

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 13<sup>th</sup> April, 2011

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:

Report of the Departmental Committee on Lands and Natural Resources on the alleged corruption in the Ministry of Water and Irrigation and its agents.

*(By Mr. Musyimi)*

CDF Allocations from the Financial Year 2003/2004 to 2010/2011 in millions shillings as calculated by the Committee.

The historical trend of CDF allocations in billions indicating the total revenue; the target of the 2.5 per cent ordinary revenue; the allocation to the CDF; and, the variation in both quantum and percentage

*(By Mr. Ethuro)*

*(Mr. Sambu stood up in his place)*

**Mr. Speaker:** Order, Mr. Sambu! What is it that you have that you have not put me on notice?

**Mr. Sambu:** Mr. Speaker, Sir, I thought you had signed the Paper by the Budget Committee.

**Mr. Speaker:** If it is the document that I have just approved hardly ten minutes ago, yes, I am aware. So, you may proceed.

Report on the Budget Committee on the Budget Policy Statement for the year 2011 and 2012.

*(By Mr. Sambu)*

NOTICES OF MOTIONS

ADOPTION OF REPORT ON ALLEGED CORRUPTION

IN THE MINISTRY OF WATER AND IRRIGATION

**Mr. Musyimi:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Lands and Natural Resources on alleged corruption in the Ministry of Water and Irrigation and its agents laid on the Table today, Wednesday 13<sup>th</sup> April, 2011.

ENHANCEMENT OF FPE GRANTS TO PRIMARY  
AND SECONDARY SCHOOLS

**Mr. Chanzu:** Mr. Speaker, Sir, I beg to give notice of the following Motion to the Ministry of Education:-

THAT, cognizant of the fact that the Government policy on Free Primary School Education (FPE) and Free Secondary School Education (FSE) has been in place since 2003 and 2004; noting that the Kenyan economy was then at the total discretionary national budget of Kshs284 billion and the corresponding Government grant for secondary schools education was Kshs10,265 per student and Kshs1,060 per pupil for FPE; aware that these figures have remained static to date and yet the economy has since then grown threefold to a total discretionary national budget of Kshs834 billion for the Financial Year 2010/2011 with a respective nominal GDP of Kshs1.260 trillion in 2003/2004 and Kshs2.713 trillion in 2010/2011; noting that the cost of living has risen tremendously over the same period; this House urges the Government to double the secondary school grant per student to Kshs20,530 and treble the primary school grant per pupil to Kshs3,180 in order to ease the burden of the high cost of education in the country on parents and guardians.

ADOPTION OF BUDGET COMMITTEE REPORT ON  
2011/2012 BUDGET POLICY

**Mr. Sambu:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Budget Committee on the Budget Policy Statement for the Year 2011/2012, laid on the Table on Wednesday, 13<sup>th</sup> April, 2011.

ORAL ANSWERS TO QUESTIONS

*Question No.628*

DEMOTION OF CHIEF INSPECTOR SIMON G. MWANGI

**Mr. Kabogo** asked the Minister of State for Provincial Administration and Internal Security:-

(a) if he is aware that Simon G. Mwangi, (P/No. 87084988) was demoted from the rank of Chief Inspector of Police because he questioned a person who was bribing voters at the Thika Municipal Stadium polling station during the just-concluded Juja by-election;

(b) why the officer was also transferred from Thika West District to Gatundu South District following his demotion on 28th October, 2010; and,

(c) when the Ministry will reinstate the officer to his earlier rank.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I seek the indulgence of the Chair that I answer this Question next week because I have just received some papers which are more or less related to what I was going to answer and that will change the format of the answer that I have. I beg that you allow me to answer this Question by Thursday next week, if possible.

**Mr. Speaker:** Mr. Kabogo, are you comfortable with that?

**Mr. Kabogo:** Mr. Speaker, Sir, I would want to believe that it is in the interest of the Question that the Assistant Minister is seeking time. You may allow him so that next week, he comes here with an elaborate answer. I have given him documents that do not relate to the answer that he had prepared. I agree.

**Mr. Speaker:** It is so directed. Thursday, next week!

*(Question deferred)*

*Question No.713*

GOVERNMENT POLICY ON ALLOCATION  
OF INTERNATIONAL SCHOLARSHIPS

**Dr. Monda** asked the Minister for Higher Education, Science and Technology:

(a) what the Government's policy regarding allocation of international scholarships to interested Kenyans is;

(b) if he could state how many scholarships have been awarded to students in local and overseas universities by the Government of Kenya, other governments and development partners in the last three years, indicating the respective disciplines of study and amount of money received by each student; and,

(c) if he could also table a per-constituency list of the beneficiaries of the scholarships in all the 47 counties and clarify whether equity and regional balance was achieved.

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

(a) Each country gives conditions for the award of their scholarships. The conditions are announced to the candidates when the scholarships are advertised in the local dailies; that is, the *Daily Nation* and *The Standard* newspapers.

Scholarships are offered for both undergraduate and post-graduate students. The Government has a policy guideline regarding allocation of scholarships which are the eligibility criteria for nomination scholarship to beneficiaries. These are as follows:-

- (i) Regional balance which was previously based on provinces, but will now be based on counties.
- (ii) Course and level of study as outlined by the country offering the scholarship. The country offering the scholarship specifies the number of scholarships available, the course and the level of study; that is, whether it is undergraduate or post-graduate.
- (iii) Areas of study must be relevant to the country's development agenda.
- (iv) Merit is also paramount and scholarship beneficiaries for undergraduate degree courses must have attained a minimum of B (Plain) in KCSE and B+ in the relevant subjects in the course to be pursued. Candidates are required to produce original KCSE Certificates and other relevant documents.

For post-graduate scholarships, candidates must have a minimum of Second Class Honors Upper Division and must be serving officers in the public sector with an experience of at least two years, since the last graduation. This is ascertained through a recommendation letter from his or her current supervisor or Head of Department or Division.

(v) Age is also important. An undergraduate degree student must have an age of 23 years or below. For post-graduate, they must be below 34 years of age and for Masters Degree, 40 years to 44 years. For PhD, the candidate must have at least 44 years and above.

Lastly, gender balance is observed in all scholarships before they are awarded.

(b) The Government of Kenya offers scholarships which are attainable locally for Masters and PhD students. These are administered by the Higher Education Loans Board and the National Council for Science and Technology (NCST).

The distribution of scholarships by the two institutions is as follows: The HELB has already given out 70 Masters Degree scholarships worth Kshs140 million; and 42 PhDs worth Kshs89, 900,000. The total funds disbursed by the Higher Education Loans Board (HELB) are Kshs32,900,000. For National Council for Science and Technology, so far, 22 students have benefited from masters scholarships. This has cost the Government, Kshs43 million. For PhD, 22 students have benefited, so far. This has cost the Government, Kshs10.5 million. Total cost is Kshs149 million.

Mr. Speaker, Sir, scholarships are also given by friendly countries and development partners, and are only tenable in the respective countries. These countries do not specify the amount of scholarships, but only state the areas they support; that is tuition, accommodation, air ticket, research fund, local travel during research, subsistence allowance, depending on whether the scholarships are full or partial.

Mr. Speaker, Sir, currently, there are 22 countries which offer Kenya a number of scholarships per year. These are as follows: Cuba, Czech, UK, India, China, Russia, Turkey, South Korea, Morocco, Egypt, Serbia, Algeria, Newzealand, Slovakia, Indonesia, Venezuela, Switzerland, Trinidad and Tobago, Ukraine, Malaysia, Pakistan and Japan.

The first 12 countries have offered the Kenyan Government scholarships through the Ministry of Higher Education, Science and Technology on a regular basis for the last

three years. These scholarships are categorized as per follows: We have full scholarships and partial scholarships.

(c) Scholarships were previously awarded based on provinces. Therefore, there is no list for constituencies as requested by the Questioner. However, from December, 2010, following the promulgation of the new Constitution, we have started awarding scholarships on the basis of counties, and sometimes constituencies. The process of awarding the scholarship is based on eligibility criteria, which ensures that there is equity in terms of gender, and regional balance as earlier mentioned in part (a) of my answer.

Mr. Speaker, Sir, lastly, it is also important to know that some countries do not offer scholarships every year, hence the total number of scholarships received vary from year to year.

**Mr. Kioni:** Thank you, Mr. Speaker, Sir.

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

**Mr. Speaker:** Order! Order! Dr. Monda, I am aware!  
Proceed!

**Mr. Kioni:** Mr. Speaker, Sir, the Assistant Minister says the Ministry is not able to break down this list to the constituency level on the basis that we were operating on provinces before the new Constitution was promulgated. How was he able to ensure that there was regional balance? Did awarding of those scholarships reflect the face of Kenya?

**Mr. Kamama:** Mr. Speaker, Sir, that is a good question. I think if the questioner was allowed to really respond before me, I think he would have really convinced this House that the list we gave him reflected the face of Kenya. I want to confirm to the House that before the promulgation of the new Constitution, we actually gave scholarships to each and every province, and it reflected the face of Kenya.

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

**Mr. Speaker:** Order, Order! Member for Nyaribari Chache, you have caught my eye to ask a supplementary question. Yes, you are the owner of the Question, but the rules do not say that I must take you first for the supplementary question.

Proceed!

