyan taxpayer's money is being used. Here, I think this is probably the time to isolate those State institutions that can clearly be seen to be performing and also those that are really not performing. I have in mind, for example, the Interim Independent Electoral Commission (IIEC). I think the general argument is that in the short time the IIEC has been in existence, it has generally done a commendable job.

Mr. Temporary Deputy Speaker, Sir, you will recall that when we went for the last elections in 2007, our voters register was standing at just over 14 million, out of which, it has now been discovered, more than 2 million were actually dead voters or double registration. That register was based in the period between 1992 and 2007 – almost a period of 15 years. We look at the time it has taken the IIEC to build the current register to a registered population of about 12 million, which is just over one month. I think that is very commendable and we need to commend them.

Mr. Temporary Deputy Speaker, Sir, I think also the three by-elections in Shinyalu, Bomachoge and South Mugirango have also given the IIEC a very good score, indeed. I think that, as a House, we should be duty-bound to try to make sure that those Government institutions which are performing well like the IIEC are supported through adequate allocations.

Mr. Temporary Deputy Speaker, Sir, as we debate the Budget, we have to be careful as a society, so that Kenya does not become a society where only the wealthy do have a say. Unfortunately today, our country is being seen as one of the most unequal places on earth and, really, we have to ask why? How much is this Budget helping us to close the gap that exists in terms of who has and who does not have in Kenya. The scenario today is not encouraging. A lot of us in this House, for example, went to public schools. In those days, Budget allocations were much, much lower. Today, I can say with confidence that most hon. Members here have their children in private schools, and even an equal number have their children going to private universities after secondary school. The question that must be asked is why? Public schools have decayed.

It is important that this situation is reversed, so that as many Kenyan children as possible can have opportunities to get proper learning without having to incur the generally heavy costs associated with private schools.

Mr. Temporary Deputy Speaker, Sir, the situation is not different in the Ministry of Health. We have some public health institutions in this country where the wards and the mortuaries are more or less the same. People die in the ward and take up to three days before they are taken to the mortuaries. This is a very depressing situation.

It will only make sense if our budgetary allocations make public health services available to as many Kenyans as possible, so that quality healthcare does not become a preserve of the rich. We know for sure that whether one is rich or poor, we only need quality healthcare at one point in our lives.

Mr. Temporary Deputy Speaker, Sir, Parliament must now re-look at the way it scrutinises the Budget. Time has come when we should actually start denying non-performing Ministries their budgetary allocations. Budgetary allocations will only make sense when they translate into a better life for Kenyans.

Recently, I attended a conference outside the country, and some of the statements that came out were very depressing. One of the participants, who comes from East Africa, described the inequality in Kenya in very figurative terms and boldly said that, in their view, they thought the richest person in East Africa lived in Kenya as much as the poorest person in East in Africa also lived in Kenya.

These are statements that cannot be taken lightly, because when we have such huge gaps, we have very elongated income disparities, and the effects are there for all of us to see. What has happened is that the stone walls around our homes have grown taller. More electric fencing has appeared around our homes, but none of us feels secure. For most of us here, the most terrifying moments are the few seconds you spend outside the gate of your house as you wait for the *askari* to open it.

Mr. Temporary Deputy Speaker, Sir, is this really the kind of society that we want? I do not think so. I think we want a society where every Kenyan, rich or poor, can feel secure. The only way that can happen is by trying to bridge the gap between the poor and the rich.

It is known all over the world that no matter what you do, even if those of us who can afford decide to surround ourselves with stone walls and electric fences, and hire for ourselves private armed bodyguards, you cannot eliminate insecurity. The only way you can provide lasting solutions to the security of the well-to-do in society is to make sure that the weak, the poor and all the vulnerable groups are adequately provided for.

Mr. Temporary Deputy Speaker, Sir, our Budget will have failed if it does not provide for bridging the gap between the rich and the poor in this country, since at the end of the day, all of us must call this place home. All of us must feel secure. We are discussing a Budget that is approaching Kshs1 trillion. There has to be evidence that the Ministries that are going to receive these allocations are performing to better the lives of all Kenyans.

With those remarks, I do not support.

**The Assistant Minister for Labour** (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, let me take this opportunity to thank the Minister for Finance, one, for trying to be somehow responsive to the needs of the people on the ground, from his Budget Speech.

