

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th October, 2010

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

REPAIR OF NAROK-MAASAI MARA ROAD

Mr. ole Lankas: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

What is the Minister doing to repair the Narok–Maasai Mara Road which is currently in a deplorable condition?

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

The road is classified as C12 and it has a length of 107 kilometres. Sixty per cent of the road is paved while 40 per cent of the remaining road is gravelled. Tenders were invited for the bids and we opened them last week. So, within the next two weeks, we should be able to award the contract. The works are expected to begin next month and the total contract sum is Kshs200 million.

Mr. ole Lankas: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for the answer, the amount allocated to this road, maybe to a layman appears enough to do the works on this road. What informed criterion did the Assistant Minister use to allocate this amount of money against the works that are required on this road which is in a very deplorable condition? This is one road which is very important not only to the County of Narok but to the whole country. As I stand here, the tour operators and other users of this road are threatening to pull out of this road. Could the Assistant Minister tell us the criterion he used to allocate that amount of money against the works required on the road?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I want to agree with the hon. Member that, indeed, the road in question is very important because it links Kenya's most important tourist destination with the rest of the country. It is unfortunate that in the recent times we have had situations where tourists are not able to reach their destinations because of the poor roads. It is for this reason that my Ministry, through the Kenya National Highways Authority has set aside the Kshs200 million which is more of an emergency allocation to ensure that the roads are passable. We have already tendered for the design of the roads to be able to have the road upgraded to bitumen standard and ensure that the bad section is done once and for all. I agree with the hon. Member that we

ought to put in more resources, but based on what we had and the short time available, we had to ensure that the road is passable as we wait for a more long-term solution.

Lastly, allow me to comment on what the hon. Member has said that it is, indeed, true that the tour operators had actually come together and were planning to demonstrate, a matter that we considered would be very grave more so for the image of the country outside. It would be a big blow for the many tourists we have been receiving. So, we are in communication with the association and we have assured them that we will address the issues that they have brought forward.

Mr. Gabbow: Mr. Deputy Speaker, Sir, could the Minister give a timeframe of the design and when the money will be available for the road?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I have indicated that the Kshs200 million is already available in the budget and in the next three or four weeks, we expect the contractor to be on site. As I have indicated, 60 per cent of the road is paved while 40 per cent is gravelled. That means we want to restore the road the way it is; the 60 per cent to remain as it is and the 40 per cent to remain as it is. I have also indicated to this House that in future we would like to have the whole road paved to ensure that we do not go through the problems that we are having now.

Mr. Gabbow: On a point of order, Mr. Deputy Speaker, Sir. I had asked for the complete sum and not the Kshs200 million. I am asking about the design and the implementation of the whole road and the timeframe that the Ministry is planning to do the work.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, tenders for the design to bitumen standard have been received and will be evaluated in the next month. Once they are evaluated, we will prioritise it in the next financial year.

Dr. Otichilo: Mr. Deputy Speaker, Sir, the road in question is very important to this country. This is the road that takes all our tourists to Maasai Mara Game Reserve which is the most important reserve in this country. The Assistant Minister has said that he has allocated Kshs200 million towards the reconstruction of this road. This money is very little that, in my opinion, it will not make an impact to that road. Why did the Ministry decide to allocate only Kshs200 million when the road requires more than Kshs1 billion?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I agree with the hon. Member that probably the road deserved more allocation but the Ministry of Roads works on a budget which is allocated by the Office of the Deputy Minister and Ministry of Finance. Therefore, we are able to work with what we have. I want to assure the House that we will prioritise this road and ensure that we have a long-term solution. The Kshs200 million that we are giving is for periodic maintenance and not for the rehabilitation of the road to what we would want it to be. I assure this House that being a C Road we will also consider it as a sufficiently important road more so when we consider that we receive very many visitors. This being one of the peak seasons, I assure the Members that we will do it within the shortest time possible and ensure that we allocate it money for full rehabilitation in the next financial year.

Mr. Ogindo: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm to this House – noting that he appreciates the importance of this road – when he is likely to visit this road so that he is able to see for himself what disservice we are doing to this country by keeping that road in that condition? This is a source of foreign exchange, it is

a source of economic activities and it is a means of communication for the people living around there.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I want to say that in the last three weeks, my technical team through the National Highways Authority was able to visit the area and on the basis of their visit, we were able to package what we now call an emergency rescue for the road. But, also, within the last five days, my Minister has also visited this particular area and like I said, we are also in communication with the two operators to ensure that we incorporate their demands as we move forward.

Mr. Deputy Speaker, Sir, I also want to take this opportunity to say that we are free and that we will definitely want to visit the area. However, we will visit it once it has started. Therefore, in the next one month, I will be able to visit the area.

Mr. Deputy Speaker: Last question, hon. ole Lankas!

Mr. ole Lankas: Deputy Speaker, Sir, there is a contractor who has been on this road for the last two and a half years, doing a stretch of about three kilometers only, and he has been paid a total amount of about Kshs21 million. Is the Ministry aware that this contractor is still on site and this is the amount of money involved and nobody seems to know what he is doing there? Could the Assistant Minister confirm or deny this?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I am not aware of that contractor and, therefore, I will neither deny nor confirm the allegations. It is also good to note that some of the roads within that particular area are also under the Narok County Council. It may well be that, that road which the hon. Member is talking about falls within that category.

However, on the road in question which is Road C12, there is clearly no contractor from my Ministry and the contractor who will be coming there will do so within the next three weeks and he will specifically be coming to do the works as I have specified before this House.

Mr. ole Lankas: On a point of order, Mr. Deputy Speaker, Sir. I have stated that there is a contractor on site as we speak now. The company is KEMS; this is the contractor who is on site and he has been there for the last two and a half years. So, is the Assistant Minister in order to deny that there is contractor on site on this C12 Road, which is a classified road?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I have not denied. I have categorically said that I will require time to confirm and, therefore, I would neither deny nor confirm until I have the information. I have, therefore, not denied.

Mr. Gabbow: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister said that maybe the road is being constructed by the council. Does it mean that your Ministry does not supervise roads that are being done by the council?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, it is, indeed, true that we have some of the road agencies in the country that include, for example, roads within the national parks that are actually done by the Kenya Wildlife Service (KWS) and we do not supervise them. What we do is to audit once the works have been done. As hon. Members know, about 1 per cent of our resources go directly to the KWS and, also within the county councils, there are certain roads that are earmarked to be developed. This also includes the Local Authority Transfer Fund (LATF) because we give them money directly and the Kenya Roads Boards (KRB) where money is given directly for the maintenance of roads within those specific areas. Therefore, I think I have answered the hon. Member.

Mr. Deputy Speaker: Question No. 2 by Private Notice by hon. Mwathi!

SUBDIVISION OF PLOT NO. LIMURU/NGECHA/T222
BY KIAMBU COUNTY COUNCIL

Mr. Mwathi: Mr. Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Could the Minister provide a copy of the circular dated 16th June, 2010 issued to all Local Authorities directing them to stop allocation of public land to private developers?

(b) Could he state whether land parcel No. Limuru/Ngecha/T222 is a public land and if it is privately owned, could he give the name of the registered owner?

(c) Could the Minister explain why Kiambu County Council is subdividing the said plot and who are the intended beneficiaries?

Mr. Deputy Speaker: The Minister for Local Government is not here?
Question No. 3 by hon. Charles Nyamai!

FUNDS ALLOCATED TO ECONOMIC
STIMULUS PACKAGE IN 2009-2011

(Mr. Nyamai) to ask the Deputy Prime Minister and Minister for Finance:-

(a) How much money was factored in the 2009/2010 and 2010/2011 National Budgets for the Economic Stimulus Package?

b) Is the Minister aware that the implementation of Economic Stimulus Projects has stalled or delayed?

(c) What steps is the Minister taking to ensure that the projects under the package are completed without further delay?

Mr. Deputy Speaker: Hon. Nyamai not here? We will come back to the Question on the second round!

Ordinary Question No. 457 by hon. Hassan Joho!

ORAL ANSWERS TO QUESTIONS

Question No.457

STATUS OF MOMBASA WATER AND SEWERAGE COMPANY BOARD

Mr. Joho is not in? Next Question by Dr. Nuh!

Question No.470

LIST OF LICENSED MINING COMPANIES IN BURA

Dr. Nuh is not in? Question No. 471 by Mr. .James Maina Kamau!

Question No.471

CONSTRUCTION OF KANDARA DISTRICT HEADQUARTERS

Mr. James Maina Kamau asked the Deputy Prime Minister and Minister for Finance:-

(a) to state whether there are funds budgeted for the construction of the Kandara District headquarters in the 2010/2011 Financial Year; and,

(b) when the Government will avail money for the project considering that officers posted in the new district are without offices.

Mr. Njuguna: Mr. Deputy Speaker, Sir, I have a word from the Deputy Prime Minister and Minister for Finance that he is on the way coming to respond to this Question.

Mr. Deputy Speaker: Order! Order, the honorable Member for Lari! Order! You are not a Member of the Government; you are a Back Bencher!

(Laughter)

You cannot authoritatively make an interjection on behalf of a Member of the Cabinet! We will come back to this Question.

Next Question, by hon .Anyanga!

Question No.481

NON-PAYMENT OF HARDSHIP ALLOWANCE TO NYATIKE TEACHERS

Mr. Anyanga asked the Deputy Prime Minister and Minister for Finance -

(a) why teachers and civil servants in Nyatike District which was classified as a hardship area have not been paid their hardship allowances as had been indicated by the Minister of State for Public Service;

(b) whether he could assure the House that these officers will be paid their allowances backdated to July, 2010; and,

(c) how many teachers and civil servants have been earmarked for the allowances in the 2010/2011 Financial Year in Nyatike district.

Mr. Deputy Speaker: Where is the Deputy Prime Minister and Minister for Finance?

Question No. 472 by hon. Isaac Ruto!

Question No. 472

NON-PAYMENT OF DEATH GRATUITY TO
DEPENDANTS OF LATE WILSON CHERUIYOT

Mr. Deputy Speaker: Question No. 474 by hon. Peter Kiilu!

Question No.474

NON-PROVISION OF FUNDS TO NGOTO AIC PRIMARY SCHOOL

Mr. Kiilu asked the Minister for Education:-

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

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

Mr. Deputy Speaker: Where is the Minister for Education?

Mr. Gabbow: On a point of order, Mr. Deputy Speaker, Sir. It seems the House cannot transact Business because most of the Ministers and hon. Members who are supposed to ask Questions are not here. Could you kindly make a ruling on this because it is very important that this House transacts Business?

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

Question No. 484

IRREGULAR PROCUREMENT OF HOUSE BY MASENO UNIVERSITY

Dr. Otichilo asked the Minister for Higher Education, Science and Technology -

(a) why the management of Maseno University irregularly procured a house in Kisumu from Mr. Jaswant Singh and Mrs. Harjeet Kaur Sokhi at a cost of Kshs.125 million even when the expenditure was not in the approved budget for the university for the year 2010/2011;

b) to explain why the final payment of Kshs.112,000,000 was paid directly to the vendor and not through their advocate and whether the university will be required to pay the vendor's lawyers separately; and,

(c) whether the property was valued by a competent valuer and what measures the Minister will take against the university management personnel involved in the transaction.

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

(a) Maseno University is operating under the management of an Executive Committee of the University Council approved by the Permanent Secretary due to the delay in the appointment of a new University Council. The Committee approved the purchase of the property in Kisumu Block No. 12/55(Sokhi Villa Property) of Mr. Jaswant Singh and Mrs. Harjeet Kaur Sokhi in Kisumu City, Milimani Area of 0.4181 hectares and this is to be part of the city campus of Maseno University. The purchase was discussed and approved at the tender committee meeting held on 21st May, 2010 and the sale agreement between the purchaser, that is Maseno University and the vendor, Mr. Jaswant Singh and Mrs. Harjeet Kaur Sokhi, was duly executed and signed on 21st June, 2010.

The university needed a property in Kisumu City for future establishment of a campus for the law school, and Sokhi Vila was found to be very ideal. It should also be

noted that the purchase of the property took place in Financial Year 2009/2010, and not in the Financial Year 2010/2011.

(b) The final payment of Kshs112 million was made directly to the vendor following instructions from the vendor's advocate, M/s Ann Amolo & Company Advocates, to the purchaser's advocate, M/s Wasuna & Company Advocates, as follows:-

Account Name: Jaswant Singh and Harjeet Kaur Sokhi

Account No.: 95850100003056;

Bank Code No.: 06;

Bank Name: Bank of Baroda (Kenya) Limited;

Bank Branch: Kisumu;

Branch Code: 005.

(c) The valuation was done by registered firms as follows:-

(i) Western Homes Limited;

(ii) Chrisca Real Estates; and,

(iii) The Ministry of Lands.

The transaction was done within the legal procedures and, therefore, no action can be preferred by the Minister against the university's management personnel who were involved in the transactions.

Mr. Deputy Speaker, Sir, in addition to the answer, I wish to table the following documents:-

(i) Permanent Secretary's letter of authority for the Executive Committee of the University Council to manage the university until a Council is approved;

(ii) council meeting minutes approving purchase of the property;

(iii) minutes of Tender Committee meeting held on 21st May, 2010;

(iv) sale agreement between the vendor and the purchaser duly executed;

(v) instructions from the vendor's advocate for the direct remittance of the final payments to the vendor's account; and,

(vi) valuation reports and certificates of registered valuers in Kisumu.

(Mr. Kamama laid the documents on the Table)

Mr. Deputy Speaker, Sir, I have also made sure that the hon. Member is aware of the contents of these documents.

Dr. Otichilo: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the comprehensive answer he has given me on this Question. I have looked at the documents he has tabled. I have not had time to interrogate them, but I am partially satisfied. However, I still have a few questions to ask him. I wish to know why the money that was supposed to be paid to the lawyer was paid directly to the vendor. The agreement was that the university would pay the money directly to the lawyer and then the lawyer would remit the money to the vendor. In that regard, I wish to know whether the lawyer's fee was paid from the total sum payable to the vendor or the university paid it directly from its other account. If the latter is the case, then the price of the property increased by 10 per cent.

Mr. Kamama: Mr. Deputy Speaker, Sir, on the first question, I have tabled document number five on the instructions from the vendor's advocate for direct

remittance of the final payment to the vendor's account. So, this was an agreement between the two lawyers, and it was within the legal beacons.

On the last question, I am not aware that the lawyer's fee precipitated an increase of the price of the property by 10 per cent, unless he has a document to prove his allegation. We also want to know whether there was corruption in this issue.

Mr. Deputy Speaker: Mr. Kamama, that is what the Questioner wants to know.