**Dr. Monda:** Mr. Speaker, Sir, I thank you for that direction.

The Assistant Minister says he has given us the breakdown of scholarships on province basis as previously practised. However, the answer I have here with me does not show that. I wanted that to be captured in the record of this House. However, part (b) of my Question requires him to state the number of scholarships awarded to students. This has not come out clearly. So, could he give us the number of scholarships given to students per province as he has indicated earlier?

**Mr. Kamama:** Mr. Speaker, Sir, when I came to this House, I really wanted to compare notes with Dr. Monda on whether he has full information.

As far as I am concerned, I have an elaborate list for all the scholarships given to applicants for the last three years. So, if he does not have the information, I can avail that information right now. If he thinks he wants to interrogate further, I stand guided.

However, the information is here; province by province and reflecting the face of our country.

I beg to table the list.

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

**Mr. Ruteere:** Mr. Speaker, Sir, the Assistant Minister says due to the present Constitution, they are giving scholarships per counties, and in circumstances, on constituencies basis. What makes it easy for them to give scholarships to constituencies and leave counties? What criteria do they use to award these scholarships to constituencies and not constituencies?

**Mr. Kamama:** Mr. Speaker, Sir, I want to confirm that is not what I said. I said after the promulgation of our new Constitution, we, as a Ministry, have now taken into account counties. We all know most counties have constituencies. So, it is not possible to please all constituencies, but we consider all counties. If a student from constituency “a” or “b” benefits that is by chance. However, every county must get a chance.

**Mr. Chanzu:** Mr. Speaker, Sir, apart from the advertisements we occasionally see in the Press, what methods does the Ministry use to access these applicants all over the country?

**Mr. Kamama:** Mr. Speaker, Sir, we put all our scholarships in the daily newspapers, mostly *the Standard* and *Daily Nation*. All applicants are requested to apply. There is an office that deals with the processing of those documents, after which, three students are shortlisted per course. Then there is a Committee that interviews all of them. That Committee comes up with one name and a few reserves. So, it is an elaborate system that makes sure that there is fairness in every meaning of that word.

**Dr. Monda:** On a point of order, Mr. Speaker, Sir. I seek your direction on this matter. Considering that the Assistant Minister has just laid on the Table part of the answer which has a long list that requires time for us, as a House, to go through, would I be in order to ask that the Question be deferred to give us time to understand the list, look at gender and regional balancing before we can interrogate the Question effectively and to the satisfaction of this House?

**Mr. Speaker:** At this point, you will be out of order. I will have to give other hon. Members who have questions to ask an opportunity to do so. Member for Kisumu Town East!

**Mr. Shakeel:** Mr. Speaker, Sir, I would like to ask the Assistant Minister whether the Ministry of Higher Education, Science and Technology has a policy with regard to staff and whether members of the committees and their relatives are exempted or excluded from applying for the bursaries? Could he confirm whether there is a policy of that nature or not?

**Mr. Kamama:** Mr. Speaker, Sir, that is not part of our policy. As you well know, the Bill of Rights in Chapter IV of the new Constitution does not entertain discrimination of any nature. However, we make sure that people with personal interests are not in that committee.

**Mr. Yakub:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for informing the House the number of countries that give us scholarships. I know that the Ministry uses the print media only to advertize the scholarships. What other mechanism

will the Ministry put in place to ensure that students in all the 47 counties are fully aware of the scholarships?

**Mr. Kamama:** Mr. Speaker, Sir, apart from the newspapers - *The Standard and The Daily Nation*, the students can access that information in our website or through the internet. Therefore, there are various ways in which they can get that information.

**Ms. Karua:** On a point of order, Mr. Speaker, Sir. You realize that this lengthy list has just been given. As hon. Members, we are interested in going through it so that we can interrogate the Assistant Minister properly. Would I be in order to request that this Question be deferred so that we can peruse the list and participate in this very important Question?

**Mr. Speaker:** Hon. Members, I will refer to the request by the Member for Nyaribari Chache and defer the Question to Wednesday next week.

*(Applause)*

So, hon. Member for Nyaribari Chache, you carry the day.

*(Question deferred)*

Member for Keiyo South!

**Mr. Kiptanui:** Thank you Mr. Speaker, Sir.

**Mr. Kamama:** On a point of order, Mr. Speaker, Sir. I stand guided and I will come back to the House with the same information on Wednesday. However, when I came to the House, the Questioner was not here. I wanted to compare notes with him. So, would I be in order to request that the said Member comes to this House on time?

**Mr. Speaker:** Order, Mr. Assistant Minister! As a matter of fact, I did not expect that your point of order would still relate to Question No.713 because I had already called out the hon. Member for Keiyo South and he was on his feet addressing the House. So, you are out of order and I direct that the sentiments you have expressed be expunged from our records because they will be invalidly there.

*Question No.723*

#### TARMACKING OF NYARU-ITEN ROAD

**Mr. Kiptanui** asked the Minister for Minister for Roads:-

(a) whether he is aware that the designs for upgrading Nyaru-Iten Road (C53) to bitumen standards are complete; and,

(b) what plans the Ministry has put in place to tarmac the road.

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

(a) I am aware that the designs for upgrading the Nyaru-Iten Road, C53, to bitumen standards are complete.

(b) My Ministry is now sourcing for funds to upgrade that road to bitumen standards and we will embark on the project as soon as funds are available.

**Mr. Kiptanui:** Mr. Speaker, Sir, I would like the Assistant Minister to tell this House the estimated cost of upgrading the Nyaru-Iten Road.

**Mr. Kinyanjui:** Mr. Speaker, Sir, the approximate cost of upgrading the Nyaru-Iten Road, C53, which is a 52 kilometer road--- The road starts about 1.6 kilometers from Iten Town in Keiyo District and runs on the southern direction to Kipsion, Kaptarakwa and ends at Nyaru Market Center. The estimated cost of that project will be Kshs4.16 billion.

*[Mr. Speaker left the Chair]*

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

**Mr. Kigen:** Mr. Speaker, Sir, how soon does the Ministry intend to start tarmacking the road now that it is in such a dilapidated state? He has confirmed to the House that he has already done the estimates.

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, I have indicated that we have completed the designs. I have forwarded our request to the Office of the Deputy Prime Minister and Ministry of Finance in the hope that we will get funds to undertake the project. However, in the meantime, we will continue to maintain those roads to a motorable state until such a time when we will undertake full rehabilitation.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I am a little bit shocked by the estimate that the Assistant Minister has given. It goes up to Kshs4.16 billion. That works out to nearly Kshs100 million per kilometer. Is that the right figure because in our work, realistic figures should not reflect more than Kshs20 million per kilometer? Why should it cost Kshs100 million to construct a kilometer of that road? Will it be paved with gold or what?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, the hon. Member must be a stranger in this country. The average estimate per kilometer is about Kshs60 million plus or minus. But the road in question is in a very difficult terrain. The hon. Member will appreciate that, that is a very hilly area and, therefore, the costs have been factored in the project.

*(Messrs. Lessonet and Shakeel stood up in their places)*

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Lessonet!

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Shakeel, if you persist doing that, I will send you right out.

**Mr. Lessonet:** Thank you Mr. Temporary Deputy Speaker, Sir for giving me this opportunity. I would like the Assistant Minister to tell us why some roads already classified as C have not been tarmacked while, in some other parts of this country, even roads which are classified as D and E are tarmacked? Why is it that roads classified as C are not tarmacked?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, indeed, it is true that there is an anomaly in the sense that we have some Class "A" and Class "B" roads which are



not tarmacked, whereas some roads of lower classifications are tarmacked. It is for this reason that my Ministry has come up with the Road Sector Investment Programme, which, as I have already indicated, we will present to this House. The programme will inform future development and decisions as to which roads will be tarmacked. The hon. Members of this House will be able to make an input into that policy.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, even as hon. Members question why Class “E” roads are being tarmacked, leaving out Class “C” roads, how satisfied is the Assistant Minister with the classification of the roads in this country? Roads in some regions link critical areas. For instance, in my constituency, you find that a road serves the shores of Lake Victoria, where the highest percentage of fish comes from, yet the road is classified as “D”. Do you consider that road as of lesser importance?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, I am not satisfied with the current classification of our roads. It is for that reason that my Ministry engaged the services of a consultant to be able to re-classify all roads in Kenya. Once that study is complete, we will also be able to share the results with hon. Members, so that we can upgrade our roads to the appropriate classes.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, there are many roads in Kenya which have been designated C53 that the hon. Member is asking about, but none of them is getting tarmacked, yet more roads are being designed. A case in point is the Kamugunda-Kianyaga-Kiamutugu-Githure Road, which was designed two years ago. Is the Assistant Minister worried about wasting taxpayers’ money, while raising the expectations of the residents and then doing nothing about it? What is his explanation for this kind of thing?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, it is, indeed, true that we have a number of roads on which we have been able to carry out the design, but we have not been able to get the relevant funding for us to be able to undertake the upgrading exercise. However, this is a necessary process, because we would not be able to know what amounts of money are required without designs. So, without designs, you would not know what requests to make to Treasury or to other donors who would come up. Once we are through with the design work, we normally forward the results to the Treasury and other donors in the hope that they will be able to help in the funding. So, indeed, the design is a necessary stage. Otherwise, we would not be able to have the right figures to present to the Treasury and other donors.