The Minister said that most of the Economic Stimulus Projects that were planned for last year will be rolled over using this Budget. I must say that in my constituency, things are moving on very well as far as the Economic Stimulus Projects are concerned, thanks to the civil servants who are a bit dedicated to their work these days.

Mr. Temporary Deputy Speaker, Sir, unfortunately, when it comes to the road sector, things have been so bad, and I have it almost across the whole constituency. It is unfortunate that I have two Class “C” roads in my constituency. There is one road I share

with hon. Wetangula. Even when the Minister went there, he witnessed the deplorable condition in which Road C32 was. That road runs from Malakisi to Luakhakha. It was not allocated a penny in the last financial year.

To-date, the road is in a very pathetic state. I have talked to the officers in the Ministry, who said that it has not received a penny from the last financial year. That road is in a terrible state, and we appeal to the Ministry of Finance to liaise with the Ministry of Roads. It was very unfortunate that the Minister for Roads told the public that it was the area Members of Parliament who were to blame, because they had not gone for the money or opened the accounts when it was the Ministry of Roads that had not provided for the funds.

Mr. Temporary Deputy Speaker, Sir, mine is just to say that as much as the Deputy Prime Minister and Minister for Finance said that the spending of public finances should be very transparent and open to the public, I wish that his Ministry could always publish all the amounts allocated for such projects and amount of time it takes for the funds to reach the districts, so that leaders and members of the public can be able to trace when this money goes to the field, how it is spent and on what projects it has been put into use. Unless we do that, the agents of corruption will continue reigning in our society, and the public will not get value for money.

We have a terrible situation. A lot of money has been voted for the Ministry of Education to support free tuition in secondary school, and free primary education. However, there is a mismatch between the data that officers have in schools, especially headmasters, and that is brought to the Ministry headquarters.

Taking an example of my district, you will find that a school has 800 pupils. Whereas the officers on the ground keep on presenting the current figure as being 800, you find that the number of pupils who benefit from the school are only 400. However much they try presenting that data, there are people who are not willing to reflect the true figure on the ground, with the amount of money that is supposed to be disbursed to such schools.

Mr. Temporary Deputy Speaker, Sir, it is a lot of money that is being voted. I appeal that the Treasury liaises with the Ministry of Education to see to it that they have up-to-date data of the pupils or students that are in the various schools to avoid inconveniencing head teachers in schools.

When it comes to the number of teachers, there is an acute shortage of teachers countrywide. I will not generalise this because I want to be very specific on my constituency, Amagoro. If I may mention St. Paula Amagoro High School in Teso District, which has the same number of streams and pupils with Kamusinga Boys High School in Bungoma, it has only 16 Teachers Service Commission (TSC) teachers. On the other hand, Kamusinga Boys High School has more than 60 TSC teachers. The two schools are expected to give similar results. Therefore, the Government must be having a deliberate move to deny some areas teachers, while favouring others.

Mr. Temporary Deputy Speaker, Sir, I would appeal that there should be rationalisation in this Budget, so that those areas that are acutely affected with shortage of teachers at both the primary and secondary levels, like in my area, can be given due consideration.

Another area is that of disaster management. You find that some parts of this country have been provided with money to take care of unforeseen situations. Previously,

my constituency never used to experience flooding but for the last five years or so, the intensity of flooding in my area has continued to increase. We also have a very strong bridge that was built by the Britons – Malakisi Bridge. It was swept by flood waters from Mount Elgon.

It has happened in a funny way that the floods that used to go to Budalang'i are now shifting to Teso District, and are causing us havoc, but the Government seems to be ignoring the suffering of the people of Teso. It is, therefore, my appeal that the relevant Ministries go and look at the situation afresh, because there have been changes in weather patterns.

Mr. Temporary Deputy Speaker, Sir, my area is now so much affected. Therefore, I appeal that people in my constituency, who have been affected by floods, be provided with seeds for planting; medical supplies, mosquito nets and all other things that they need in due course.

Mr. Temporary Deputy Speaker, Sir, it takes a very long time for the Government to respond. I do not know whether it is because we are a minority community. One voice cannot be heard and they are hearing choruses from the Members of Parliament from the big regions. I am appealing to the Government this time round, that even though we support the Draft Constitution and I am from the minority, I will be with Dr. Machage, Mr. Kapondi and Dr. Naomi Shabaan. We have opted to do that because there are some few clauses which are good for our community and our people. We, however, want express provisions so that the minority can also be heard whenever they shout. They should not just be ignored.