Mr. Kamama: Mr. Deputy Speaker, Sir, to the best of our knowledge, as a Ministry, unless the hon. Member has any information, all the fees and everything was settled by the two lawyers, and the university was in agreement with whatever was paid. So, if the hon. Member has any other information, he may table it.

Mr. Deputy Speaker: Order, Assistant Minister! Is it the Chair's understanding that actually the lawyer's fee was not paid by the university but was paid by the seller?

Mr. Kamama: Mr. Deputy Speaker, Sir, the lawyer's fees was paid by the university. That is the information we have, as a Ministry.

Mr. Deputy Speaker: So, it was from this price!

Dr. Otichilo: Mr. Deputy Speaker, Sir, I wish to table a letter which shows that the university paid the fees for the lawyer when actually it should have been paid by the seller.

(Dr. Otichilo laid the document on the Table)

Mr. Kamama: Mr. Deputy Speaker, Sir, in such transactions, most of the time, the purchaser pays his own lawyer. That is what the university did.

Dr. Otichilo: Mr. Deputy Speaker, Sir, you realise from the Assistant Minister's answer that the university has been operating without the University Council for quite some time now. The university is operating only using the Executive Committee, which consists of only three people. When is the Ministry going to appoint members of the University Council, so that we can be sure that all transactions in the university are done in a transparent manner and that ensures more representation?

Mr. Kamama: Mr. Deputy Speaker, Sir, the hon. Member's question is valid. I want to brief the House that, as a Ministry, we have executed our mandate by recommending the names of the persons who are supposed to be appointed by the Office of the President. We are waiting for a feedback from the Office of the President. We are still going to remind them to try and fast-track this issue. Our job is to recommend and wait for a feedback.

Mr. Deputy Speaker: Order, Assistant Minister! That is an internal matter within the Government. You are a Government Minister. So, in the spirit of collective responsibility, you are supposed to give an adequate answer to the House. As Government, you should sort out your affairs privately amongst yourselves, but you cannot engage Members of Parliament in a run-around here. That is not acceptable. So, what do you have to say?

Mr. Kamama: Mr. Deputy Speaker, Sir, we will remind the other Ministry to do what it is supposed to do. However, as the Ministry of Higher Education, Science and Technology, we have done what is required of us within the procedures in Government. So, we will remind the other Ministry to do what it is supposed to do.

Mr. Deputy Speaker: It is the presumption of the Chair that “reminding” means “executing” and that you accept collective responsibility. Is that the position, Assistant Minister?

Mr. Kamama: Mr. Deputy Speaker, Sir, the position is that we will fast-track the appointment of the University Council.

Mr. Deputy Speaker: Very well! Question No.2 by Private Notice; hon. Mwathi!

QUESTIONS BY PRIVATE NOTICE

SUBDIVISION OF PLOT NO. LIMURU/NGECHA/T222 BY KIAMBU COUNTY COUNCIL

Mr. Mwathi: Mr. Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Could the Minister provide a copy of the circular dated 16th June, 2010 issued to all Local Authorities directing them to stop allocation of public land to private developers?

(b) Could the Minister state whether land parcel No. Limuru/Ngecha/T222 is public land, and if it is privately owned, could he give the name of the registered owner?

(c) Could the Minister explain why Kiambu County Council is subdividing the said plot, and state who the intended beneficiaries are?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai):

Mr. Deputy Speaker, Sir, let me, first of all, apologise. I was not here when the Question was first asked. I only got this Question early this morning because it is by Private Notice but I am ready to reply.

Mr. Deputy Speaker: Proceed!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Deputy Speaker, Sir, I beg to reply:-

(a) I hereby table Circular No.16210 as requested by the hon. Member.

(Mr. Nguyai laid the document on the Table)

(b) Yes, it is true that the land parcel No.Limuru/Ngecha C222 is registered in the name of the County Council of Kiambu and is reserved for a cattle dip, Central Farmers cattle dip.

(c) As for the certificate of the official search at the Ministry of Lands, Land parcel Limuru/Ngecha C222 is reserved for a cattle dip and the council has been directed not to subdivide it.

Mr. Mwathi: Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for giving that comprehensive answer. But at the same time, I wish to inform him that the Kiambu County Council has sent their personnel to the ground and they have gone ahead to demarcate the same piece of land into several plots. Since it has happened before in Limuru, I want the Assistant Minister to give an undertaking in this House that, that plot is going to be left intact for public use.

Mr. Nguyai: Thank you, Mr. Deputy Speaker, Sir. First and foremost, I would want to assure the hon. Member and in conformity with the new Constitution that we will not allow in any way any sub subdivision of any land and demarcation and allocation without following the due process. That due process includes getting authority from the Ministry. For that reason, I would want to assure him that the cattle dip is secure and it will not be allocated.

Mr. Imanyara: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister says that, and indeed he has tabled the circular to all local authorities in Kenya. Could he tell us how many councils have effected the contents of that letter in terms of actually stopping the allocations and what he has done regarding public properties within the local authorities that had been illegally allocated to private developers before the date of the circular?

Mr. Nguyai: First and foremost, we issued a circular and it would probably be a substantive question that we could probably need to monitor how many councils have actually heeded to that circular. But further to that, and I am sure it is in the public domain, is that there is a process that has been effected and we will continue to follow it while we are redeeming properties that had been illegally allocated and within the conforms of even the new Constitution, we will continue to ensure that public property is protected.

Mr. Mwathi: Thank you, Mr. Deputy Speaker, Sir. In the same Limuru Constituency, we have the Municipal Council of Limuru. I am aware that they are also trying to subdivide public land in the name of a stadium and they seem not to have this circular. Could he tell this House what action he intends to take against those chief officers who are going against this circular if, indeed, they have received it?

Mr. Nguyai: I would urge the hon. Member to give me the specific details, either by coming to the office or giving me a written letter so that I can follow it up to ensure that the right thing is done as far as that issue is concerned.

Mr. Mwathi: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister seems not to have got the question. The question was: "What action are you going to take against chief officers who are going against this circular if indeed you have issued it?" Is he in order not to answer that question the way it is?

Mr. Deputy Speaker: Hon. Assistant Minister, it is the presumption of the Chair when you issue that circular from the headquarters, it does not have to take ages or years to get to all the councils in this country.

Mr. Nguyai: Mr. Deputy Speaker, Sir, I clearly heard the hon. Member talk about a stadium being allocated and I specifically told him to give me the specifics of that stadium so that I can get down to the issues and then take appropriate disciplinary against the officers, if they have done that. But I wanted the specifics so that I can deal with the specific issues.

Mr. Mwathi: On a point of order, Mr. Deputy Speaker, Sir I am very clear in the question. I gave a foundation and stated to the continuous perpetuation illegal subdivision of land. It is being done from Kiambu County Council and now in Limuru Municipal Council. I was just laying the foundation and telling him that if he has issued the circular, the same officers are indeed going against that circular. What action will he take against those who are going against the circular? The issue of the stadium may come later. That was my question. Is he in order to avoid answering the question?

Mr. Nguyai: Mr. Deputy Speaker, Sir I think the hon. Member was giving an example and he wanted a general answer to that issue. I can give the general answer and say this very clearly, that we will do an audit, specifically to the two councils we have talked about and we will find time and find out if there has been any impropriety in as far as land issue is concerned and then we will take an appropriate action.

Mr. Deputy Speaker: The Chair notes that this circular was written in June and we are towards the end of October. Under normal circumstances, the Assistant Minister should be very categorical and say that no, there is nothing that is being allocated because that is the law. But if he has to say that he has to find out who is doing what and who is not doing, what is the business of the Government in this case?

Mr. Nguyai: Thank you, Mr. Deputy Speaker, Sir. As you are aware there is the law and even as far as general criminal law is concerned, we have law against such criminal acts. If they are committed, then we take punitive measures as they go on. That is why I have said specifically that we issued a circular. Because we issued that circular, we will then do the necessary investigations and if we find that somebody has broken the law, we will take appropriate action.

Mr. Deputy Speaker: Fair enough! The Chair makes an assumption that in due course, you will be able to come back and report to the House on the same, so that the public also sees that the Government is not only saying it is going to work but it is seen to work. When are you going to report back to the House on the same?

Mr. Nguyai: Mr. Deputy Speaker, Sir, I would want to give the absolute confidence to the public that as far as the Office of the Deputy Prime Minister and Ministry of Local Government is concerned, we will do everything and we will then do an appropriate audit. I want you to give me two months to say that such action has been taken, taking into consideration that we have 175 local authorities that we are dealing with.

Mr. Deputy Speaker: Fair enough! In two months time, report back to the House.

Next Question by Private Notice, the hon. Nyamai!

Mr. Deputy Speaker: Mr. Nyamai not there? Is the hon. Nyamai by any chance out of the country or in the country on official Parliamentary business? Unless the hon. Member has delegated a fellow hon. Member to ask the Question on his behalf--- Yes, hon. Imanyara!

Mr. Imanyara: Mr. Deputy Speaker, Sir, given the importance of this issue, the policy implications, would the Minister kindly consider giving this answer in form of a Ministerial Statement at the end of Question Time? It is just a plea, the Minister seems so prepared.

Mr. Deputy Speaker: Who is taking the Ministerial Statement? That is entirely on the Government Side. The Government can come and issue a Ministerial Statement without necessarily having it being sought by anybody. So if the Minister wishes, because of the interest generated on this matter in the country, he or she can issue a Ministerial Statement.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I beg your indulgence to ask this Question on behalf of Mr. Nyamai.

Mr. Deputy Speaker: Order! Has Mr. Nyamai delegated you to do that?

Mr. K. Kilonzo: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: And how come all this time when we were asking for Mr. Nyamai you never stood up?

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I was consulting with the Minister for the answer.

Mr. Deputy Speaker: Order! This is the second time the Chair has called for Mr. Nyamai!

Mr. K. Kilonzo: I agree, Mr. Deputy Speaker, Sir. I apologize. Allow me!

Mr. Deputy Speaker: You have been delegated by Mr. Nyamai?

Mr. K. Kilonzo: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, thank you for your usual indulgence to hon. Members and Kenyans.

FUNDS ALLOCATED TO ECONOMIC
STIMULUS PACKAGE IN 2009-2011

Mr. K. Kilonzo, on behalf of **Mr. Nyamai**, asked the Deputy Prime Minister and Minister for Finance, the following Question by Private Notice.

(a) How much money was factored in the 2009/2010 and 2010/2011 national budgets for the Economic Stimulus Package?

(b) Is the Minister aware that the implementation of Economic Stimulus Projects has stalled or delayed?

(c) What steps is the Minister taking to ensure that projects under the package are completed without any further delay?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The total budget for the ESP for the 2009/2010 Financial Year was Kshs22 billion and in the 2010/2011 Financial Year, an additional allocation of Kshs24.7 billion was made in the Budget under the Economic Recovery and Poverty Alleviation and Regional Development Programme.

(b) I am aware that there are some delays in the implementation of ESP. That has been occasioned by a number of factors, among them land issues, National Environment Management Agency (NEMA) issues and delay in the re-vote of the amounts of the previous year.

(c) The issues that have led to the delay are being addressed by the implementing Ministries and the Treasury shall continue to play its role of facilitating the implementation of the ESP, including resource allocation, with a view to ensure that the projects under that package are fully implemented.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, the answer from the Minister amounts to a statement without tangible action. Could he tell us when the money is going to be set aside to complete those projects? That is because they have now become white elephants in the constituencies all over the country? When is he going to give priority to those ESP projects?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, as we stand now, we have already had meetings with the various line Ministries that are involved. We are also meeting with the Constituencies Development Fund (CDF) Committee. We started our meetings on

Monday and Mr. Nyamai is a member of that Committee. I believe we are making tremendous progress because even the funds that had been delayed as a result of re-voting, the line Ministries have now the authority to expend those resources and we are, indeed, well underway. The issues relating to NEMA have also been resolved and so I believe that we are now well underway with the continuation and implementation of those particular projects in various parts of the country.

Mr. Imanyara: Mr. Deputy Speaker, Sir, I appreciate the fact that the Minister just facilitates, and the line Ministries are, in fact, the implementing agencies with regard to ESP. As the facilitator and the person providing the funds, is he satisfied that the line Ministries are giving out that money fairly and, specifically, with regard to the markets where the Ministry concerned had identified only 40 constituencies and disbursed funds?

(Applause)

It did not provide funding to many other constituencies including mine. At Kibirichia Market, there is no problem of land or NEMA issues. We pointed out where the money should go but, up to now, that money has not been released. What steps is the Minister taking to ensure that the line Ministries, in fact, take steps to ensure that the policy framework that is so well set out in the Minister's answer is actually implemented, and implemented within the financial year? Since the package began, we are on the second year and some areas, including my own, have not seen the benefit of that through no fault of our own. What steps is he taking?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, indeed, as I indicated, there were some original teething problems which I think hon. Members are aware of. We were developing the framework from the very beginning. So, as I even indicated in my Budget Speech, there were delays before we could start the programme. However, that said and done, we are co-ordinating with line Ministries and I am happy to say that even as we met with the Departmental Committee that is supervising that particular project, the Ministry of Education, Ministry of Fisheries Development and the Ministry of Public Health and Sanitation are reporting good progress in terms of implementing their particular components of the programme. Indeed, the issues of delays, especially with regard to the Ministry of Local Government, were raised. These are issues that we are addressing together with the Ministry of Local Government in the hope of expediting and ensuring that the programme is implemented in the shortest possible time. So, I acknowledge that there are problems. But those are the problems that we are dealing with and co-ordinating with the line Ministries.

Mr. Mbadi: Mr. Deputy Speaker, Sir, what steps is the Ministry of Finance, being the co-ordinating Ministry and the one that is charged with the responsibility of financial management, taking to ensure that funds for ESP are not embezzled given that there are a lot of issues surrounding the projects which have started? For example, if you compare the estimates that have been given for the construction of classrooms with how much we spend in our constituencies for constructing the same from the CDF, the difference is just too much. What is the Ministry doing to ensure that the money is not embezzled because there are high chances that there is going to be embezzlement?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, that, again, is an issue that has been raised by the Departmental Committee and this is an issue that has to do with the bill of

quantities that are produced by the Ministry of Public Works. In some instances, there are some contradictions between the amounts that are paid per classroom, for example, under the CDF and the bills of quantities that are produced by the Ministry of Public Works. That is an issue that is being dealt with and handled by the Ministry of Public Works. We acknowledge that there is that difference and, indeed, even in the Departmental Committee, it is an issue that has been addressed and the Ministry of Public Works has been asked to re-look at their costings in order to make them more or less in line with other activities that are going on that do not necessarily use the public works system. So, I acknowledge that there is that variation and the Ministry of Public Works has been told to look into their own costings in order to make them more or less in line with other projects that are being developed under the CDF. So, that issue is being handled.

