

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd August, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

NAMIBIAN DELEGATION AT SPEAKER'S ROW

Mr. Speaker: Order, hon. Members! I wish to introduce to you, and welcome, this afternoon, a delegation from the National Assembly of Namibia seated at the Speaker's Row. They are Members of the Standing Committee on Constitutional and Legal Affairs of the Namibia National Assembly and are on a study visit to learn about our constitutional and legal process. They are: Hon. Juliet Kavetuna; Leader of Delegation, hon. Benjamin Ulenga, hon. Justus Karaobi, hon. Agnes Choragereru and Mr. Manasseh Therawaa, the Delegation Secretary.

On behalf of the House, and on my own behalf, I wish the delegation a fruitful and happy stay in Kenya.

PAPER LAID

Progress Report of the Truth, Justice and Reconciliation Commission (TJRC) submitted to the National Assembly pursuant to Section 20(3) of the Truth, Justice and Reconciliation Act, Act No.6 of 2008.

*(By the Minister for Justice, National Cohesion
and Constitutional Affairs)*

NOTICE OF MOTION

EXTENSION OF LIFE OF TRUTH, JUSTICE AND RECONCILIATION COMMISSION

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT, whereas His Excellency the President, through Gazette Notice No.8337 of 22nd July, 2009, appointed the Commissioners of the Truth, Justice and Reconciliation Commission to serve for a two-year period; noting that the two-year period lapses on 3rd November, 2011 and

appreciating that the Commission has made progress in execution of its mandate and in its Progress Report to the National Assembly requested for extension of its life as it is unable to complete its work by 3rd November, 2011; this House resolves to extend the duration for the Truth, Justice and Reconciliation Commission to continue its work for six months beyond the prescribed period of two years in accordance with the provisions of Section 20, Subsection 3 of the Truth, Justice and Reconciliation Act, 2008.

QUESTIONS BY PRIVATE NOTICE

KILLING OF DAVID NGUGI NJUNG'E IN NAROK TOWN

Mr. Mwathi: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Could the Minister explain the circumstances surrounding the brutal killing of one Mr. David Ngugi Njung'e in Narok Town on Tuesday, 14th June, 2011?

(b) Could the Minister confirm that Mr. Joseph Kongo Njung'e, a brother to the deceased, had reported on 20th January, 2011 at Narok Police Station that the deceased had been receiving death threats and, if so, what action was taken pursuant to the report?

(c) What urgent steps is the Minister taking to boost security and guarantee safety to the residents of Narok Town, its environs and to all Kenyans in general?

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

(a) On 7th June, 2011, Mr. David Ngugi Njung'e was subjected to mob injustice within Majengo, Enkare area in Narok Town, on suspicion that he had taken part in the killing of Mr. Boniface Kamau aged 23 years within the same area the previous day. Following the two deaths, police investigations commenced and Narok Police Station file No.781/297/2011 and file No.781/298/2011 were immediately opened. Investigations are ongoing.

(b) I am not aware of such a report of threats made to Narok Police Station on 20th January, 2011 or thereabouts by Joseph Kongo Njung'e. Narok Town, its environment and the rest of the country is under regular patrols on a 24-hour basis by both regular and Administration Police officers. Intelligence information gathering has also been enhanced to ensure safety of all Kenyans and not only within Narok.

Mr. Mwathi: Mr. Speaker, Sir, I thank the Assistant Minister for the answer. While appreciating that answer, it is very clear that a report had been made by the brother to the deceased to the police station pursuant to which one person was arrested and released. I do not know whether the Assistant Minister is aware that, that happened. That being the case, when is the investigation into the death of Mr. David Ngugi Njung'e going to be completed?

Mr. Ojode: Mr. Speaker, Sir, there were no reports made to the police. Those who were arrested were people who had been suspected to have lynched the deceased. Investigation is ongoing and I am sure that we are going to get to the bottom of this investigation. We will arrest those who practice mob injustice and kill innocent Kenyans.

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. I asked for a timeline because it is important. I know investigations are going on but we need a timeline.

Mr. Ojode: Mr. Speaker, Sir, This is a case which borders on murder and I cannot specifically say that it will be three, four or six months but we are going to try our level best to fast-track the investigations in order for us to get those who were involved.

Mr. Imanyara: Mr. Speaker, Sir, you heard the Assistant Minister say that the deceased was subjected to “mob justice”. How can the word justice be used to describe this callous murder? Given the number of cases where Kenyans are being killed under such circumstances, would the Assistant Minister agree with me that the best way of dealing with this situation is to set a department within the police force that can conduct countrywide civic education on civic responsibilities because in most cases, the mobs take the law in their own hands because the police are unable to perform their functions?

Mr. Ojode: Mr. Speaker, Sir, I do agree with the hon. Member on the part of constituting a committee to do civic education but I do not entirely agree with him that the police are lax resulting in these mob injustice. Within the police reforms, we have actually zeroed in on a committee which is going to carry out civic education to *wananchi*. That will help ordinary Kenyans to know their rights. I hope that once we get the funds, we will start doing civic education.

Mr. Njuguna: Mr. Speaker, Sir, with the admission by the Assistant Minister that the victim died as a result of mob justice, you recall that recently, witchdoctors have suffered as a result of this injustice. What is the Ministry doing to ensure that witchdoctors do not suffer this fate?

Mr. Ojode: Mr. Speaker, Sir, no Kenyan is allowed to take the law into his own hands, whether to a witchdoctor or not. There are channels which you can use to get justice. The law is very clear that you are not allowed to kill fellow Kenyans and that if you are angered by anybody, the only thing you can do is to go to court. We are not going to allow those who are killing in the pretext of mob injustice. We are not going to accept that.

Mr. Koech: Mr. Speaker, Sir, this is a case of two deaths; one of Mr. Boniface Kamau, and Mr. Njung’e who was killed on suspicion that he participated in the killing of Kamau. The Assistant Minister has indicated that investigations are ongoing. For us to confirm that you are serious, could you inform the House how many people have been arrested over this issue?

Mr. Ojode: Mr. Speaker, Sir, we have actually investigated about 12 people and they have recorded statements. We are zeroing in on those who participated in this heinous act. So far, we have not arrested those who participated because investigations are ongoing.

Mr. Mwathi: Mr. Speaker, Sir, there are allegations that there are gangs in Narok who are asking for “protection fees” from *wananchi* and that the culprit refused to pay the fees. If indeed you are investigating, what action are you going to take to ensure that these illegal gangs who are asking for protection fees from people stop behaving in that manner?

Mr. Ojode: Mr. Speaker, Sir, as far as I am concerned, we do not have illegal gangs. You are aware that we passed the Organized Crimes Bill. So, if there is any gang masquerading as legal or illegal, that in itself is against the law. If you can prove to me

that there is an illegal gang which is killing people, we will definitely take action by arresting them and taking them to court. The law is very clear!

NUMBER OF HOMICIDE CASES IN KAPCHEROP DIVISION

Mr. Kaino: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Could the Minister indicate the number of homicide cases from Kapcherop Division in Marakwet West Constituency that have been reported to the police since May, 2011?

(b) What action is the Minister taking to ensure security in the division is enhanced?

(c) Could the Minister also urgently consider establishing a police dog unit in Kapcherop and Kapsowar divisions?

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

(a) A total of five homicide cases have been reported to the police.

(b) To enhance security in the area, joint foot and mobile patrols comprising of regular and Administration Police have been enhanced. In addition, Kenya Police Reservists (KPRs) have been recruited and are currently undergoing orientation to boost security in the area. Two motor vehicles; GK A626G from Kapcherop Police Station and GK A508S from Kapsowar are being used to police that particular area.

(c) Plans are underway to establish a police dog unit in both stations in Kapsowar and Kapcherop. A building plan and design for a kennel has been developed by the Kenya Police Dog Unit. However, due to lack of funds, construction of the kennels has not started. I want to assure this House that, once we get the money, we will develop and construct the dog kennels in order to take some dogs to those two areas.

Mr. Kaino: Mr. Speaker, Sir, insecurity in Marakwet has become a terrible thing. Part of what the Assistant Minister has said today is correct and part of it is incorrect. For the part that is not correct, I wish the Assistant Minister could go to the ground to see the vehicles he is talking about. The only vehicle which can move on the road today is the one at Kapcherop, which is being shared by Marakwet West and Marakwet East. There is no vehicle for Marakwet East. They share the one for Kapcherop. That area is forested and crime is committed almost daily---

Mr. Speaker: Order, Mr. Kaino! Please, come to the question. I have allowed you 30 seconds to lay the background; you are doing two minutes now.

Mr. Kaino: Mr. Speaker, Sir, I would like to ask the Assistant Minister whether he is aware that the vehicle that he has mentioned is not mechanically sound and also---

Mr. Speaker: Order!

Mr. Ojode: Mr. Speaker, Sir, I am aware that one vehicle has some minor problems. We needed to replace the bushes because of the terrains. We have so far replaced the arm bushes, both shock absorber bushes and those other bushes which are required in a Land Rover. But I want to say that if the vehicle is still not in a working condition, I would request the Questioner to come to my office so that I can check what happened to the money that we gave for the replacement of the bushes.

Mr. Mureithi: Mr. Speaker, Sir, issues of homicide are not really confined in Marakwet West only. I would like the Assistant Minister to tell us what is happening in similar cases that are happening in Ol Kalou and, in particular, one spot called Ngano. In the last three months, we have had five cases of homicide. What is the Assistant Minister doing to address homicide cases which are occurring in various areas outside Marakwet West?

Mr. Ojode: Mr. Speaker, Sir, whether it is in Marakwet, Ol Kalou, Kisumu West or East, it is against the law; it is not allowed. We are saying that the police will do whatever it takes to bring those people to book. Some of those cartels are being run by those who came out of prisons. But we are trying as much as possible to bring it to a stop. It is good that I have even seen the details of those who have, so far, been involved in that. We have arrested a majority of them and taken them to court. I have the evidence here with their files. So, it will be a thing of the past. We are trying and I want to commend police officers for doing a good job in apprehending those guys.

Mr. K. Kilonzo: Mr. Speaker, Sir, this is the second Question this afternoon where hon. Members are asking about insecurity and yet, the Assistant Minister is standing here and saying that the police are doing a good job. It is very clear that one of the reasons why cases of homicide and insecurity have increased is because the police are very demoralized. They have not received their salary increments. They have no apparatus to work and, as we are talking, the police are on a go-slow. Could the Assistant Minister confirm that they are going to increase the salaries of the police so that the go-slow can stop? Could he confirm there is already a go-slow?

Mr. Ojode: Mr. Speaker, Sir, as far as I am concerned, there is no evidence at all to show that there is a go-slow in the Police Force. I want to say here that the police officers are doing a good job.

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

Mr. Speaker: Order, Mr. K. Kilonzo!

Mr. Ojode: Mr. Speaker, Sir, police officers are doing a good job. In fact, Mr. K. Kilonzo has a security guard who is doing an excellent job to guard him against those who want to attack him. If there is a case where his security man is having a go-slow phobia, he can tell me so that I can replace him immediately. But as far as I am concerned, the police are doing a good job and they will continue doing a good job. While still looking for money - the Kshs2.3 billion to pay for their salary arrears - I believe that they are doing a good job.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to deny that there is a go-slow and yet, it is very clear that in Nairobi and its environs, there are artificial traffic jams which are being created because the police are on a go-slow because of their salary arrears? Is he in order to deny a fact instead of confirming when the police are going to get their increment?

Mr. Ojode: Mr. Speaker, Sir, it is quite unfortunate that Mr. K. Kilonzo is not aware that we are doing some infrastructure within Nairobi. The traffic jams are as a result of the super highway from Thika to Westlands.

(Laughter)

That does not necessarily mean that the police are on a go-slow. If there is any evidence - although I am saying that we should not incite police officers because they are doing a wonderful job--- If there is an isolated occasion that there is a guard or a security officer who is attached to Mr. K. Kilonzo and who is not doing a good job, he should come and whisper it to me so that I can replace that officer.

(Laughter)

Mr. Chepkitony: Mr. Speaker, Sir, I would like to ask the Assistant Minister whether he is aware that there are some people with illegal arms in Marakwet. If he is aware, what is he doing about them? Are they planning to repossess them or---

Mr. Speaker: Order, Mr. Chepkitony!

Mr. Ojode: Mr. Speaker, Sir, you are aware and I have been on record--- I have said and I want to repeat here that those who are holding illegal arms must surrender them to the nearest police station, chief's camp or assistant chief's camp. In the event that they do not surrender those illegal arms, as a department, we will do a forceful disarmament. That is because it is dangerous to own a gun. When you own a gun, it means you are a criminal.

Hon. Members: No!

Mr. Ojode: Mr. Speaker, Sir, if you own an illegal gun, you are a criminal. We have allowed people to own guns through a legal channel. We accept and anybody who wants a gun, we will check his background and he will be given a gun legally. But those who own guns illegally, I will not allow them to continue. I will not!

Mr. Kaino: Mr. Speaker, Sir, I want the Assistant Minister to tell this House two things; one, he has said in his answer that KPRs have been trained but it is only last week when they started training. They started talking about KPRs about two years ago. I want him to confirm to this House that they will now start in two months' time, to save the people who are dying every week. Secondly, the Assistant Minister has said: "When funds are available". It is the beginning of the financial year of the Government when money should be available. Why is the Assistant Minister saying that the money is not available? Building kennels or houses for dogs is not like building big houses.

Mr. Speaker: Order, Mr. Kaino! You notice and you know it, I am sure, that I have accorded you indulgence by letting you ask two questions, notwithstanding that, you had said so from the beginning and you know that it is not permitted. Now, you want to go on infinitely. That is going to amount to abuse of privilege.

Mr. Ojode: Mr. Speaker, Sir, Mr. Kaino can also do us a favour. If he has some small funds within the Constituencies Development Fund (CDF) kitty, I would appreciate. If he does that, I will take the dogs there tomorrow.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to ask for CDF money from Mr. Kaino and yet, the other day, when we tried to give him money, he refused? Is he in order?

Mr. Ojode: Mr. Speaker, Sir, there is no way I can refuse any money. Right now, I need a lot of money. I need a lot of money for the police reforms. I need money to pay the allowances to the police. I need money to pay salaries; the last batch. I need money to improve police stations. So, as much as I appreciate what Mr. Ogindo is saying, I would

request my colleagues to be steadfast in advocating for more funds for the police in order for us to improve their services.

(Mr. Ogindo stood up in his place)

Mr. Speaker: Order, Mr. Ogindo! You have made your point!

KILLING OF FORMER CHAIRMAN
OF KIAMBU COUNTY COUNCIL

Mr. Baiya: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) What are the circumstances surrounding the killing of the former Chairman of Kiambu County Council on 4th June, 2011?

(b) Why have conclusive investigations not been conducted on the killing?

(c) What plans does the Minister have to ensure the matter is resolved and the culprits arrested and charged with the offence?

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

(a) On 4th June, 2011, at about 9.30 a.m., the deceased, Boniface Njenga Mweru, in a motor vehicle, KSN 290, a Datsun 1200, yellow in colour, was driving along Githiga-Kiambu Road to his farm. About 500 metres from his home, he stopped to talk to a young girl in school uniform. Soon, a Toyota Prado Registration Number KBL 393X, silver in colour, pulled behind his car. Two men emerged from the car and shot the deceased, killing him instantly at that particular venue. The assailants and the girl escaped in the Prado car to an unknown destination. Nothing at all was stolen from the deceased.

(b) Investigations commenced immediately and it was established that the deceased had been called by a stranger through his mobile phone number. The caller's handset was traced to a 48 years old lady, Consolata Achieng Onyango, living in Rongo, somewhere in Nyanza.

She led the police to Baba Dogo in Nairobi where her son Kennedy Otieno lived and whom she alleged to have given her the handset. However, the suspect had received information about the mother's arrest and had disappeared by the time police arrived at his home. Consolata Achieng Onyango was thereafter released for lack of evidence. Further investigations revealed that the registration number KBL 393X belonged to a Toyota Cruiser Pick-up converted into a tour van owned by Mohammed Seif of Box No.13471-00800, Nairobi. Several witnesses have recorded statements, including people who did business with the deceased, and more people are being sought. Police have managed to obtain a photograph of one of the main suspects, Kennedy Otieno, and the same has been circulated through *Kenya Police Gazette* and other police media all over the country. Also, plans are underway to place a newspaper advertisement with the photograph of the suspect. The police are appealing to anyone, including my colleague, who could have information that can help resolve the murder to volunteer the same to the nearest police station.

Mr. Baiya: Mr. Speaker, Sir, I would want to thank the Assistant Minister for the attempt to respond to the Question. The Question raises one pertinent issue. The killing of the former chairman of Kiambu County Council took place in broad daylight and on a public road, less than 500 metres from Githiga Market. So, community policing entails the police and security agents working also with the members of the public with a view to defeating crime. If the Kenyan Police cannot resolve a murder that takes place during broad daylight, what will happen to those that are committed during the night? Is there anything the Assistant Minister can really say that they have done to actually gather evidence from the members of the public concerning those who committed this crime?