**The Temporary Deputy Speaker** (Mr. Imanyara): Last question, Mr. Kiptanui!

**Mr. Kiptanui:** Mr. Temporary Deputy Speaker, Sir, while I thank the Assistant Minister for answering this Question, he has said that he is sourcing money to upgrade this road. How much money has he budgeted for the maintenance and gravelling of this road in the next financial year?

**Mr. Kinyanjui:** Mr. Temporary Deputy Speaker, Sir, I may not have the exact figure that we require to maintain this road to motorable condition but as soon as we get the estimates for the repairs, we will liaise with the hon. Member to ensure that the road is maintained up to the time when we can do the full rehabilitation.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question, Member for Ndaragwa!

*Question No.759*

## ACREAGE OF LAND REPOSSESSED BY GOVERNMENT

**Mr. Kioni** asked the Minister for Lands:-

(a) what is the total acreage of land repossessed by the Government following the surrender of title deeds after the expiry of the 99-year-lease period as stipulated in the new Constitution;

(b) whether he could table a list of titles deeds that have been surrendered by the foreigners; and,

(c) how they have been re-allocated for public use.

**The Assistant Minister for Lands** (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I would like to seek the indulgence of the House for me to answer this Question on Wednesday, next week.

**The Temporary Deputy Speaker** (Mr. Imanyara): Why?

**The Assistant Minister for Lands** (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, the Commissioner of Lands, from whom I had sought some information, is out of the country at the moment; he is accompanied by the Chief Land Registrar.

**The Temporary Deputy Speaker** (Mr. Kioni): Mr. Kioni, what do you have to say to that request?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, while I may not have any objection to it, it is important for this House to know that the Question must have gotten to the Ministry a long time ago. I did this Question more than three months ago.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, but since he is not in a position to give you an answer now, do you have any objection to the proposed day?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I can wait for Wednesday, next week.

**Mr. Musyimi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. As the Assistant Minister prepares to provide an answer, I hope that he appreciates the importance of this Question. Many of the people who are affected by this particular Question have been very anxious since the passage of the new Constitution in August last year. Some of them have been lobbying and trying to get in touch with me, as the Chairman of this House's Departmental Committee on Lands and Natural Resources. Therefore, I trust that this matter will get the attention it deserves.

**The Temporary Deputy Speaker** (Mr. Imanyara): Assistant Minister, have you noted the concerns raised by the Chairman of the Departmental Committee on Lands and Natural Resources?

**The Assistant Minister for Lands** (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I suggested Wednesday, next week, because the Commissioner of Lands is expected to be in his office on Monday or Tuesday.

**The Temporary Deputy Speaker** (Mr. Imanyara): No; I am asking you this: Given what the Chairman of the Departmental Committee on Lands and Natural Resources has said regarding the concerns raised and the lobbying of the Committee by the affected persons, will Wednesday next week give you sufficient time to enable you give a comprehensive answer, or would you like to have a longer period, so that you can give an answer that will take on board the concerns of the Committee Chairman?

**The Assistant Minister for Lands (Mr. Rai):** Mr. Temporary Deputy Speaker, Sir, I would not mind having more time, so that once my officers come back, I am able to deal with the concerns that have been raised by the Chairman of the Committee on Lands and Natural Resources.

**The Temporary Deputy Speaker (Mr. Imanyara):** Mr. Kioni, is it okay with you if we give the Assistant Minister two weeks from today?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, it appears that the Assistant Minister will continue asking for more time. If we can give him until Thursday, next week, he would have more than adequate time. The amount of information that the Chairman of the Departmental Committee on Lands and Natural Resources is asking for is actually part of the Question.

**The Temporary Deputy Speaker (Mr. Imanyara):** Assistant Minister, you had better get your answers correct. Mr. Musyimi is not the Chairman of the Committee on Lands and whatever.

**The Assistant Minister for Lands (Mr. Rai):** Mr. Temporary Deputy Speaker, Sir, he is the Chairman of Lands and Natural Resources Departmental Committee of the House.

**The Temporary Deputy Speaker (Mr. Imanyara):** What day would you prefer? Is it Thursday or Wednesday, next week?

**The Assistant Minister for Lands (Mr. Rai):** Mr. Temporary Deputy Speaker, Sir, I had actually suggested Wednesday next week, because I wanted to get an indication from the Commissioner of Lands as to how much time they require. According to the Question, I am supposed to actually bring a list of some titles. So, it is a very broad Question. So, if I could get more time, it would be well and good. If I do not get that time, when I come back to the House on Thursday, I will not mind asking my colleague for more time, so that I can bring a comprehensive answer.

**The Temporary Deputy Speaker (Mr. Imanyara):** No, no, no! How much time do you require to provide a comprehensive answer to this Question?

**The Assistant Minister for Lands (Mr. Rai):** Mr. Temporary Deputy Speaker, Sir, I would suggest 29<sup>th</sup> of this month.

**Mr. Musyimi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. In that case, perhaps we could be allowed to pend hon. Kioni's Question, so that the answer can be comprehensive.

**The Temporary Deputy Speaker (Mr. Imanyara):** Assistant Minister, you have two weeks from today.

**The Assistant Minister for Lands (Mr. Rai):** Mr. Temporary Deputy Speaker, Sir, I am much obliged. I will do what it will take to ensure that I get a satisfactory answer to the Question.

*(Question deferred)*

**The Temporary Deputy Speaker (Mr. Imanyara):** Next Question, Mr. Warugongo!

*Question No.791*

CIRCUMCISION OF BABY BOYS AT BIRTH  
TO REDUCE HIV/AIDS

**Mr. Warugongo** asked the Minister for Public Health and Sanitation whether she could consider making it a policy to conduct circumcision of all baby boys at birth as a measure of reducing HIV/AIDS infections.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, Minister for Public Health and Sanitation!

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

Medical male circumcision is a powerful new tool to help us reduce HIV/AIDS infections and save lives, but it must be voluntary. For early infant male circumcision, the consent of parents is crucial. No child should undergo a surgical procedure without the full and informed consent of his parents or legal guardian. Early infant male circumcision would contribute to HIV/AIDS prevention in this country in the long-term. The Government's role will be to provide information which will enable parents to decide whether the procedure would be in the best interests of their children, and to ensure that safe early infant male circumcision services are available to those who will seek them.

**Mr. Warugongo:** Mr. Temporary Deputy Speaker, Sir, I must thank the Assistant Minister for that elaborate answer. However, considering that circumcision reduces the chances of boys and young men contracting the HIV/AIDS virus, I thought it was in order for the Assistant Minister to come up with a policy to help many Kenyan children undergo the cut. Because this is not possible, what fraction of Kenyans undergo circumcision?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, I may not be able to tell what fraction of Kenyans undergo circumcision. I want to inform the Member that as a policy for infant circumcision, some of the work that will need to be done in the country will include some of the following:-

(i) They will need consultation with diverse communities to assess the knowledge and acceptability of infant circumcision. In communities where circumcision is the norm in the adolescence years, circumcision of infants may not be widely acceptable.

(ii) Determination by the Director of Public Health and the Director of Medical Services and professional bodies as to who should be qualified to perform early infant circumcision and in what settings.

(iii) We will need to establish in-service and pre-service early infant male circumcision training programmes. That requires funding.

(iv) Piloting of early infant male circumcision programmes to demonstrate safety, acceptability and post-effectiveness.

(v) There will be need for integration of early infant male circumcision with maternal child health, immunization, growth monitoring and well baby check up programmes.

(vi) The development of systems for monitoring and assessing the quality of early infant male circumcision programmes. This requires funding and we will not be able to undertake it as a policy at the moment.

**Dr. Eseli:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to seek your guidance. This Question and the Member who have asked it, seem to have implied that merely by circumcision, one prevents HIV/AIDS. This might give the wrong message to Kenyans who might think that if they are circumcised, they are immune to HIV/AIDS. Could I be in order to ask that this be expunged from the records of this House, so that we do not give that wrong concept to the Kenyan public?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, I agree with Dr. Eseli, but I want to say that it is proven that medical male circumcision is a new powerful tool to help us reduce the HIV/AIDS infections. There is no doubt about that. Studies have shown that. Early infant circumcision can even reduce this further, but it is not the only way of reducing the HIV/AIDS infections. That is the caution we wanted to put that being circumcised does not prevent HIV/AIDS infections, but it is a new powerful tool that, in fact, leads to the transmission levels going down considerably.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that it is not the policy of the Government and it is actually up to the parents to decide whether to circumcise their sons at birth or not. Could he give us his undertaking that those children born in Government hospitals, whose parents have agreed to circumcise them at birth, should not be charged?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, I have indicated that circumcision is a surgical procedure and it is given, as a matter of procedure, for the parent who wants his infant to be circumcised. Therefore, there is a fee to that effect by the hospital because there is a lot that is required to be done. I will not make an undertaking that those who want the procedure to be done in hospital will not pay something small. Surgical procedures, as a matter of fact, are paid for by the clients. I cannot undertake that one.

**Mr. Mwathi:** Mr. Temporary Deputy Speaker, Sir, indeed, the Question refers to the reduction of HIV/AIDS infections. It does not refer to preventive measures just like the Member has said. This is not in regard to infant circumcision. What measures has the Ministry taken to ensure that members of the public are aware of this method as one of the very many ways of reducing HIV/AIDS infections? Has the Ministry put measures in place to create public awareness, this being one of the measures that are critical in reducing HIV/AIDS infections?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, I have already indicated that there are several strategies for HIV/AIDS prevention in this country, one of them being the use of condom. I have also indicated to you that this is a new proven method that circumcision significantly reduces the transmission of HIV/AIDS. We, as a Ministry, have included it in all those strategies that we undertake to prevent HIV/AIDS infection in this country.