Mr. Joho: Bw. Naibu Spika, ningependa Waziri aeleze ni mfumo gani atakaotumia hususan katika ujenzi wa hospitali katika maeneo ambayo yamekosa. Natambua eneo ninalowakilisha la Kisauni kama mojawapo wa sehemu zilizokosa, licha ya kuwa na watu wengi zaidi katika Wilaya ya Mombasa. Kisauni imewekwa kando. Kwa hivyo, ni mfumo gani ama ni kipimo kipi Waziri alitumia kufanya hivyo. Atafanya nini kurekebisha hali hiyo na kuhakikisha kwamba wale Wakenya wanaoishi maeneo hayo pia wanastahili kupata hio huduma?

Mr. Kenyatta: Bw. Naibu Spika, mfumo ambao tulitumia ni mfumo ambao ulikuwa unalenga kuhakikisha ya kwamba, haswa, upande wa afya ya umma, hospitali zitajengwa katika maeneo ya rural areas.

(Laughter)

Najua kulikuwa na shida---

Mr. Mwadeghu: Jambo la nidhamu, Bw. Naibu Spika. Hakuna neno la Kiswahili linaloitwa “rural areas”. Linaitwa “mashinani”.

Mr. Deputy Speaker: Mhe. Waziri huwezi ukachanganya lugha. Kwa hivyo, jaribu kuzungumza katika lugha ya Kiswahili.

Mr. Kenyatta: Nashukuru. Tuna mipango ya kuhakikisha kwamba tumejenga hospitali kubwa katika miji yetu mikubwa ili huo mpango ukiingia uwe wa kufaidi miji mikubwa kama Mombasa, Nairobi, Kisumu na kwingineko. Kwa hivyo, huu mradi ulikuwa wa kusaidia kwa kujenga hospitali katika maeneo ya mashinani. Huo ndio utaratibu ambao tulitumia.

Mr. Joho: Jambo la nidhamu. Ningependa kumfahamisha Waziri kama hajui, achukue muda atembelee eneo la Kisauni. Robo ya Kisauni iko katika mji wa Mombasa. Asilimia kubwa iko katika mashinani, ambako ni mashambani zaidi kuliko hata kwingine. Kama hajui, kuna mahali kunaitwa Mwakirunge, Kashani na Bombo ambako ni mbali sana na ni mashambani. Kwa hivyo, ningependa kujua kama anaweza kuhakikisha kuwa watu wa mashinani huko Kisauni wanapata hii hospitali.

Mr. Kenyatta: Nataka kumhakikishia Mbunge wa Kisauni kwamba tutahakikisha tumetembea katika eneo ambalo ametaja tukiwa pamoja na Waziri ambaye anahusika na jambo hilo. Tutahakikisha kwamba tutakuwa na mradi kama huu katika eneo la Kisauni.

Mr. Chepkitony: Mr. Deputy Speaker, Sir, since these projects have been delayed, I want to know from the Minister whether he has released any funds in this

quota, and if so, how much, for the Economic Stimulus Package; in particular, how much has gone to the fresh produce market, because it is very behind.

Mr. Kenyatta: Mr. Deputy Speaker, Sir, I do not have the exact details but, as I said, all the amounts that were in the last financial year have been re-voted. Ministries have confirmed that they now have the authority to start expending those resources. As of Monday, when we had our consultative meeting with all line Ministries and the relevant departmental committee there was confirmation that they have began the process of releasing those funds to ensure that the projects are ongoing. So, I do not have the exact figure with me, but I can furnish the hon. Member with the information.

Mr. Njuguna: Mr. Deputy Speaker, Sir, while I do thank the Deputy Prime Minister and Minister for Finance for having these funds re-voted I would request him to indicate to this House the meticulous steps he has taken to guarantee that the re-voted funds will not go back to the Treasury until the intended projects in the constituencies have been accomplished.

Mr. Kenyatta: Mr. Deputy Speaker, Sir, the intention of re-voting was to ensure that Ministries are allowed to retain that money in order for this particular programme to be complete. So, I can assure the hon. Member that these funds are with the Ministries; we have no intention of claiming back those funds back to the Treasury because they were set aside specifically for these particular projects.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House that re-voting money means that the Ministries retained money rather than getting allocations?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, I am not misleading the House. What I said was that the re-voted amounts are amounts allocated to ensure that those programmes continue. I was basically trying to say that we have no intention of retaining those funds. Those funds will be made available to the line Ministries to ensure that these projects are complete.

Mr. Mwathi: Mr. Deputy Speaker, Sir, I also wish to take this chance to thank the Deputy Prime Minister and Minister for Finance for the good answer. I know there is an exercise known as “monitoring and evaluation”, and that you must check whether we are getting value for money all over. Some of the projects have started others have not, and we have various challenges. Is he getting these reports, and when does he intend to make this public so that we can share the information with Ministries?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, indeed, there is that component and we are in the process of ensuring that we do conduct that particular evaluation. In many areas, we have had good reports especially from a number of Ministries like the Ministry of Fisheries Development, the Ministry of Education, the recruitment of teachers and nurses, and the public health institutions that are being built. Ultimately, when these projects are completed in various parts of the country, we intend to produce a report to show the full impact of this particular programme. That report will be brought before this House.

Mr. Baiya: Mr. Deputy Speaker, Sir, given that the Ministry came up with a very clear implementation framework, indicating the various roles of the various line Ministries as well as the local leadership, and providing for checks and balances, is the Minister aware that the implementation and monitoring framework has gradually been disregarded, particularly by line Ministries? In particular, the Ministry for Public Works

has done so; as a result of this the local leadership is actually in the dark as to what they are doing, This is meant to ensure that they escape scrutiny and monitoring. What will the Minister do about this to ensure that they respect the implementation framework that was suggested by the Treasury?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, the reason we came up with that framework was because we wanted the involvement of local leaders, especially in the process of identifying areas where these projects were to be built. We wanted monitoring of the tendering and awarding process so as to bring greater accountability at the grassroots level. If the hon. Member does have information which would be useful to us that there are Ministries that are not abiding by this particular framework, I would like him to furnish me with that information and I will definitely take action against those who are not abiding by the framework that we have agreed on.

Dr. Eseli: Deputy Speaker, Sir, I would like to thank the Deputy Prime Minister and Minister for Finance for that answer. I would like to know, at the time of presentation of the Budget for 2010/2011, in the Kshs27.4 billion allocated there was a substantial amount of money for ambulances, which, apparently, were supposed to be leased. Could he inform this House which companies these vehicles are being leased from? Knowing that ambulances are not vehicles but medical tools, is it prudent to lease or to buy them?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, the issue that the hon. Member is raising is part of an overall Government programme where we are trying to move from outright purchasing to leasing. The framework is being developed. This framework is for leasing not only ambulances, but also other Government vehicles. The idea was to, first and foremost, try to reduce the cost of operating vehicles in various Ministries, while at the same time being able to extend services. Once the framework is ready, we will begin the process of leasing. So, no company has been identified at all.

Dr. Eseli: Mr. Deputy Speaker, Sir, this is about ambulances. Ambulances are not just vehicles; these are medical tools. How do you lease a medical tool? Could you change that and, instead, reduce the number of ambulances and purchase them?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, as I have said, this is part of an overall Government programme in terms of shifting the manner in which we provide transport services for the Government. We are developing that framework which will include ambulances as well. The framework is being prepared and the idea is for us to be able to have as many vehicles as possible within the resources that we have. If we were to go on and possibly say that we are going to purchase these vehicles, the amount available would probably not allow every constituency to be provided, which is the ultimate objective that we had. So, I will request the hon. Member to bear with us as we prepare that framework. I do believe that it is a framework that, ultimately, will be beneficial to the people of this Republic and improve service delivery in this country.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Finance for a clear demonstration that the Ministry is committed to ensuring that these projects are completed. My appeal to him is that some of these projects have stalled. For example, in my constituency, Mutito, the dispensaries have stalled just because money has not been allocated. Could he ensure that money is speeded up this last quota, so that these projects can be completed?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, I want to thank the hon. Member and assure him that it is the intention of the Ministry of Finance and, indeed, the Government

as a whole, to ensure that these projects are fast-tracked and completed within this particular fiscal year. I take note of the delays and do apologize. But the issues revolving around the delay are being tackled and handled and we are sure that we will be able to complete these projects as was originally envisioned.

ORAL ANSWER TO QUESTION

Question No.457

STATUS OF MOMBASA WATER AND SEWERAGE COMPANY BOARD

Mr. Joho asked the Minister for Water and Irrigation:-

- (a) whether she could provide details on the status of the Mombasa Water and Sewerage Company Board; and,
- (b) when she will constitute a functional board.

Mr. Deputy Speaker: Order, hon. Joho! You were not here when your Question was called. Proceed and apologize!

Mr. Joho: Mr. Deputy Speaker, Sir, I apologize. It was due to heavy traffic.

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

(a) The Board of Mombasa Water and Sewerage Company has so far not been constituted. The reason for this is that my Ministry is consulting with key stakeholders in Mombasa with a view to coming to an agreement on which institutions and individuals will be appointed to the Board. My Ministry is of the view that only reputable qualified persons should sit in this Board. In the meantime, my Ministry will continue to manage water services in Mombasa, in line with the Water Act of 2002. So far, there has been remarkable improvement in areas where there has been no water in the last ten years.

(b) I will reconstitute the Board once the leadership and stakeholders agree on membership, which should not exceed nine Members. I will, however, provide oversight on the process, so that it is transparent and successfully concluded as soon as possible.

Mr. Joho: Mr. Deputy Speaker, Sir, the Water Act of 2002 is very clear. There is nowhere in that Act that says the Minister needs to consult to form a water company board. Mombasa is a very important town. This board was dissolved five years ago. Does it mean that the Minister has been consulting for the last five years to form the Board?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I have not been consulting for the last five years. But with the Water Act, we also have the Water Services Regulatory Board that gazetted the governance guidelines in the year 2009, under Section 47 of the Water Act to ensure that all stakeholders are invited.

Mr. Deputy Speaker, Sir, I want to remind the hon. Member that twice, I have tried to go there to make the stakeholders agree and, indeed, they have almost run me out of town, the hon. Member included. So, I would like him to know that he has been actually part of the problem.

Mr. Joho: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House that we have made it difficult for her to appoint the board, yet hon. Kajembe, hon. Mwahima and I consulted and wrote to her on the proposed names of the members to sit in that board? Is she in order to mislead the House?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I do appreciate that, yes, there were consultations between those three hon. Members, but the hon. Member has also forgotten to name a Minister who should also have been in the meeting. So, you can imagine how difficult it has been. However, I accept the challenge and I am going to ensure that I can sit down with all the stakeholders. May I remind the hon. Member that there are other stakeholders in the water sector and not just the hon. Members.

Dr. Nuh: Mr. Deputy Speaker, Sir, it is unfortunate if this board has been out of place for the last five years. Even if the Minister was not consulting for five years, I am quite sure she has been consulting for a year now. But this is about timelines because we cannot operate in a vacuum and the Ministry cannot purport to be conducting the same business and oversighting on its own role. So, it is about timelines. When will the Minister ensure that this board is in place?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, as I said, the first thing that I am doing is to ensure that we really get all the stakeholders to agree. This is because by failing to do so, it will mean that Mombasa residents will not get water services that are very important to them, as has happened in the past, until my Ministry took over and actually had to do the work that the water service provider is supposed to do. So, the first important thing to do is to ensure that Mombasa residents have got water and that there are no other interests. If you come into the board, you must serve to give value to the work that you are doing, but not do your own other interests.

Mr. Outa: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to try to avoid the question? The hon. Members have asked her to give us the timeline. She cannot just avoid that question when the people of Mombasa need water.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I was there twice in 2007 and I will go there again. The hon. Member knows that I have been consulting. In fact, I cannot say these consultations will end by the next one month or two months. It is until I sit down with them and agree on who we put in the board. I cannot do it alone.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I think we have rules and regulations and even consultations are time bound. The Ministry has got a timeframe. I am very sure they must even have a masterplan for consultation. So, the Minister cannot say that it is an open-ended consultation. Maybe these consultations will go on until 2012. What happens if they fail to agree? She has to be very categorical as to how many months or years she needs to consult all the members or stakeholders for us to be able to put in place a board of management.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the hon. Member understands it very well in the sense that if Mombasa Water and Sewerage Company does agree or the stakeholders do not agree, the Minister has powers from the Act to form another water agent and then I can decide on who to put there. So, this can be done. I will give it another trial; maybe, in the next two months. If it does not work, then by January, I should be able to put in place a board.

Mr. Joho: Mr. Deputy Speaker, Sir, the Act is very clear. It is very clear in the sense that if such a situation arises, where the Minister has to intervene, it should be for a specific period of time and with a clear reason. Currently, the ownership of that company is under the Mombasa Municipal Council. The Minister needs to come out very clearly on this. Who does she need to consult? We, the people of Mombasa, can ensure that we

come together and consult with her. We already have a functioning Board for Mombasa Water and Sewerage Company.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, it is true that this company is a semi-Government institution owned by the Municipal Council of Mombasa. But it has to enter into agreement with the Coast Water Services Board, which is under the Ministry of Water.

So, this is Mombasa Municipal Council and the Coast Water Services Board. This two must agree. If they do not agree then the Minister can invoke the Act and put in place another water company. That is what it is.

Mr. Joho: On a point of order, Mr. Deputy Speaker, Sir. I asked a specific question. Who does the Minister want to consult so that we facilitate as people of Mombasa for ease of consultation, so that we have this Board in place? I am aware the Mombasa Water Company belongs to the Mombasa Municipality. Therefore, the Mombasa Municipality should be the one to be consulted and form a board.

Mr. Deputy Speaker: Minister, who are the stakeholders.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, first and foremost, the major stakeholder is the Coast Water Services Board. It is under the Ministry of Water and Irrigation. The Municipal Council of Mombasa is a semi-Government institution that has got to work closely with the Coast Water Services Board. This is because we put resources in all these boards. Therefore, they cannot claim to be absolutely private company---

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House? I worked in the privatisation of these boards and it was agreed that assets of every water company are held by the City authorities in trust for the residents of that area. As such, 95 per cent of the major stakeholders are the City Councils of Mombasa, Kisumu and others. Is she in order to say the Water Services Board is the main stakeholder? The Water Services Board was formed, thereafter, to be the intermediary between the City and the stakeholders.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the hon. Member is right in the sense that the Water Services Board must play the role of ensuring the water service providers are actually doing their work. However, when they fail to do their work, then the water service board and the Ministry must take over. So, I do agree with him in that way. The Mombasa Water Company failed in the sense that those who can remember last year, we had chaos in Mombasa because the company was not working until we intervened. We will continue to intervene where the companies are failing. But we will continue to build capacities of these companies. They do not have full capacity, but we will continue to do so.