Mr. Ojode: Mr. Speaker, Sir, it is fair to say that during investigations, it was also established that the accused had four wives. However, three of them were estranged and the deceased was staying with the youngest wife. Immediately after these, other three wives realized that the former chairman had been killed, they returned home on the same day. So, what I am saying is that the police are investigating possible involvement of the estranged wives in the murder. If there is something which links the three wives to the murder of their husband, we will have no alternative but to arrest them, but we are still investigating.

Ms. Karua: Mr. Speaker, Sir, the Assistant Minister mentioned a lady who is supposed to have been in the deceased's car. Have the police established the identity of the lady, which they could do by tracing the places the deceased may have been before he met his death?

Mr. Ojode: Yes, Mr. Speaker, Sir. We have gone even a notch higher. We have a lot of evidence which, of course, I cannot reveal here so as not to compromise the investigation; let it rest there. We are going to arrest people, including the lady we are talking about. Do not worry. Let the police do their work.

Mr. Mwangi: Mr. Speaker, Sir, if you listened to the Assistant Minister very carefully, at the end of his statement, he requested hon. Baiya to provide any information. Does that imply that the Government has not been able to gather enough information to the extent that he is asking the Member of Parliament to give him more information on the murder?

Mr. Ojode: Mr. Speaker, Sir, if you heard me correctly, I said Kenyans should give any information that they might have, and you know my police officers are also Kenyans. They also have bigger constituencies to take care of. They might also hear that this is the lady, or the man, who was involved in the murder.

Mr. Baiya: Mr. Speaker, Sir, unfortunately, the matter we are dealing with here is a bit serious. It really reflects how the police are working. What is the point of the Assistant Minister challenging me to give evidence when I have actually taken an eyewitness to the police and no statement has been recorded from that eyewitness?

Mr. Ojode: Mr. Speaker, Sir, I have said here that I have a lot of information, which should not be revealed here. The due process must be followed. We have to allow the due process to take place. We have to allow the investigation to take place in order for us to go for the real person. So, there is no hurry. We have very good leads and you will be seeing us arresting some people, including some of your neighbours. Do not worry.

Mr. Farah: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to always tell us that there are investigations being carried out when in this day and age any crime can be investigated and resolved and the culprits caught using

forensic medicine, forensic investigations? A small piece of hair can tell a lot. This Government has not invested in any way in forensic investigations, including DNA.

Mr. Ojode: Mr. Speaker, Sir, the hon. Member knows that that piece of hair can only be taken from the suspect. If that piece of hair is not taken from the suspect, then it becomes very difficult for us to use the forensic technology. I want to say it here again that we have very good leads and we will arrest the suspects. I think the police are doing a good job and sooner rather than later, we will arrest suspects.

Mr. Speaker: Very well. The matter must rest there except for the concern by Mr. Baiya. If he brought an eyewitness to you, really, you are under duty to record a statement from that witness. So, you quite have not explained that. Why did you not record a statement?

Mr. Ojode: Mr. Speaker, Sir, we have recorded a statement from the eyewitness. I never said that we have not, but the eyewitness gave us some leads which we are following. Do I have to reveal everything here? No, because---

Mr. Speaker: No; but what you must reveal is why you did not record a statement from an eyewitness who was availed to you.

Mr. Ojode: Mr. Speaker, Sir, we did.

Mr. Speaker: Very well. Next Question by Private Notice by Mr. Olago!

DEATH OF FELIX RIAGA ODERA IN CANADA

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Under what circumstances did Felix Riaga Odera drown in Lake Kawkawa in British Columbia, Canada, on 29th May, 2011?

(b) Has the Kenya High Commission in Canada taken any steps to ensure that a full investigation is carried out and, if so, what were the findings?

(c) What role did the Kenya High Commission play in assisting the family to transport the remains of Felix Riaga Omolo back to Kenya for interment?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply under the circumstances; Felix Odera was a fourth year student at the University of British Columbia. At the time of his death, he was participating together with 16 other university students in an intervarsity Christian fellowship programme which is known as the Vancouver Urban Project, which encompassed a three-week leadership training component.

Mr. Speaker, Sir, according to the police in Canada, the police officer who took the statement from the 15 students say that we had two girls who jumped into the lake, while Felix and three other students watched from a shore. After a while, the girls invited the boys to join them upon whereby Felix took off his shoes and socks, and jumped into the water. Two of his friends who had been with him during that retreat, took his wallet and swung him three times and then let him go. Where upon he landed on the water, he had his hands raised, and they believed that he was signalling that everything was fine.

Mr. Speaker, Sir, what happened after that is that Felix did no resurface. A search rescue commenced immediately whereby rescue service officers arrived shortly thereafter as did the police. Their search efforts were hindered because of poor weather conditions which were existing at that time. There was thunder and lightning throughout the period

when they were trying to do research and rescue. Unfortunately, it looks like Felix had died shortly after he had been thrown into the lake.

On Monday morning, which was the following day, police divers came and they started doing a further rescue. They finally found the body which was about 40 feet under the water about ten metres away from where everybody was standing. The Corena on examining the body which had been retrieved from the site concluded that this was an accident because of drowning.

An autopsy was performed on Tuesday, 31ST May, after which it was concluded that the Corena had found water in Felix's lungs which was consistent with the drowning theory. There were no other injuries to his bodies whatsoever.

Mr. Speaker, Sir, the second question was: "Has the Kenya High Commission in Canada taken every step to ensure that full investigations have been carried out, so that we can conclusively know what happened to Felix?" Due diligence was observed during the initial stages of the accident. The High Commission, in consultation with the honorary consular, Mr. Imbenzi, immediately contacted the Royal Canada Mounted Police, who started conducting the investigations.

Mr. Speaker, Sir, two questions were critical; one, they had to find out whether this young man knew how to swim and if he was known to have any medical condition. The two questions were important to guide the investigations further because he knew how to swim after the mother informed the police officers on telephone from Nairobi. The mother also said that he did not suffer from any medical condition which they did not know. The report came back. The conclusion which was given was that he actually died from that swimming accident.

Mr. Speaker, Sir, the third question was: "What the Kenyan High Commission did to assist the family to transport the body and all the remains of Felix Riaga back to Kenya?" We are extremely of our honorary consul in Ottawa, Mr. Imbenzi and our Ambassador, because they did a tremendous job to help the family. The honorary consul worked with both the universities where Felix was going to school. They developed a plan on what was to be done to bring the body home.

Mr. Speaker, Sir, the honorary consul office worked with the British Columbia Coroners office to prepare the body and issue a repatriation document for the body to be brought back to Kenya. The honorary consul office worked with a company known as Kleeny Funeral Services to prepare and transfer the remains of Felix Odera to Nairobi, Kenya on June, 16th, 2011. In consultation with the Kenyan High Commission in Ottawa, the honorary consul office worked with Montezuma and Monalisa funeral homes in Nairobi to make sure that they picked the body from the airport and made sure that the body was transported to Kisumu.

Mr. Speaker, Sir, the honorary consul office facilitated the commissioning of all the necessary required arrangements to make sure that Felix was transported and he arrived at his home and given respectable send off.

The total cost of all the activities, which took place, that included preparation of the body, travel of the family to Canada and back, accommodation expenses of the family and the funeral service were provided by the Kenya Mission in Ottawa with the honorary consul working in tandem with the Kenyans in Diasporas. The total amount which was raised was US\$31,560.

Mr. Speaker, Sir, finally, the Kenya High Commission in Ottawa then further on continued to solicit help from other Kenyans in Canada and they ended up raising another US\$1,200, which was equivalent to Kshs1.4 million, which was handed over to Felix's family.

Mr. Olago: Mr. Speaker, Sir, the hon. Assistant Minister must be fully aware of the fact that Felix Riaga Odera was the best KCSE student in 2004 from Starehe Boys Centre. I am saddened by this part of the answer. My question was to find out if there was any wrongdoing on part of anybody. The answer reads as follows: Two of the friends of Felix took his wallet, swung him three times and threw him into the lake. He raised his hands as he was going into the water giving an okay sign, but he did not resurface".

Mr. Speaker, Sir, that alone indicates that Felix was actually thrown into the water against his will. Under these circumstances, what did the police in Vancouver doing to ensure that the two culprits who threw him into the water are arrested and charged with causing death by reckless conduct?

Mr. Onyonka: Mr. Speaker, Sir, to be honest with my colleague, what the police in Canada have told us is that this was an accident which the two friends are very regrettable to have participated in. But it was a premeditated action whereby Felix was actually taken and forcibly---

Mr. Olago: On a point of order, Mr. Speaker, Sir. This is a matter that should not be taken lightly by the hon. Assistant Minister. If the evidence that he has in his hands indicate that he was swung three times into the lake, is it in order for him to state to the House that this was not premeditated?

Mr. Onyonka: Mr. Speaker, Sir, my colleague interjected before I concluded my statement.

Mr. Speaker: Proceed and respect brevity.

Mr. Onyonka: Mr. Speaker, Sir, what I wanted to say is that that decision will have to be made by the Canadian police. We do not have the capacity to conclude on that matter. All the records are available. What the police from Canada have said is that they will make sure that standards of probity will be at the highest level and when it reaches that conclusion where they will decide, whether the two other Kenyans who were with him participated either in murder or involuntary manslaughter, they will inform us accordingly.

Mr. Bahari: Mr. Speaker, Sir, now that it looks like the Assistant Minister has admitted that the investigations are not conclusive and yet the police have to make a decision, what will the Ministry do to ensure that the family is assisted with a view to ensuring that justice is done in this matter?

Mr. Onyonka: Mr. Speaker, Sir, the normal procedure is that once there is a matter of litigation where a Kenyan citizen is involved, the Ministry of Foreign Affairs makes sure that all the requisite arrangements are made so that we can provide all the necessary legal help the family needs to make sure that the matter is taken to its logical conclusion. As of now, we are waiting for the Canadian Government to give us the necessary signals and we will act accordingly.

Mr. Koech: Mr. Speaker, Sir, this was an unfortunate loss for Kenya given that Riaga was one of our best candidates. There are many Kenyan students learning in the diaspora. I want to appreciate what the Ministry did for the Riaga case. However, could

the Assistant Minister confirm what is readily available for any Kenyan student out there who may meet such a kind of an unfortunate situation?

Mr. Onyonka: Mr. Speaker, Sir, that is a wonderful question because it is a matter that the Ministry of Foreign Affairs has been grappling with because of lack of resources. However, I can assure you that under the department known as Diaspora Services in the Ministry of Foreign Affairs and with the support of this Parliament--- I hope that Parliament will allocate the Ministry of Foreign Affairs funds so that any time a Kenyan student dies or an unfortunate event happens, we are able to help our Kenyans come back. As of now, we seek the goodwill of Kenyans in Diaspora and we engage our missions. We do not have a standard amount which we provide to any family when somebody dies. However, we will soon make sure that we allocate such funds so that we can help our people once they are affected.

Mr. Olago: Mr. Speaker, Sir, from the Assistant Minister's answer, it appears to me that the outcome of these investigations is being left solely in the hands of Canadian Police. Could he confirm to this House that the High Commission is able and willing to hire legal counsel to represent the family in the course of these investigations?

Mr. Onyonka: Mr. Speaker, Sir, unfortunately, I cannot make such a commitment because we do not have a legal office in every mission to handle such a matter. Every case that happens is given its own interpretation and evaluation. If the matter necessitates that the Government provides the necessary funding or legal help, then the Ministry of Foreign Affairs will try and engage itself. However, for now, we do not have the kind of resources that will be required to handle such matters, but I believe that the jurisdiction under which this event happened - the Canadian Government and Canadian Police - will ensure that there is fairness and justice so that this matter comes to a reasonable and justifiable conclusion for both sides.

ORAL ANSWERS TO QUESTIONS

Question No.870

STALLING OF WORKS AT SYOMAKANDA/SYOTUVALI BRIDGE

Mr. Nyamai asked the Minister for Roads:-

(a) why the construction works at Syomakanda/Syotuvalli Bridge on River Athi, which links Lower Yatta and Mbooni districts has not started; and,

(b) what steps he is taking to ensure that the works start without any further delay.

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

(a) The construction of Syomakanda/Syotuvalli Bridge has not been started because the Ministry has not been able to take on board these projects and several other projects in the country as a result of the pressing financial needs of the ongoing projects funded under the Development Budget.

(b) My Ministry, through the Kenya Rural Roads Authority, plans to undertake the project in the coming 2011/2012 Financial Year.

Mr. Nyamai: Mr. Speaker, Sir, I thank the Assistant Minister for his fairly brief answer. I had asked this Question sometime last year. This bridge was commissioned by the current Rt. Hon. Prime Minister eight years ago. Could the Assistant Minister confirm how much money has been set aside for this project in view of what he has just said?

Mr. Kinyanjui: Mr. Speaker, Sir, as you are aware, we are yet to present our estimates to this House. I can confirm to the hon. Member that the estimate for the bridge when we did the design in the 2008/2009 Financial Year was Kshs300 million. However, it is after our Vote has been passed, that I will be able to confirm how much will be allocated to the bridge.

Mr. K. Kilonzo: Mr. Speaker, Sir, I also need to concur that, indeed, I was there when the current Prime Minister, who was the then Minister for Roads, commissioned this road eight years ago. However, how much money has the Ministry set aside for the construction of bridges in Kitui County? It is apparent that this county does not get any money for the construction of bridges. Which other bridge in Kitui County other than the one mentioned, has the Assistant Minister set aside money to construct? Is there any in Kitui County?

Mr. Kinyanjui: Mr. Speaker, Sir, as I have indicated, I will be able to talk about the allocations we have done once our Vote has been passed. However, that is an entirely different Question. To tally all the amount of money allocated for bridges in the constituency against the Question that we have is an entirely different Question.

Mr. Nyamai: Mr. Speaker, Sir, given the fact that I raised an issue earlier on that this project has taken about eight years and, indeed, it serves Kitui and Makueni counties and that it is true that this bridge is critical to us, but the Assistant Minister has not given us any form of commitment, will I be in order to request that this Question be deferred until we are through with the budget of the Ministry so that the Assistant Minister can come and give a commitment in this House in view of the time it has taken?

Mr. Speaker: Mr. Assistant Minister, do you have any reaction to that?

Mr. Kinyanjui: Mr. Speaker, Sir, I have undertaken that we will construct the bridge in this financial year that has already started. What I am unable to give in clear terms is the exact amount of money that has been allocated owing to the fact that we have to bring the Vote before the House.

Mr. I. Muoki: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that he will be able to say whether the bridge has been allocated money or not after the estimates have been passed when we know that estimates have been tabled? According to the estimates, it is only Kathua Bridge which has been allocated Kshs70 million in the whole of Kitui County. Is he in order to mislead this House that he will be able to allocate money once the Vote is passed and yet he has already indicated which projects he will undertake once the budget is approved?

Mr. Kinyanjui: Mr. Speaker, Sir, I am very much in order because as I have indicated, we will bring the Vote of the Ministry to this House tomorrow and the breakdown will be there. It is only once the Vote has been passed that I can confirm to the hon. Member what has been passed.

Mr. I. Muoki: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, the Member for Kitui South! Can you ask Question No.916?

(Laughter)

Question No.916

INCLUSION OF PRIMARY SCHOOLS
IN SCHOOL FEEDING PROGRAMME

Mr. I. Muoki asked the Minister for Education:-

(a) whether he is aware that Kitui South Constituency (Mutomo and Ikutha districts) is arid and that all the primary and secondary schools are affected by famine;

(b) what informed the Ministry's decision to leave out areas such as Ikutha, Mutomo and Ikanga Division in the school feeding programme; and,

(c) whether he could include all primary schools in the feeding programme and also supply relief food to the secondary schools.

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

(a) I am aware that Kitui South Constituency, which has Mutomo and Ikutha districts, is arid and that all the primary and secondary schools are affected by the current famine.

(b) Kitui South Constituency is classified as semi-arid in comparison to the rest of the country. Ikutha, Mutomo and Ikanga divisions were part of the larger Kitui South when the homegrown School Feeding Programme was initiated. However, later, the World Food Programme (WFP) which was supporting us withdrew its funding from the regular School Feeding Programme. Based on the resources available, the District Education Board (DEB) identified only the neediest schools in the district for the homegrown School Feeding Programme. The DEB identified the schools based on the food security status, poverty index and net enrolment.

(c) It is not possible to include all the primary schools in the homegrown School Feeding Programme with the current level of funding. However, the Ministry has considered another 41 schools in Kitui South Constituency under the expanded School Feeding Programme. This is an emergency measure as a result of the current drought. This includes 50 schools from Ikutha, 54 schools from Mutomo and 37 schools from Ikanga. That is the situation now.