Mr. Temporary Deputy Speaker, Sir, I am appealing that the funds that had been provided for the Constitution review exercise will be put into good use. I am also praying that Kenyans listen.

We have been in this struggle; I remember very well, I was almost your pupil in this struggle. You used to take us to seminars. We started this struggle a long time ago. Some of us know what we were looking for. However, some new faces have come and do not know what was required in this Constitution. It is my appeal to Kenyans to know that when we started this struggle, we were struggling against bad governance, corruption and major issues. These were not issues about the Kadhi Courts and abortion.

Mr. Temporary Deputy Speaker, Sir, this was very clear when we used to do our demonstrations. Kenyans should not lose sight of what we were looking for to be misled by the prophets of doom who have doted our country all over.

With those few remarks, I fully support the Budget Speech. We shall support the Government. We shall encourage the civil servants on the ground to work very well to implement our projects so that our people benefit.

Thank you.

**Prof. Kamar:** Thank you Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support the Budget Speech.

Before I do that, I would like to say that I join those who have condemned what happened at Uhuru Park the other day; the bombing that took place. I want to put it on record that that is an act of cowardice. People who have learnt to fear the ballot box cannot do this in a country that is democratic and got Independence over 40 years ago. I call on such people to desist and leave Kenyans to run their affairs in a mature way.

Mr. Temporary Deputy Speaker, Sir, the Minister's Statement on the Budget came out clearly. There are few encouraging statements and increases but there are a few concerns I would like to touch on. The first one touches on the budget process itself. It looks like the Minister and the Budget Committee which I belong to are not reading the budget process in the same manner. I want to pick it from the huge variation that you can observe between what the Minister gave us during the Budget Policy statement and his Budget Speech. The glaring variation seems to tell us that the Minister was in a hurry to make a Budget Policy Statement and not follow anything he was going to use during the Budget preparation itself.

For example, if you look at the ordinary revenue that he gave us during the policy statement in March, he told us that he was expecting to collect Kshs586 billion. In the Budget, he is giving us Kshs688 billion. This is a difference of a whole Kshs100 billion. Is it that he did not have the right parameters on how he was going to collect this revenue or he was trying to satisfy this House by bringing a policy statement which was premature and a statement which was not properly prepared?

Mr. Temporary Deputy Speaker, Sir, the current budgeting process brings in transparency, prioritization, rationalization and helps the country to decide on where we would like to put our money. Before the policy statement is given in March, it is expected that the Ministry will have gone out to do what we call the budget public hearings. It is, therefore, expected that by the time the budget policy statement is being made, the public hearings will be taken account of. I listened to one lady who was interviewed on the streets of Nairobi when she was asked what she thinks about the Budget. She said: "As usual, our public hearings will not be taken account of". She said: "Watch it and you will see it for yourself". This means the public is starting to feel that the expenditures we are undertaking in giving these public hearings are yielding nothing.

As the Budget Committee, we are also feeling as though the times we have with the Minister are not helping at all. From the advent of the Fiscal Management Act, we were supposed to be working through the process with the Minister, as a Committee so that we all agree on what the priorities of this country are. We were also expecting that after the budget policy statement had been made, the different departments would start to set their priorities and come up with their strategic plans at the Ministerial levels and tie that to what Kenya calls Vision 2030 which is the driver of development of this country. In the absence of that, it is very difficult for us to understand why we are spending the way we are spending.

Mr. Temporary Deputy Speaker, Sir, my other concern, therefore, is how some of the items were planted in the Budget. One of them is the empowering of youths. The Minister made a very good statement on employment of youth and how he was going to address it. He gave us three very good points on what he was going to do. One of them was the creation of a revolving fund worth Kshs3.8 million. In his statement, he said that some money was going to be given to SMEs or selected banks. I wonder whether the Minister was here last year when we discussed the way the Women's Enterprise Development Fund (WEDF) and the Youth Enterprise Development Fund were mishandled by the same banks. The WEDF in particular, suffered a great blow because the institutions that were selected to handle the money; one of them was given a whole Kshs200 million. This money was not even spent on women. Then at the end of the day, we are told that the money was returned without any interest. The Minister confirmed

this. How are we sure that the youth are going to access this money and that the money will not be accessed by either the rich or the able? How would we know these banks are going to be honest enough to issue the funds at interest rates that will enable growth?