**Mr. Mwathi:** On a point of order Mr. Temporary Deputy Speaker, Sir. The Assistant Minister did not address my question. What measures has he put in place currently, not just for infants, but for everybody to be aware of this new method, so that it becomes a campaign to enlighten the public on this issue?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, when it was conclusively found out that circumcision can prevent almost 60 per cent of HIV/AIDS transmission, we put it out as a strategy and it is all over the country that circumcision reduces the chances of HIV/AIDS transmission. This is known to the public. Maybe it has not gone

to the hon. Member's domain, but health workers are going out there holding education sessions saying clearly that, that is one method that we have added on to fight HIV/AIDS transmission.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, because of the importance of this subject, could the Assistant Minister inform the House the active plans which have been put in place by the Ministry to roll out real civic education on this subject matter for the country to benefit from such programmes?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, I have already answered that by saying that we have put it as one of our strategies of fighting the HIV/AIDS transmission which we are rolling out to Kenyans.

**Mr. Kizito:** Mr. Temporary Deputy Speaker, Sir, since circumcision is an important rite of passage in terms of our youth and some communities cannot do it at infancy because it goes with education and is done at a certain age, is there any way the Assistant Minister can do capacity building in those who perform the circumcision operations? Circumcision goes with education and is undertaken at a given age.

**The Temporary Deputy Speaker** (Mr. Imanyara): I think the Assistant Minister has answered that question more than once.

Mr. Warugongo, final question!

**Mr. Warugongo:** Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us the department in his Ministry that deals with this particular subject of circumcision *vis-a-viz* HIV/AIDS transmission?

**Dr. Gesami:** Mr. Temporary Deputy Speaker, Sir, the National HIV/AIDS Control Programme which is situated at the Kenyatta National Hospital Complex is the one in charge of that division of knowledge of circumcision and how to prevent transmission.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question, Mr. Kutuny! We will leave that Question to the end. Let us move on to the next Question.

*Question No.794*

DELAY IN ELECTION OF MAYOR OF NAIROBI

*Question 814*

PROVISION OF X-RAY MACHINE/AMBULANCE TO  
KING FAHD DISTRICT HOSPITAL IN LAMU

**Mr. Twaha** asked the Minister for Medical Services:-

- (a) whether he is aware that the King Fahd District Hospital in Lamu does not have an X-ray machine or an ambulance; and;
- (b) what urgent measures the Government is taking to rectify the situation.

**The Minister for Medical Services** (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Lamu District Hospital has two portable X-ray machines. Unfortunately both are presently not in working order. As regards an ambulance, Lamu District Hospital has just received a new boat ambulance which is waiting commissioning very soon.

It had been expected that the boat ambulance would meet all the referral needs of the hospital. However, it has recently come to light that the boat can only serve areas within the water frontage thus leaving a gap in referral of patients to Malindi and Mombasa.

Presently, Lamu District Hospital refers patients to Mombasa enroute using a Nissan Urvan ambulance acquired from Mpekoteni Hospital in 2007. This ambulance has been found to be inappropriate for use in the local road network, especially in the section ending at Malindi and requires replacement with a four wheel drive ambulance which we have now budgeted for.

(b) The Ministry has just concluded signing of a maintenance contract with the supplier of the portable X-ray unit, Megascop Healthcare Limited in April this year.

The maintenance contract provides a framework for payments to the supplier for scheduled service and replacement of parts for various machines in use in public hospitals in the country, including the portable X-ray equipment in Lamu District Hospital.

Following this development, the portable X-ray machines will be repaired shortly. In the meantime, Lamu District Hospital has also been put on the priority list for allocation of a four wheel ambulance and a General X-ray unit in the next financial year of 2011/2012.

**Mr. Twaha:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for his answer, especially for putting us on the priority list for allocation of a four wheel drive ambulance and a General X-ray Unit in the next financial year.

I would like to inform the Minister that the vehicles that he enumerated in the answer that he has given, have been used to take the patients from the District Hospital to the referral Malindi Hospital or the Coast General Hospital. We have a problem with the patients within Lamu Island because there are no private motor vehicles. We need an ambulance to transport emergency cases within the Island to the hospital. A small ambulance even if it is not four wheel drive will do. Two days ago, we lost a patient at the gate of the hospital because he was brought there using a wheelbarrow or a handcart. We are pleased that we have vehicles for taking people to the Coast General Hospital, however, we need a vehicle to take people to Lamu District Hospital.

**Prof. Anyang-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I think that is very genuine request from the Member of Parliament. If the hon. Member does not mind, he can write me a letter so that we can organize this thing with the medical superintendent of the district hospital because a small ambulance working within the island will not cost a lot of money. I think it is something that can be done expeditiously.

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, I wish to thank the Minister for that answer with regard to Lamu District Hospital. But I wish to inform him that this General X-ray unit has not been working for the last ten years. In the same hospital, instead of having five incubators, they only have one. Could he, please, arrange with immediate effect to send one portable X-ray and one incubator? Right now, there is only one incubator which is serving the whole district.

**Prof. Anyang-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I told the hon. Member that we are aware that the X-ray that has been there has not been working. That is why we have a programme to buy a portable X-ray unit. I know that the X-ray unit that they have there, which is also portable, broke down in February, 2010. On examination by the service engineers, the hospital was advised to procure an air conditioner as the heat levels in Lamu Island were affecting the units. We hope that the hospital can buy the air conditioners, so that the portable X-rays that we shall bring there will not break down again. The problem is that unless the air conditioners are in place, even the new portable X-rays that we bring will break down. So, it is very urgent that the superintendent of the hospital using cost sharing money puts in place the air conditioners as soon as possible.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by the Member for Cherengany for the second time?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I beg your indulgence to ask this Question on behalf of Mr. Kutuny.

**Mr. Twaha:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Could I get a chance to ask the last supplementary question?

**The Temporary Deputy Speaker** (Mr. Imanyara): Indeed, you did not stand up. That is why I called out the next Question. I looked and you were looking at me. So, I assumed you were satisfied.

**Mr. Twaha:** Mr. Temporary Deputy Speaker, Sir, it is assumed that the last question is called out by the Chair.

**The Temporary Deputy Speaker** (Mr. Imanyara): Proceed, Mr. Twaha.

**Mr. Twaha:** Mr. Temporary Deputy Speaker, Sir, the Minister has said that the X-ray machine will be repaired shortly. That is a very vague term. It could be one week, a month or a year. Could he be more specific please?

**Prof. Anyang-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, my Ministry is just waiting for a response from the superintendent on whether the air conditioners have been put in place or not, because we do not want to send the engineers to do the repair and then for the X-ray to begin working and break down again. So, it is extremely important that the air conditioning system be put in place first. As soon as that is done and the medical superintendent informs my Ministry, we will not only repair the existing one, but we intend to put some more portable X-rays in Lamu District Hospital to work.

Mr. Temporary Deputy Speaker, Sir, I know that Lamu has always been disadvantaged in terms of medical supplies, particularly ambulances in 2007 when we had support from DANIDA to supply all the hospitals in the Coast with ambulances. It was assumed that since Lamu is an island, it should have a boat ambulance only. For that matter, I procured a boat ambulance which we are about to commission. It is still the case that Lamu refers patients on land. Therefore, apart from the portable X-ray, we need to supply Lamu with a four wheel drive ambulance which we have budgeted for in this coming financial year.

*Question No.794*

DELAY IN ELECTION OF MAYOR OF NAIROBI



**Mr. Kioni**, on behalf of **Kutuny**, asked the Deputy Prime Minister and Minister for Local Government:-

(a) what the reasons are for the delay in electing the Mayor of Nairobi; and,

(b) when the election will be conducted.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I have heard you say that Mr. Kutuny is not here to ask the Question. Mr. Kioni has requested to ask the Question on his behalf. Is it in order for this to be done when, in my view, unless Mr. Kutuny asks the Speaker in writing to delegate this to another Member of Parliament, he would be in breach of the Standing Orders and guilty of misconduct?

**The Temporary Deputy Speaker** (Mr. Imanyara): Let me cut you short by letting you know that Mr. Kioni had already approached the Chair on that issue. So, please, you are out of order.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, I do not wish to contest your ruling but I thought my understanding of the rules is that hon. Kutuny would have to write to the Speaker to delegate the asking of the Question to another Member.

**The Temporary Deputy Speaker** (Mr. Imanyara): You have said that you do not wish to challenge my ruling and then you go ahead to do so! I have indicated to you that the Member had approached the Chair and, under the circumstances, I had authorized that he may ask the Question having been satisfied that he was authorized hon. Kutuny.

Proceed, Mr. Assistant Minister!

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

(a) There has been no delay in electing the Mayor of Nairobi. His Worship the Mayor, Councillor Geoffrey Majiwa, was elected to the Office of the Mayor of Nairobi on 3<sup>rd</sup> August, 2009 for a period of two years in accordance with Section 13 of the Local Government Act, Cap.265. The Mayor was charged under the Anti-Corruption and Economic Crimes Act on 26<sup>th</sup> October, 2010 following the cemetery scandal. On 2<sup>nd</sup> November, 2010, the Mayor stepped aside in compliance with Section 62(1) of the Act pending the determination of an Anti-Corruption Court Criminal Case No.44 of 2010. His Worship, the Deputy Mayor, Councillor George A. Omwola thereafter assumed the duties of the Office of the Mayor in an acting capacity pending the outcome of the case.