Mr. I. Muoki: Mr. Speaker, Sir, since I raised this Question, the situation has become worse in my constituency. We have stayed for three consecutive years without rain. The only food which can sustain the students is the one they get in school. So, my request to the Assistant Minister is whether he could raise funds from any source, so that he sustains this feeding programme until we get sufficient rains? As I speak, the situation is very bad.

Prof. Olweny: Mr. Speaker, Sir, what the Member of Parliament has raised is very understandable. We know the situation is very bad in the country. We shall take up the issue in the Ministry to help the situation because things are not very good in the country.

Mr. Mwathi: Mr. Speaker, Sir, I am interested in knowing the criteria used to determine the schools that are benefiting from the Expanded School Feeding Programme, especially given that Ndeiya Division in my constituency falls under arid and semi-arid lands.

Prof. Olweny: Mr. Speaker, Sir, it is based on the food security status and the poverty index of the area. Enrolment will also determine how much is given to the school. But the Member of Parliament can come and we discuss about that issue. These issues are also considered in the District Education Board (DEB) meetings where we all sit. So, he can raise it with DEB when they are having a meeting. Once we get the information, we will act appropriately.

Dr. Nuh: Mr. Speaker, Sir, the World Food Programme (WFP) has promised to continue with the School Feeding Programme in the arid zones because of the current famine situation even during this August holiday. But they have requested that teachers stay in school to at least facilitate this programme. What has the Ministry done in this regard?

Prof. Olweny: Mr. Speaker, Sir, teachers have been given instructions to make sure the schools are open. They do not have to teach. If it is okay for them, they can teach. But they have been instructed to keep the children in school, so that they do not go home because there is no food at home. We do not want children to roam around looking for food. With regard to the children who are in schools that have the school feeding programme, they are supposed to stay in school so that they are fed. The District Education Officers (DEOs) have been told to take care of all that.

Mr. I. Muoki: Mr. Speaker, Sir, I had raised issues on both primary and secondary sectors. However, the Assistant Minister did not address the issue on the secondary school sector. By the time the schools closed, there was delay in releasing funds from the Ministry. Therefore, they experienced a serious problem of water and food. Could he also undertake to support the programme in the secondary schools in Kitui South?

(Loud consultations)

Prof. Olweny: Mr. Speaker, Sir, there are loud consultations here. I request the Chair to ask my colleagues to allow me to listen to the question. Could the hon. Member repeat his question?

Mr. Speaker: Order, hon. Members! Please, let us lower the level of our consultations, so that the Assistant Minister is heard?

Mr. I. Muoki: Mr. Speaker, Sir, in my Question, I raised the issues of both primary and secondary school sectors. In the entire answer, the Assistant Minister addressed the issue of primary schools. There have been delays in terms of releasing funds from the Ministry to the secondary schools. The situation of famine in the secondary schools is similar to the one in primary schools. Parents are also experiencing the problem of paying school fees. Could he also undertake to support the secondary schools in this area, so that learning will not be affected in third term?

Prof. Olweny: Mr. Speaker, Sir, early this year, the Ministry came in when various parts of the country were suffering with regard to famine as relates to the

payment of fees. If that situation recurs, then it will be looked into because we all know the country is in a very difficult situation. So, the Ministry will look into those issues.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to continue concentrating on Kitui South yet part of Mutito Constituency forms part of Mutomo District? Could he also confirm that that area will also benefit?

Mr. Speaker: Order! I rule that out. It is not a valid point of order. You have just asked a different question.

Question No.948

NUMBER OF KENYANS WORKING IN UAE

Ms. Karua asked the Minister for Foreign Affairs:-

- (a) how many Kenyans are working in the United Arab Emirates,
- (b) whether he is aware that many Kenyans in Dubai area being denied work permits since some time in 2010; and,
- (c) what he is doing to address the situation.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, the Member for Gichugu wanted to know how many Kenyans are working---

Mr. Speaker: Order, Assistant Minister. Just answer the Question.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) According to our records, the number of Kenyans who are listed by the year 2009 were 31,725. Currently, it is estimated that these Kenyans are actually between 40,000 and 45,000.

(b) The Minister also wanted to know why the Kenyans who live in the United Arab Emirates (UAE) are denied work permits since the year 2010. I want to mention that the applicants or every individual who makes an application to seek job opportunities in UAE or any other country for that matter, are judged on their own merit so that if they can basically qualify on the basic requirement to take up that employment or an opportunity to work somewhere.

However, sometimes unexplained reasons are given for security reasons or any other reason which the host countries do not tell us. It is true that in recent years, there has been an increase in the number of Kenyans who have failed to get security clearances to go to the UAE. Kenyans, therefore, continue to lose employment opportunities in the UAE due to this factor.

Sometimes, these Kenyans are actually listed as coming from a blocked country, but this is a scenario which the Ministry of Foreign Affairs has been working on and we believe that we should solve this problem very soon.

What are we doing to make sure that Kenyans are not denied these opportunities--

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*(Dr. Otuoma entered the Chamber
and paused to speak with some hon. Members)*

Mr. Speaker: Order, Minister for Youth Affairs and Sports! Mr. Minister, you know that you are not allowed to stand and address *barazas* in the House! Please, bear that in mind!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, various efforts have been made to address the problem of Kenyans being denied visas to go to the UAE and, indeed, all other countries in the Arab world. I can assure you that the Ministry of Foreign Affairs during the meeting where His Excellency the President, on 1st May, 2009 at State House met the Minister for Foreign Affairs of the UAE, Sheikh Abdallah bin Zayed Al Nayan, the Sheikh assured the President and, indeed, the Government of Kenya that they will make sure that Kenyans are given an equal opportunity like anybody else who will apply to look for a job in the Middle East, in this case, the UAE.

The Ministry of Foreign Affairs has also realized that inadvertently, the mistake that our Government has made before is that we had no bilateral labour agreements between our country and all the other countries where our people are working in the diaspora. Therefore, the Ministry of Foreign Affairs is now consulting to have an inter-Ministerial discussion between the Ministry of Foreign Affairs and the Ministry of Labour, so that we can have a bilateral agreement between us and many of the countries where our people work, so that we can then lay out the conditionalities and the acceptable best practices so that our people can be employed.

Ms. Karua: Mr. Speaker, Sir, I am glad the Assistant Minister admits that the number of Kenyans that he has given is an estimate because the information I have is that there are close to 100,000 Kenyans in the UAE. These Kenyans are supporting our economy by their remittances. It is in the public domain that there was a diplomatic row some time last year or the end of 2009 when a Prince was mishandled in Mombasa, Kenya, and since then, Kenyans have been having problems with visas. There was even a requirement at one time that no Kenyans without a university degree could be admitted to travel to the UAE. What has the Ministry done to ensure that this matter is concluded, so that our nationals who are working there are not denied extension of their permits as is happening now? Why has the Ministry not concluded the bilateral agreement?

Mr. Onyonka: Mr. Speaker, Sir, I would like to categorically state that recently, the Ministry of Foreign Affairs has been trying to make sure that we, first of all, sensitize all the other Ministries that are in charge of handling foreigners. The case whereby a Prince was harassed at the airport was a matter, as hon. Karua has said, which put us in a very embarrassing position, but we have sorted out the matter quietly, because sometimes, quiet diplomacy works. I can assure you that we are fast tracking the discussions between us and the UAE to make sure that our people are protected when they go to work there. We will also make sure that the working conditions are improved and the bilateral agreement that we will sign with the UAE will be followed strictly to the letter, so that we facilitate and make sure that our people are treated fairly and equitably.

Finally, our Ambassador in UAE, Ambassador Gello, has been working tirelessly to make sure that we achieve this goal. As for the meeting that we had in Mombasa yesterday where he attended, he gave us the news that very soon, we will have a joint Commission with the UAE to make sure that we sign these agreements which will protect our people.

Mr. Njuguna: Mr. Speaker, Sir, I wish to thank the Assistant Minister for the lengthy answer. Could he indicate to this House what steps the Ministry is taking to make sure that Kenyans are not enslaved and are humanly treated and employed according to the international labour laws in the UAE?

Mr. Onyonka: Mr. Speaker, Sir, that is a very good question. I would like to state categorically that the Ministry of Foreign Affairs and, indeed, the Government is aware that there have been cases where Kenyans have been mistreated and manhandled. The reason this has been happening is because we have not signed legally binding agreements with some of these countries to make sure that when our people go to these countries, they are protected.

Secondly, when Kenyans land in the countries where they have got jobs, they do not report to the ambassador. Sometimes, we are not aware that they are there until there is a mishap or until a crime has taken place.

Thirdly, and this is a reality that has dawned on us, the Ministry of Labour has deliberately made it impossible for us to register companies to recruit all the Kenyans who want to work out there and keep proper records and evidence, so that if a Kenyan goes out there, then we know what they are doing and they know who they work for. We should know how they went there. This is a matter which the Government is taking very seriously and is being discussed to make sure that it is within our constitutional requirements. We are going to insist that any Kenyan who is going out of the country to look for a job must always make sure that they report to the ambassador when they arrive. We will protect them wherever they go by signing bilateral agreements.

Mr. Kenyan: Mr. Speaker, Sir, while appreciating the answer given by my able friend, hon. Onyonka, it is good to be honest with Kenyans. Last year, my Committee, and I know this is Question Time---

Mr. Speaker: Order, hon. Keynan! You must ask a question!

Mr. Keynan: Mr. Speaker, Sir, the crisis is real. Thousands of Kenyans are about to lose their jobs. Many have been denied renewal of their visas and many others have lost when they change jobs. The reason is just one; that early last year, a senior official in the Kenya Government misbehaved in the UAE and that problem can only be solved at the highest level between our Chief Executive and the Chief Executive of that country. Until that is done through a note verbale, these other issues will remain just semantics because if the livelihoods of about 100,000 Kenyans are affected, this even calls for a national action.

Could the Assistant Minister clarify what happened after his Ministry, the Ministry of Labour and the Ministry of State for Immigration and Registration of Persons met with my Committee and agreed on the way forward? Has that recommendation been implemented? He knows what that constituted.

Mr. Onyonka: Mr. Speaker, Sir, I would like to inform my Chairman that on 20th April, 2010, technical officials from Kenya and the UAE held the first bilateral consular meeting in Abu Dhabi. Secondly, the two sides agreed that Kenyans currently in employment in the UAE will not be subjected to any new residency requirement upon the expiry of the current ones unless they apply for new jobs and require higher qualifications. Thirdly, both sides agreed that a job offer was not necessarily a guarantee for one to work in the UAE. Fourthly, we agreed that a draft labour agreement should be reviewed, drafted and signed as soon as possible. Since then, we have been hoping that

within the next one month or so, this agreement will be signed. That has been the crux of the problem.

Mrs. Noor: Mr. Speaker, Sir, the Assistant Minister has said that there are several organizations that recruit Kenyans for job placements. Officially, we know that even the Ministry of Youth Affairs and Sports does job placements in the UAE and other places. What is the Ministry doing to co-ordinate the Ministry of Youth Affairs and Sports and the Ministry of Labour, so that it can have concrete data and officially communicate to the UAE and other countries?

Mr. Onyonka: Mr. Speaker, Sir, it is true that the Ministry of Youth Affairs and Sports, the Ministry of Labour and the Ministry of Foreign Affairs under the Department of Diaspora Services have been having discussions on the same. I can assure you that this is a matter of great urgency and the Ministry of Foreign Affairs is going to work on it to make sure that we agree, so that we can have a co-ordinating agency to manage our people when they go to work out there. We do not have a data bank or a recording system which we can use to trace any Kenyan who has been recruited to work out of the country. The other reason why this problem exists is because of the Kenyans themselves.

Mrs. Noor: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell us that he does not have official records when I know that the Ministry of Sports and Youth Affairs has special reports within itself? The Government must be very serious and get those reports.

Mr. Onyonka: Mr. Speaker, Sir, I will stick to my position that we do not have the exact record. About two months ago, when I and hon. Mwakwere travelled to Lebanon, we found about 11 Kenyan girls who had been impounded and detained in a home, where they were actually being used as sex slaves. It is the Ministry of Foreign Affairs which repatriated them back to Nairobi as late as two weeks ago. When we tried to investigate whether we had records of them, they said that when they were recruited, they were told not to release any information as to where they were going and who they were going to work for.

So, my suggestion to hon. Members of this House is that we need to come up with modalities and a law which will make it mandatory for Kenyans travelling outside the country for employment to, without breaking the Constitution, keep records, so that we can follow up where they are.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to ask us to pass a law to provide for all that which he said the Government would do last year when I brought to this House The Counter-Trafficking in Persons Bill, which was passed, and to which the President assented? What the Ministry is doing is basically not implementing it. The Act provides for a co-ordinating unit. All that the Assistant Minister said the Government is going to do is provided for by law. So, why are they not implementing the Act? Is he in order to mislead the House?

Mr. Onyonka: Mr. Speaker, Sir, the law that was passed was not specifically passed for the Ministry of Foreign Affairs to implement. There are other Departments of Government which are supposed to implement that law. I would like to ask my colleagues to realise that the Ministry of Foreign Affairs cannot do everything.

(Several hon. Members stood up in their places)

Mr. Speaker: Last question, Member for Gichugu. Hon. Members, we are out of time for Questions, as a matter of fact.

Ms. Karua: Mr. Speaker, Sir, we are aware that, in order to protect their nationals, other countries have agreements on salaries, standards, policies on the treatment of their workers and ratified contracts. Could the Assistant Minister give a timeframe as to when Kenya will conclude negotiations in order to protect our nationals, and state when he will repatriate the girls he has been told are now in a camp in Riyadh?

Mr. Onyonka: Mr. Speaker, Sir, unfortunately, I do not have the timeline as to when---

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. The issue of the United Arab Emirates (UAE) is very weighty because it touches on the lives of very many Kenyans working in the Diaspora. We cannot exhaust it during Question Time. Would I be in order to ask that this matter be referred to the Departmental Committee on Defence and Foreign Affairs, so that matters which are making this issue not be resolved can be discussed candidly, and we find a way forward?

Mr. Speaker: Well, it is a valid concern but the Committee is aware as to what its mandate is, as provided for in the Standing Orders. They do not need any prompting from the Chair.

Proceed, Assistant Minister!

Mr. Onyonka: Mr. Speaker, Sir, I totally agree with my colleague, hon. K. Kilonzo, that this is a very weighty matter. It is a matter which has been affecting Kenyans. It is very unfortunate that Kenyans are killed, others are being burnt and others are thrown from balconies of apartments in foreign countries in which they work. Hon. Karua has made it very clear. I agree with her. My Ministry will make sure that we come up with a law very soon to guide the bilateral agreements that we will sign with other countries. The best approach is that of the Philippines, where there is a wonderful law which guides diaspora services. Other examples are Indonesia and Malaysia, which have their citizens working, especially, in the UAE, and they are fully protected by the laws of the countries where they work.

Thank you, Mr. Speaker, Sir.

Ms. Karua: On a point of information, Mr. Speaker, Sir.

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

Mr. Onyonka: Yes, Mr. Speaker, Sir.

Ms. Karua: Mr. Speaker, Sir, I would just let the Assistant Minister know that apart from The Counter-Trafficking in Persons Act, there are United Nations (UN) Conventions which have provisions against slavery. Those UN Conventions can guide on the agreements that the Government may make. So, there should be no excuse for not expediting the matter.

Mr. Onyonka: Mr. Speaker, Sir, I agree. Unfortunately, we have been handling this matter very casually.

Mr. Speaker: Assistant Minister, it is good enough that you have confirmed you are aware that this matter is handled casually. So, please, take it seriously from today. You have all the necessary laws in place. From the answers given by you this afternoon, all you have laboured to tell this House are excuses as to why you are not doing what you should do. Move away from excuses and act. You, obviously, cannot make sense to this country when you say that Kenyans leave the county without you knowing how many of

them go out of this country, for example, every day and what they go to do out there. So, just take your work seriously. Co-ordinate with the other Ministries and ensure that Kenyans are protected.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Following your timely advice to the Assistant Minister, would it be in order for me to request you to order him to report to the House on the action taken within 90 days?

Mr. Speaker: Yes, that would be valid.

Mr. Onyonka: Mr. Speaker, Sir, I believe that is a good request. We have the capacity, as a Ministry, to come with up with a framework.

Mr. Speaker: Give us an appropriate report on compliance within 90 days from today!

Mr. Onyonka: Mr. Speaker, Sir, I promise to do so.

Mr. Speaker: Very well.

Hon. Members, Question Nos.950 and 991 are deferred to Thursday afternoon, this week. Question No.983, because the Member for Ainamoi is held up elsewhere on official duty, is deferred to Wednesday morning, next week.