Mr. Joho: On a point of order, Mr. Deputy Speaker, Sir. Who does the Minister want to consult? This is very important question. The people of Mombasa have been on our case for very long. So, we want to facilitate the Minister's consultations with the people she wants to consult so that she can form this board. So, clearly could she just inform this House who she wants to consult?

Mr. Deputy Speaker: Minister, clearly from the way you have put in your statements here, it looks like the major stakeholder is the Board, which basically comes under your headship and the Municipal Council of Mombasa. Those are the two stakeholders. That is my understanding. Both of them are Government institutions, you should be able to bring them together.

Mrs. Ngilu: No, those are not the only stakeholders. Stakeholders of Mombasa first and foremost are residents. In this particular case, I really think that---

Mr. Deputy Speaker: You cannot go and consult 600,000 residents.

Mrs. Ngilu: No! They have their representatives. If you go to a place like Mombasa, we have women leadership, councillors, Members of Parliament, hotel owners and *et cetera*. They are just too many. However, I will certainly pick a few and ensure that we come to a round table and agree. I have said that between now and January, I should be able to do so.

Mr. Deputy Speaker: Fair enough! Next Question, hon. Dr. Nuh.

Question No.470

LIST OF LICENSED MINING COMPANIES IN BURA

Dr. Nuh asked the Minister for Environment and Mineral Resources:-

(a) whether he could provide a list of companies issued with licences to prospect for gypsum in Nanighi, Bangale and Madogo locations and indicate the ones with mining licence, the respective dates of licensing and also the approved acreage size to mine;

(b) whether he could explain why some mining companies licensed do not comply with the mining law and other regulations; and,

(c) what steps the Ministry is putting in place to ensure that livestock farming, which is the backbone of residents' livelihood, is not adversely affected by the mining and quarrying activities.

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

(a) The following is a list companies with licenses to prospect for gypsum in Nanighi, Bangale and Madogo locations and their respective dates of licensing, including the acreage. I have 18 of them: Amka Ventures Limited, Athi Stores, Fatah Mining and Construction Company Limited, Altwahida Mining Company Limited, Hilaa Mining and Construction Company, Aftin General Trading, Yamata Gypsum, Amka Ventures Limited, Athi River Mining Limited, which has two licenses given in April 2008 and 2009, Coast Quarries Limited, Tula Mining, Gypsum Handlers Limited, Nahid Abdulhamid Esmail, Yamata Gypsum Limited, Adoc Group of Companies, Yamata Gypsum, Adoc Group of Companies Limited, Yamata Gypsum Limited and Adoc Group of Companies. Therein are their acreages and the dates when they were given the licenses.

Mr. Deputy Speaker, Sir, in addition, there are those companies or individuals who have been issued with mining licenses. Those who have mining licenses for clarity are four: Athi River Stores with 4.5 square kilometers in Nanighi, Amka Ventures with one kilometer squared in Nanighi, Thomas Nzioki Nzuma and Family one square kilometer in Nanighi and Yamata Gypsum Limited two square kilometers and Pangani.

(b) Mr. Deputy Speaker, Sir, my Ministry has noted that there are some individuals and companies who are carrying out prospecting and mining activities without licenses. There are also companies who are using prospecting licenses to carry

out mining activities, which is against the law as stipulated in the Mining Act Cap 306 of the laws of Kenya. In view of this, on 1st October, 2010, my Ministry issued a directive to all District Commissioners and Officers in Charge of Police Divisions (OCPDs) to investigate and arrest anyone found to be prospecting and/or mining without relevant licenses. A list of licenses was provided to the relevant law enforcement agencies to guide the crackdown on the illegal operations.

(c) My Ministry requires that an Environmental Impact Assessment (EIA) study is undertaken prior to commencement of any mining activities. The EIAs are meant to put in place environmental management plans for mitigation against negative impacts such as land degradation. In addition, my Ministry requires that rehabilitation of exhausted mines is carried out to restore such areas in accordance with EMCA 1999 provisions and Section 35(2)(a) of the Mining Act Cap.306 of the Laws of Kenya. These measures are aimed at ensuring that other activities which sustain livelihoods such as livestock farming are not adversely affected.

Dr. Nuh: Mr. Deputy Speaker, Sir, how I wish the Assistant Minister would table the results of the EIA she is alluding to. One thing I know for sure is that the livestock sector has suffered immensely in my constituency because of the quarrying and mining activities. Because we are talking about livelihoods, what is the role of the residents in this saga where companies are allowed to mine and reap benefits while the residents suffer because their economic activities are not sustained? How do the residents come in? Where are they consulted?

Prof. Kamar: Mr. Deputy Speaker, Sir, on the results of the EIA, before any mining is done an EIA study is done. Had I been asked that Question, I would have been able to provide a response. It is true the EIA was done. What the hon. Member should be more interested in is how the rehabilitation is done after the mining has taken place. Again, that is covered by law. This is because rehabilitation and reburial of the refuse must be done after mining has taken place.

The residents are supposed to be involved. As I mentioned two weeks ago when I was answering another Question in this House, the new Constitution has better provisions than the law we had previously. The law in operation now, and which we are overhauling as a Ministry, does not allow any benefits to go to the residents. It also does not allow them to take part after a licence has been issued. The only protection the law provides is the environmental protection so that livelihoods like livestock are not affected.

In the revised Mining and Minerals Bill which will be brought before the House very soon, we have actually introduced more benefits to the residents and allowed their participation in deciding where the mining will take place. It is, however, true that the EIAs have taken care of the fact that if an area is a livestock area, we must ensure that we do not destroy the livelihoods of the people. That is taken care of.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Order, hon. Kamama! Order, hon. Poghishio! The hon. Member cannot be heard because there seem to be loud consultations from the hon. Members. Can we all transact the business that has brought us here?

Dr. Monda: Thank you very much, Mr. Deputy Speaker, Sir, for that direction. I have had an opportunity to visit Bura. I saw some of the quarries that are in this Question.

There are several quarries that were excavated many years back. The Assistant Minister has talked about regulations that have been drawn by the Ministry to safeguard the people of Bura and the livestock in that region. What mechanisms has the Ministry put in place to ensure that the laid down regulations are followed and adhered to by the mining companies so that the people of Bura and their livestock do not suffer from accidents?

Prof. Kamar: Mr. Deputy Speaker, Sir, the current law provides that when a mining site is being abandoned--- There is a law that actually gives the procedure for that. There is an announcement that has to be made and gazetted that the place has been abandoned. The procedure of abandonment of a site is such that rehabilitation must follow in order to ensure that the environment is restored. So, there is a law in place to address this.

The enforcement officers are on the ground. In fact, the NEMA is obliged to revisit any issues that touch on areas that have not been rehabilitated to the required standards. However, as I said, the new law will improve on that. There will be a time period within which if you have excavated, you must ensure that rehabilitation is done. Some of those areas will be tightened and I look forward to hon. Members participating vigorously when we bring the Bill before the House.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. It is not about regulations. We know that the rules and regulations are there. The hon. Member was very specific. How do you enforce these regulations? These quarries have been there for the last 14 years and they have been abandoned. Camels, cows, and people fall into these quarries and as a result, break their legs and yet there is no enforcement by the NEMA. If I am given an opportunity, I will lay on the Table the letters I have been writing to the NEMA for the past two years. A Minister in this House even undertook to visit Bura and ensure that these rules are abided by. So, it is about enforcement. How will the Assistant Minister ensure that the regulations are enforced?

Mr. Deputy Speaker: Madam Assistant Minister, how do you enforce the regulations? They are just on paper.

Prof. Kamar: Mr. Deputy Speaker, Sir, enforcement of regulations requires that we use the enforcing agency to do it and we shall do it. I also want to undertake that if a former Minister promised to visit Bura and he did not get there, I will reach there so that we can sit down and investigate this matter. I invite the hon. Member so that we ensure that that is done. This is because our regulations are there for enforcement and we have the enforcing agents. The NEMA has been given the authority to prosecute and we shall prosecute.

Dr. Monda: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to continue evading the question? We have asked about what the Ministry has done, she talks about "we shall". We want to hear what the Ministry has done so far, considering that people and animals have been injured and continue to be injured. What has the Ministry done to stop this problem? The Question was asked earlier and we are repeating it. Should we continue hearing about what will be done in future and yet what ought to be done now is not being done?

Mr. Deputy Speaker: Madam Assistant Minister, you can give a specific undertaking of what you intend to do and how soon.

Prof. Kamar: Mr. Deputy Speaker, Sir, what the Ministry will do is to follow the regulations. The hon. Member for Bura has information but I have not seen it. If I receive

that information I will undertake, although I have I already made an undertaking that I will visit Bura. What I am saying is that we have laws that should be used to solve problems, as the hon. Member is saying. If you have a mining site to which a license has been issued, until we do the abandonment procedure of the site, it remains a mining site. My hope is that this is an area that has been abandoned because if it has not been abandoned then it is in the hands of the licensee. I want to say that if there is any information that the hon. Member has, even before I visit Bura, we can have it and act on it but the procedure of abandonment is very clear. When a site has been abandoned, we go back to the laws of the National Environment and Management Authority (NEMA) to make sure that they do the rehabilitation properly.

Mr. Deputy Speaker: Dr. Otichilo, being an environmentalist, you can ask your supplementary question.

Dr. Otichilo: Mr. Deputy Speaker, Sir, as you have heard, we have the regulations like the EMCA Act and other laws. Could the Assistant Minister tell us whether these laws are being enforced? In that regard, do we have quarries in Bura that have been rehabilitated? In Nairobi, we have very many quarries in Dandora which have been used for mining for many years. We would like to hear from the Assistant Minister whether these quarries which are next to us have been rehabilitated all these years.

Prof. Kamar: Mr. Deputy Speaker, Sir, I will not be able to give the specifics because the details are a bit more than the answer but I will be ready to give more information on what has been rehabilitated. As I said, before any rehabilitation is done, a procedure of abandoning the site is undertaken. So, if for sure these areas have been degazatted or the prospecting licenses have expired, there is a procedure of abandonment and we also have laws that cater for that. So, I cannot give you specific details as to how many quarries have been rehabilitated before I give you the number of the quarries that have been abandoned. For the quarries which have been abandoned in Bura, I can give the details to the hon. Member later on. This is because the procedure is systematic and the law caters for that.

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

Dr. Nuh: Mr. Deputy Speaker, Sir, I understand that the new Constitution gives us more powers as the people of Bura in deciding on our fate. However, the mining companies have been there for very many years and we have not had any net effect or benefit to the residents although the companies have been repeating a lot of profit. What action does the Assistant Minister intend to take to make sure that in line with the new Constitution, it is not only social-corporate responsibility that is obliged of these companies but that it is their constitutional responsibility to plough their profits back to the community?

Prof. Kamar: Mr. Deputy Speaker, Sir, the new Constitution will overhaul the law. At the time when the new Constitution was passed, we had a draft Bill on Mining and Minerals which was in line with improvement of the past but the new Constitution has one very important Section which the hon. Member should know. Section 69(1)(a) says that the benefits accrued from the minerals will be shared equitably between the community, the Government, the prospectors and all. That is the main Section that we will overhaul in the new law. We will ensure that everybody benefits. The old law did not give any mineral to a Kenyan but to the Government. That has completely changed

because of the new Constitution. I want to assure the hon. Member that the Bill that we are working on will take care of the communities in this country like never before.

Mr. Deputy Speaker: Let us move on to Question No.471 by Mr. James Maina Kamau.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, although I have not received a copy of the written answer, I beg to ask Question No.471.

Question No.471

CONSTRUCTION OF KANDARA DISTRICT HEADQUARTERS

Mr. James Maina Kamau asked the Deputy Prime Minister and Minister for Finance:-

(a) whether there are funds budgeted for the construction of Kandara District Headquarters in the 2010/2011 Financial Year; and,

(b) when the Government will avail money for the project considering that officers posted in the new district are without offices.

Mr. Deputy Speaker: Do you wish to proceed with the Question even when you do not have a copy of the written answer because it is an Ordinary Question?

Mr. James Maina Kamau: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Then proceed Mr. Deputy Prime Minister and Minister for Finance.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I apologise for coming late. The hon. Member is correct in what he has said. He has not received a copy of the written answer because this was a Question that required us to consult another Ministry and we are yet to complete that. So, I request for your indulgence to have this Question deferred until we are ready to answer it.

Mr. Deputy Speaker: Deferred to when?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Deputy Speaker, Sir, you can give me another week.

Mr. Deputy Speaker: So, that will be on Wednesday, next week in the morning. Yes Mr. James Maina Kamau.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, while I thank the Deputy Prime Minister and Minister for Finance for what he has said, he should also understand that the people of Kandara have been going through a rough time because it is a new district and we have no offices for our officers. He should speed up the process and make sure that he gives us a good answer. At the same time, he should give us the money to build the district headquarters.

Mr. Deputy Speaker: Mr. Deputy Prime Minister and Minister for Finance, maybe you should give the hon. Member a copy of the written answer for him to be able to interrogate the Question adequately. The Chair directs that the Question appears on the Order Paper on Wednesday next week in the afternoon.

(Question deferred)

Question No.481

NON-PAYMENT OF HARDSHIP ALLOWANCE
TO NYATIKE TEACHERS

Mr. Anyanga asked the Deputy Prime Minister and Minister for Finance:-

(a) to explain why teachers and civil servants in Nyatike District which was classified as a hardship area have not been paid their hardship allowances as had been indicated by the Minister of State for Public Service;

(b) whether he could assure the House that these officers will be paid their allowances backdated to July, 2010; and,

(c) how many teachers and civil servants have been earmarked for the allowances in the 2010/2011 Financial Year in Nyatike District.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Teachers and civil servants in Nyatike District have not been paid their hardship allowance owing to the need for further consultations before the proposal is implemented.

(b) I cannot assure the House that these officers will be paid their allowances back-dated to July, 2010 pending the results of the consultations.

(c) In view of “a” and “b” above, I am not in a position to state the number of teachers and civil servants that have been earmarked for allowances in 2010/2011 Financial Year.

Mr. Anyanga: Mr. Deputy Speaker, Sir, sometime back, the Cabinet approved Kshs3 billion for the same. So far, that money has not been availed to the respective Ministry for the payment of these allowances. Could the Deputy Prime Minister and Minister for Finance confirm to this House when the Government will avail this money so that the civil servants could be paid in time?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, consultations are going on between the Treasury, the Public Service Commission (PSC) and the relevant unions with regard to teachers. Therefore, I am not in a position at this stage, like I said in my answer, to give an answer to this particular situation or a concrete date as to when that will be implemented.