If you use that as the reason for increasing employment, definitely you will not realize anything if the strategy is what was used for women previously. There was nothing that was increased. We only had squabbles and problems with the banks and institutions that were given the money.

Mr. Temporary Deputy Speaker, Sir, the other issue is the education sector. This sector was given good money and I commend the Minister for that. However, there was no specific mention of hiring of teachers. When we talk of free primary education, free secondary education and we are not increasing the number of teachers, we are actually moving away from the quality human resource development that this country has enjoyed for a long time. We are moving backwards. So, there is need for the Minister to clarify whether that allocation was going to take care of the schools that currently exist without teachers.

Mr. Temporary Deputy Speaker, Sir, the Minister has come out clearly to say that there is a shortfall of over 60,000 teachers, but there was no mention of that. The Minister was also silent on something that we hoped he would mention; there was something that was started last year - the social responsibility towards the elderly. Forty constituencies or districts were chosen. We have been told that the programme has not moved very well. We would like the Minister to address that seriously because you cannot pilot the elderly. The elderly exist everywhere! You can only pilot where you do not have enough sample. But since you have the elderly in every constituency, the Minister should not have been silent. We want him to come out clearly and tell us how all the elderly men and women of this country will be assisted to have the Kshs1,500 per month. That cannot be a pilot programme. We agree with the Minister for Fisheries Development that there was need to pilot on fisheries because not everybody knows how to deal with it. But you cannot pilot on elderly people because they exist everywhere. All of them are deserving Kenyans and all of them need to be given. So, I hope in the response, he will address the issue on how he is going to take care of the remaining elderly people who are not allocated any funding.

The last one I would like to touch on is the infrastructure. I commend the Minister for allocating more money for infrastructure development. It is true that infrastructure will assist to stir development. But the question which I have today, and which I also had in the last Budget---

## QUORUM

**Mr. Mbugua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum!

**The Temporary Deputy Speaker** (Mr. Imanyara): That is true! Please ring the Division Bell!

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Members! We now have quorum! Please, proceed, Prof. Kamar!

**Prof. Kamar:** Mr. Temporary Deputy Speaker, Sir, I was just winding up. I was in the process of saying that the money allocated to infrastructure was very encouraging. But we need to re-look at the priorities that have been given. I want to use a simple example that last year, we were all encouraged by the allocation to the roads. But the distribution of the same funds to cover roads in various regions is what was not understood finally. For example, in the case of Eldoret, we have no road leading to Eldoret Town. The roads to Kitale, Webuye and Cherangany are completely dilapidated. Maybe, you can go to Iten, but the road to Kapsabet is completely damaged. So, as much as infrastructure has been improved in terms of funding, there is need to prioritize and distribute the funding and resources equitably. It was encouraging that most of the funding for part of the infrastructure was going to the constituencies. I think since we recognized the constituencies as units of development in this country, when we do allocations or funding for various infrastructural development, the distribution should show that this Budget is addressing national needs and the nation at large

With those few remarks, I beg to support.

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to support the Budget Speech.

The Budget, as read by the Minister, was bold and comprehensive enough. It has allocated funds for almost all the sectors of the economy. But one of the biggest problems which I think the Government needs to handle is, first, we do not get feedback on the utilization of the money. When we talk about the Budget of last year having been about Kshs800 billion, it would be important for the Minister to tell us how the money was spent. It must come out very comprehensively. That is because we keep on saying that we are increasing the Budget, but we do not know how effective it has been---

The other problem is implementation. The Speech is read out very well but, when it comes to implementation of programmes in the field, there is lack of follow up and, therefore, effective implementation. So, I think we must put in place measures which can enable us to get feedback on implementation of the programmes that we vote for here.

Mr. Temporary Deputy Speaker, Sir, the other aspect is what we have always been talking about. The Government has only to provide an enabling environment for the economy to prosper. I think it is a very important aspect which the Government should address. It should ensure that there is a conducive environment for all that is in the Budget to be achieved. One of the biggest constraints in the aspect of enabling environment is the civil service. Some aspects of the civil service are still lacking in a number of ways. Some of the civil servants are still living in the past. We are talking about decentralization and devolution. We are also talking about Kenyans being able to decide for themselves what they would like to be done for them, but you will find some of the civil servants behaving as if the money is coming from their pockets. For example, some of the money that was voted for roads projects has not been spent because of civil servants in the field trying to create handicaps in the tendering process and, hence, delaying the process, not being transparent and able to give out information on time for those who are supposed to be involved in this.