Question No. 950

PAYMENT OF GRATUITY TO FAMILY OF LATE TITUS KIEKE KISINA

(Question deferred)

Question No.991

IRREGULAR TRANSFER OF PARCELS OF LAND TO GILGIL DISTRICT

(Question deferred)

Question No.983

EQUIPMENT/STAFF AVAILABLE FOR EMERGENCY RESPONSE

(Question deferred)

Mr. Deputy Speaker: Next Order!

POINT OF ORDER

DEATHS OF JOHN KAMURI AND PETER IRUNGU

Mr. Mwangi: On a point of order, Mr. Speaker, Sir. On Wednesday, 6th April, 2011, I raised an issue under Question No. 810, regarding the deaths of John Kamuri and Peter Irungu. The Minister of State for Provincial Administration and Internal Security promised to give a report on the disappearance and subsequent death of John Kamuri, Peter Irungu and Kenneth Waitika in a month's time, but to date the Minister has not

given a report of his investigations. I would like him to state when he will be ready to table the report he promised this House in April.

Mr. Speaker: Assistant Minister, Ministry of State for Provincial Administration and Internal Security, that looks like your baby.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, let me check on how far they have gone with the investigations and report to this House by next week, on Thursday.

Mr. Speaker: It is so directed! Next week on Thursday, without failure because you had asked for a month but you have had three months so far!

Next Order!

MINISTERIAL STATEMENTS

Mr. Speaker: Hon. Members, we will, first, take Statements which are due, and then we will move on to Statements under Standing Order No.76. We will finally take requests for Ministerial Statements. Let us begin with the first category.

Yes, Deputy Prime Minister and Minister for Finance!

IDENTITY OF BUYERS/SELLERS OF THE GRAND REGENCY HOTEL

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, on 20th July 2011, the Member for Rangwe, Mr. Martin Ogindo, sought a Ministerial Statement from the Deputy Prime Minister and Minister for Finance on the buyers and sellers of the Grand Regency Hotel.

In particular, he wanted to know:-

(a) Who were the buyers and sellers of the Grand Regency Hotel and if it was an entity, who the beneficial owners of those entities were.

(b) What disposal procedures were used in the process.

(c) How much the sale proceeds were, where the money is and how much interest it had earned as at 30th June 2011.

(d) If the money has been spent, where it has been spent and if not, where he intends to spend it.

Mr. Speaker, Sir, according to records held at the Central Bank of Kenya (CBK), the Grand Regency Hotel was sold by the CBK to the Libyan Government through its investment arm in the region, the Libyan African Investment Company Limited, whose directors at the time of sale were listed as Mauwal Mohammed Shtewi and Amaer Ahmed, both Libyan nationals. The CBK was not aware of any beneficial owners of the company apart from the Libyan Government.

Under the auspices of the Kenya Anti-Corruption Commission (KACC), a settlement was recorded by the parties that led to the handing over of the hotel business to the CBK. The CBK subsequently sold the hotel by private treaty and pursuant to its statutory powers of sale under the charge instrument held as security. The hotel was sold by private treaty as previous attempts by the bank to dispose of the same were frustrated by the registered owners resulting in protracted litigation.

The sale proceeds amounted to Kshs3, 141,000,000 or Kshs3.1 billion held by the CBK on behalf of the Government. The funds were not invested and so do not earn any interest.

Mr. Speaker, Sir, the proceeds from the sale of the hotel were earmarked by the Government for the construction of Lamu Port, specifically for dredging and infrastructural development of the harbor.

I wish to emphasize the fact that the Grand Regency Hotel was not a Government hotel. The land and building housing the hotel was held by the CBK as collateral against a loan granted to Exchange Bank which went into liquidation in the early 1990s. It should, therefore, be clearly underscored that the sale of the hotel by the CBK was not a privatization exercise.

Thank you.

Mr. Speaker: Assistant Minister, please, take notes!

Mr. Imanyara: Mr. Speaker, Sir, in the Statement the Assistant Minister has given; he has left out one very material fact. That is; that the circumstances under which this hotel sold were the subject matter of a Judicial Commission of Inquiry set up by none other than His Excellency the President. Given the circumstances under which this hotel was sold, could you tell us what the recommendations of that Commission of Inquiry were?

Mr. Njuguna: Mr. Speaker, Sir, with the admission by the Assistant Minister that the funds raised from the sale of this hotel were meant for the construction of Lamu Port, could he indicate to this House when the project is likely to start?

Mr. Speaker: Let us have the Member for Ikolomani and that must be the last one on this matter!

Dr. Khalwale: Mr. Speaker, Sir, the Assistant Minister has told the House that the property was sold to the Government of Libya. The House also knows that the international community has requested all governments of the world to freeze all accounts and businesses by the Government of Libya. Could the Assistant Minister confirm whether the Government of Kenya is also cooperating with the request by the international community and if indeed they have frozen the assets, businesses and bank accounts of the Libyan Government in the country?

Mr. Speaker: Member for Gichugu I am aware that you were absent a bit but now that you are present both in mind and physically, you may make your request for clarification.

Ms. Karua: Mr. Speaker, Sir, thank you for noticing all that.

Could the Assistant Minister tell us, now that he says that the monies have not been utilized and are being held to develop the Lamu Port, what was the expense of the Government in selling this hotel in terms of valuation fees, legal fees and any other expenses? What fund was utilized to pay these expenses?

Mr. Speaker: Assistant Minister, please, proceed and respond as fast as you can!

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, Mr. Imanyara was inquiring about the Commission of Inquiry instituted by His Excellency the President into the circumstances of the sale of the Grand Regency Hotel. He wanted to know the recommendations of that Commission.

You will recall that this is the subject which led to the then Minister for Finance stepping down to allow investigations to go on. The Report was finally given by the KACC. I do not have access to that Report. However, I know that Mr. Kimunya was finally cleared and was returned to the Cabinet. However, I do not have---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Given that this is available material to the information that was sought in order to give the Ministerial Statement, is it in order for the Assistant Minister to purport to give a Ministerial Statement given the circumstances, if he is not aware of the Report of the recommendations that were made pursuant to specific requests to investigate?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, the question asked by Mr. Ogingo was not about the Commission of Inquiry. The questions he asked are the ones I have answered and they have nothing to do with the Commission of Inquiry.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Would I be in order if I requested that since the question was directed to the Minister for Finance and not to Dr. Oburu Odinga, that the Chair considers asking the Minister to furnish this House with the said Report?

Mr. Speaker, Sir, I had an occasion in this House to table the same Report but you never made a ruling.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. When we seek Statements in this House, we are very much aware of the provisions of Article 35 of the Constitution which imposes an obligation on the Government and all public servants to give information that is being held in official records. When an Assistant Minister stands up and does not answer questions or give information that is in possession of the Government, they are in breach of the provisions of Article 35 of the Constitution. This coming so soon after the promulgation of the Constitution, we are setting a very bad precedence. Would I be in order to request that you tell this Assistant Minister to come back and give this House the proper information in terms of Article 35 of the Constitution, relating to the sale of the Grand Regency Hotel?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I think you had ruled on this matter. The one which was tabled by hon. Khalwale was not admitted because it had not been received officially by the appointing authority. It is also against our Standing Orders---

Mr. Speaker: Order! Order, Mr. Assistant Minister! I have followed the proceedings this far and I would want you to respond to the other points raised and leave the one pertaining to the report, so that you can go and reflect on the matter a little more. But answer the other clarifications sought.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, the Member for Lari asked a question about the implementation of the Lamu project. He wanted to know specifically when this project will be implemented. I want to report that the study on all the components of the project has already been completed and was recently presented by the consultants, which involved a Japanese firm. Very soon the process of implementation will start.

Mr. Deputy Speaker, Sir, there was one other clarification sought by hon. Khalwale about the freezing of Libyan assets all over the world as per the United Nations (UN) resolution. This is a matter which concerns the Ministry of Foreign Affairs. As yet,

there is no concrete step which has been taken, but the Ministry of Foreign Affairs is more competent to answer this particular question.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the Minister in order to run away from answering the question when he has two options; either to respond by virtue of collective Government responsibility or request the Speaker to allow his counterpart at the Ministry of Foreign Affairs to come and answer the same question?

Mr. Speaker: Minister, go to the last one. I am not satisfied with your response to the Member for Ikolomani.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, the last one was by hon. Karua, which was not very clear to me. I think what she was asking, if I can just guess was---

Mr. Speaker: Order, Mr. Assistant Minister! You have no reason to guess, because you were right here as the Member for Gichugu raised her issues. In fact, I drew the attention of the House to the fact that the Member for Gichugu made up her mind a little later. So, you had all the quiet that you required. She actually articulated her issues almost in total silence.

Mr. Assistant Minister, so that we save time, I want to defer this matter to three weeks away. Go and acquaint yourself with the HANSARD, understand all the issues and come with a comprehensive response 21 days from today.

(Ministerial Statement deferred)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, there is no problem. But I think she wanted the cost---

Mr. Speaker: Order! There is no "but".

We will take the Statement under Standing Order No.76 by hon. A. Abdalla.

PERSONAL STATEMENT

ALLEGATIONS BY *THE NATION* NEWSPAPER ABOUT MPS' FUNDING OF TERRORISTS

Ms. A. Abdalla: Mr. Speaker, Sir, I wish to make a Personal Statement pursuant to Standing Order No.76, following a 29th July, *Nation* newspaper article titled "Minister and MP give cash to terrorists."

Mr. Speaker, Sir, the report quotes a UN, Somalia and Eritrea Monitoring Unit and claims that hon. Najib Balala and I made donations that were then later used for terrorism. The report and subsequent coverage portrayed me as a person who supports terrorism and gives donations to questionable charitable activities. The report alleges that a Kshs500,000 donation that I gave to the Pumwani Riyadhha Mosque was used to fund Al Shabaab. I wish to confirm that I was, in September, 2009, invited to the third reconstruction *Harambee* for the Pumwani Riyadhha Mosque. I was unable to attend but made a personal pledge of Kshs500,000, a promise I was only able to fulfill in February, 2011. I have extremely strong ties with the Pumwani Riyadhha Mosque. Three generations of my family have prayed in that mosque since the 1930s. I spent three years

learning Quran in that mosque and the teacher who taught me then still teaches in that *Madrassa*.

Mr. Speaker, Sir, in 2004, I attended meetings planning for the demolition and reconstruction of the mosque. It was, therefore, frustrating for me that each of the three *harambees* that were organized by this mosque were never able to raise even ten per cent of the reconstruction budget. Out of this frustration, I decided to make a significant contribution, to give a boost to this construction. It, therefore, came as a surprise to me when a Nigerian individual, claiming that he was an investigator for the UN, came to see me on 11th May, 2011, at my Continental House office and claimed that he was investigating an extremely large donation that I had made to the mosque. I explained to him that the size of the contribution was as a result of my strong historical ties to the mosque, and that I found it difficult for the mosque committee to be able to afford to fund terrorism, considering the low response that their fundraising efforts had been able to get.

Mr. Speaker, Sir, thirdly, I challenged him that if he had evidence that the accounts were used for terrorism he could ask the authorities to arrest the culprits, as the actions of the culprits would be an offence under the Organized Crimes Act. I further told him that the mosque was a registered legal entity whose accounts could be frozen if they were found not to be following procedure. I asked him whether it was my business to follow what the organizers of the *harambee* did with my contribution.

Mr. Speaker, Sir, my interactions with this investigator left me with the view that either the UN recruited an extremely shoddy investigator or the fellow was a con artist who wanted to extort money from me through his wild claims. In fact, I subscribed to the latter and dismissed him, especially when he told me that Mohamed Iman, the said terrorist, used my contribution for his passage to Somalia, yet it is a known fact that he left for Somalia one-and-a-half years before my contribution in February, 2011.

Mr. Speaker, Sir, secondly, I found it funny that he had mentioned that the said Iman had told his followers to support me in the 2007 elections. I never ran in the 2007 elections, either at the nomination level or at the general election. It was even funnier when he told me that Iman had supported me considering that the said Mr. Iman subscribes to an Islamic school of thought that does not support women in leadership, let alone political leadership.

Mr. Speaker, Sir, terrorism is a real challenge to the Muslim community and it is only recently that we, as leaders, have appreciated the level of recruitment that is taking place on our soil. The main reason for this delay in appreciation of the problem is the sensationalization of this subject by the international community. The Somalia and Eritrea Monitoring Group are the biggest culprits in this sensationalization and disinformation of the subject, being led by the lead consultant in this programme. They have made many wild allegations against many Muslim religious, political and business leaders mainly from Somalia. The innocent have had to suffer the stigma of being linked to terrorism in silence, as the authors hide behind diplomatic immunity enjoyed by the UN.

Mr. Speaker, Sir, it is my view that unless the consultant can substantiate allegations linking the Pumwani Riyadhha Mosque to financing Al Shabaab, then action needs to be taken against him, individually, to prevent his shoddy work from destroying other people's careers and reputation.

Mr. Speaker, Sir, several public leaders and ordinary citizens, including our former Vice President, hon. Moody Awori, have contributed to the Pumwani Muslim Reconstruction Project. The question I asked is: Why has the report focused on hon. Balala and myself? The answer lies in the consultants getting the best justification for the extension of the Somali Monitoring Group (SMG) mandate, which was granted by a UN Resolution on the same date of the Report. Their mandate has been extended for 12 months. Nairobi is a preferred duty station for UN international staff because they have the comfort of enjoying payslips that are 26 per cent higher than the highest paid American civil servant. They receive additional allowances for purported security risks that they incur. Thirdly, they travel in leisure because the fuel they use is bought duty free and tax free, facilities that they would not enjoy anywhere else in the world.

Mr. Speaker, Sir, many Muslims in the past have ignored the SMG Report. However, the consequences of their latest report are far-reaching for Muslim charities in Kenya and, especially, for construction of mosques. Since September 11th, 2001, Muslim charities fully rely on the generosity of local donors such as hon. Balala and myself. This Report would scare Muslims and other donors from contributing for fear of being linked to terrorism. Secondly, this Report would additionally encourage religious intolerance. As you are aware, last month, I was able to raise from my colleagues a total of Kshs1.3 million for a mosque in Lagdera. About 60 per cent of the contributors were non-Muslim colleagues, whom I now fear will not be able to willingly contribute, if there is a perception that the monies they give are given to terrorist groups that kill and maim the innocent.

Mr. Speaker, Sir, I contribute to *harambees* in aid of churches and other religions. This Report would discourage that mutual co-operation between the faiths. I, personally, intend to continue to fund Muslim charities and I am committed to ensuring that the Pumwani Mosque is completed.

The UN Report seems to criminalize donations to mosques and the Government will have to come out clearly on this matter. The allegations made by the Somalia Monitoring Group Report are serious as they link a Member of the Cabinet and a Legislator to funding terrorism, indirectly implying the presence of terrorism sympathizers at the highest level of Government. The question I ask is: Did the SMG share that information with the Government security agencies before presenting it to the UN? If they did, what did the Ministry of State for Provincial Administration and Internal Security do to verify that information? Did the Government of Kenya ignore the SMG as they did to a previous report by the same group that accused the Government of Kenya of breaking a UN embargo by training Somali soldiers, despite the fact that the resolution clearly stipulated that supporters of the Transitional National Government were not covered by the embargo?

Mr. Speaker: Order, hon. Amina. You are doing minute number eight. You will recollect that I discussed this matter with you. We agreed that you would do so within five minutes and that that you will be allowed a spill over period of two minutes. So, at eight minutes, you are in breach of our agreement. You have two minutes to conclude.

Ms. A. Abdalla: Thank you Mr. Speaker, Sir. I will conclude in less than a minute.

If the SMG did not share that information and, especially, our purported linkage to terrorism, I will be demanding that the Ministry of Foreign Affairs sends a protest note

to the UN Security Council Secretary General for allowing inaccurate reports to be adopted by the UN Security Council.

Mr. Speaker, Sir, I do not condone, nor have I ever supported terrorism and fundamentalism of any nature. I believe very strongly that my contribution was used for the reconstruction project and not as alleged by the UN Report.

I thank you.

Mr. Speaker: Are there any requests for Ministerial Statements? Member for Naivasha!

POINTS OF ORDER

SAFETY OF GENETICALLY MODIFIED FOODSTUFFS

Mr. Mututho: On a point of order, Mr. Speaker, Sir. On Thursday, 21st July, you made a ruling to the effect that Prof. Sambili, should come and give a Statement and confirm whether GMO, indeed, has been imported to Kenya. That did not happen last Thursday. I request that the Minister responds to that particular order. For clarity, I will read your order.

“Madam Minister, this is a serious matter. You have indicated to this House that, as far as you know, there have been no requests to bring into Kenya GMO maize. So, we will go by the import of that utterance from you that no GMO maize is in Kenya now, and none will be allowed in or consumed by Kenyans until you come on that day. “

That is the import of what you said, Mr. Speaker, Sir. She confirmed by saying yes. She did not comply with that and I urge the Chair to now order her to issue that Statement.