Mr. Pesa: Mr. Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance is talking about consultations but this is a very important issue for the people of Nyatike. Could he give us a timeline within which he expects the consultations to have ended so that he can give an answer to the hon. Member asking this Question?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, I appreciate the concern of the hon. Member but I find it very difficult to give an exact timeline because these are discussions that are ongoing between the two Ministries and also involving some unions. As to exactly when the scheme will be implemented, I am unable to tell.

Mr. Mbadi: Mr. Deputy Speaker, Sir, this survey was conducted in 2005. The teachers and civil servants in the affected districts like Nyatike, Gwassi and Mbita, among others, were promised that they would be paid hardship allowance. The Government even gave the amount of money each was supposed to get with effect from

1st July. Rationally, the civil servants went ahead and even budgeted for that money because it was an assurance from the Ministry. We are now in October and it is now that the Government is turning round to say that there are consultations going on. How did the Government announce or give an assurance about these figures to those affected without consulting appropriately?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, again, I appreciate the question and, indeed, there should have been consultations concluded before actually announcements were made. I want to assure hon. Members that we are trying to speed up this situation because we realize that, indeed, there were these announcements and there is concern out there. We need to resolve this situation as quickly as possible. I want to assure hon. Members that I will see what I can do to ensure that these discussions and consultations are concluded in the shortest possible time so as to ease the suffering of teachers.

Mr. Deputy Speaker: Last supplementary question, Mr. Anyanga!

Mr. Anyanga: Mr. Deputy Speaker, Sir. The Minister has avoided answering part “c” of my question. Could he, please, confirm to this House the number of civil servants and teachers that are expected to benefit from this particular allowance?

Mr. Kenyatta: Mr. Deputy Speaker, Sir, I do not have the exact number with me because those records are actually kept by the Ministry of State for Public Service. So, I think that Question should not be directed at me. What we are looking at is the overall policy. My Ministry does not keep those records.

Mr. Deputy Speaker: Next Question, Mr. Isaac Ruto!

Question No. 472

NON-PAYMENT OF DEATH GRATUITY TO
DEPENDANTS OF LATE WILSON CHERUIYOT

Mr. Deputy Speaker: Is hon. Isaac Ruto out of the Chamber today because of any parliamentary Business, either inside the country or outside the country?

(Question dropped)

The Minister for Education (Prof. Onger): On a point of order, Mr. Deputy Speaker, Sir. In view of the nature of that Question, as a Ministry, we intend to pursue it to its logical conclusion so that the family of the deceased can be compensated.

Mr. Deputy Speaker: You can give that in the form of a Ministerial Statement, even if it takes one line. Just wait until Question Time is over.

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

Mr. Deputy Speaker: That Question is dropped in line with our own rules here! Next Question by hon. Peter Kiilu!

Mr. Kiilu: Thank you, Mr. Deputy Speaker, Sir. This is the second time I will be asking this Question and, so far, the Minister has not supplied me with a written answer.

Mr. Deputy Speaker: Do you wish to ask the Question?

Mr. Kiilu: I wish to pursue it.

Mr. Deputy Speaker: Proceed!

Question No. 474

NON-PROVISION OF FUNDS TO NGOTO
AIC PRIMARY SCHOOL

Mr. Kiilu asked the Minister for Education:-

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

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

The Minister for Education (Prof. Ongeru): Mr. Deputy Speaker, Sir, first of all, I apologize for coming late. I had estimated that the Question would be listed far down the line. One of the reasons why I came late is because when I looked at this Question, I found out that the senior officer who had been detailed to handle this Question had unfortunately lost her daughter and gone for the burial ceremony. We realized this morning that she was the one supposed to have that Question answered. I have already explained this to the hon. Member and if this is with the concurrence of the House, I can answer this Question next week on Wednesday.

Mr. Deputy Speaker: That is fair enough! The Chair already had that information and given the sad situation of the senior officer who is supposed to deal with this Question, the Chair is inclined to have this Question deferred to next week around this time.

Hon. Kiilu, are you happy with that?

Mr. Kiilu: Mr. Deputy Speaker, Sir, I would be happy if the answer can be given next week on Wednesday.

Mr. Deputy Speaker: Indeed, the Question is deferred to next week on Wednesday morning! In the meantime, if the Minister can avail the written answer to the hon. Member so that he can prosecute the Question adequately.

The Minister for Education (Prof. Ongeru): Yes, indeed, Mr. Deputy Speaker, Sir. It is my expectation that by tomorrow, the hon. Member will have a written answer.

Mr. Deputy Speaker: That is fair enough!

(Question deferred)

Next Question by hon. Kutuny!

Question No. 488

BUYING OF MAIZE FROM FARMERS BY NCPB

Mr. Deputy Speaker: Is the hon. Kutuny out of the country or in the country on any parliamentary Business; by any chance attending Committee meetings or other functions?

(Question dropped)

Next Order!

MINISTERIAL STATEMENT

Mr. Deputy Speaker: Honorable Minister for Education, I thought you had intimated to the Chair that you intended to say something about a Question that essentially that could not be asked now in the form of a Statement because the Questioner is not in?

NON-PAYMENT OF DEATH GRATUITY TO DEPENDANTS OF LATE WILSON CHERUIYOT

The Minister for Education (Prof. Ongeru): Yes, Mr. Deputy Speaker, Sir. Indeed, I have been able to look into the nature of the Question that came before my Ministry. It is a very sad story that the Question on the deceased has been torpedoed from one Ministry to another. Originally from the Ministry of Labour, then it came to the Ministry of National Heritage and Culture, then it went to the Office of the Vice President and finally now the entire Department of Adult Education has been transferred to my Ministry.

In view of that, I have studied the case very carefully and I have only seen that we need to generate the last payment slip for October, 1997, to be able to get the Pensions Department in the Ministry of Finance to compute the pension and be able to get the family and particularly the lady to access this money.

Mr. Deputy Speaker, Sir, I, therefore, intend to undertake to be able to generate the payment slip for last October through the records in the other Ministries where this department was housed before, so that we can then expedite the process for this lady to be able to get the proceeds of her late husband's salary.

Thank you.

Mr. Deputy Speaker: That is fair enough!

COMMUNICATION FROM THE CHAIR

DELEGATION FROM TURKISH-KENYA PARLIAMENTARY FRIENDSHIP GROUP IN THE SPEAKER'S ROW

Order, Hon. Members! Before we proceed on to the next Order, the Chair wishes to draw the attention of hon. Members to a visiting delegation from the Turkish Parliament.

This parliamentary Committee comprises hon. Members from the Turkish-Kenya Parliamentary Friendship Group in the Speaker's Gallery. They are headed by the President of that group. I might have a problem in the pronunciation of Turkish names but, nonetheless, I hope you will all bear with me. They are headed by the Dr. Necdet Unuvar. The other hon. Members are Dr. Ali Osman Sali, Dr. Kemalettin Aydin, Mr. Hasan Calis and Prof. Sacid Yildiz.

They are accompanied also by a protocol officer by the name of Buket Nur Ozay. We wish to welcome them to Kenya and to our Parliament and hope that their presence here is also going to be beneficial both to our Kenya National Assembly and also to the Turkish Parliament.

You are welcome. Have a good stay with us.

(Applause)

Next Order!

MOTION

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

Mr. Ogindo: Mr. Deputy Speaker, Sir, under Standing Order No.48, I beg to move the following Motion in an amended form:-

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

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir. I want you to determine whether this Motion is constitutional, under the current Constitution. This country recognises poverty---

Mr. Deputy Speaker: Order, hon. Ganya! Indeed, you can rise on a point of order and question the constitutionality of the Motion itself, but that can only be done after the Question is proposed. So, allow the hon. Member to move his Motion, and for it to be seconded. After the Question is proposed, you can rise on your point of order.

Proceed, hon. Ogindo!

Mr. Ogindo: Mr. Deputy Speaker, Sir, in moving this Motion, I am guided by the newly promulgated Constitution of Kenya. The new Constitution provides for a Revenue Allocation Commission (RAC). It is envisaged that the RAC is going to come up with a formula of distributing revenue in this country. I am also guided by the fact that this country suffered post-election violence in the late 2007 and early 2008. The major issues

then were those of resource allocation and positions. Kenya is today at a very important point in her history. It is important that we seize this opportunity to right all the wrongs that have dogged us before.

I am aware that the CDF came into being in 2003. The reason as to why the CDF was created was so that poverty could be tackled at the constituency level. It is against this background that the CDF Act, 2003, was enacted. Before the CDF was created, in 2003, there was no basis of allocation of resources. For that reason, the CDF money was equally distributed across all the constituencies. In the subsequent years, distribution of CDF resources was based on a survey which was conducted some time earlier, but which was published in 2005. That is the Geographic Dimensions of Well Being in Kenya survey. From that survey, the Central Bureau of Statistics was able to generate poverty indices, which have been used to date. The Kenyan public has become accustomed to this formula.

Mr. Deputy Speaker, Sir, subsequently, in 2005/2006, another survey was carried out. This was the Kenya Integrated Household Budget Survey. The report on this survey was published in 2007. The publication of this survey was met with some outcry. It did appear that a lot of people in this country were shocked at the revelations that the report made. It was from that outcry that this report has continued to be shelved for the past two or three years. The Ministry of Planning, National Development and Vision 20320, according to its report that was tabled here yesterday by the Minister, intends to use this survey.

It is my prayer that the use of this new survey will be an improvement on the older survey. However, it is important that this country seizes this opportunity to once and for all deal with the issue of the formula for resource allocation. The current distribution formula for CDF is that the 75 per cent of the allocation is normally distributed equally across all the constituencies. The remaining 25 per cent is distributed according to poverty indices as weighed against the national poverty index.

Mr. Deputy Speaker, Sir, the new Constitution seeks to devolve much more funds than the old Constitution devolved. It is important that Kenya as a nation seizes this opportunity to once and for all deal with the issue of the formula for resource distribution. In doing so, it would be important for this country as a whole to seize this moment and come up with formula which will ensure that the entire country is equitably resourced. I am under no illusion that there can be a formula which will make resource allocation the same across the country, but it is important that, as patriotic Kenyans, who are mindful of the welfare of the entire country, we are guided by the principle of equity.

It is not in my mind to pick a quarrel on which areas are gaining and which areas are losing, but it is my view that, as a patriotic Kenyan, a formula be established to equitably address the issue of resource allocation. We are aware of data that has been generated in the past. I have no intention of “fighting” statistical data, but in the past we have had reports which displayed certain patterns on poverty levels in the country.

Mr. Deputy Speaker, Sir, previously, the poverty level indices were used for planning purposes, but in recent times the poverty level indices have been used for resource allocation. It is very disturbing that the poverty levels change when they are being used for resource allocation. I am aware that in the event that we operationalize Chapter Eleven of the Constitution, where the RAC is provided for, as a matter of responsibility, the RAC will have to formulate a formula. So, instead of changing this

formula again and again, I think it is important that this country holds its horses and then we get a new formula, which will take us forward in the new constitutional dispensation. It is incomprehensible to understand, for example, how the poverty levels in the larger Kitui County have reduced *vis-à-vis* the poverty levels in Machakos. From that area alone, you are able to see that, indeed, there are issues with the new survey that the Minister of Planning, National Development and Vision 2030 is about to adopt.

The other areas that have shown marked improvement are Nyanza---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! There is loud consultation. The hon. Member has got to be heard in silence.

Proceed, hon. Member.

Mr. Ogindo: Mr. Deputy Speaker, Sir, in Nyanza province, for example, there has been a marked improvement in poverty levels and I must never glorify poverty. We want it tackled. But, generally, as a province, Nyanza has dropped from the poverty level of 63.9 percent to 43 percent. And for poverty levels to drop, it requires certain interventions. The last survey was done in 1997 and the subsequent one was done in 2005/2006. During this period, I was an adult and I have no recollection of the major interventions that could have made these levels to drop that far.

Mr. Deputy Speaker, Sir, the other area that has been drastically affected is in the upper eastern region. In the Upper Eastern region, there is a big drop in poverty levels and yet there are no specific interventions that you can tie to this improvement. It is on this basis that I want to pray this House that they grant a resolution that will grant an opportunity that will allow Kenyans to deal with this formula in a more comprehensive manner.

Mr. Deputy Speaker, Sir, poverty in various areas manifests itself in different ways. For example, when you look at access to health care, you will realize how certain areas are disadvantaged and this is a factor that affects poverty. My reading has it that in Nyanza Province, the average life of a person is 47.7 years while in Central, it is 64 years. That short lifespan is an indication of poverty because how short a person lives is a function of the perils he is exposed to and this is manifested in the distance and the access to health care, it is manifested in access to education, access to infrastructure, access to business opportunities, proximity to decision making organs, among others.

The other factor that I think we need to take into consideration here is that, in the new dispensation we are going to have resources distributed vertically and horizontally. It is necessary that certain factors be taken into cognizance. The factors I would want taken cognizance of in vertical distribution is that the counties are unique, the constituencies are unique. In formulating the distribution formula, we need to take into consideration the demand for resources in each and every constituency. This can be done if we give an opportunity for a more scholarly or statistically sound approach so that a more politically acceptable formula and more philosophically strong formula can be generated.

This requires time and patience---

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. The Member has said he wants a more politically

accepted formula. Is he in order? Can he explain to this House what he means by ‘this House must adapt a more politically correct formula?’

Mr. Ogindo: Mr. Deputy Speaker, Sir, I think that is a point of argument rather than a point of order. Nonetheless, I can give an explanation. As long as a formula is statistically sound, as long as a formula is mathematically right, then it becomes politically acceptable.

I was saying that much more insight needs to be given to this vertical and horizontal distribution of resources. We have also seen that there is going to be an Equalization Fund in the Constitution. All this requires guidelines and formulas that are acceptable, that will withstand the test of time. I know it is impossible to reach perfection but it is important that we start---

(Mr. Kimunya stood up in his place)

Mr. Deputy Speaker: What is your point of order, hon. Minister? Order, hon. Ogindo!

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. I had no intention of interrupting the Mover of this motion but as he continues, it is becoming clear that he is continuously dismissing the survey that was done and saying that it does not reflect the reality without giving any information; and asking for a scientifically conducted study without showing whether that was not scientifically done. Is he in order to continue misleading the House that indeed, the only study that will be scientifically conducted and done is the one he has in mind rather than the one that is officially done and paid for by funds appropriated by this Parliament?