(b) The term of office of the Mayor comes to an end when the council holds its next annual general meeting between 30<sup>th</sup> and 15<sup>th</sup> August 2011 in accordance with Section 74(2) of the Local Government Act, Cap.265 of the Laws of Kenya. The election of the Mayor will, therefore, be held on a date between 30<sup>th</sup> June and 15<sup>th</sup> August 2011 along with other local authorities.

**Mr. Kioni:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that elaborate answer. It would be important for him to assure this House that the functions of the Office of the Mayor are progressing well, noting that this is the City of Nairobi where such an office cannot be vacant for that long. There are allegations that are attached to the reasons why he stepped aside.

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, even as late as today, we were attending an occasion graced by the President where we had the Acting Mayor of

Nairobi. I think the functions of the Office of the Mayor are going on as expected on an acting capacity.

**Mr. Baiya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My understanding of the law is that the reason why the Mayor is not in office is because under the new Constitution, he has also lost qualification to continue being in office. So, in effect, there is a vacancy of the Office of the Mayor. It is not contemplated that he will resume office. Is it in order for the Assistant Minister to say that steps cannot be taken to replace the Mayor?

**The Temporary Deputy Speaker (Mr. Imanyara):** Order, Mr. Baiya! The Assistant Minister has said that he has stepped aside pending the outcome of the case. Do you want to pre-judge the case?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, I assume everybody is presumed innocent until proven guilty and, as such, he has that constitutional right which he still enjoys.

**Mr. Langat:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to appreciate what the Assistant Minister has said. The Mayor is innocent unless proven guilty. However, by the same extension, the former Permanent Secretary in the Ministry of Local Government has been permanently replaced. Why are you telling us that he might come back to occupy that position and yet, the issues that took the former Permanent Secretary home are the same issues that took the Mayor home?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, I think the ones who are familiar with the history of this case know that one, the appointing authority for permanent secretaries decided to take some action to interdict certain officials. It is not even within my jurisdiction to presuppose why he took such a decision. I could only say that probably he had more compelling evidence on certain cases than others, and he felt that it was necessary.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, does that not amount to double standards?

**Mr. Nguyai:** My apologies, Mr. Temporary Deputy Speaker, Sir. Could hon. Kioni repeat the question?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, the answer that the Assistant Minister has just given speaks of double standards. Could he confirm whether that is what they practice in terms of double standards? Why should they send one home permanently and hold the other one waiting for the same case to be determined?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, the first one was interdicted. The second one stepped aside. One was appointed by an appointing authority and the other one was in an elective office. So, I do not see any double standards.

## **PRIME MINISTER'S TIME**

*QPM No.13*

STATUS OF CASES OF KENYANS ARRESTED  
AFTER KAMPALA BOMBING

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, mine was a request for a Ministerial Statement. I was informed last week that the Prime Minister had prepared an answer and that it would be delivered by the Minister of State for Provincial Administration and Internal Security, who I see is seated and ready.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, is that the position?

*(Prof. Saitoti responded to the Chair's question while seated)*

Order! Mr. Minister, you do not address a Member while seated across the board. Who is answering this Question? Is it you, the Minister of State for Provincial Administration and Internal Security?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, it is, indeed, true. I have received a letter here from the hon. Prime Minister stating that he is out of the country and he will not be able to come back until 22<sup>nd</sup>. So, I will actually answer the Question. You can see the letter itself.

**The Temporary Deputy Speaker** (Mr. Imanyara): You can proceed!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): I can proceed with the reply that was given to me. I do not know whether the hon. Member has actually asked the Question.

**The Temporary Deputy Speaker** (Mr. Imanyara): I believe you need to ask the Question, Ms. Karua.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, it was a Ministerial Statement now framed as a Question.

**The Temporary Deputy Speaker** (Mr. Imanyara): Proceed!

### *QPM No.13*

#### STATUS OF CASES OF KENYANS ARRESTED AFTER KAMPALA BOMBING

**Ms. Karua** asked the Prime Minister:-

(a) what the current status of cases of Kenyans who were arrested in Uganda in 2010 in connection with the Kampala bombing is,

(b) why the spouse of one of the Kenyans, together with their infant child, was also detained in Uganda when they had gone to see him and, further, under what circumstances a lawyer and a Mr. Al Amin Kimathi, who had gone to follow up the case, were also detained; and,

(c) what steps the Government is taking to ensure that those Kenyans are repatriated and tried in Kenyan courts.

**Mr. G. Nyamweya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This Question arose some time ago and I informed the Speaker that, in fact, this is a matter that is before the Departmental Committee on Defence and Foreign Affairs. We sought his guidance that if a matter is given to a Committee and then it comes in the form

of a Question, how do we achieve the desired results? If the Committee comes up with a different answer and the Minister gives something else, are we really not duplicating work? That is one. Secondly---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You cannot ask three or four questions at the same time.

**Mr. G. Nyamweya:** Mr. Temporary Deputy Speaker, Sir, I think they are related. The matter was referred to the Prime Minister and I think we will not be able to interrogate it even if you allow it to be done. That is because it was referred to the Prime Minister as a cross-cutting thing.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. G. Nyamweya! The Minister has told you clearly that the Prime Minister has, in exercise of his functions, directed the Minister of State for Provincial Administration and Internal Security to answer this Question. The Minister has said that he is ready to answer the Question. On the first point, indeed, I recall that the Speaker/Chair made a ruling on the issue that you are trying to revisit. The matter is properly on the Order Paper. The Question has been asked.

Mr. Minister, you may respond!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, on behalf of the Prime Minister, I beg to reply.

(a) Following the Kampala terrorist bombings on 11<sup>th</sup> July, 2010 where 76 people were killed and 96 others seriously injured, the following Kenyans were arrested in connection with the crime: Hussein Hassan Agade, Mohammed Aden Abdul, Idris Magundu *aka* Christopher, Mohammed Halid Sulmin, Hayha Sulmin Budhia, Seif Halid Sulmin Njoroge, Seden Omar, Hawa Omar, Al Amin Kimathi. Officials from the Kenyan Mission to Uganda made a first visit to Luzira Maximum Security Prison and Luzira Women Prison on 16<sup>th</sup> and 17<sup>th</sup> August, 2010 to check on the condition and welfare of the terrorist suspects and other Kenyans held in the two prisons. Again, on Tuesday, 21<sup>st</sup> March, 2011, the High Commissioner visited the suspects at Luzira Maximum Security Prison.

The status of the case as of now is as follows: The suspects are being committed to stand trial at the High Court of Uganda and are facing three counts of terrorism, 75 counts of murder and nine counts of attempted murder. According to the Ugandan Constitution of 1995, Article 23(6) (a) and (b) the offences are bailable. However, the accused are yet to take a plea and the actual date of the commencement of the trial has not been fixed. It is worthwhile to mention here that if the suspects are convicted for any one of these counts, they will face the death sentence.

(b) The Question from the hon. Member does not give the name of the spouse of the Kenyan with an infant who was detained. However, we have established that Mrs. Nadhifa Ali, a wife of one of the terror suspects; Hussein Hassan Agade, was arrested due to lack of travel documents when she went with her infant to visit at Luzira Maximum Security Prison. She was detained at the police rapid response unit in Kireka Kampala for about three weeks while undergoing interrogation. She made the first court appearance at Nakaa Magistrate's Court on 1<sup>st</sup> March, 2011. She was subsequently remanded at Luzira Women's Prison. On 4<sup>th</sup> March, 2011 she again appeared at Nakaa Magistrates Court. During the trial, she produced her temporary travel permit which she

had forgotten at home here in Kenya. She was cautioned and released on the same day, 4<sup>th</sup> March, 2011.

Mr. Temporary Deputy Speaker, Sir, with regard to the circumstances under which a lawyer and Mr. Al Amin Kimathi who had gone to follow up the case were also detained, I would like to state as follows: Mr. Al Amin Kimathi was arrested on 16<sup>th</sup> September, 2010 and on 30<sup>th</sup> November, 2010, he was committed to stand trial at the Uganda High Court. He faced the same charges as the co-accused namely; three counts of terrorism, 75 counts of murder and nine counts of attempted murder. Consequently, Kimathi, like the others, he is yet to take a plea and the date of commencement of the trial is yet to be set.

Mr. Al Amin Kimathi's lawyer, Mr. Mureithi, from Mbugua Mureithi and Advocates who was also acting for other suspects was arrested as he had accompanied the accused. He was interrogated and as there was no reason found to hold him, he was released and escorted to the border and had to leave Uganda. The Mission has inquired whether he was declared *persona non-grata* but has not received a response from the Ugandan authorities. However, the latter has been informed that Mureithi is not licensed to practice law in the Republic of Uganda. He cannot be allowed to represent Mr. Kimathi. As far as he is concerned, the Kenyan Government is working with the Ugandan Government to ensure fair trial of the suspects and provide legal aid where necessary.