Mr. Speaker: Very well. I am aware that I directed that the Minister comes with further clarification the following Thursday and, from what you are saying, apparently, it did not happen. However, the Minister addressed a letter to the Speaker on the same day that this matter was canvassed in the House. She said, in her letter, that she believed that this matter fell squarely within the province of the Ministry of Agriculture because of the nature of the issues which had been raised which largely, even in my own opinion, had to do with the importation and consumption of GMO maize. So, the Minister wrote to me and I, in turn, directed that this matter be referred to the Ministry of Agriculture. A letter was immediately written to the Ministry of Agriculture. The Minister for Agriculture should indicate what difficulties she has in making this information available. Is the Minister for Agriculture in the House?

An hon. Member: No.

Mr. Speaker: Leader of Government business---

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am aware of the consultations that have been taking place on this matter between the two Ministries. Indeed, it may well have scaled to the Prime Minister to make a comprehensive statement because it touches on four Ministries. Those consultations are still on-going and the information is being prepared. We hope that we will get, certainly not tomorrow, but by next week, a statement being read by the Prime Minister.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. This is a Government that is not conscious about the health of her own people. I rose under Standing Order No.82 (2)

and said that I should be allowed time to show that, indeed, GMO maize had been imported and is being consumed in Kenya. Right now, as I speak, lorry loads of GMO maize are being off-loaded in Laikipia, Wajir, Nakuru, Kinangop and all of it being carried in tipper trucks. Why the Government wants more time is so that it can offload and dispose all the GMO maize that has been lying in Mombasa. Could I ask that they respond tomorrow because I am ready to demonstrate to this House that, indeed, GMO maize has been imported and consumed in Kenya? This Government has given consent for GMO maize to be imported and consumed in Kenya.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, when we are faced with famine of the magnitude that we are faced with today, it is important that we are very careful with the statements we make. We should avoid making people panic and think that, in fact, the assistance being taken to them is food that is harmful. The hon. Member has made a statement that GMO maize is being offloaded in specific locations. I am not aware of any such maize being offloaded in those areas. The hon. Member should be good enough to substantiate those allegations, especially on the locations he has quoted. The information he has shows that GMO maize has actually been taken and is being offloaded in those locations and it is harmful to those people. We should avoid panic especially when we are faced with the kind of famine that we are having, I believe that it is only right that we get that confirmation.

Mr. Speaker: Order, Mr. Minister. I am not certain that, that is the way to go. If you ask the Member to substantiate whether or not GMO maize is being offloaded in Laikipia, maybe that would compound the situation. It will send the people in Laikipia into panic; that they are being fed on GMO maize which is unfit for human consumption. The best way to deal with this matter is for the Government to be ready to give a Statement that is comprehensive tomorrow, so that they can allay any fears that there may be over importation or even consumption of GMO maize. If the Government is able to persuade Kenyans that no harmful food is being imported for their consumption, then that will settle the matter. So, you must deal with it very urgently, I think as much as possible, in the next 24 hours.

So, let us revisit this matter tomorrow during the Prime Minister's Time; prepare the Prime Minister to be ready to make a statement on this matter. That is the way to go and I so direct.

Mr. Okemo!

SALE OF BUSIA SUGAR COMPANY LAND

Mr. Okemo: On a point of order, Mr. Speaker, Sir. Last Tuesday, I sought a Ministerial Statement from the Minister for Agriculture regarding the sale of land belonging to Busia Sugar Company by Mumias Sugar Limited. The farmers are up in arms because they are not sure of the status of this land. Mumias Sugar Company was promised to be paid for this land by the Kenya Sugar Board (KSB) after authorization from the Ministry of Agriculture, but instead of waiting to be paid they rushed to court and got a court order authorizing them to sell the piece of land by a private treaty; up to now, we are not clear on this matter. We did two searches and they gave different details. One shows that the land still belongs to Busia Sugar Company Limited. The other one shows that the land belongs to a company called Kaplonyi Enterprises Limited. An

affidavit was sworn by Dr. Kidero, who is also a member of the KSB board, which decided to pay the debt. He sits on the board, but then he ran and swore an affidavit, gave it to his lawyers who went and got a court order and quietly tried to get the land transferred to the ownership of a company called Kaplonyi Enterprises Limited. We do not know what the position is and the farmers are really anxious. So, I really want to get a statement from the Minister for Agriculture giving us the position as it is.

Mr. Speaker: Very well. Mr. Okemo, you have made your point very comprehensively. Minister for Agriculture, this appears to be a very urgent matter naturally.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, if my recollection is right, I think the answer on this matter is to come on Thursday, this week.

Mr. Speaker: Actually, our schedule says 2nd August, and it is from the HANSARD.

The Minister for Transport (Mr. Kimunya): My apologies. We will communicate to the Ministry of Agriculture the urgency of the matter and ask them to fast track it.

Mr. Speaker: Can it be done on Thursday then?

The Minister for Transport (Mr. Kimunya): Yes, Mr. Speaker, Sir.

Mr. Speaker: Mr. Baiya!

DEPRECIATION OF THE KENYA SHILLING

Mr. Baiya: On a point of order, Mr. Speaker, Sir. On Tuesday last week, I sought a statement from the Deputy Prime Minister and the Minister for Finance concerning the loss of value of the Kenya currency, and it was to be delivered today. Could the Minister deliver the statement?

Mr. Speaker: The Deputy Prime Minister and Minister for Finance was here this afternoon. I do not understand why he would leave when he knows that he has a statement to deliver – a statement that is due. Obviously, that is not behaving too well. Assistant Minister, are you able to deliver that statement now? How long do you need?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, could you give me up to Tuesday next week?

Mr. Speaker: That will be too long since you had committed yourself. You gave an undertaking. I know at times it is difficult to understand what an undertaking is.

(Laughter)

You said you would do it today. When you undertake, you must honour the undertaking. Hon. Wetangula will tell you that an undertaking is taken very seriously.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Yes, I know. We undertook but there is some information that we are still seeking; I am seeking your indulgence.

Mr. Speaker: So, you need more time to put all your information together?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Yes, Mr. Speaker, Sir.

Mr. Speaker: Mr. Baiya, are you happy with Tuesday next week?

Mr. Baiya: Mr. Speaker, Sir, it is okay.

Mr. Speaker: Very well. It is so directed.

Eng. Gumbo!

ANNUAL HEADTEACHERS CONFERENCE/FAMINE IN SCHOOLS

Eng. Gumbo: On a point of order, Mr. Speaker, Sir. On 21st of last month, I requested for two Statements from the Ministry of Education, and their undertaking was that they would give them on Tuesday and Wednesday last week. I am yet to receive them.

Mr. Speaker: What was expected to be given?

Eng. Gumbo: Mr. Speaker, Sir, one was about the annual head teachers conference and the other one was about the famine situation in our schools.

Mr. Speaker: Very well. Minister for Education! Well, none of them is here. Yes, Deputy Leader of Government Business.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I will communicate this to the Ministry of Education and they can do that on Thursday afternoon.

Mr. Speaker: Very well. It is so directed.

Mr. Pesa.

RISING COST OF POWER/ FREQUENT POWER RATIONING

Mr. Pesa: On a point of order, Mr. Speaker, Sir. I wish to seek a Ministerial Statement from the Minister for Energy on the increase of cost of power and frequent power rationing in the country. In his statement, the Minister should clarify the following. One, confirm that the African Development Bank (ADB) has granted Kenya Kshs4 billion to procure new rigs and equipment to harvest geothermal power as an alternative source of energy in Menengai, Baringo, Turkana, among other areas. Two, what immediate action he is taking to ensure that the Ministry puts funds into good use in order to cushion Kenyans against the steadily rising cost of power, as well as the power rationing. Lastly, I want the Minister to tell us what other measures he has in place to generate more power to avoid power rationing and ensure that Kenyans, including residents of Migori Constituency, where I come from, who are currently prone to power interruptions, have access to cheap and reliable power.

Mr. Speaker: Very well. Yes, Minister for Energy. He is not here. Yes, Deputy Leader of Government Business.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, could I ask that, that Ministerial Statement comes here next week on Tuesday?

Mr. Speaker: Very well. It is so directed. That then brings us to the end of that order.

Next Order!

BILLS

First Reading

THE ENGINEERS BILL

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

Second Reading

THE POLITICAL PARTIES BILL

Mr. George Nyamweya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Mr. Nyamweya?

Mr. George Nyamweya: Mr. Speaker, Sir, I rise in respect of Order Nos.9, 10, 11, and 12 on the Order Paper.

I have previously risen as a Member of the Departmental Committee on Justice and Legal Affairs in respect of any Bills --- I believe the Constitution does require that the Bills be referred to departmental Committees for scrutiny before their second reading.

Mr. Speaker, Sir, I stand to seek your guidance as to whether the Departmental Committee on Justice and Legal Affairs has been disbanded totally. As far as I know, there is no Bill which has been referred to that Committee. Even if there is no Bill which has been referred to this Committee, are these particular Bills being presented to the House for Second Reading being subjected to any scrutiny by any Committee? If they are, then, perhaps, is there report from that Committee?

Mr. Speaker, Sir, I believe even the new Constitution does require that administrative justice for anybody be given expeditiously. We have been in this situation of limbo, without knowing where we stand as members of that Committee. Therefore, do we owe a responsibility to this House, or have we been discharged from our responsibility? I think it will be helpful to the country to know the position, especially when we get to such fundamental Bills which will guide our country into the next elections and so on. It is important for the Bills to be subjected to proper and thorough scrutiny before being presented to the House for debate.

Mr. Speaker, Sir, I seek your guidance.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. As you give us guidance on that issue that has been raised by my learned senior, I want also to add my thoughts on the same point.

Mr. Speaker, Sir, Committees of Parliament operate as agents of the principal. The principal is this open House. Now we are seized of this matter as the House. It would be wrong for us to be dragged back to the Committee, when, indeed; the House is ready and willing to execute, as the principal, the arguments and things that need to be done at the level of Second Reading.

Mr. Speaker, Sir, the House is ready to debate this matter at the second reading stage. The House wants to go through these Bills. As you are aware we have already delayed in this implementation.

Mr. Speaker, Sir, I seek that you find that we need to proceed because we are ready to debate this Bill.

Mr. Speaker: Hon. Members, I have listened carefully to the point of order very ably raised by the hon. George Nyamweya. I agree that it has a lot of substance in it, except to say this: As far as the relevant Standing Order No.111 is concerned, a Bill automatically stands committed to the relevant departmental Committee without Question as soon as it is read the First Time.

So, from where I stand, I operate on the presumption that the relevant Committee has, in fact, been considering the Bill which is at Order No.9. Until that presumption is rebutted, I am afraid, that is what I will be guided by.

With respect to whether or not the Committee on Justice and Legal Affairs is operational, that is a matter that has been on the table for a long time. It has been deliberated upon in this House. From the Speaker's position, I have made my input into the matter fully. I have discharged all duties that are expected of the Chair with regard to this matter. The responsibility to ensure that the Committee is operational now lies elsewhere. As a matter of fact, if I were to be very candid about this, that responsibility now lies squarely in the House Business Committee.

We must respect the concept of sharing of responsibilities. If you place a certain mandate and responsibility, indeed, the duty, on a given organ of this institution, then that organ must play its role. I want to leave it there. I shall say no more because I have said as much as I ought to say. As much as is necessary on my part, I have said, and I have done. I shall not take any further responsibility on that one until I have a report from that organ. So, I want to believe that that Committee, if it is not yet operational, will be presently.

With respect to the third part on whether or not we can now proceed as a House to deliberate on Order No.9, I have given directions on similar arguments before. My directions have been in consonance with the positions as very ably articulated by the Member for Garsen. I stand by that position; that we can proceed with Second Reading notwithstanding that there is no Committee report. If you wish, you can have the benefit of revisiting my earlier directions on this matter which I believe are sound in law and, indeed, in accordance with practices and procedures of this House.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I rise to move that the Political Parties Bill, Bill No.22 of 2011, be now read a Second Time.

Mr. Speaker, Sir, the main purpose of this Bill is to provide for a legislative framework for the management and regulation of political parties. Enactment of this law will mark yet another milestone in the journey towards realization of a multi party democratic state. The law further makes provision for the realization of the political rights guaranteed by Article 38 of our Constitution.

[Mr. Speaker left the Chair]

[The Temporary Deputy Speaker]

(Mr. Imanyara) took the Chair]

Mr. Temporary Deputy Speaker, Sir, I know that hon. Members have been reading this Constitution. They promoted it during the referendum. They are well aware of the provisions of Article 4(2). This Article is so fundamental for our country. It emerges within the first three, four pages. In fact, it is in page 2, immediately the Constitution begins. It says:-

“The Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance referred to in Article 10”.

Mr. Temporary Deputy Speaker, Sir, upon that realization, therefore, I will not bother the House with the actual wording of Article 38 that guarantees the political rights of our citizens.

Mr. Speaker, Sir, for a long time, political party democracy had been relegated to the periphery with parties being regarded as private associations with little or no formal regulation. This scenario will now be a thing of the past. With regard to this historical moment for the constitutional implementation, I request this House to bear in mind Article 4(2), Article 91, Article 92 and, for that matter, to look at the provisions of Article 93. These Articles have introduced a paradigm shift in the manner of conducting political party affairs. Correctly so, political parties must from now henceforth be seen as public institutions. Therefore, their regulation is a matter of national concern.

Mr. Temporary Deputy Speaker, Sir, this Bill seeks to operationalise the constitutional principles in the provisions already cited. An association of persons or an organization that desires to operate or function as a political party must be registered and be ready to subject itself to public scrutiny. That is found in Clause 4(1) of the Bill.

Similarly, in seeking registration, parties must first satisfy a set of conditions including requirements that the membership reflect regional and - I emphasize - ethnic diversity, gender balance and representation of minorities and marginalized groups. That is found in Article 7(2)(b) of the Bill.

In addition, the governing body of a political party must be representative of all parts of the country. You will find that in Article 7(2)(c). The party must comprise of men and women of proven integrity. You will find that in Article 7(2)(d).

The Bill also seeks to infuse fiscal discipline in the management of political parties' affairs. To begin with, the Bill establishes a political parties fund to be administered by the Registrar. It will be observed that this will now be the third year running when we have a political parties fund. The fund is to be distributed proportionately as we have provided and proposed in this Bill by reference to the total number of votes secured by each political party in the preceding general election. You will find that in Clause 25.

Even then, any party that receives money from the fund must ensure that 30 per cent of the sums received is used for promoting representation in Parliament of women, persons with disabilities, youth, ethnic and other minorities as well as marginalized communities. That is a very loud echo. It is also a very loud statement of the appreciation of Article 100 of the Constitution. You will find this provision in Clause 26(1) of the Bill.

We have further proposed to regulate the use of funds given to political parties. Monies allocated to a registered political party from the fund must only be used for purposes compatible with democracy such as covering election expenses, civic education

in democracy and electoral procedures, administrative and staff expenses of the political parties among others. Again, we have done a good job in Clause 8 of the Bill, but, of course, this House is the ultimate authority on legislation. We will welcome value addition to these proposals.

Mr. Temporary Deputy Speaker, Sir, another significant feature of this Bill is the establishment of the Office of the Registrar of Political Parties as an independent office. I emphasize “as an independent office”. Since Independence and, particularly since 1969, the Office of the Registrar and now the Registrar of Political Parties has been used very haphazardly. I recall, and I think you were there with me, climbing over the gate leading to the Attorney-General’s Office to seek the registration of ODM. I recall such similar instances such as litigation in courts arising from orders issued from the Office of the Registrar that were, at the very least, tainted and contaminated with political influence by the powers that be at the time.

Given the immense responsibility bestowed upon this Office, my Ministry has realized the importance of insulating the Registrar from political interference. I beg the forbearance of this House and you, Sir, to agree with this proposal so that we can move away from manipulation of this very important office, once and for all.

We also believe that the holder of this Office must be recruited through a transparent and competitive process so as to inspire confidence of the Kenyan people in accordance with Article 10 of the Constitution. Consequently, we have established a very elaborate and open procedure that allows for public scrutiny at all levels during the recruitment of this very important office. You will find that in Clause 34 of the Bill.

Mr. Temporary Deputy Speaker, Sir, therefore, we have proposed a dispute resolution mechanism that will nurture internal party democracy. I want to salute the Budget Committee because in its report it has recognized the importance of the political parties tribunal and although the original estimates had not assigned funding for that Tribunal, I am happy to say; and I do hope that it will be recognized that Parliament has played its role in assigning funding for the political parties tribunal because it is a very important tribunal. I can see my predecessor, hon. Martha Karua, who is, in fact, a distinct beneficiary of the quality and value of a distinctive Political Parties Tribunal in the issue of funding in the last financial year.