Mr. Temporary Deputy Speaker, Sir, a lot of money has been allocated to the Ministry of Education. I applaud the Government and Ministry for that matter, but there

is no way we can talk about free primary and secondary education, and spending more money per child, yet we do not have the capacity to teach these children. So, I thought that the Minister would have considered allocating enough money for the teachers' salaries. The amount outstanding of 60 per cent that was agreed should have been allocated so that we clear this and also motivate them to be able to produce in terms of what they are engaged to do; that is, teaching our children.

Mr. Temporary Deputy Speaker, Sir, the other area which I looked at is infrastructure. There is a lot of money that has been allocated for roads in some areas while in other areas, there is no money which is spent. I have looked at some of the projects that are being done. I had an opportunity to visit a road that traverses from Isiolo up to Moyale. The first quarter of the road which is going to take about Kshs6 billion to Kshs7 billion is about 140 kilometres. But in some areas where we need less than even Kshs1 billion, the Government is not willing to spend money on those roads. For example, there is a road from Kisumu to Kakamega and Webuye. We do not need that kind of money for that road, but in terms of the economy, there are a lot of activities that generate food and livelihood for the people in that area and even the whole country. But there is no money that has been budgeted for that side of the country. So, I would have liked to see even distribution of money that is being spent across the country.

Mr. Temporary Deputy Speaker, Sir, the other thing that I expect also is harmonization of pay for public servants. This has been outstanding for a very long time. I hope that later on maybe in the course of time, the Government will come up with a document showing how we can harmonize pay for public servants. This is because we have been saying that the people who are manning the public sector have gone to the same universities and maybe, attained same qualifications. But you will find that there is a lot of discrepancies in the way they are rewarded or paid. So, that is an aspect where I would like maybe, the Government to consider coming up with a policy paper, so that this Parliament can pass it and everybody knows what they are supposed to be earning.

Mr. Temporary Deputy Speaker, Sir, I was also imagining that this time round, the water sector would be handled the same way that we are trying to do with the roads and rural electrification funds. It is not very clear how the money that is allocated for water in the districts and constituencies is spent, because it is still being held by one single person. It is very difficult for us to account for this. So, I also hope that as we go along, the water sector will be structured on the same lines that we are dealing with the roads money and rural electrification funds. We have had heavy rains. Recently, I heard somebody from Kenya Power and Lighting Company saying that we have got excess water and will not have problems of power. But you know what happens in this country. You may have rains now but within a very short time, we will have drought. I think we must have long-term measures in place to be able to harness this water for long-term generation of power. Right now, we are spending a lot of money trying to invest in geothermal power, but the amount of water that we are losing on run-off when it rains heavily is a lot. We are boasting that power charges will go down and then within a short time, the same goes back even higher than what it should be.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Deputy Prime Minister and Minister for Finance, it does not appear as if there is anybody wishing to contribute. So, are you ready to respond?



**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well! Go ahead.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to thank all my colleagues for the contributions that they have made. From the outset, I want to assure them that it is the intention of Treasury and Government to ensure that we fully implement the new fiscal law. This is the first time, as the Minister for Finance, where we have actually operated on the basis of the new Fiscal Management Act.

Mr. Temporary Deputy Speaker, Sir, a number of issues that have been raised are issues that, as Treasury, we have taken into account. There was the issue of the allocation to the agricultural sector. Agriculture is a very key part of our economy. There is need for us to be able to look at agriculture from its broad perspective. Agriculture incorporates the Ministry of Livestock. It also has a component of irrigation, under the Ministry of Water and Irrigation. Agriculture is also a part of regional development. So, when we talk about the share of agriculture, we should not look at it from a narrow sense of the Ministry of Agriculture, but rather, the overall perspective of the entire sector, which is inclusive of some of those areas that I have mentioned.

Mr. Temporary Deputy Speaker, Sir, there were concerns raised also about equity, beginning with last year's Budget. As the Government, we have tried to move towards addressing ourselves to that issue of equity to ensure that we have equitable growth in our country. It should not just be growth, but growth that touches and affects every part of our country.

There were issues that were also raised with regard to our debt management. I think Kenya should hold her head up in pride in terms of our ability to manage our debts. Over the last six or seven years, we have been in a position where we have reduced our national debt from a high of 60 percent to around 40 percent of the GDP, which is the current prevailing situation. At the Treasury, we keep a very close eye to it to ensure that our debt continues to be sustainable.