**Mr. Yakub:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to use the word "arrest" for the Kenyans who are right now in Uganda? They were not arrested but kidnapped in day light and he is fully aware of that. Could he prove to this House that---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Yakubu! Indeed, you are raising a valid issue but it is not a point of order. As you will have noticed, this Question is coming under the Prime Minister's Time. I have given you the background. Originally, it was sought as a Ministerial Statement. So, we shall follow the format that we will adopt if it was a Statement issued. I will allow the Minister to take your clarifications. I am going to allow a number of clarifications beginning with the Member who requested for the Ministerial Statement who will get two chances but the other hon. Members will get one chance for clarification. I will start with Ms. Karua. I will take Mr. Yakubu's point of order as a clarification that the Minister will respond to but only after Ms. Karua has sought her clarification because she is the one who sought this and is entitled to the first bite at the cherry.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for that answer and I am taking it that since he confirmed to the House in an earlier Question that these suspects were illegally renditioned to Uganda, that it is an accepted point.

I would want him to clarify why Nadhifa, the wife of Hussein Hassan Agade, was held for three weeks if the only charge was being an illegal immigrant and why Uganda would mistreat a Kenyan that way, when we are moving towards a federation of the East African State. Since the Minister answering is also the Acting Minister for Foreign Affairs, what is the procedure for Kenyans entering Uganda and those living and whether he is aware that today one member of the Kenya Human Rights Commission (KHRC), Mr. Hassan Omar Hassan, together with Sam Muhunyi, a lawyer, Sheikh Hashim and Harid Hussein have all been denied access to Uganda where they were going to see these

suspects? You might wish to clarify to this House whether that is not hostile action by Uganda.

I also would like the Minister in line with his answer to clarify why one of the suspects, Ismael Abubakar, has been illegally renditioned to Uganda twice. The first time, it was along with the others but he was released in November. When he came to Kenya, he was again arrested by the ATPU and renditioned to Uganda a second time. Could you also confirm to us whether the Kenyan Government has provided lawyers for these suspects and what the Government is doing if the charges were preferred first in a Ugandan court on 4<sup>th</sup> February, 2010 when they first appeared in court and up to today, the hearing has not commenced? It is quite clear that the Ugandan authorities do not have any evidence. While we condemn acts of terrorism, is it in order for the Government of Kenya to willingly allow the torture and illegal detention of Kenyans in Ugandan jails?

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, I would like the Minister to clarify the following. There were two rulings which were made in our courts in Kenya; one was in September 2010 by Justice Aggrey Muchelule. He declared that the arrest, detention and removal of Kenyans from Kenya to Uganda to face charges was illegal. Before that, Justice Mohamed Warsame in the court reprimanded the Head of State for allowing the police to rendition Kenyans to another country without following the proper procedures in law. What action has the Minister taken after the two rulings by our own courts on these 13 Kenyans to make sure they are going to be accorded justice? When will they be returned to their own country?

On the issue of those Kenyans Ms. Karua mentioned, they have already been deported on KQ Flight No.413 from Entebbe. What type of co-operation is this between Kenya and Uganda? Thank you.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, please, take notes, and I will give you an opportunity to respond.

**Ms. A. Abdalla:** Mr. Temporary Deputy Speaker, Sir, my issue is the families of these victims. Their wives and children are suffering. There are two wives who have been under arrest throughout. There is the wife of Omar Awadh who works with IT. She was arrested in Tanzania in February while on official duty. Again, in March, she was arrested in South Africa.

Ms Farida, the wife Al Amin Kimathi worked for the Post Office for 19 years. She had to resign to follow up on the issues and cases of her husband. She went to court and the husband was ordered to be returned to this country, but nothing has been done so far. The families and children of these people are suffering; their children have dropped out of school. They rely on donors. What assurance and security is the Government giving to these families, so that they do not suffer?

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, can the Minister clarify whether it is Government policy to discriminate? Just recently, we saw the Government spend billions of shillings on six individuals who went to The Hague when we have several Kenyans just near here, to whom it cannot provide legal counsel. It cannot even provide a poor lawyer from Kenya, leave a lone a Queen's Counsel, who are white. Can we know whether they are discriminating against their own nationals given that they all appear to be of one religion?

**Mr. Baiya:** Mr. Temporary Deputy Speaker, Sir, my concern is that if these Kenyans have been held since February 2011, the Kenya Constitution is very clear on the

rights of suspects; they are innocent until proved guilty. They are entitled to bail if there is no evidence. Why can the Government not demonstrate its protection of Kenyans in its dealings with the Ugandan Government? They should not be seen to condone what the Uganda Government is doing. It is violating all the clear provisions of our Constitution.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, in the Minister's, answer, he cited the co-operation between Kenya and Uganda. The fact that he has written a letter to the Uganda Government to provide counsel to the suspects, who were renditioned illegally, as he has said, shows there is very good co-operation. I would wish that the Minister gives to us the names of the lawyers who are representing these suspects, because he seems to know them.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, you will respond to those five or six clarifications and then, if necessary. I will take another set of questions.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, as I said, the questions raised are fairly weighty, but I will do my best to address them.

First of all, indeed, what Ms. Martha Karua asked is something that I would like to respond to. To the best of my knowledge, the human rights---

*(Microphone failure)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Minister! Just hold on! We will get you another microphone that is working.

*(A cordless microphone was given to the Minister)*

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, the human rights representatives went to Uganda to see these suspects. They were denied a chance to see them. We never received that complaint. Up today, I can say I have not received any complaint. Should I receive that complaint, I will take up the matter with the Ugandan authorities. This is because they have a right to see those people and see the conditions in which they are held. As a matter of fact, our mission in Uganda has on a number of occasions been to see those people. We have stated clearly that not only are they able to be seen by their relatives and others who are interested in their welfare, but more importantly, they can be allowed a private doctor leave alone a lawyer to attend to their---

*(Microphone failure)*

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At the same time, we must also appreciate that each country has got its own laws and we cannot dictate to them. If they have a different Constitution then we too have. As a matter of fact, we know that the new Constitution that we have is more elaborate especially on the important chapter on human rights. We implore upon the authorities in Uganda to ensure that the Kenyans who were left - first and foremost, they are innocent - are not

mistreated. Secondly, we have asked the Ugandan authorities to ensure that there is speedy trial of those people and it must be fair.

Mr. Temporary Deputy Speaker, Sir, Mr. Yakub has referred to the judgement by Justice Warsama and I would like to say that the ones who were arrested in this country were not 16 but five. Eleven are the ones who were arrested in Uganda. It is true that there was a judgement on the case of the five men. At the same time, this being a legal matter and myself not being a legal person and knowing very well that the Attorney-General has gone to court, I would like to leave the matter at that stage. In actual fact, this was not part of the Question. That is the legality of this matter; how they went in. However, if you want me to narrate the case of each and everyone and what led to the action, I will be quite happy to do that. I will deal with case by case as submitted to the Government.

I do agree and sympathize profoundly with the families and relatives of those who have been put in jail in Uganda. I am saying this in recognition of the fact that until they are proven guilty, they remain innocent. At the same time, we must also take into account the fact that there were 77 innocent Ugandans who were killed during the blast. We must also take into account that more than 100 innocent Ugandans were injured. We must also take into account that the *Al-Shabaab* went public that, indeed, they are the ones who planned and executed that heinous crime.

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Minister say that the *Al Shabaab* went public and claimed responsibility. Is he implying that these Kenyans are *Al Shabaab* members, which is not the case?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I have said that these are suspects.

**The Temporary Deputy Speaker** (Mr. Imanyara): Please, continue! You have not answered a number of other issues that were raised.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, according to the investigations carried out both in Uganda and Kenya, these are suspects connected with *Al-Shabaab*.

**The Temporary Deputy Speaker** (Mr. Imanyara): What do you have to say to the specific finding by the two Judges of the High Court of Kenya who said that this was kidnap?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, first and foremost, that was not part of this Question.

**The Temporary Deputy Speaker** (Mr. Imanyara): Are you saying that you would rather answer that part another day?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, it can be answered some other time. As you know, this was a Question addressed to the Prime Minister. But more importantly, I do know that the Attorney-General has appealed on this matter.

**Mr. Kabogo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Minister trying to imply that these Kenyans, first and foremost, are *Al-Shabaab* members in Uganda. But now he says that he cannot answer that bit, and yet it is in public knowledge that these courts deliberated on this matter and he has acquainted himself with it.



**The Temporary Deputy Speaker** (Mr. Imanyara): What he has said is that the Attorney-General has appealed against that and if you wish he can provide the particulars of the cases that the Attorney-General has filed in court.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, but he has not stated whether the Attorney-General got a stay of those judgments pending the appeal.

**The Temporary Deputy Speaker** (Mr. Imanyara): You have not asked whether there was a stay. That is not a point of order but a question.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to evade answering my question? I asked whether the Government is applying double standards by discriminating against its own citizens. We appointed Queen's Counsel to represent a select group, and yet in the case of these people who are Kenyans we have not seen Queen's Counsel, leave alone Suba counsel being appointed to represent them.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, indeed, it is not my Ministry that normally hires lawyers for various cases. I can, however, state categorically that we would consider a request for legal assistance if it is made to us.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has not actually answered my question. My question was about the appointment of Queen's Counsel that the other senior citizens of this country did not ask for. Is that not double standards?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! The Minister has answered that question. I heard him clearly say that if a request is made, they will consider it.