Mr. Temporary Deputy Speaker, Sir, we propose---

Ms. Karua: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I accept the information.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I would like to inform the hon. Minister that NARC Kenya is not yet a beneficiary. It is a beneficiary of a ruling, but the Registrar stubbornly continues to refuse to disburse the funds to us.

(Applause)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you for that information. I am glad and I wish NARC Kenya could drop a letter to me so that I can find out where and why orders of the Tribunal should not be honored.

We propose that a party's constitution and its rules as well as its coalition agreement, if any, must provide for dispute resolution mechanisms and procedures. You will find that in clauses 9(1) and 10(4).

We are also proposing that a dispute should only be referred to the Political Parties Dispute Tribunal after first exhausting the internal political party or coalition dispute resolution mechanism. This we believe is in keeping with the constitutional principle of promoting alternative dispute resolution mechanisms in Article 159(2)(c) of the Constitution.

Mr. Temporary Deputy Speaker, Sir, there are very many other fundamental provisions, but since my work at this point is to propose this law, I am happy that I have done so. For me it is a privilege and an historic moment. You will recall that I have worked with political parties continuously now since 1979 and I have come to recognize the importance of political parties. In Clause 21, you will find that we have provided for deregistration of a political party, particularly when it contravenes Article 91 of the Constitution. That is when it does not promote free and fair nomination of candidates; it does not adhere to the law regarding the nomination of candidates and it does not respect national values and principles of the Constitution. This is a fundamental law and I recommend it to this House as well as to the country without fear or regret. We have also made similar provisions.

You will also notice that for the first time in the country's history we are proposing stern measures to be taken against those who jump from one political party, like grasshoppers, to another. This is because it undermines the principle of democracy in this country. We want to make sure that if you have decided that you want to move from one party to another, you do so in an orderly fashion. You do not merely cause friction in the country and you do not continue gallivanting all over the place carrying two hats in one head; wearing one today and another one tomorrow and in the process you confuse our population. Therefore, this is a law whose time has come.

Mr. Temporary Deputy Speaker, Sir, I want to draw your attention to the Schedules which are very important. We have for the first time in the history of this country introduced a code of conduct for political parties. You will find that on page 525. The regulations are very nicely worded although they will benefit from the wisdom of this House. You will see on page 526(4) of that particular schedule that political parties shall promote policy alternatives responding to the interests, concerns and needs of the citizens of Kenya. For example, during this drought and hunger, political parties are not seen just to be hungry for power as opposed to caring for the welfare, cost of living and everything else for the country.

Again, in subclause 5, you will see we have made very extensive proposals. For example, in sub-clause 6, on page 526, we have required every political party by law - if this House accepts this - mandatorily to respect, uphold and defend the Constitution of Kenya; (c) to respect, uphold and defend their respective party constitutions, party election rules, party nomination rules and any other party rules or regulations developed and so on.

Under Schedule 2 on page 529, again, we have attempted to get out of the box. We are providing for the contents of the Constitution or rules of a political party. We are showing you that if you present a constitution without these requirements you will not be registered. On page 530, for example, sub clause 8, we are requiring that each governing

body of a political party should show clearly its name, the eligibility criteria for election to the governing body, positions, titles and term of office, the rights and duties and so on. Therefore, this is a law whose time has come. For me, it is a privilege to be able to present it to you this afternoon

On page 534 in the Third Schedule, we have shown the basic requirements for coalition agreements. Again, arising from our own experience, we cannot continue solving problems using the techniques that created the problem in the first place. Therefore, we have recommended under Clause 10(4) of the Bill that the country will have basic requirements whenever a coalition is being made. In this regard, I would like to remind the House that coalitions are allowed both pre and after elections, particularly under Article 108 of the new Constitution.

Mr. Temporary Deputy Speaker, Sir, it is also fair that I mention to you because of issues that Mr. Nyamweya raised that I have received recommendations in writing from the Kenya Integrity Forum on the issue of election expenses. I will present these proposals to the CIOC of this House, so that they may be considered at the time of the Third Reading of the Bill because they are very important proposals. I agree with them that Kenya is now well advised to pass a new law covering election expenses. The Bill is already submitted to the CIC.

Also for purposes of when we come to Third Reading, I have received very elaborate proposals from the Disability Caucus on the Implementation of the Constitution comprising the disabled because they think that they have been ignored. It is a long letter dated 7th July and I will also present it forward.

With those many remarks on such a fundamental issue, I beg to move. My learned friend, Mr. Njeru Githae, has agreed to second the Bill.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir. Let me take this very early opportunity to thank the Minister for Justice, National Cohesion and Constitutional Affairs and his team and all the other parties that were involved in the formulation and establishment of the Political Parties Bill for a job well done.

I say “a job well done” because as of last week, there were no constitutional Bills in the House, but now we have some. Therefore, that means that Parliament cannot be accused of not implementing the new Constitution as we had been accused of.

If I was the one concerned, I will say that we even finalize this Political Parties Bill today and move on to the others, so that we can be seen to be implementing the Constitution.

Mr. Temporary Deputy Speaker, Sir, it is very clear and I have no doubt that we will pass this Bill. When we pass it, the days of one person parties is over. The days of briefcase parties are over. The days of identifying a party leader with a party are over. From now henceforth, political parties will be public institutions. They will not be private members clubs or the private property of a particular party leader. To me, that is the biggest achievement we shall have achieved when we pass this Bill.

It requires that, first of all, in your governing body, all the counties must be represented. Not more than two-thirds of the opposite gender can fill up all the positions in the governing body. The marginalized groups must be represented in the governing body. Minorities must also be represented.

This means that we will no longer have the so called regional parties because that has been the biggest disservice on our political scene where a particular party is recognized as a party belonging to a region. This means that even if an individual went to stand on that ticket in a region perceived to belong to a particular party, you cannot win.

We have lost very valuable Members of Parliament because of this perception that the party they belong to does not belong to that region or they are not loyal enough to the party leader, therefore, they cannot be elected. To me, passing this Bill will be the biggest achievement we shall have done.

Mr. Temporary Deputy Speaker Sir, if you look at Article 3(d) where an appointed officer is disqualified from being a member of the governing body. I think we need to insulate our civil servants from engaging in political parties.

Whereas this Article prohibits an appointed officer from being a member of the governing body, I think time has come for the Minister for Justice and Constitutional Affairs to take action on the civil servants who are on the trail in the whole country campaigning and they have not resigned. I think it is a very serious issue when we have civil servants using their offices to campaign and yet, when we the political class try to do something, we are told we are interfering with the civil service. They must also not interfere with our calling as politicians. If they want to campaign, let them resign and join us; and we shall welcome them. However, they should not use their offices to campaign. The moment a civil servant declares that he will be a candidate for either the presidency, the governor or any other---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to employ doublespeak when he criticizes civil servants and Cabinet Ministers are on record for using public resources often for partisan political campaigns?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I am not very sure that, that is a point of order. However, under this Bill, it is an offence for any public officer to campaign using public resources. The fine is Kshs500,000. That has been taken care of. If you claim that you want to be a governor or the president and you are still working as a civil servant, some of the decisions that you make may be seen to be political. So, we need to protect our civil servants from accusations of politics. When we pass this Bill, we are going to democratize our political parties. Our parties have been accused of being undemocratic. They have been accused of giving their supporters and loyalists direct nominations and certificates. I am glad that this is now prohibited and even if your supporter is the most loyal to you, you cannot give them an automatic nomination certificate. This is not allowed.

On mergers, and I have discussed this issue with the Minister for Justice, National Cohesion and Constitutional Affairs, we must take care of the political orphans. Suppose two parties merge, but you do not agree with the merger, what happens to you? This is not in abstract. We had a merger between KANU and the NDP sometimes ago and some Members did not agree with the merger and they became political orphans. I have discussed this matter with the Minister for Justice, National Cohesion and Constitutional Affairs that we need to find a soft landing for even the Members of Parliament who may not agree with a merger of two political parties. We need to give them a soft landing because it is not clear under this Bill. It is silent as to what happens to them. They do not

belong to the old party or the merged party. Where do they belong? I think we need to state clearly what happens when two parties merge and you do not agree with the merger. We need to provide for that.

Mr. Temporary Deputy Speaker, Sir, it is also very clear that when we pass this Bill, the issue of business as usual for political parties will be over. The issue of hopping from one political party to another will be over. The highest hopping was in 1997 where a person within one week moved to five political parties. In fact, in the last political party, he asked for the party which had no candidate and joined it. Wonders never cease; the fellow was elected on the fifth party by a landslide. Under Clause 13, you must give a 30-day notice of your decision to resign from your political party. That is the way it is.

I am also happy that we are prohibiting, in fact, making it a criminal offence for you to support a candidate of another political party. We have had cases, like in the recent by-elections, where you find a member of a particular party going to campaign for a candidate of another political party. That is now prohibited. If you do not belong to a political party, you cannot go there and say that you are campaigning for your friend. There is no friendship in political parties. Only Members of your political party can campaign for you. I think that is right because we are going to have that discipline in our political parties and you are known where you stand.

Dr. Eseli: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead the House and the nation that this particular Bill is going to stop a Member from campaigning for another political party? It says very clearly in Cause 14(6) that Sub-sections 5(e) and (f) shall not apply to a Member of a political party in relation to the common objective of a coalition.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I want to thank Dr. Eseli. He is actually emphasizing the point that I am making; that unless you are a Member of that coalition, you cannot campaign for that particular candidate. It is very clear. You must be a Member of that coalition. Under this Bill, coalitions are not verbal agreements. A coalition must be registered.

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Githae has very well and eloquently put the case that you should not campaign for a candidate of another party according to this Bill. I was wondering whether ethically he is even right to support this Bill because he, himself supported another party instead of his NARC(K) party.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, we have the National Assembly Clerks here and I would like to request them to read the party under which I was elected. They are here and the information is here within Parliament. I campaigned for the candidate of the political party under which I was elected, and so, I committed no offence.

Hon. Members: Which one?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, the Clerks are here. Just go to the Clerks and you will get to know the party. It is public record and not confidential at all.

Coming to the last point - again I have discussed this with the Minister for Justice, National Cohesion and Constitutional Affairs - we have given the Registrar too much power. In Clause 14(7), we are saying that after duly inquiring into the conduct of the

person and establishing the allegations to be true, the Registrar shall declare that person as ceasing to be a member of that political party.

History will judge me correct, but if you get a rogue Registrar who complies with the wishes of a party leader who says that a member has ceased or has infringed the constitution of the party, and you are declared partyless and you lose your seat, it can be dangerous. I think there should be a mechanism where you can appeal either to the Tribunal or the High Court. You have not been given the rights to appeal to the Tribunal. That could be dangerous. You could get a rogue Registrar who can really mess political parties.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I want to urge the Members of this august House, let us pass this Bill as quickly as possible as it is. I do not see any amendments except for when two political parties merge. We need to find a soft landing for those who may not agree with the merger because it is something that we have seen. We need to take care of that. Otherwise, I support and second this Bill.

(Question proposed)

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister for moving this Bill, which is in line with the new Constitution and attempts – a very poor attempt – to implement the new Constitution. I want to call this Bill a very poor copy of the current Political Parties Act. You know that if a used carbon paper is used to make a copy, it gives a very poor copy. This is a very poor copy, but I laud the attempt because the Bill is now in our hands. We must make something out of it.

What does the Constitution say in Article 91? One of the things it asks parties to observe is gender equity and equality. This poor carbon copy removes the safeguards in the existing Political Parties Act on issues of gender, where funding is tied to parties complying with the gender quota of one third. We had The Political Parties Act in place before we passed the new Constitution. To have a Bill passed after the promulgation of the new Constitution removing those safeguards is an atrocity, and this House must rise to the occasion. We must restore those provisions and move beyond them.

Mr. Temporary Deputy Speaker, Sir, Article 97, in relation to the election of County Members, provides that no more than two thirds of one gender shall be in the County Assembly. This Bill, moving forward, must provide for the mechanism through which this provision for gender balance will be achieved by requiring political parties, in the nominations list they take to the Registrar, to ensure that no more than two thirds of the candidates nominated to fight for political office are of the same gender. How the parties will arrive at such a mechanism is an issue they can debate just as we have provisions that the governing body must include at least one third of either gender, and we leave it to the parties to know how to arrive at it.

There is also the issue of the composition of Parliament. If we decree that no more than two thirds of the lists that political parties will present, or of its nominees, shall be of the same gender, we will have partly cured the anomaly that now exists on gender. Forty-seven women elected to the National Assembly from the counties plus others elected may not add up to one third. It is, therefore, important that we have other mechanisms within political parties, because they are tools of democracy. If we miss this point, we will not have drawn our attention properly to Article 91.

Mr. Temporary Deputy Speaker, Sir, why, again, do I call this Bill a very poor copy made using a carbon paper that is exhausted? It is because Section 17 of the current Political Parties Act, which is now Clause 14, states clearly that if a Member of Parliament goes out to support other political parties, or their agenda, he will be deemed to have resigned from his political party. Why are we leaving that decision to the Registrar? What if the Registrar becomes a tool of one political party as, in my view, is the case now? I believe that the current Registrar behaves like the Registrar of a certain party. That is why she cannot even obey court orders. What if we have such a Registrar?

Let us leave it to the law to deem such a person to have resigned, and if a person is aggrieved, he will go to the Tribunal and to the High Court. I want to state that we need to open up appeals on matters of law to go beyond the High Court, and to the Supreme Court. I am looking at a scenario where a political entity is deregistered. That is not a simple matter. It affects freedom of association – the political freedom articulated in our Constitution. It is a matter that should not end with the Tribunal. It should not end with the High Court. On matters of law, such an appeal should rest with the Supreme Court, because it will be a violation of rights. It may very well be on the issue of fundamental human rights of the affected individual, as enshrined in Chapter 4 of our Constitution. Therefore, we need to improve on where we were in the old Act, move forward, and not have a weaker Act than we had.

Mr. Temporary Deputy Speaker, Sir, I also want to look at Clause 10, which is on merger of political parties. This is a phenomenon that is unknown to the civilised world. Perhaps we are lowering our standards, as a developing country. We should not lower our standards. Mergers are concepts of the so-called “G7”. Are we trying to put theories brought by individuals into the law – theories which have not been roundly discussed? If they are marketed in this Parliament and accepted, so be it, but I think that the object and purpose of forming a political party is to capture political power through the ballot, and be able to implement policies and run the country using policies of that party. It can never be the object of a political party to form coalitions.

Therefore, with respect, it defeats common sense why we would have a clause on mergers. A clause for dissolution may be appropriate, but I doubt that there is a constitutional practice anywhere else that provides for mergers, or coalitions before elections. Coalitions are actually known to come after elections, after every party has exhausted itself in an attempt to capture political power and then it finds, on the finishing line, that it does not have enough muscle in Parliament or in any institution. That is when political parties go into a coalition. I am urging the House: Let us think very carefully. We should not distort democracy. We should not accommodate ideas that are half-baked, and that are not well considered before we pass this legislation.

Mr. Temporary Deputy Speaker, Sir, Clause 34, sub-clause (b), on the distribution of funds, the work of the Registrar cannot be merely to manage the funds. It must be to manage and distribute. I prefer the words in the old Act “administer the fund”. That incorporates more than managing it. The Registrar must manage and distribute the fund in accordance with the law. If you just put “manage”, given the way we like arguments, we are going to say that the Registrar should not be the one to distribute the funds. Let us go for clear language that leaves no ambiguity. We need not go for litigation, the way we have been forced to do, because the Registrar failed to perform his or her duties.

I am happy with the qualifications of the Registrar – a person with background in finance. That is commendable, because they are going to do a lot of work. When it comes to the distribution of the funds, I want to laud the Minister for the clause that says 90 per cent of the monies shall be distributed in proportion to the votes garnered. I would go ahead and say 95 per cent. It is not right to give the Registrar 10 per cent. What if the political parties are awarded Kshs1 billion by Parliament? Why would we give the Registrar a whole Kshs100 million to administer? Let the Registrar get no more than 5 per cent. I would actually reduce it to 2 per cent, but because we want an efficient office, let them have 5 per cent and let the political parties have 95 per cent.

Mr. Temporary Deputy Speaker, Sir, I am glad that the strict criterion is the number of votes garnered. We should go ahead and say that a party that does not garner at least 5 per cent of the national vote should not qualify for funding. That is what is done in other jurisdictions, and that will discourage formation of parties which hope to just come and get money from the political parties' kitty.

I want to say it very clearly because of the contributions I have heard before me, the law as it is discourages hopping from one party to another but because of impunity that is precisely what people are doing. You hold yourself out as a member of one party and tomorrow, you are in another party for expediency. We do not have to go to the records of the Clerk on public utterances of individuals at different times. At one time you are supporting this party. When your circumstances change, you run away in a different direction. Let us stop doublespeak. Let us know that there is the law, and that we are disobeying it.