Mr. Temporary Deputy Speaker, Sir, there were issues that were raised with regard to payment of salaries. We recognize that our teachers and civil servants are all important players in terms of our country's economic development. As hon. Members have already noted in other contributions, there is need for us to be careful that as we grow our recurrent expenditure, it is not at the expense of our development expenditure. That is why we are trying to reduce unproductive expenditure in order to increase our development expenditure. As we reduce the unproductive expenditure, we should also be able to increase fiscal space to be able to accommodate higher and better pay.

One thing that, as a nation, we need to be able to keep a very sharp eye on is to ensure that as we look at our salaries, we also do not get into a situation where we get to over-price ourselves as an economy. As we talk of salaries, it is also important to note the actions taken by the Government to also reduce interest rates, and the level of inflation. All these need to be taken into account as we go forward.

Mr. Temporary Deputy Speaker, Sir, we do know that we had a package agreed on with our teachers in the last financial year. We did agree that as the economy improves, as we get to higher rates of growth, we should be able to pay the whole salary agreement package that we had with the Kenya National Union of Teachers. But 2.5

percent is not the growth that we were expecting. We still have a way to go. Working together, we do hope that this year, we should be able to achieve a growth level of around 5 per cent, at which stage we will be in a much better position to be able to pay the full import of the agreement that we had. So, I expect, and do hope, that our teachers will be understanding and will allow us to move together.

Mr. Temporary Deputy Speaker, Sir, security as I stated, is a major issue in our country. We cannot have growth without security. That is why this time round, we have allocated an increased amount to the security departments in order to ensure that our cities and rural areas are, indeed, secure because security is critical for economic growth.

Issues have been raised regarding Agenda Four Items. I want to once again assure this House that in this Budget, we have made available the necessary resources for the Interim Independent Electoral Commission to conduct the referendum and for the Committee of Experts on Constitution Review to be able to undertake their civic education on the proposed Constitution. This is one area that I can say is fully funded.

The budgetary process is not a process that begins and ends in June. It is a process that begins as soon as one Budget is passed. This is what I would like to say in conclusion. For hon. Members, it is important that we take an active part in the budget-making process from the beginning of September. It becomes very difficult when proposals are submitted in late May for inclusion in the June Budget when the necessary funds, therefore, have already been committed to other sectors. So, I would like to encourage hon. Members to participate at the very onset. I would also like to encourage hon. Members that it is the Government's intention to raise the absorption rate of Ministries. This is a function of the relevant line Ministries. It is also a function of this House; the relevant committees should be able to meet with the Accounting Officers and Ministries to establish where they are, in terms of implementation of their specific projects.

It is a sad situation when money that has been voted for particular development projects is returned to the Exchequer at the end of the financial year because of lack of absorption. It is also sad that programmes that we have developed in conjunction with our development partners fail to take off again as a result of poor absorption. There are, indeed, some issues that during the course of the financial year, we will bring to this House to help us deal with the issue of absorption.

There have been complaints, for example, with regard to procurement and the time it takes to procure. We have seen that, for example, with the implementation of the Economic Stimulus Package. It did take a great deal of time because of the procurement regulations that we had to go through. This is an area that I would like to look at in conjunction with hon. Members.

Another area in which I will really be looking forward for support from hon. Members is in terms of some of the legislation that we will be proposing in the Finance Bill. This legislation is, amongst other things, aimed at improving the business climate in order to ensure faster growth in our country, and removing some of the bottlenecks that have been constraints to the growth of business. We will also want to address some of the issues, especially on the insurance sub-sector, that have resulted in slow or poor payments to affected persons.

Lastly, we will also be making recommendations that will aim at ensuring that we, as Kenyans, will use our national resources, which come from our taxpayers, to build Kenya by purchasing from our local manufacturers.

It is, indeed, the case that some of the proposals which I will also expect hon. Members to support, will include those regarding our youth and small and medium scale industries; these will need our approval, so that this vital sector of our economy, which is really the largest single employer in our country, can get the necessary boost in order for us to provide the much needed jobs for our young people.

With those few remarks, I beg to move.

*(Question put and agreed to)*

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, there being no other business, it is now time for us to adjourn the House. The House is therefore, adjourned until tomorrow, Wednesday, 16<sup>th</sup> June, 2010 at 9.00 a.m.

The House rose at 5.20 p.m.