Mr. Ogindo: Thank you, Mr. Deputy Speaker, Sir. I want to thank the Minister for that intervention. I said I have no intentions of dismissing the statistics as captured in the survey. There are challenges which are acknowledged in the Survey Report. Instead of continuing to live with these challenges, I was seeking leave of the House so that this can be dealt with once and for all. In the Report itself, it is said that, “while allocating CDF among constituencies on the basis of the relative numbers of the poor is a pro-poor move, *vis-à-vis* unequal distribution, additional consideration and alternatives should be taken into account in designing an allocating formula.”

Mr. Deputy Speaker, Sir, that is contained in the Report. The Report itself acknowledges the shortcomings and what I am seeking from the House is an opportunity to improve this allocating formula.

[Mr. Deputy Speaker left the Chair]

*(The Temporary Deputy Speaker
(Mr. Abdikadir) took the Chair)*

Today, Kenya is in a unique point in time. We can right the wrongs that we have lived with for a long time. We can also improve on the rights that we have. That is my humble prayer!

Mr. Temporary Deputy Speaker, Sir, I want each and every hon. Member here to be guided by patriotism. It is not my wish to see other areas gain while others lose. It is

my wish to see that every corner of this country is resourced as equitably as possible. My prayer is that we get a formula that will take us from now on so that we do not keep on revising our formulas every now and then. I know that the Ministry of Planning, National Development and Vision 2030 had generated various scenarios of distributing the Constituencies Development Fund (CDF) for this financial year; I am aware of the report that was tabled here by the Assistant Minister for Planning, National Development and Vision 2030. But ahead of that, I know that the Ministry of Planning, National Development and Vision 2030 had generated a scenario which was consistent with what we were doing before, I wish to table one of such scenarios that was generated by the Ministry of Planning, National Development and Vision 2030 and, which, if my prayer is granted, I would like the House to resolve that the Government continues obeying that scenario.

(Mr. Ogindo laid the document on the Table)

That scenario has been designated “Scenario One” by the Ministry of Planning, National Development and Vision 2030.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Ogindo to mislead the House by tabling a document that has not been approved? He is claiming that this document was brought by the Minister for Planning, National Development and Vision 2030. Where has the Minister for Planning, National Development and Vision 2030 signed that document? Look at it Mr. Temporary Deputy Speaker, Sir!

(Applause)

The Temporary Deputy Speaker (Mr. Abdikadir): Order, Mr. Ogindo! Can I have a copy of that document?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I have with me here the document that was tabled by the Minister for Planning, National Development and Vision 2030 yesterday. This is a copy!

(Mr. Ogindo laid the document on the Table)

The Temporary Deputy Speaker (Mr. Abdikadir): Can I have a copy?

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. My argument is the scenarios and not the one of yesterday.

The Temporary Deputy Speaker (Mr. Abdikadir): Hold on, Mr. Ethuro!

Mr. Ogindo: Hold your horses, Mr. Ethuro! Mr. Temporary Deputy Speaker, Sir, protect me!

The Temporary Deputy Speaker (Mr. Abdikadir): Order, hon. Members! If you are dealing with the document that was laid on the Table yesterday, I do not think you need to lay it again for a second time. If it is something else, let us have a look at it. But that was already laid on the Table.

Mr. Ethuro, if we are talking about the document that was laid by the Assistant Minister for Planning, National Development and Vision 2030, that is a document that was already laid on the Table yesterday.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have no problem with the document that was laid on the Table by the Assistant Minister for Planning, National Development and Vision 2030 yesterday. The document I am disputing was the one Mr. Ogindo has laid now, talking about scenarios. I am questioning the validity and authenticity of that document!

(Applause)

The Temporary Deputy Speaker (Mr. Abdikadir): Mr. Ogindo, if it is not the document that was laid by the Assistant Minister for Planning, National Development and Vision 2030 yesterday--- If you are laying another document, that will be your document. It will not be the Minister's document. The Minister has to lay his own documents himself. So, refer to your documents and refer to the Minister's documents only in as far as it is the document that was tabled yesterday.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, what I have laid here is what the Assistant Minister for Planning, National Development and Vision 2030 laid yesterday. But my prayer in my Motion is such that the Ministry continues to use what it has used before. In doing that---

The Temporary Deputy Speaker (Mr. Abdikadir): Your time is up!

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, in doing that, I beg to move.

The Temporary Deputy Speaker (Mr. Abdikadir): Who is seconding?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I want to ask Mr. ole Metito to second.

The Temporary Deputy Speaker (Mr. Abdikadir): Go ahead!

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I stand to second this Motion. I want to just make some points very clear. The purpose of CDF, when it was created by this House in 2003, was to take development down to the grassroots. It was also meant to do that in a very fair way.

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

[Mr. Deputy Speaker resumed the Chair]

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to put it on record that the Assistant Minister who is seconding this Motion is doing it in his personal capacity and not as a Member of the Government.

(Applause)

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Deputy Speaker, Sir, I want to put it very clear that any hon. Member can second a Private Member's Motion.

(Applause)

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. This is Wednesday Morning and it is set aside for Private Members' Motions. Is it really in order for an Assistant Minister to second the Motion? I appreciate that he may contribute but, is it in order? Now it changes the circumstances! Is it a Private Member's business or is it Government business? We need your direction!

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Deputy Speaker, Sir, I want to put it very clearly that I am not the official Government Responder. I am seconding it as the Member of Parliament for Loitokitok.

(Applause)

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Deputy Speaker, Sir. We need to protect the integrity of this House and we need to follow the laid down regulations as per the Standing Orders. It is a Wednesday Morning. The Motions that are coming before this House are generated by the Backbench and we expect that, at this time, the Mover and the Seconder as per the Standing Orders should be from the Backbench. But Members of the Government can contribute in their own capacities as Members of their respective constituencies.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. When we stand on points of order, it is also important for us to quote the Standing Orders that have been violated. Could Mr. Duale cite which Standing Order bars the Assistant Minister from seconding a Motion moved by a Member of Parliament?

(Maj-Gen. Nkaisserry and Mr. Outa consulted loudly)

Mr. Deputy Speaker: Order, hon. Members! Order, Maj-Gen. Nkaisserry and Mr. Outa! Hon. Members, I must admit it is fairly tricky but, nonetheless, my own experience, traditions and practices of the House dictate that a Minister can contribute to a Private Members' Motion on a Wednesday Morning. But it has never been the practice of this House for a Minister or somebody from the Government side to either move or second a Private Member's Motion on the Floor of the House. Under the circumstances I rule that Mr. ole Metito cannot second this Motion!

(Applause)

Can the Mover get the support of somebody else to second the Motion?

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Arising from your ruling, then, this Motion is not properly before the House because the Seconder is incompetent to second it!

(Mr. Mbadi gestured at Mr. Ethuro)

Mr. Deputy Speaker: Mr. Mbadi, one more time, if you behave in the manner that you have behaved, you will spend the rest of the day outside the House and the precincts of Parliament.

Mr. Ogindo, could you seek the support of another hon. Member to second your Motion?

Mr. Ogindo: Mr. Deputy Speaker, Sir, I respect your ruling. That will be the practice as from today. But I will ask Dr. Kones to second.

Mr. Lesonnet: On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order just to let you know what Mr. Ogindo has said that your ruling is a practice from today.

Mr. Deputy Speaker: Order! Did you say that Mr. Ogindo?

Mr. Ogindo: Mr. Deputy Speaker, Sir, practices always have a beginning.

Mr. Deputy Speaker: That practice had a beginning since we started having Parliament in this House.

Mr. Ogindo: Mr. Deputy Speaker, Sir, I am advised!

Mr. Deputy Speaker: Fair enough! Proceed, Dr. Kones!

Dr. Kones: Mr. Deputy Speaker, Sir, I rise to second this Motion and say that I think that its importance is not so much what some hon. Members feel that we are trying to discredit the work of committees or the Government. I think we just want to be sure that the figures which we are using to distribute national resources, since this will be the basis for distribution of other resources given the new Constitution--- We really must be certain that the figures that we are using satisfy the needs of the people and are in conformity with the reality on the ground.

Mr. Deputy Speaker, Sir, I have been looking at the figures which we have here. Some people say they are archaic while others say they lead to a loss. Depending on how you look at it, it can be a gain or a loss. The question which we are asking is: Are these figures realistic, particularly figures on poverty indices? I have looked at the area where I come from, the county and---

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir. Dr. Kones has disagreed with the statistics. Is he questioning the integrity and capacity of the statisticians at the Kenya Bureau of Statistics who have done this report?

Dr. Kones: I am not questioning those individuals. What I am questioning is the validity of the figures. I am a statistician; that is true. I know at times you can use statistics also to learn. I hope this is not so in this particular case. We know what is happening on the ground. I wanted to give an example to Mr. Chachu to learn from. If you come to areas like Bomet County and Kericho County, which are not significantly very different--- But how would you explain a situation where you are saying Konoin Constituency has got a poverty index of 31 per cent and you move to a neighbouring constituency and say it has got a poverty index of 60 per cent? How does that variation come about when there is not much variation in terms of the area, population and everything?

This is what we are saying. We just have to be certain. One of the ways to be certain is to sample some of these constituencies, re-do the indices, and once we ascertain that they are acceptable within certain limits, then we can use them. But as it is now, you

can see the concern of many hon. Members; that these indices do not necessarily reflect the situation on the ground.

I beg to second and support this Motion.

(Question proposed)

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

Mr. Deputy Speaker: What is your point of order? Is it on the constitutionality of this Motion?

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

From the outset, I want to state that whatever business is transacted in this House must be constitutional. The Standing Orders of this Parliament are not superior to the Constitution of Kenya. I am questioning the constitutionality of this Motion. I am saying that, knowing that the current Constitution has realized and appreciated poverty levels in this nation. That is why we have constituency funds and we were allocating funds in this nation to constituencies every year to ensure that parts of the country that are poor and marginalized will be at par with the rest of the country in the next 20 years.

I do not know how this nation can identify, or even come up with the parameters to state which parts of the country are poorer or marginalized, if we cannot use the designated household budget survey report. This is the official Government document done by statisticians of this Republic, officially launched and used by this country for planning. On that basis---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members. The hon. Member has an absolute right to rise on a point of order and raise the constitutionality of anything; he is advancing his case.

Proceed, Mr. Chachu.

Mr. Chachu: Mr. Deputy Speaker, Sir, on that basis I strongly feel this Motion is unconstitutional and should not see the light of the day. Why am I saying that? First, which parameter will you use to show the part of the country that has been marginalized? I am not talking about marginalization; I am talking about poverty. Secondly, this survey determines 25 percent of resource allocation. Seventy five percent of resources is allocated on the basis of population. The issue they have is the 25 percent.

Mr. Deputy Speaker, Sir, this is the first survey that was ever done in the whole of northern Kenya since Independence. Before this survey, we were using poverty indicators. Since surveys have been done in Nyanza and other parts of this country, the poverty levels were seen to be high. When a survey was done nationally and poverty indicators were not used, this clearly established the real poverty levels in this nation.

On this basis, I feel this Motion is unconstitutional and request your ruling before we continue to debate it. With that, I rest my case.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. With due respect for Mr. Chachu, it is understandable why he is so passionate by the calculations he is opposing; North Horr will be more than double its share. But that is not the point. My point is this: The constitutionality of this Motion or otherwise, would be a point of

argument. I say so because in the Constitution, the National Revenue Allocation Commission has got its duties. Its duties are clearly defined in Clause 216(1). It states as follows:-

“The Commission on Revenue Allocation shall make recommendations concerning the basis for the equitable sharing of revenue raised by the national Government between the National Government and County Governments and among county governments.”

It has got nothing to do with revenue that is allocated on the basis of an Act of Parliament. We are talking about an Act of Parliament. So, if there is any valid reason why Mr. Chachu should stand and oppose this Motion, he should make that a substantive argument, and not a point of order.

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

Mr. Deputy Speaker: Is it on the constitutionality or unconstitutionality of the same?

Dr. Kones: On a point of order, Mr. Deputy Speaker, Sir. I find it not right for hon. Chachu to question the constitutionality of this Motion when it has passed through the system of approving Motions in Parliament. I thought that, that was the work of the House Business Committee.

Mr. Deputy Speaker: Dr. Kones, the constitutionality of any Motion can be questioned at any stage of its deliberation. Can you continue with your arguments?

Dr. Kones: Mr. Deputy Speaker, Sir, then the basis on which he is challenging the constitutionality of the Motion, in my own view, does not hold. It is constitutional and valid for debate.

Mr. Deputy Speaker: Fair enough! The issue here is the constitutionality of the Motion itself. The Constitution is very explicit on public finance. Section 201 talks about principles of public finance. It reads:

“The following principles shall guide all aspects of public finance in the Republic—

(a) there shall be openness and accountability, including public participation in financial matters;

(b) the public finance system shall promote an equitable society, and in particular—

(i) the burden of taxation shall be shared fairly;

(ii) revenue raised nationally shall be shared equitably among national and county governments; and,

(iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas;

(c) the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;

(d) public money shall be used in a prudent and responsible way; and,

(e) financial management shall be responsible, and fiscal reporting shall be clear.”

The fact of the matter is that the debate here is which survey does project the poverty levels of this country better than the other. These are not anchored in any Act of Parliament. Either way, the previous one or this one right now are not enforced by a specific Act to guide that. So, as to the unconstitutionality of this Motion, the Chair is of

the opinion that the Motion is constitutional in every sense of it. As to the debate, that is for Members of Parliament now.

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir. My point of order is fairly on a very simple issue. The Order Paper which we have and the Question which you have read to us, especially the last part--- We do not know whether or not there is another Order Paper. I need your clarification on that.

Mr. Deputy Speaker: Order! Order! Standing Order No. 48(1) reads:-

“The Speaker may permit a Member to move in amended form a Motion of which notice has been given if in the opinion of the Speaker the amendment does not materially alter any principle embodied in the Motion of which notice has been given.”

The Chair has been given adequate notice by the Mover of the intended amendment. The amendment does not in any way alter the object and spirit of the Motion itself and, therefore, the Chair approved the same. The amended version, which was moved and seconded, is the same Motion that the Chair proposed the Question, which in effect, changes and puts in “well being in Kenya Report published in 2004 and allocates the CDF, including for the financial year.” The only amendment is “including for the financial year 2010/2011.” So, the Chair has already read it and it has already been moved. It is now upon every hon. Member to take a pen and make that small amendment on their own Order Papers they have. That is the practice of the House.

Hon. Shebesh, proceed!

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I rise to oppose this Motion.