Mr. Temporary Deputy Speaker, Sir, if political parties have no mechanisms to discipline their Members, we will not grow democracy. I want to urge hon. Members to connect the governance of a country with the governance of political parties. A government is as good as the political party that forms it. The problems we are having in this Grand Coalition Government can be traced to the political parties forming the coalition. We therefore want to use political parties as a tool of improving governance in the country. That is why this Act should be looked at very keenly. Serious amendments should be made to it so that we can improve the operations of political parties and strengthen them. Let the money due to political parties be at the whims of the Minister or individuals. Let us find a mechanism of giving a certain threshold. When it comes to the application of those monies, we cannot say it cannot buy property. In Europe, the office of established political parties I visited was able to buy or construct buildings with the funding given.

Mr. Temporary Deputy Speaker, Sir, yes, you can stop political parties from going for speculative business activities with the money, but you cannot stop political parties from buying office buildings, if they wish. You can exclude everything else but the party offices can be constructed or purchased with the Political Parties Fund.

Once again, let us not reduce the threshold of administrative expenses of political parties. At present the Act allows 25 per cent. Why do we want to reduce it to 10 per cent? Do we want to kill the operations of the parties? A party without offices, a party without a secretariat is a party without governance. If this Fund indeed is aimed at strengthening democracy through the parties, we must leave the administrative expenses from this Fund at 25 per cent. If a party does not need it, it can use as little as 10 per cent.

But for a party that needs it, let us leave it to as much as 25 per cent so that parties can fulfill the objectives for which they were formed.

Mr. Temporary Deputy Speaker, Sir, I would want to say that there is the creation of the Liaison Committee which is currently an informal committee set up by the Commission and the office of the Registrar. We have put it in the Act through Clause 35. However, no purpose is given for this Liaison Committee. Let us set the criteria to begin with for membership of this Committee, the participation of parties; the threshold and let us spell out functions. There is no need of elevating an informal committee to the status of the Act and not give it the direction that it will take. Currently, the Registrar is allowing people who were taken to the Liaison Committee by one party and have ceased to be members of that party. They were heard to say that the person was there in their individual capacity. This is not an amorphous group. This is not a *chama*; this is a Political Parties Liaison Committee. You can only be taken there by a political party. If we do not spell out these things, Kenyans are ingenious and sometimes it veers on the deceptive side. Let us not allow those who have deceptive minds to misinterpret the law. Let us spell it out very clearly.

Mr. Temporary Deputy Speaker, Sir, in conclusion, yes, the Act is timely but being a poor copy drawn on a worn-out carbon, we must assist the Minister by putting real flesh, ensuring that it is in tandem with the Constitution and try and finalize with it. This is one of the very many Acts Parliament is being told will be late on 27th if we do not pass them. Let us look at it.

Obviously, Minister do not press us for this week. We need time to do these things. Let it be next week. Let us finalize it but let us give a lot of thought. The things we do in this Bill, will determine the political shape this country takes.

I beg to support with those amendments.

Mr. Wetangula: Mr. Temporary Deputy Speaker, Sir, I thank you for the opportunity to also laud the Minister for bringing this Bill in conformity with the new Constitution.

Like the previous speaker, this Bill is repealing an existing Act which we negotiated, debated and passed in this House and whose implementation has been very poor. Its implementation has actually been very wanting.

Mr. Temporary Deputy Speaker, Sir, the Minister has indicated and rightly so, the urgency of passing this law. I want to urge him that the memoranda he says he has received and the many more issues being said on the Floor, he should take them into account. I also want to urge that the Committee on Justice and Legal Affairs whose issue Mr. George Nyamweya raised here do not have to be told to do their work. Once the Bill has gone through the First Reading, they should take it up and work on it. The Committee on the Implementation of the Constitution (CIC) should also be able to give us a report and guidance on what they see in this Bill.

This Bill is timely, important and after being passed must be implemented. The Minister should in the course of coming back for Third Reading, look at a series of clauses that I would wish to point out to him and see how best he can try to improve the Bill.

Mr. Temporary Deputy Speaker, Sir, the office of the Registrar has been made unnecessarily too strong. Too much power is being vested in one individual and that can easily be abused. In my view, while the Registrar will have the authority to administer the

Fund, I would propose that the Registrar should administer this Fund with some trustees who can help in determining how the funds can be distributed other than have one individual.

I also suggest that where the Registrar finds that a person has transgressed the Act as is in Clause 14, I would want the Minister to vary the Bill that in the event it is a Member of Parliament acting dishonestly against the party that brought him to this House either by nomination or election, the person to act to dismiss that person should be the Speaker of Parliament for Parliament and the Speaker of the Senate for the Senate and in the case of the county assemblies, the Speaker of the County Assembly and not the Registrar whom we have seen in many ways reluctant to act. That way the Speaker of Parliament or Senate, once notified will declare the seat of a nominated or elected person who is acting contrary to the constitution of his or her party vacant. Such a person should vacate immediately. That is the only way we can bring sanity to politics and weed out dishonesty. A person fails elections; he is magnanimously nominated to Parliament by a party and goes out there to say that the party that nominated him to Parliament is dead. He does this while he still enjoys the perks of this House on the basis of a party he thinks is dead. This kind of dishonesty must be weeded out in our political set up if we want to have sanity in the politics of this country.

The Bill also indicates in Article 9(2) about the contents of the constitutional roles of political parties. It says:-

“The Registrar may by notice in writing require a political party to amend its name”

Mr. Temporary Deputy Speaker, Sir, it should not just be the Registrar. It can be on anybody's complaint. For example, if you have a political party like NARC(K) and some dishonest characters come up and call themselves New NARC(K), you do not have to wait for the Registrar to do it on her own. Any complainant should be able to write to the Registrar, so that the Registrar can act. So, I urge the Minister to look at Article 9(2), so that colouring the name of a political party by calling it “new”, “new arrival” or whatever, is not something that should be tolerated or accepted.

Mr. Temporary Deputy Speaker, Sir, the question of coalitions should also be looked at very carefully. Coalitions in politics are necessary evils at the end of a race where things are not quite clear. It may not be too good, if you want to strengthen our democracy, to institutionalize coalitions. This is because when my party goes to elections our intention is to win outright. The issue of coalitions comes as an exigency at the end of elections where there is no sure winner. But to define and institutionalize coalitions and make it look like it is the order of politics, I think is not the right way to grow democracy. I would urge the Minister to re-think about this.

Mr. Temporary Deputy Speaker, Sir, when it comes to mergers, the provision given in the Bill is weak. It is giving mandarins of parties leeway to sit at the top and merge parties without necessarily going back to the members who own the party. We have said in the new Constitution that certain fundamental decisions in this country cannot be made without going to a referendum. Now, I would want these mergers to be tested a little deeper, by the parties going to their larger membership, so that the members can decide whether or not they should be a merger and not just the leaders of parties sitting somewhere and saying: “we merge.” Perhaps, a National Delegates Conference

(NDC) of a political party would be the right organ to bring everybody on board and say: “Fine, today we are merging one party with another.”

Mr. Temporary Deputy Speaker, Sir, on Article 12 of the Bill, I think the Minister has been unnecessarily wordy and is departing from the language that is in the Constitution. This is because he says: “A public officer shall not be eligible to be founding member of a party” and so on. I would urge the Minister to pick the language from Article 77 of the Constitution, which simply says: “An appointed State officer shall not be eligible to hold office in a political party.” He should not say, “they should not be” and then say “this does not apply to the President, Deputy President, Member of Government, Governor” and so on. This is because an appointed State officer is defined in the Constitution and an elected State officer is different from an appointed State officer. So, it is better if we use the language that is in the Constitution.

Mr. Temporary Deputy Speaker, Sir, Article 14 – resignation from a political party – alludes to what I have already said. I think the Minister should look at that very closely. In Clause 14(6) there is this convoluted phrase “in relation to the common objective of a coalition” that my able Secretary General pointed out to hon. Githae. Coalitions are between parties and not individuals. If your primary party has sponsored you to go to a coalition and you become a renegade to your primary party, you cannot seek solace in the coalition. Your defence lies in your primary party. The moment you have become a renegade in your primary party, you cannot be a good member of a coalition. It cannot work. These things must be looked at if we want to grow democracy. This is because if my party walked into a coalition and one member suddenly veers off and pretends that because he is in a coalition he is protected by the coalition, then we are not doing the correct thing. I would urge the Minister that at the Committee of the whole House stage, he should find how to fine-tune this. This is because I have spent a lot of time talking to hon. M. Kilonzo about renegade members of political parties, and he holds this firmly; I know that for sure. I want to see this translated into the law that he has brought here, so that we do not have, again, to leave the Registrar to determine who is a renegade and who is not, when it is very clear to all and sundry that the renegades are everywhere.

Mr. Temporary Deputy Speaker, Sir, I also want to point out to the Minister that once funds are allocated to a party, I think the State should be interested in whether these funds are put into good use or not. If a party is raising enough funds from its membership it should be at liberty, based on its strength and support in the populace, to buy a property for the party. In the following year, they might do something else. But to limit it to 10 per cent or 25 per cent in the Act we are repealing, it is unreasonable. This is because the interests of different parties do not go together. What is important is the party to submit its accounts and the Registrar must satisfy himself or herself that the funds were well used and raise audit queries, as they call them, if the funds have not been well used.

Mr. Temporary Deputy Speaker, Sir, the de-registration of political parties, again, should not be a matter for the Registrar. It is something so fundamental touching on the Constitution, on the issue of the right to associate and the right for people to exercise their free will in politics. If the Registrar finds that a party can be de-registered, the first thing is to issue a notice to show cause, which the Bill does not provide for. Once a notice to show cause is issued, the Registrar can then issue a further notice, that now you are

going to be de-registered. The affected party should have the right to go to the Tribunal, High Court and the Supreme Court, which is the highest court that determines issues of such a fundamental nature, so that it is not just one person sitting in some office somewhere and saying: "This party is deregistered because, perhaps, it is offering a greater threat to a party that the Registrar likes or somebody has influenced somewhere." I think this will make it a little better than what is provided for.

Mr. Temporary Deputy Speaker, Sir, the distribution of funds, like I said, should be run by some trust so that we see more fairness. The Office of the Registrar of Political Parties is now independent, but I would want to see some linkage with the Electoral Commission, particularly when it comes to assessing how many votes a party garnered. How do we get the Registrar to work with the Electoral Commission so that it is not fictitious figures that are given out and when arguments arise the Registrar has no way of accessing the books of the Electoral Commission, which have nothing to do with the Registrar who is independent? You will end up having problems. Also, where there are coalitions, if it is going to go the way it is drafted, it is very dangerous to say if this is a package of a coalition, that the funds for this package will just be given as one. You will end up with serious difficulties. I think before the Registrar disburses the funds, the coalition must sit down and agree beforehand and say: "This is our strength and this is our strength. This is our percentage and this is our percentage. If you are giving us this kind of money, then it will end up being divided between the parties." But when you have a party that ends up being shortchanged, like FORD(K), then you have difficulties. This is because we do not want also to be litigants; all the time running to the Tribunal or court, when things can be defined very clearly in the law to avoid these kinds of situations, such that where you have FORD(K), NARC(K) and the PNU Coalition teams, we sit down, agree and all sign and forward to the Registrar. The Registrar will exactly know which money belongs to who within that basket; then you will be helping the parties to benefit from what is a public fund, because this is not a discretionary fund.

It is a public fund and if you have had an input in contributing to the strength of a coalition, then you are entitled to be there. Article 35, in my view, has no place in this Bill. The Political Parties Liaison Committee should be an informal gathering of political parties. I do not know why we should institutionalize it. This is a situation where parties send their executive directors to meet and talk to like minded people and so on. If we institutionalize it, and you say it must be at the county and at the national level, without criteria you will find that in some counties, parties that cannot even raise 1,000 votes will insist that they must sit in the Liaison Committee just to raise numbers and become a nuisance for nothing. I think we should leave it as a coalition of the willing so that the liaison committee sits as and when there is an issue to deal with. They become very active when elections are around the corner or when they are arguing about money and other things. However, when you institutionalize it, you are bound to give them a registry, secretariat and expenses that will eat into the very funds that we want to grow democracy. I think we do not need Article 35 at all.

With regard to Article 38 – and Ms. Karua talked about it and I want to talk about it in passing - I would like to urge the Minister to ensure Clause 38(2) reads: "Appeals shall lie in the decision of the Tribunal or the High Court on points of law and facts. Further appeals on points of law only should lie with the Supreme Court". So, the Supreme Court---

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): The Court of Appeal.

Mr. Wetangula: Mr. Temporary Deputy Speaker, Sir, one can go to the Court of Appeal, but the final court in the land is the Supreme Court. Nobody should be prevented, especially when fundamental rights are injured, from going up to the Supreme Court to agitate and argue their case. The penalty under Article 43, given the magnitude of some of the transgressions we get from political bigwigs, a fine of Kshs500,000 is too paltry, in my view. I urge the Minister to relook at the offences he is creating, redefine them and give them differential penalties so that the greater the gravity of the offence, the higher the penalty. If we just say that anybody who commits an offence will be fined Kshs500,000, suppose you fill a form and give inaccurate information about yourself? That would be an offence that would carry Kshs500,000. Suppose you are so dishonest as to walk out of a party that nominated you to Parliament? That would even be a greater offence and such fellows should not be fined Kshs500,000. They should be dealt with in a greater manner than that.

I beg to support.

Mr. Mbadi: Thank you Mr. Temporary Deputy Speaker, Sir. I rise to support the Bill before us. One of the issues that Kenyans have been grappling with is the management of political parties. We have complained, many times. It is true that at one time, Kenya had only one political party. It was a milestone when we became a multiparty democracy. It appears to me that many of us were not ready to embrace multipartism. The moment that came up, misbehavior came with it. My colleagues have talked at length and said that this is the only country where someone talks about creating a new political party and still insists that he or she has not left the political party that sponsored that person to Parliament. This is the only country where you find someone campaigning for people in another political party, recruiting memberships and campaigning openly and calling the political party that elected him or her to Parliament names, and still has the courtesy to stand in Parliament to say that he belongs to that political party. It is high time we put a stop to that. I do not think that we do not have laws in place at the moment. The problem we have is the Registrar of Political Parties. The lady we gave that position has been a let down to this country. I was looking at this Bill, critically, to see whether we will leave the occupant of that office in place.

I am happy that according to the qualifications set out, she does not qualify. But even if she did, we would have done this country a disservice if we retained the lady who is occupying that position now. That is because she has failed to act. That lady cannot even justify her presence in that office and the salary she earns. We have complained that she is the one who has mismanaged the political parties system in this country. I thought that this Bill would put a stop to it. I urge that when this Bill goes to the Committee Stage, we tighten punishment even on the Registrar of Political Parties. We need to look for a way of dealing with the Registrar of Political Parties if he or she fails to follow the law in discharging his or her duties independently.

The qualifications of the Registrar, even though one of them is knowledge in finance and management, are not clear on what level of experience and knowledge that he or she has in finance and management. I think we need to be more clear on this. I cannot agree more with those who have talked about Article 25 on distribution of funds. I also feel strongly that 10 per cent is too much for administration. More importantly, it

needs to be clear how that Fund will be distributed to political parties. It talks about votes garnered by a party. At what level? Is it at the presidential, parliamentary or county level? We need to be very clear and categorical that it is based on votes garnered at this particular level. When it comes to distribution of funds, we should not be in doubt on the formula to be used to distribute funds.

With regard to those who are talking about public officers, Clause 12(2) says that public officers are supposed to be excluded or restricted from holding positions in political parties. I agree with that. But when it comes to exempting and excluding the President, Deputy President, Members of Parliament and Governors, for good reasons, the Minister has left out the Office of the Prime Minister. I know that it will not be there in the next dispensation. But it is still there with us. This Bill will become an Act of Parliament before the next General Election. It should be very clear that the Prime Minister is among the public officers who are excluded from the restrictions to hold public position. If we do it this way, the only politician who will be excluded from holding political positions is the Prime Minister. I hope that will be amended.

With regard to the Registrar refusing to register or even to accept provisional registration, if there is additional information that the Registrar requires, we need to be very clear on it. If there is any additional information required, we need to set a time line within which the Registrar must communicate back to those who have applied for registration, so that it is not left indefinite. I propose that we put 21 days because within these 30 days, the Registrar needs to make a decision. So, if the Registrar is not satisfied that the information supplied or provided is sufficient, he needs to write back to the people who have applied for registration so that, that information is availed after 21 days.

Mr. Temporary Deputy Speaker, Sir, there are some contradictions in the Bill. I have looked at Clause 15(4) which states that: "Political parties aggrieved by the decision of the Registrar under Sub-section (5) may appeal against such a decision to the Tribunal". There is no Sub-section (5), or at least I cannot see it. So, this must be referring to something else. This is a mistake that needs to be corrected. Section 34(5) talks about the recruitment of the Registrar. It gives the details of how the Public Service Commission--- Section 34(4) talks about the Public Service Commission constituting a committee, but when it goes to Section 34(5) it says: "The Public Service Commission shall, within seven days of receipt of an application under Sub-section 2, consider the applications, interview and shortlist---" Now, for me, it appears as if this particular section contradicts Sub-section (4), because it does not talk about the committee. So, we need to harmonize the two sub-sections to be sure of the process of recruiting the Registrar.