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My question has not been answered. The Minister said that they have written to the Ugandan Government to provide legal counsel and he has affirmed to this House that the embassy in Uganda is tracking this case on a day-to-day basis. If that is the case, then the Minister must tell this House who the lawyers appointed by the Ugandan Government are.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, indeed, you can provide that information if you have it.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I can provide that information later on. Of course, there was one lawyer, Mr. Mureithi who was to represent Mr. Kimathi and others. But unfortunately, given that he is not licensed to practise in Uganda, he had to leave.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, there was the issue that was raised about deportation. You were even given the flight number of the Vice-Chairman of the Kenya National Commission on Human Rights who was turned away from Kampala this afternoon. You have not commented on that.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I heard about the issue when it was raised by Ms. Karua. I assured the House that as soon as we confirm that, indeed, these people received unfriendly treatment, I will take up the matter with the authorities in Uganda without any delay.

**Mr. G.O. Nyamweya:** Mr. Temporary Deputy Speaker, Sir, I would like to seek a clarification on part “c” of the Question which asks: “What steps is the Government taking to ensure that Kenyans are repatriated and tried in Kenyan courts?” What is the policy of the Government of Kenya in respect of all its citizens being tried in Kenya? There are some Kenyans who have been taken to The Hague and a part of the Government is seeking that those Kenyans be brought to Kenya for trial. Here, we are also seeking that other Kenyans who are in Uganda be brought to Kenya for trial. Could we have a clarification that the Government will act consistently in respect of all Kenyans?

**The Temporary Deputy Speaker** (Mr. Imanyara): You are now clear.

**The Minister for State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, let us really separate these two cases because we are likely to be confused. On normal crimes, I am sure, the Chair as a lawyer will bear me witness. I do not know of any precedent where we can ask the courts to try these suspects here in Kenya. However, if the relatives and lawyers of these suspects wish that they be tried here, we will be quite happy to support them as we have always done with others.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Ochieng, what is your point of order?

**Mr. Ochieng:** Mr. Temporary Deputy Speaker, Sir, I want to seek clarification. It is not a point of order.

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

**Mr. Ochieng:** Mr. Temporary Deputy Speaker, Sir, taking into account that Uganda Government has refused to vacate Migingo, and on several occasions whenever--

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*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order!

**Mr. Ochieng:** Mr. Temporary Deputy Speaker, Sir, I am just building up my case. On several occasions, whenever fishermen are arrested in Lake Victoria, they are seriously mistreated in Ugandan remands. What is the safety of these people who are now in foreign remands? Are they really safe? Has anybody checked on their condition? Could the Minister tell us about their condition in remand?

**The Temporary Deputy Speaker** (Mr. Imanyara): Safety of the suspects!

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

As long as you stand four or five of you on a point of order, you will not be heard! Minister, could you comment on the safety of those Kenyans being held in Uganda? That is the issue that has come up.

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

What is your point of order, Mr. Mbadi! If it is not a point of order, I will ensure that there is order.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The question by hon. George Nyamweya was very specific. It was on policy.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, you are out of order! You are not George Nyamweya!

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, you heard the Minister say that he could not answer my question on the two rulings.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! He said if you want he will provide information at a later stage.

**Mr. Yakub:** Mr. Temporary Deputy Speaker, Sir, I need your guidance. When will he provide that information?

*(Mr. Kabogo stood up in his place)*

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, Mr. Kabogo!

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, mine is not a point of order.

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Likewise, for my case, he also said that he will give information at a later stage. I want to seek your direction because “later stage” might never come.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, I would want the Minister to clarify whether it is the Government policy that any country, here in Africa or elsewhere, once they decide they have a suspect in Kenya, they just call the Minister and say, “capture, kidnap and bring him to our country and we try him”? Is that the Government policy?

Mr. Temporary Deputy Speaker, Sir, Ismail Abubakar has not taken plea in Uganda. We do not even know his whereabouts. Could he clarify to the House and the country where Ismail Abubakar is; whether he is still living and his condition?

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, as you give those clarifications, also undertake when you will provide the information sought by both Mr. Yakub and Dr. Nuh.

**The Minister for State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, first of all, it is not Government policy that any time any country wants to be handed over suspects, we will do so. I do not think we have that sort of thing. It only happens with those countries where we have a treaty on extradition. That must be very clear. We care for our own Kenyans.

The second thing that I also want to say is about the safety of these suspects. As late as 1<sup>st</sup> March, officials of Kenya High Commission visited the suspects.

**The Temporary Deputy Speaker** (Mr. Imanyara): That is almost one and a half months ago.

**The Minister for State for Provincial Administration and Internal Security** (Prof. Saitoti): Yes, they are more or less likely to be doing so again very soon. It was established that they are all in good health and had no major complaints, save for one complaint of Mr. Al Amin Kimathi who complained of headache.

Mr. Temporary Deputy Speaker, Sir, as I said, after that particular visit, the officials of the Kenya High Commission, on instruction from the Ministry, informed Ugandan authorities that those suspects be allowed to have private doctors in the event that the Government doctors are not appropriate. At the same time, they requested that Mr. Kimathi be allowed to have access to the mattresses which the relatives were trying to provide. Following our instructions, once again, our officers were supposed to insist that these suspects face speedy and fair trials. So, we are very sure that all the suspects are in good shape. As I said, these visits will be done on a monthly basis. In actual fact, I will ensure that another visit is made this week.

**The Temporary Deputy Speaker** (Mr. Imanyara): When are you going to give---

**The Minister for State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, with regard to what Mr. Yakub has raised, I want to say here without any fear at all that the decision to ensure that those people were given out to Uganda was a Government position. It took a great deal of deliberations bearing in mind that those people were required there very fast. More importantly, this was on the basis of the evidence that was found in their telephones, and also the telephones of those people who actively and practically committed that heinous crime in Uganda.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order! We have given this matter sufficient time. The only aspect, Prof. Saitoti that I am not happy about is your undertaking to provide further information in relation to the appeal by the Attorney-General regarding the kidnappers, as it was put by Mr. Yakub. That is the only aspect that I would like you to address.

**The Minister for State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I will ascertain the extent to which the Attorney-General has gone on that particular matter.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Order! If you want the sympathy of the Chair, you must ensure that you do not rise as the whole House. Yes, Ms. Karua.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, you had indicated you would give me a second clarification.

**The Temporary Deputy Speaker** (Mr. Imanyara): You actually did more than one. The HANSARD will prove me right. I even took time to point out to you that you have gone beyond two clarifications!

**Ms. Karua:** May I just plead?

**The Temporary Deputy Speaker** (Mr. Imanyara): If you are pleading for one final clarification, because it was your statement, I will allow you.

**Ms. Karua:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want, on behalf of the families of the suspects, to now formally request the Minister for legal assistance. That is because he said that the families should request. I have been speaking to their

wives and I now formally request for that. I would want the Minister to confirm that it will now be given. I would also like to request the Minister, since he has said that it was a Government decision--- Extradition should be through a judicial process. Anything out of that is a rendition and it is illegal. I just want to know what concrete steps the Government has taken in view of the unfriendly acts by a fellow East African State of denying those suspects lawyers. First of all, they turned away lawyer Mureithi. They also detained a human rights activist, Al Amin Kimathi, when he went to see the suspects.

Today, at Entebbe Airport, they have turned back a lawyer, a Commissioner of the Kenya National Commission on Human Rights, who is a Government officer by the way. That is because he works for a Government body. They have turned away several other people. I would like the Minister to know that Ismail Abubakar is unwell. Therefore, I would like to ask the Minister to check on his health and the health of the others. He should tell us what concrete steps the Government is taking. They first appeared in court in September and no plea or trial has been undertaken. The Government of Uganda appears not to have any evidence and they are detaining them while evidence is being "manufactured".

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I have heard what hon. Karua has stated; mainly that, on behalf of the families of the suspects, she is lodging the appeal from here. At the same time, I would wish that she addresses a letter to me with, of course, a copy of the letter to the Attorney-General.

**Ms. Karua:** Why?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): If indeed---

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Just address me, do not address her!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, yes. Absolutely! I have to get something formally put down. The second thing is the fact that we need to take some steps in terms of dealing with friendly East African countries. Regarding what happened today---

*(Mr. G.O. Nyamweya stood up in his place)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. Nyamweya, please, let the Minister complete. He has not even said anything. Allow him, at least, to finish the sentence.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, first of all, let me say that, apart from Migingo Island issue, we have worked very closely and for many years with the Government of Uganda. The matter of Migingo Island is what is being discussed. Let us appreciate the fact that Uganda is a neighbouring country. We have worked with Uganda and in terms of trade; it is a major market for this country. We trade a great deal. Uganda

is a member of the East African Community. Uganda and Kenya are working together to broaden that fundamental market. I have to state this fact, wearing my other little hat of the Foreign Affairs Ministry. Therefore, we need to be very careful not to derail a process that will bring the people of East Africa together. That process is going to help us. Each country has a very small market and the only way we will create employment opportunities for our own young people is to ensure that we build bigger markets. Let us think much more of the young people.

Let me finalize. I will, myself, talk with my counterpart in the Ugandan Government and discuss this matter so that it is addressed in a friendly manner.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Let us move to the next Order!

### **POINTS OF ORDER**

**The Temporary Deputy Speaker** (Mr. Imanyara): Are there any statements due from any Minister? If not, are there any requests? Hon. Shebesh.