Mr. Deputy Speaker, Sir, before we go into the kind of drama that we displayed as a House yesterday, I would like us to really concretely think about the people we are talking about here. We are not just talking about figures and statistics. We are talking about people, constituencies and needs of communities.

Mr. Deputy Speaker, Sir, the first reason why I oppose this Motion is because the Kenya Integrated Household Budget Survey Report did not come from the air. Therefore, we must start taking responsibility for some of the things we do as Members of Parliament and Committees. Therefore, unless the Ministry of State for Planning, National Development and Vision 2030 can come and disown this budget survey Report as a Ministry, and the CDF Committee that deals with this issue also gives us more concrete reasons rather than what has been given by the Mover, we really have no business always overturning what we do here in this House.

Mr. Deputy Speaker, Sir, secondly, as you know, I do not represent a constituency but I have listened to my colleagues very seriously on the issues they are raising and all of them have genuine concerns. But if we continue speaking about the new dispensation in this Constitution--- We passed what we are calling an Equalization Fund. The spirit behind the equalization fund is what, in implementation of this survey, is doing. In short, what it is doing is that there are some constituencies that are not benefiting from it, but there are those that have been historically marginalized which are benefiting substantially. So, depending on how we debate this issue on the Floor today, it will either pass a message to those marginalized communities, whom when we stand here and want to do good public relations, we say that we support or for those who we created a special Ministry which we continue to refuse to fund adequately.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to advance arguments about communities which are marginalized and doubt the integrity of this Motion, without considering which are those constituencies which we feel have been favoured? They are not the historically marginalized. Central Province is not historically marginalized and, therefore, most of the constituencies which are favoured are from Central Province. Is it in order for the hon. Member to misrepresent facts?

Mr. Deputy Speaker: Order! That is a point of argument.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, you know very well that I have never stood here to speak for Central Province or Western Province where I am married. I always speak for the Kenyan people and that is why I am a Nominated Member of Parliament.

Mr. Deputy Speaker, Sir, I have said clearly that everybody has a case, if you listen to the Members of Parliament. But the message we send on this Floor, when cameras are strung on us, must stop being issues that just lead to more division and lack of national cohesion. As I have been clearly told, this Fund (75 per cent of it) which hon. Chachu has mentioned, focuses on the population. Twenty five per cent is what is looking at this poverty index.

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

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I do not want to be informed because, as I have said, I am not an expert on this issue.

Mr. Deputy Speaker, Sir, I said that before the debate begins and goes to proportions where comments like that of hon. Mbadi will be propagated on the Floor of this House, we need to take a break as Members of Parliament and argue for why your constituency needs more CDF money, but not why another constituency does not deserve to be given extra funds. This is because that constituency has a Member of Parliament, including the one you represent. So, I am opposing this Motion because I do not think we are in the state of mind of arguing this issue in a more balanced and neutral manner. I do not want this House to be used to marginalize people who have been marginalized historically for years.

Mr. Deputy Speaker, Sir, I oppose.

Mr. Kioni: Mr. Deputy Speaker, Sir, I rise to oppose this Motion.

Mr. Deputy Speaker, Sir, according to this Motion, the Member himself wants to be the standards of poverty determination in this country. The Motion says in part that the survey that has been used shows many changes in poverty levels without any known interventions and is not a reflection of the reality on the ground. "Says" who?

Mr. Deputy Speaker, Sir, we have a study in this country that was done two years ago. It cost the Government more than Kshs800 million. It was a study that was done in every part of this country. That study gave the position that we have. Before this study was done, what was used was the issue of wellbeing; wellbeing that has left parts of this country as if the people who live there did not matter. They were not considered in the survey that was done before the year 2004. The report that was done was tabled in this House. It was launched. It has never been challenged in this House. We have it as a document of this House. What the Mover of this Motion is doing is challenging the correctness of that document.

Mr. Deputy Speaker, Sir, any time you look at yourself in the mirror and you do not like yourself, you do not break the mirror, but you work on your looks. We have run this country on perceptions. In the last census, we were told that the population of Kibera was one million people. Many non-governmental organizations have benefitted from that perception. The statistics proved to us that we have 170,070 in Kibera. We have a scientifically done survey that was tabled in this House. That scientifically done survey has given us the reality on the ground. We cannot continue running the country on issues of perception.

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

Mr. Deputy Speaker: You can rise on as many points of orders as possible when Ministers are here and there are issues of facts that you want to challenge. However, when a hon. Member is making a contribution, allow him to finish unless you think he is thoroughly out of order.

Proceed, Mr. Kioni!

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has made a very serious allegation here that this particular survey was tabled in this House. The information I have is to the contrary. Could he prove that this report was actually debated and adopted by this House?

Mr. Kioni: Mr. Deputy Speaker, Sir, we passed a Constitution in this country; the Constitution we all moved around saying that it is good for this country. It talks about distribution of resources. Resources are not going to be distributed in this country based on perception. They will be distributed based on facts. You cannot establish facts of any nature by working on perception. You carry out a scientific survey. The result of any scientific survey must be obeyed by hon. Members of this House. We cannot sit here to pass a Motion as the House that will reinforce the perception that has been used in this country. In the past, we got into difficulties because some areas have been politically marginalized. Others have been marginalized because of the vagaries of weather. Others have been marginalized because of other reasons. We have a scientifically done survey. If there is a Member who would want us to rely on his perception, it will be a very sad day for this country. Again, if we allow ourselves to start drifting back to the dark days of getting resources because of who you know and how loud you can talk in this country and the number of people you can mobilize on the Floor to defeat a Motion in this House, then I think it will be a very sad day for us.

With those few remarks, I beg to oppose.

The Assistant Minister for Lands (Mr. Bifwoli): Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to support this Motion.

Mr. Deputy Speaker, Sir, when you look at the records, they show poverty index has gone down in Western and Nyanza provinces. Let us look at Bungoma; for example, have we become richer overnight when Pan Paper Mill is being closed? Nzoia Sugar Company is under receivership. Malava-Malakisi and Kitinda have been closed down. In Nyanza Province, Muhoroni Sugar factory is under receivership. Surely, how have we become richer by losing factories? When you come to Western Province, the roads are impassable. Is that the way we are becoming richer?

Mr. Deputy Speaker, Sir, I think this record job, when it comes to allocation of funds, some constituencies are made richer and others are made poor, so that they get more money than others. I want to thank the Mover of the Motion because he has gone

down and analysed. You cannot convince me that Bumula is richer than Kiambu. You cannot convince me under the sun that Bumula is richer than some of the constituencies that have been highlighted here. Money has been taken away from Bumula and given to other areas.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead the House that actually, there has been a drop in poverty and actually the basis of the checks by the statistician is that the earlier one that was done about ten years was actually doctored under Prof. Anyang-Nyongongo to favour a specific region.

(Loud consultations)

Mr. Deputy Speaker: Order! Hon. Ruto, you are out of order!
Proceed, hon. Bifwoli!

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Deputy Speaker, Sir, I cannot drag myself to that level because I am not here to talk about personalities. I am discussing poverty levels in our constituencies. It is true that Pan Paper Mill is closed. That is the lifeline of the people of Western Province. It is true that Nzoia Sugar Company is under receivership. It is true very few people are employed from Western Province. Records show that when they recruit the army officers, we get one chance. Other areas, people get more chances. When they recruited prison warders, they gave us only two chances. Other areas, they recruited more than 200. We have records to prove this.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion, which I stand to oppose.

Basically, I stand to oppose it because when we passed the Constitution which was promulgated on 27th August, 2010, we agreed to move forward and follow the law. The Government has done a poverty survey as per the law. If the law of the CDF says 75 per cent of allocation is equal for all the 210 constituencies and 25 per cent to benefit the poor, then let us follow it to the letter. You will have to realize that the constituencies that have got higher allocation of the 25 per cent pro-poor are constituencies that the Government up to now is still providing them with relief food. The Government is providing relief food to these places which are very far from the centre. I can only urge my colleagues to allow the poor to benefit from the 25 per cent. We are talking about only Kshs3.29 billion out of the Kshs13.85 billion that should go to those critical areas that have been marginalized for very many years.

Mr. Deputy Speaker, Sir, let the Minister for Planning, National Development and Vision 2030 also follow the law. Yesterday, the Assistant Minister for Planning, National Development and Vision 2030 tabled the CDF statistics in this House. The “statistics” do not follow the law because there is a High Court Order which I will lay on the Table in the matter of an application seeking leave to commence judicial review and proceedings in the matter of the Statistics Act; Statistics Census of Population Order of 2008; and the 2009 Kenya Population and Housing Census. This order was issued by the High Court on 8th October, 2010. An extension was given until this matter is brought to an end on 22nd October, 2010. I believe that the Ministry of Planning, National

Development and Vision 2030 is discriminating against the eight constituencies whose projected data has been used to determine the figures being used in the CDF.

Thank you and I oppose the Motion. I would like to table the document.

(Mr. Nanok laid the document on the Table)

Mr. Deputy Speaker: Hon. Members, hon. Mohammed Sirat will make his Maiden Speech. So, there will be no interruption, however, much he will be out of order.

The Member of Parliament for Wajir South (Mr. Mohammed Sirat): Mr. Deputy Speaker, Sir, I rise to make my Maiden Speech in this august House. I thank you most sincerely for giving me this opportunity.

I appreciate the people of Wajir South who elected me to represent and serve them as their Member of Parliament. Let me also thank all my supporters of various political thinking and the entire leadership of Wajir South Constituency who have immensely supported my candidature and have shown confidence in my ability to take Wajir South to greater heights. I am greatly honored to them and it is my sincere commitment to work consciously and tirelessly towards achieving their objectives.

Mr. Deputy Speaker, Sir, I wish to thank my predecessor and good primary school teacher for giving me a tough contest in the concluded by-election. It was, indeed, a memorable two-and-a-half year petition and by-election. I also wish to thank the supporters of the other candidates. I respect their freedom of choice and the democratic gains they have shown in the Wajir South elections. I want to put it across that I am their Member of Parliament and I will represent them equally. I look forward to working with them.

Mr. Deputy Speaker, Sir, Wajir South is one of the four constituencies in Wajir County. As a Member of Parliament for the expansive Wajir South Constituency which has equal size to Central and Western provinces combined, I really understand the enormous task awaiting me.

The inhabitants of Wajir South Constituency are marginalized. They have little if any, access to water, basic medicare, education, roads, issuance of ID cards and so on. Thank God that the new Constitution guarantees the uplifting of basic standards of living in my constituency, the larger Wajir County and the marginalized communities in Kenya. Under Section 43 of the Constitution, my constituents and all Kenyans have inalienable rights to the highest attainable standards of health; accessible and adequate housing; freedom from hunger; right to adequate food; clean and safe water; social security and education.

Under Section 25 of the Constitution, the Government is required to use the Equalization Fund to provide basic services including water, health, roads and electricity to marginalized areas and to ensure that the quality of these services is at the same level as those enjoyed by the rest of Kenyans.

Mr. Deputy Speaker, Sir, to bring to your attention, Wajir South Constituency which has an area of 22,000 square kilometers has only three secondary schools and no college. You can imagine the needs of the people of Wajir South. On health, the story is not different. The existing health facilities are poor, inadequately equipped and miles apart. There is only one medical doctor in Wajir South Constituency which is vast. There

is no ambulance or motor vehicle in Wajir South Constituency. I hope the Ministers concerned are listening.

Section 203 of the Constitution requires that special attention is given to economic disparities within and amongst counties in the equitable distribution of national revenue to the 47 counties and 210 constituencies. I believe that the entire northern Kenya and other arid lands require more than what is given for the devolved fund, the Economic Stimulus Package or our Ministry for that matter.

The Ministry of Development of Northern Kenya and other Arid Lands has just, but a name to depict the particular needs of the people of the region and other arid lands. For example, in the 2008/2009 Financial Year when I went to the Ministry to request for a genset for a broken borehole, the Ministry could not afford it and yet it cost only Kshs1.5 million. This Ministry is just but a name. However, without proper leadership; curbing and elimination of corruption and without a proper and effective judicial system, the gains achieved in the promulgation will remain on paper. They will only be as valuable as the paper they are printed on.

I look forward to the rest of the term in this House to do whatever that is required of me as a Member of Parliament and as a leader in my community to ensure that these fundamental rights become tangible and that they are not eroded by mismanagement of public funds. This can only be achieved by laying down a proper and enabling legal framework. The national revenue and national resources allocated to county governments and Ministries should not go into the pockets of individuals. This House has an opportunity to ensure that funds are only used to lay a foundation for the future of this nation by enabling foolproof county management laws.

In a nutshell, my people have sent me with one great message, and I would like to share it with all who are in this august House. The message is: My people are willing to move out of under-development. Hon. Members of this House have the means to make them realise development. If they do not, they will put the blame on us because we are the Government of the day.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You have made your maiden contribution. Under normal circumstances, as part of the rules of the House, one is not allowed to read a speech. However, if you are doing your Maiden Speech, the Chair can always allow it.

Yes, Mr. Kimunya!

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I rise on behalf of the Government.

Hon. Members: No!

Mr. Deputy Speaker: Order! That is the Government responder!

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, for the avoidance of doubt, I rise on behalf of the Government to oppose this Motion. While thanking the efforts of the Mover and what he has gone through to look at the situation and which report is more favourable to some areas than others, the Motion here is about debate on two Government documents. The only authoritative response would be, first of all, to look at what the fundamental differences are between the two documents and why we should be using one and not the other. That analysis should not be based on any emotions, outputs or on us considering that this one favours more than the other one or this one discriminates the other. It should be based on the scientific background of the

two documents and the major differences. It will be very important for this House to appreciate and understand the key differences between the documents, their genesis and why this House authorized expenditure upwards of Kshs800 million to update the earlier documents so that we can have a more objective way of knowing the poverty situation in this country.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, the Mover contends in his Motion that the Geographical Dimensions of Well-being in Kenya Report that was published in 2005 contains the objectivity required for a report because it is an accurate reflection on the reality on the ground. The Government went to the extent to update that report in 2005 and 2006 because we found that there were some fundamental problems with the welfare monitoring survey that was conducted in 1997, updated in 1999 and released in 2005.

For the benefit of the House, the fundamental difference was that the Welfare Monitoring Survey of 1997 that the hon. Member would like us to believe is objective and should be the basis, was based on data that was collected over a period of three months.

Mr. Outa: On a point of order, Mr. Temporary Deputy Speaker, Sir. As I listen to the Minister, could he confirm to this House that his view on this Motion is the Government position?