The other question that comes to my mind is: Is this the way we want to recruit the Registrar? This is because this is someone to be involved in a political process; if you just leave it that this person will be appointed and nominated through the Office of the President, the other question is: How will you involve other political parties? Do you not think it is important to involve political parties in this process? This is a political process and a position; it is an office that is going to regulate, manage and administer affairs of political parties and the funding of political parties. I feel that it is important not to exclude other political parties, which will also have political leadership, from the process.

Mr. Temporary Deputy Speaker, Sir, Section 7(f) needs to be deleted, because to me it is a repetition. If you come to Section 7(2)(e)(iii), which talks about the locations and addresses of the branch offices of a political party, they will be in more than half of the counties. It says: "... and it has established branch offices in more than half of the counties". To me, it serves the same purpose as the previous paragraph; so we, probably, do not have to repeat it.

Mr. Temporary Deputy Speaker, Sir, on coalitions, I am not convinced that we need coalitions before elections. I am convinced that parties are formed to compete in elections. Parties need to compete. If you are not ready to compete in an election, you have no business being in the political arena. We do not want these briefcase political parties. If you want to form a political party, form one with the intention to participate and compete with other political parties in elections, and form coalitions after elections. If there is no clear winner, then you can form coalitions. These coalitions should also be formed on some basis or principles. If one party is socialistic and another one is capitalistic, there is no need for them to form a coalition. We need to enact a legislation to help mature democracy in this country, so that these coalitions are only formed based on principles and policies and not based on personalities.

We do not want to create a forum where tribal chiefs will be coming together to work towards the general election. This will polarize our country. We all know the result is what we witnessed after the last general election. So, to me, my advice will be to make sure that we have coalitions either after or we have no coalitions at all.

Mr. Temporary Deputy Speaker, on Clause 7(2)(e)(3), there is also some paragraph that I will suggest that is deleted because it talks of regional, ethnic diversity and gender balance. The immediate paragraph after says not more than two-thirds of the members from one gender. That takes care of the gender balance. You do not have really to repeat that in the next item. To me, that is a repetition and is not necessary.

Mr. Temporary Deputy Speaker, Sir, I want to conclude my contribution by saying that the main reason why we needed to repeal the Political Parties Act was to strengthen political party management. It was to make sure we do away with briefcase political parties and handle the mischief of party hopping. I think that is a real danger in this country. If I elect a Member of Parliament, as a Member of Orange Democratic Movement Party (ODM), I would want to see that Member of Parliament representing me in Parliament as a Member of ODM Party. If that Member of Parliament feels that it is time he defects to another political party, then it is only advisable for that person to resign from the political party through which I voted him, and seek fresh mandate from me to represent me from another political party. However, if you are in Parliament courtesy of my vote and you do not support the interest of my party, then you are conning me. You are in Parliament illegally. You are not representing me. Whatever you are saying in Parliament is your own. You are not a fair and effective representative. So, my view is that we should look into this Bill critically and spend a little bit more time, probably up to next week doing amendments that will tighten the rules and regulations, so that we have viable political parties. In fact, I am looking for a country where we are not going to have these 47, or so, political parties. We need at most three political parties, strong one, based on ideologies. We need parties that we can identify with and not parties where we identify with individual party leaders. When party leader leaves, we do not even know where to go. If he has not mentioned, you do not know where you belong. Some people

do not even know where they belong and they are in this Parliament, because the political leadership has confused them.

With those few remarks, I beg to support.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to support this Political Parties Bill.

I am very encouraged with the contributions so far. To me, this is one of the most important legislations that we will be passing in terms of strengthening and deepening the political maturity in this country. If you look at Vision 2030, it identifies three pillars that are very critical for taking Kenya to the next level, taking Kenya to be a middle income country, with higher cost of living.

In addition to the economic pillar and social pillar, it identifies the political pillar. If you look closely, under the political pillar, it says very clearly that the intention is to move towards issue driven political system. We should move away from people driven political system where it is based on the leader and the leader defines the manifesto. We want a situation whereby political parties can revolve around some ideology and issues. Every follower must know he is in that political party because they subscribe to certain ideology and certain issues, and then they can define themselves. Unfortunately, in this country, we have not had the benefit of that. We still have political parties that are driven by individual leaders. If you are not a member of that party of subscribed leader, then you are then seen to be an enemy from within.

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

*[The Temporary Deputy Speaker
(Dr. Khalwale) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, I hope that this Bill and the subsequent amendments that will be passed will enable us sort out some of these things so that, for once, we can have political parties that are issue and ideology-driven. If you want to test what we have, ask yourself the last time you saw the manifesto of any political party and yet we are just about to go to an election. I see helicopters hopping in the air every weekend but I have not heard anybody say what their manifesto says or what their stand is on farming, education, girl child and issues that are supposed to be articulated not by an individual but by a political party. We should hear people say:-

“As a party, this is what we stand for and if you give us votes, this is what we are going to deliver and this is how we are going to achieve the aspirations in Vision 2030.”

I am yet to see that. Perhaps, when I bring my manifesto one of these days, it might address some of those things because I feel there is a big gap which we need to fill.

Mrs. Shebesh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Something is disturbing me and I hope the Minister can help me. Which party does he belong to as he lectures us on the manifestos *et cetera*?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I am a member of the Party of National Unity that has a very clear manifesto. It was responsible for developing the National Vision 2030 which I actually oversaw. So, I know.

(Several hon. Members stood up in their places)

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I belong to the PNU. Is that in doubt?

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are really enjoying the Minister's contribution, but we want to be very clear so that we can move along with him in his contribution. All we want to know is the party he belongs to. If it is PNU, is it the PNU ODM side or what? We just want to be very clear.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the Party of National Unity is a party and I am a member. All the others are details.

(Dr. Eseli stood up in his place)

The Temporary Deputy Speaker (Dr. Khalwale): What is it, Dr. Eseli?

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, the way I understood PNU at the time of the last general election is that it was a corporate entity. So, which party did he belong to because the other PNU, that is, the party was registered after the last election? So, is he one of the party hoppers?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I do not know what information Dr. Eseli has, but the Party of National Unity was registered before the elections. I stood in the nominations through the Party of National Unity and I got a certificate from this party. I was a candidate of the Party of National Unity and I came to Parliament as a member of the Party of National Unity. I think the hon. Member is confusing the PNU Party with the PNU Coalition or Alliance which are two different things. However, I am a member of the PNU.

The point I am making is that we actually have a situation in this country where, obviously--- We have seen the rigmaroles even during the political party nomination where the whole public comes to participate in the nominations. Even those who are not members take part because it is more of a test of the strength of candidates rather than the party membership. These are the things that we need to sort out so that we do not have political party hopping where Member "A", a certain Wanjiku, Kamau, or Onyango goes to elect a member under party "A". The same people will line up the next day to elect another Member through another nomination exercise under Party No.2. We must stop these things and I am very happy that the provisions that have been put in this Bill to have the party--- I hope it will come out clearly in the electoral law that all party members should be registered with the Registrar so that people do not end up participating---

We do not see that in the churches. If the election for Catholic Action Members or Catholic Men Association is called in the Catholic Church, you will not have members of the PCEA, the Anglican Church or the Seventh Day Adventist (SDA) Church going to elect members for the other church. Unfortunately, this is what we have been taken through because we call ourselves a multi-party State, but we have never embraced the real spirit of multi-partysm in its true sense. It is painful. If you do not have members, do not go to the public. I hope we will be able to capture a number of these things.

Mr. Temporary Deputy Speaker, Sir, the other thing I want to mention here is that political parties are the equivalent of the churches. Churches take our religious faith. Political parties are the manifestation of our political faith. If you believe in one thing and join that party, you believe in it and you die with it. I am saddened every time we have issues in this Parliament, we have to whip Members to come and contribute rather than looking at what we, as a party, stand for.

I do hope as we go into the new constitutional dispensation, especially with the President and the Cabinet residing outside Parliament that this Parliament will be a Parliament of mature politicians who have allegiance to their political parties and can take a political stance and say, "our political party stands for this and this is the issue we will support in this Parliament."

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you just hear the Minister say that he hopes after the general elections when the Cabinet will reside out there, that this House will be of mature politicians? Is he trying to imply that currently, we do not have mature politicians in this House?

The Minister for Transport (Mr. Kimunya): No. I would not want to ever imagine that we do not have mature politicians in this House. I am talking of political maturity in terms of party allegiance. We have all seen examples of that. Let us look at what happens within the Tanzanian Parliament. They have the three whip system where political parties on an issue that is very critical are told that everyone must vote irrespective of their feelings. I think it is whipping number one, two or three which says you must do this and that irrespective of your feelings. If you do not vote with the party's stand, you are out the next day.

I think that is the kind of thing we need to aspire for. I would like to ask my colleague the Minister for Justice, National Cohesion and Constitutional Affairs to just see how the Tanzanians do it. He could organize a joint seminar with the Tanzanians to just show us the workings of their political parties because it is so strong and it means a lot. People know where your allegiance is---

The Temporary Deputy Speaker (Dr. Khalwale): Order, Mr. Minister! Did you tell the House that you would prefer hon. Members to be thrown out of their parties if they do not vote with their parties in this House?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I have said that once you join a political party, there are rules. If you then decide that you are going against the grain, then you have no business being part of that party. Collective responsibility within a party means that when a party decides it is moving east, you cannot have some hon. Members looking west.

That is basically the kind of party discipline we deserve in this country. If we have to anchor political democracy and mature democracy in this country, that is the way to go. I am a firm supporter of party discipline. I will continue supporting that. It is important to support party's position if we have to make decisions again going by our national aspirations. We want issue-based politics rather than personality based politics. It is the personality-based politics that keep dissuading people from their egos.

At the risk of sounding rude, in management when you believe in one thing and you start acting in another way, it is a phenomena referred to as intellectual prostitution. You believe this is right, but you are acting on another thing because of external gains to

what you believe in. This is the kind of thing we need to remove through this Bill and the enactment of enabling legislation to bring that discipline.

Mr. Temporary Deputy Speaker, Sir, just a quick one on mergers. I know political parties have been allowed to merge. However, there is an issue and I know we discussed it before with the Minister and he did promise to have it and I hope he will not forget to bring it as amendments at the Committee Stage. This is the issue of the fate of members of a political party who are affected by a merger. When two parties merge, not everyone would feel comfortable to then move into the merged party. We do not have to feel that they must now be bulldozed because it changes the whole orientation of why they joined the first party in the first place. We need to give that protection to them. It is already there and it was used during the merger of KANU and NDP. I do remember hon. Shem Ochuodho and another had to be given special dispensation because they were not obliged to join the new outfit. At the same time, you do not lose your parliamentary seat just because your party has merged. We need that protection and I believe the Minister will bring some amendments to that effect.

Mr. Temporary Deputy Speaker, Sir, in terms of the political parties funding, I have had quite a bit of discussions on this and whether political parties should be allowed to keep excesses and invest in assets and other long-term commitments like buildings. I would like us to start looking at it like what happens elsewhere. I believe political parties funding by the State should be additional to what parties themselves can raise. You saw the typical example of America where even presidential candidates, once you raise a certain amount, you do not necessarily need to have recourse to public funds. So, if a political party is so successful, it should be coming up and saying---

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Although we are enjoying this very long sensational speech, I was hoping that in the spirit of timeliness, we could perhaps give a chance to one or two other Members and then perhaps pass this Bill today.

The Temporary Deputy Speaker (Dr. Khalwale): Order, hon. Shakeel! The time for this Motion is still there. You will have your time. Have no fear!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I think this is the most popular Bill and we need to have as many Members as possible to contribute. You saw how the House was full this afternoon. Most Members have gone and they will be back here. The Members have said that they want to be given even more time to contribute. The Bill affects our political life. I would like to ask hon. Shakeel to bear with us. He will catch the Chair's eye and he will contribute.

With regard to the issue of the political parties funding, I was going to suggest that if it finds favour with the rest of the Members, recourse to public funds should be for the weaker parties. The giant parties that can fundraise, meet their budgets and have excesses should not be sharing the little amount that is available from the public with the rest of the other parties. This is contentious, but it is something for consideration and debate.

To wind up, and hopefully, hon. Shakeel may have an opportunity, I would like to mention something that was raised by hon. Mbadi. This is about coalitions and whether we should have coalitions or not. At this point in time, we have 50 plus political parties. The quickest route towards the mergers and bringing the parties towards three, four or five parties will be first of all through the coalitions, so that they can start working

together and see that they have some commonality. Hopefully, those coalitions will then lead to full time mergers. That is the only way we are going to have few political parties. In any case, our Constitution guarantees the freedom of association not just for individuals, but even for political parties. But parties that obviously have some commonality in terms of ideas should be allowed to merge and form their coalitions at whatever point in time. The important thing, and this is where the issue of coalitions before an election becomes important, is the issue that was raised here by hon. Wetangula and others as to how you share out money for parties in a coalition. If you do not have that coalition properly structured and registered before the election, you will end up with the kind of situations where you hear people saying: “We were short-changed; we thought we brought more votes”. But that needs to be anchored properly within an agreement and deposited to the Registrar. People know that in a coalition, the votes that come to that coalition can be the basis of even the distribution of the funding, seats and nominations. That is why it is important that we capture some of these things.

I could go on and on because this is a very interesting Bill, but I hope that we take it that this is one opportunity we have as Parliament to shape the political destiny of this country and to align our political systems with our national Vision 2030, which I would like to encourage the Members who have not looked at it, especially the political pillar, to look at it. All the things that we are doing are about creating our political system that will be issue-driven and people-driven to help our people have a higher quality of life by the year 2030.

With those few remarks, I beg to support.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this chance to also support The Political Parties Bill. I would like to tell the Minister for Justice, National Cohesion and Constitutional Affairs that we passed The Political Parties Act that we were trying to amend earlier on in the life of this Parliament. Therefore, we have had a chance to live with it, see the faults in it and see how we can correct it. Unfortunately, the Bill that the Minister has brought to this House is not an improvement of the existing Act. If anything, it muddies the water even more.

Despite the various persons who have spoken on this Bill, I have only heard one voice supporting the issue of pre-election coalitions. We must be awake to the fact that pre-election coalitions have been the cause of Government instability in this country. The first pre-election coalition of NARC led to a lot of instability in Government. This means the development that we achieved under NARC could even have been more if we did not have that instability. So, I do not think we can craft a Bill to become an Act, which institutionalizes instability in Government. Pre-election coalitions result in people of divergent views trying to form a Government, and thereafter start rocking the boat.

We cannot legitimize that kind of situation. Even as we speak, the two Coalition partners are themselves pre-election coalitions. The PNU is a pre-election coalition. The ODM and UDM are pre-election coalitions. You have seen the instability that this arrangement has brought in those two parties. Are we then going to legitimize that through this Bill? Are we saying that we no longer want a stable Government in this country; should we legitimize a position through an Act of Parliament, so that in future, we continue that way? My party is a coalition partner in the PNU, but I can assure that PNU is a queer animal. It eats its own children and adopts the neighbours’ children. To make it worse, in terms of the political parties funding, the PNU eats the children’s food

in the PNU coalition. It does not give them the money. So, are we going to legitimize that kind of situation by passing this Bill?

Mr. Temporary Deputy Speaker, Sir, I have the feeling that this Bill was crafted with a certain pre-arranged position in mind. We want to legitimize some of the going zones in political parties that have led to instability through party hopping, *et cetera*. We want to say that if you are in a coalition, you are allowed to campaign for another party. That is what has allowed some people to jump from one party to another, saying that they are in a coalition. Some say: "I could have come in through party A, but because we are a coalition of party B, I can jump to party C, which is also a coalition of party B." We should not legitimize that kind of thing if we want to grow democracy in this country. We need to be very careful how we go about it.

In my view, this Bill is good but it needs thorough overhaul to make sure that we have proper home-grown democracy. We should clean this Bill properly; it is supposed to bring sanity in political parties. We are supposed to bring about hygiene in the way we behave. I am afraid that this Bill tends to contain a lot of germs, which will lead to lack of hygiene in the way we do our political parties business. I believe that this can be cured if we do a thorough overhaul. We can get something better that can govern our political space.

With those few remarks, I beg to support.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity. I stand to support the Bill. However, I feel---

The Temporary Deputy Speaker (Dr. Khalwale): Order! Order! Hon. Shakeel, you will have 19 minutes when debate resumes on this Bill.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Khalwale): Hon. Members, we have come to the end of our business today. The House now stands adjourned until tomorrow, Wednesday, 3rd August, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.