The Temporary Deputy Speaker (Prof. Kaloki): He is contributing on behalf of the Government.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, the report that was the basis of argument by the hon. Member was for 1997. That report was based on data that was collected between February, 1997 and May, 1997. The Kenya Integrated Household Budget Survey Report of 2005/2006 was based on data that was collected over a 12-month period between May, 2005 and May, 2006. The reason for collecting data over a one-year period as compared to a three-month period was to ensure that you can observe the behaviour patterns of households across the entire country in terms of expenditure, income, harvest, gifts and stocks, so that you can tell whether they have enough food to eat or do they have enough resources to alleviate poverty?

Mr. Temporary Deputy Speaker, Sir, in terms of the timing, we are talking of a three-month report as compared to a one-year survey. Fundamentally important is that the 1997 Welfare Monitoring Survey that the hon. Member would like us to believe that it is the most objective was only a sample of seven out of the eight provinces in this country. I would like Parliament to appreciate the fact that because of the insecurity situation in North Eastern Province in 1997 which was an election year and there were tribal clashes, the entire North Eastern Province was left out of the survey, except one district which was covered.

Mr. Temporary Deputy Speaker, Sir, in 2005/2006, a sample was taken in all the eight provinces and all the 69 districts that were existing then and it covered all the households sampled from all the 210 constituencies. So, if you are talking of anything

that represents the data about the livelihoods of our people and their way of living in all the 210 constituencies, you will be marginalizing a whole group of people by using data that was using only seven out of eight provinces.

Mr. Temporary Deputy Speaker, Sir, looking at the prices – these are composite figures and it is important that you appreciate this fact – no unit price data that was used in 1997 while this was now adjusted in 2005/2006. In terms of the number of items that are considered for purposes of checking the household behavior, in 1997, the data was only collected from 79 food items and 48 non-food items.

In 2005/2006, in addition to covering data from across the entire country, the data that was used covered 140 food items and 184 non-food items. In other words, the more scientific and the most objective data was what considered the household behavior in a more comprehensive format.

Mr. Temporary Deputy Speaker, Sir, the data that was collected in 1997, only considered data on purchases and consumption from own production and purchasing. In 2005/2006, this was extended to cover not just purchases, but also consumption from purchases, own production, stocks and gifts. So, the households that may have had a lot of food, for example, based on the February to May, 1997 households that may have had their stocks of food in their granaries because of harvesting in December, 1996, did not have this captured in May, 1997 because all that was considered was what they purchased during that period. But in 2005/2006---

Eng. Rege: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Minister confirm to this House that the Minister in charge of Planning and National Development and Vision 2030 had, given higher data for the constituencies or districts around Lake Victoria? This is because all of a sudden, the global warming indicates that things are getting worse than they were before and that Lake Victoria is getting worse. Could he confirm that Nyanza or in the areas around Lake Victoria, lives have gotten better?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I believe that the hon. Member was elected on a platform of trying to make the livelihoods of his people better. And if that is not happening, then you have a job during your next elections.

Mr. Temporary Deputy Speaker, Sir, the reasons I am giving this---

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, if you could protect me from these unwarranted interruptions, I will be able to guide this House better so that by the time we make a decision---

(Loud consultations)

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): What is your point of order, Mr. Bifwoli?

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, instead of the Minister reacting to the points raised, he is instead insulting

the hon. Member. Is it the language of this House for the Minister to insult hon. Members of Parliament?

The Temporary Deputy Speaker (Prof. Kaloki): Order, Minister! Stick to the issues!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I am trying to encourage the hon. Member to live to his pledge, because I know what he pledged to his people.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, Minister! Could you stick to the issues and be objective?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the crux of the matter is that we should use one of the two documents, and not the other. For those who have just come in, the reason as to why I am stating these facts is so that we can tell that the document that was released by the Government after a one-year survey is certainly more superior than the document containing the projections that were made in 1999 based on a three-month survey.

There is much more that we need to look at in terms of what have been the patterns of poverty in Kenya over a period of time. We are all happy to say that the 2005/2006 report showed that only 46 per cent of Kenyans were living below the poverty line. We accept that fact, and we quote it every day. We also said earlier that in 1997, 52 per cent of Kenyans were living below the poverty line. We are happy to quote that fact in all documentations. We also say that in 1994, 40.25 per cent of Kenyans were living below the poverty line. We know that in 1992, 44 per cent of Kenyans were living below the poverty line.

Mr. Temporary Deputy Speaker, Sir, once we accept those figures, we must not run away from the individual components of how those figures have been aggregated. This is the crux of the matter. We are happy to quote one figure but when it affects us negatively, we do not want to accept it.

Looking at the dynamics of how the regional differences and incidences of poverty have been factored in documents which have been approved and accepted by the people of Kenya, you will find, for example, that the poverty index for Nairobi Province in 1992 was 26.45 per cent. In 1994, it was shown as 25.9 per cent. All of a sudden, in 1997, because the study was done with all the limitations that I mentioned, the poverty index for Nairobi was shown as 50.24 per cent. In 2005/2006, it was shown as 21.3 per cent. One can see that there is a correlation between the poverty indices in the years 1992, 1994 and 2005/2006.

Mr. Temporary Deputy Speaker, Sir, looking at Nyanza Province, in 1992, the poverty index was 47.4 per cent, and in 1994 it was 42.21 per cent. In three years' time, in 1997, the poverty index in Nyanza Province rose from 42 per cent to 63.05 per cent. In the years 2005/2006, it corrected itself to 47.05 per cent.

The reason as to why I am referring to these figures is because we seem to be looking at only two reports for the years 1999 and 2005, and forgetting that there is a history of this data. If you look at---

(Eng. Rege stood up in his place)

The Temporary Deputy Speaker (Prof. Kaloki): Eng. Rege, what is not in order with the Minister's presentation?

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, everything is not in order. I am saying so because the Minister is trying to tell us that the Government erred at that time by raising poverty index from 42 per cent to 67 per cent. What was the Government doing at that time? That is why I am asking him to admit that the Government actually erred.

The Temporary Deputy Speaker (Prof. Kaloki): Eng. Rege, what is not in order?

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, what is not in order is the skirting around all the districts along Lake Victoria. Poverty index calculation is based on mathematical facts, and not just mere political issues. It is not a rocket design to---

The Temporary Deputy Speaker (Prof. Kaloki): Okay; thank you. Minister, could you back up your statistics?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, these statistics are based on---

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Order, Maj-Gen. Nkaisserry!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I went through a whole clear criteria on how the Welfare Monitoring Survey of 1997 was conducted and how the Kenya Integrated Budget Survey was conducted and the fundamental differences, so that Members can appreciate why you will see the differences in 1997 as corrected in 2005/2006. One fundamental thing that I mentioned is that the first one was a survey for only three months between February to May 1997. This other one took a whole year. It was a report that was conducted by the Kenyan Government in conjunction with our development partners authenticated by the World Bank, all the development partners and by the various stakeholders in the various areas where this was conducted. So, this is the most modern, the most authentic report which we have in terms of household behaviours and household poverty in our country as of today. Rubbishing it and now saying we prefer something that was done over a three months period, something that marginalized a whole province and did not take data for the whole North Eastern Province in 1997 because of insecurity situation, we will be doing injustice to a portion of the country.

Mr. Temporary Deputy Speaker, Sir, I am giving you these facts as Government so that you appreciate why the Government decided in 2004 that it was necessary to update the data that the Government was having for purposes of deciding on the way forward. What is the rationale for planning purposes? How do we even start looking at achieving the Millennium Development Goals? We are starting from data in 1997 at 62 percent. In 2005/2006, we had already reduced poverty to 46 percent because of the interventions. There is no way the economy can be growing at the rate it was growing and you do not see impact on the ground. There is no way we can be putting all this money on the road sector and all the expenditure and you do not see improvement in poverty. There is no way we can be putting so much money on CDF in the individual constituencies and you have not noticed poverty reduction in specific constituencies. If it

is not happening, then there is something wrong happening with the delivery mechanisms for that money at the constituency level.

So, Mr. Temporary Deputy Speaker, Sir, in terms of looking through, it is very clear that the Kenya integrated budget survey of 2005 was a superior method, was a superior study and an updated survey of the 1997---

(Several Members stood up in their places)

Hold your horses. I still have my time!

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Mr. Minister!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, it is important that as Parliament, we, first of all, know that we cannot rubbish a Government document without facts. We are arguing here, we have no facts at all in terms of what happened in 1997 and what happened in 2005/2006. I have given you the facts.

It is very important and the whole world is watching us. This Parliament has just gotten new powers in the new Constitution as the one to allocate resources, as the one to discuss the budget but if we are going to be looking at estimates from the point of view, “is it good for my constituency *vis-à-vis* another constituency”, we must remember there are 210 constituencies. We must remember there are areas that have been marginalized in the past, there are areas that were marginalized by vagaries of weather like the Coast Province between 2004, 2005, and their poverty levels rose from 62 percent to 70 percent. Because of the *El Nino* and the weather, all those things happened.

I beg to urge this House to accept that we have this document and to urge that this Motion is thrown out and we then continue with the document that we have on the Table.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I stand here confidently to oppose this Motion. I want to oppose it based on facts. I do not want to oppose it just because of politics. We should not play politics on the Floor of this House when an important issue of resource allocation like this one comes before us.

The bone of contention – and I want hon. Members to hear me - is as a result of two points. One, there are those who argue that we must use the 1999 Household Survey conducted by the Ministry of Planning, National Development and Vision 2030 in 1997. Secondly, there are those who argue that we must use the current data of 2005. The debate here and the bone of contention is about a report prepared by the Ministry of Planning, National Development and Vision 2030 which was tabled on the Floor of this House and until today--- It was tabled on the Floor of this House and the Mover of this Motion has acceded to that fact; that it was tabled. Until today, nobody in this House or outside has challenged that report. The Constituencies Development Fund (CDF) Act of 2002 is very clear: 75 per cent of the amount is disbursed equally across all constituencies while 25 per cent is based on a poverty index statistics provided by the Ministry of Planning, National Development and Vision 2030. We have a Parliamentary Committee on CDF in this House and the procedure and the law is very clear. That 75 per cent is given across the board while 25 per cent is given based on the poverty index. The report is again sanctioned by the Parliamentary Committee for the Minister to table. In my opinion, until yesterday, when he tabled it, it went through the Committee on CDF.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we have a new constitutional dispensation. The era when your community produced the President or Vice-President which was a panacea for more resources is over and hon. Members of this august House must know that. There is the element of equity in the Constitution: If you feel that the 2005 report is not fair to your community, region or constituency, then you have all the right to go and challenge the Ministry of Planning, National Development and Vision 2030 and the report that was tabled in this House. More so, the people who are challenging this report, the Minister for Planning, National Development and Vision 2030 at that time, Prof. Anyang'-Nyong'o came from their region.

(Laughter)

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Motion has been argued on its own merit and the Minister who was presiding over this thing did not influence it in any way. So, is Mr. Duale in order to insinuate that the Minister was coming from a certain community whose members are opposing this method? Is he in order?

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I was only trying to prove how objective and transparent Prof. Anyang'-Nyong'o was in 2005 and the Members are not.

(Several hon. Members stood up in their places)

Protect me from the people who have special interest!

The Temporary Deputy Speaker (Prof. Kaloki): Proceed!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, there are people who have special interest in this issue. You should not use the Floor of this House to bring an issue that the poverty level of your constituency has gone down or up. It is for you to respect institutions like the Ministry of Planning, National Development and Vision 2030. The same report – and I want hon. Members to hear me out – and data given by the Ministry of Planning, National Development and Vision 2030 was given by other donors. The UNDP has a similar report on the poverty index on this country. The Civil Society Group have reports on poverty index and if everyday---

The Assistant Minister of State for Defence (Maj-Gen. Nkaisserry): On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard Mr. Duale say that the poverty index is based on what we are discussing. In 2005, the poverty index showed Kajiado to be at No.89, as a poor constituency. Now, Kajiado Central is No.2 in the West. What magic has taken place from that time up to now? Is he in order to say that this report is based on the poverty index? Is he in order?

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I want to thank my friend Maj.-Gen. Nkaisserry for

doing a good job and reducing the poverty in Kajiado Central. He has done a good job. I think the President of the Republic of Kenya must give him a medal for that.

The Assistant Minister, Ministry of State for Defence (Maj.-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, that is a very good comment. I wish that could happen. As I speak now, my people are on relief food and they cannot be rich people. Runyenjes cannot be richer than Westlands. Kajiado Central cannot be richer than Kiambu, so to speak. I wish I could make Kajiado the richest place, but that is not the situation on the ground.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Duale, you do not have to respond to that. Just proceed.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I want to support, and hope next time, the President will give medals to people who have reduced poverty.

My final point is this: If today we are challenging on the Floor of the House the poverty index done by the Ministry of Planning, National Development and Vision 2030, tomorrow the same hon. Members will come here and challenge the literacy level and the infant mortality level of this country; it is very sad. That is why the Ministry of Public Health and Sanitation, under the able Minister, Mrs. Beth Mugo, will give us the figures on the mortality levels. The Minister for Planning, National Development and Vision 2030 will give us the figures on poverty index.

With those few remarks, I oppose this Motion.

Mr. Lessonet: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I want to start---

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

The Assistant Minister for Tourism (Ms. Mbarire): On a point of order, Mr. Temporary Deputy Speaker, Sir. This debate has two positions. There are hon. Members who are supporting it, and there are hon. Members who are opposing this Motion. You have now picked six hon. Members in a row who are opposing this Motion. Is that fair?

The Temporary Deputy Speaker (Prof. Kaloki): Order, Assistant Minister. That is to impose a decision on the Chair. The Chair does not know what side you are supporting. That is not fair to the Chair.

Mr. Lessonet, proceed to make your contribution.

Mr. Lessonet: Thank you, Mr. Temporary Deputy Speaker, Sir, for that direction.

I want to start by saying that I am a Member of the CDF Committee in this House; specifically, I am its Vice-Chairman. I want to start by saying that I also oppose this Motion. As I oppose this Motion, I just want to take this opportunity to inform the hon. Members that as a CDF Committee, our role is only to implement the CDF Act. The CDF Act states that the allocation to each constituency shall be based on the latest poverty indexes. As of now, the latest poverty indexes are the ones for 2005/06.

I equally want to apologise to hon. Members for the fact that in the last financial year, for one reason or another, we did not use these latest poverty indexes. For those hon. Members who seem to have lost this year--- We want to say that we will not surcharge hon. Members for the extra money they got last year.

The Temporary Deputy Speaker (Prof. Kaloki): Order. Hon. Members! We will have an additional 25 minutes on this particular Motion next time the House convenes.

ADJOURNMENT

Hon. Members, it is now time to interrupt the business of the House. The House stands adjourned until this afternoon, 27th October, 2010, at 2.30 p.m.

The House rose at 12.30 p.m.