#### **ELIGIBILITY OF YOUTH UNDER 35 YEARS TO MANAGE KENYA FOOTBALL AFFAIRS**

**Mrs. Shebesh:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to request for a Ministerial Statement from the Ministry of Youth Affairs and Sports on the barring of young people under the age of 35 years from seeking positions in the management of the national football affairs. In the Statement, the Minister should clarify the following:-

(a) Why the Independent Elections Board mandated to oversee the elections of Kenya football officials has made it one of its conditions for eligibility for office that one has to be aged over 35 years.

(b) Why the Ministry has allowed that practice which is both discriminatory and unconstitutional.

(c) Whether he will review this requirement to enable deserving youth to participate.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, having listened to the request, could you permit me to answer rightaway? That is because I have the answer!

**The Temporary Deputy Speaker** (Mr. Imanyara): Mrs. Shebesh, would you mind having the answer rightaway?

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, if the Assistant Minister is ready, I would be happy if he could give an answer right away.

*(Mr. Kabando wa Kabando stood up in his place)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Assistant Minister! Given the time we have - it is 4.30 p.m. now - and given the nature of business that we have, I direct that you give the Statement tomorrow at 2.30 p.m. Question Time has taken too much time!

Let us move to the next Order!

### **PROCEDURAL MOTION**

#### **REDUCTION OF PUBLICATION PERIOD: INDEPENDENT ELECTORAL/ BOUNDARIES COMMISSION BILL AND SALARIES/ REMUNERATION COMMISSION BILL**

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No.107, this House orders that the publication period of the Independent Electoral and Boundaries Commission Bill (Bill No. 6 of 2011) and the Salaries and Remuneration Commission Bill (Bill No. 8 of 2011) be reduced from 14 to 7 and 6 days respectively.

This will enable the matter to be debated in this House. If you recall, His Excellency the President had said that we had over 23 Bills that needed to be passed by this House. I am glad to inform this House that the teething problems that were there have now been ironed out. The Constitution Implementation Commission (CIC), Oversight Committee on the Implementation of the Constitution, the Ministries themselves and the Attorney-General have agreed that whenever a Bill is ready, they will be meeting in one room and give their comments instead of using the present process where, after the CIC has finished with the Bill, it is taken to the line Ministry and after that it is taken to the Attorney-General who finally takes it to the Oversight Committee on the Implementation of the Constitution. If they meet in one room, it makes it easy for all parties to give their comments. This way, we will be in a position to bring more Bills to this House.

Lastly, it is also our intention that, once three or four Bills are ready, we will go on a retreat as Members of Parliament and agree on the amendments. That way, when the Bills come before this House, we will save further time by the reduction in debate.

With those few remarks, I beg to move.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando) seconded.

*(Question proposed)*

**Mr. G.O. Nyamweya:** Mr. Temporary Deputy Speaker, Sir, while I support the Motion, I would like to bring to the attention of the House what I have also had an occasion to bring to the attention of the Speaker, the status of the Departmental Committee on Justice and Legal Affairs. The fact that we may reduce its membership will lead the Committee to face the hurdle of not being capable of meeting and processing many Bills. To date, that issue remains unresolved. Eight of the 11 Members of the Committee wrote to the Speaker, expressing lack of confidence in their Chairman.

To date, we have not been able to resolve that issue. Therefore, while I wish to support the Motion, the House must be cognizant of the fact that we are going to face that very severe obstacle.

With those remarks, I beg to support.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Clearly, hon. Nyamweya is being repetitive and frivolous. This is an issue which is being dealt with by the Speaker.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order, Mr. Olago! You are a little too late. He had already completed his submissions and sat down when you raised the matter.

Yes, Millie!

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I wish to support the Motion and in doing so, I just want to say that we need to pass it urgently.

On the issue of the Departmental Committee on Justice and Legal Affairs, the Hon. Speaker is seized of the matter, and has ruled before this House that he is dealing with it. So, those who are crying foul are the ones who are creating trouble.

With those few remarks, I support.

*(Question put and agreed to)*

## **BILLS**

### *First Readings*

THE INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION BILL

THE SALARIES AND REMUNERATION  
COMMISSION BILL

*(Orders for the First Readings read – Read  
the First Time and ordered to be referred  
to the relevant Departmental Committees)*

THE SUPPLEMENTARY APPROPRIATION BILL

*(Order for First Reading read – Read the First Time –  
Ordered to be read the Second Time today)*

### *Second Reading*

THE SUPPLEMENTARY APPROPRIATION BILL

## **POINT OF ORDER**

SECOND READING OF SUPPLEMENTARY APPROPRIATION BILL



COULD BE TAKEN WITHOUT LEAVE OF THE HOUSE

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise under Standing Order No.108, which requires that except by the leave of the House, not more than one stage of a Bill can be taken at any one Sitting. I am aware that a number of my colleagues would stand with me to deny the proceedings on this Bill the requisite leave of the House.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mbadi, I would like you to read the proviso to that Standing Order.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I want to read out the entire Standing Order, which says as follows:-

“108. Except with the leave of the House, not more than one stage of a Bill may be taken at any one sitting:

Provided that this Standing Order shall not apply to or in respect of any Appropriation Bill or Consolidated Fund Bill.”

Mr. Temporary Deputy Speaker, Sir, if you go to Standing Order No.107, you will appreciate that what is before us is not an Appropriation Bill, but a Supplementary Appropriation Bill. In fact, under Standing Order No.107, the distinction between an Appropriation Bill and a Supplementary Appropriation Bill is very clear. So, I have stood to raise this point of order, knowing very well that this is not just an Appropriation Bill, but a Supplementary Appropriation Bill. With your permission, I can read out Standing Order No.107, so that what I mean can be very clear to this House.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! I am going to allow you to read out whatever you want to read out, but I want you also to read the proviso to Standing Order No.108.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I have read out Standing Order No.108, but I can repeat it. The proviso says:

“Provided that the Standing Order shall not apply to or in respect of any Appropriation Bill or Consolidated Fund Bill.”

**The Temporary Deputy Speaker** (Mr. Imanyara): Or Consolidated Fund Bill?

**Mr. Mbadi:** Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): So? Yes!

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I also want to read out Standing Order No.107, which gives a distinction between a Consolidated Fund Bill, Appropriation Bill and a Supplementary Appropriation Bill. These three Bills are totally distinct. Standing Order No.107 reads as follows:-

“107. No Bill shall be introduced unless such Bill together with the memorandum referred to in Standing Order No.106 (Memorandum of objects and reasons), has been published in the *Gazette* (as a Bill to be originated in the House), and unless, in the case of a Consolidated Fund Bill, an Appropriation Bill or a Supplementary Appropriation Bill, a period of seven days, and in the case of any other Bill a period of fourteen days, beginning in each case from the day of such publication, or such shorter period as the House may resolve with respect to the Bill, has ended.”

So, what I am saying is that these Bills, namely the Consolidated Fund Bill, the Appropriation Bill and the Supplementary Appropriation Bill, are distinct. What are exempted under Standing Order No.108 by the proviso are only the Consolidated Fund

Bill and the Appropriation Bill. So, the Supplementary Appropriation Bill is not exempted.

Therefore, the leave of this House is necessary before we proceed.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Mbadi! You are on a point of order. So, you want a ruling from the Chair. I want to hear the Minister first.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I stand to strongly oppose what the hon. Member is trying to do. Under Standing Order No.108, the matter is very clear. The proviso says “---any Appropriation Bill or Consolidated Fund Bill”. What does the word “any” mean in this case? It means that whether it is Supplementary Appropriation Bill or Consolidated Fund Bill, it is exempted. That is the ordinary meaning of the word “any”.

So, let us not try to split hairs here. This is a serious matter. If the Supplementary Appropriation Bill does not go through, funding of the Government will come to an end. Is that what we want? Clearly, that is not what we want. It is not our intention. We are only splitting hairs.

Secondly, if you look at the HANSARD, you will see that this is the procedure that this House has adopted since Kenya got Independence in 1963. What has changed now so that we are splitting hairs about Supplementary Appropriation Bill, Appropriation Bill and Consolidated Fund Bill? We must move on. We want to give money to the Government, so that all the pending programmes, including the Constituencies Development Fund (CDF), can get funding.

With those remarks, I beg to support.

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We do not want to engage in semantics here. The language is very clear. If the intention of the Standing Order was to say that Appropriation Bills, whether it is the supplementary one or the first one, are the same; this would have been said under Standing Order No.107. So, the essence of separating these Bills is to show that they are clear and distinct, and that Standing Order No.107 does not apply to Supplementary Estimates Bills.

## CONSIDERED RULING

### SECOND READING OF SUPPLEMENTARY APPROPRIATION BILL TO PROCEED

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! If you read the margin notes of Standing Order No.108, you will see that they talk about publication. Neither of the points you have addressed in your point of order has directed itself to when these Bills were published.

Clearly, if we look at the margin notes to Standing Order No.107, they relate to publication. The issue that is before the House now is “not more than one stage of a Bill to be taken in the same sitting”. None of you has addressed that issue, and I am not convinced that you have made out a case; that the point you have raised raises a point of order I can concede.

I will, therefore, allow the Minister to proceed.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): As long as it is not on the matter I have ruled upon!

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, with all due respect to your ruling, there is something that did not come out very clearly. I did not read Standing Order No.107 with regard to publication. I read it to indicate to this House that the Appropriation Bill is different from the Supplementary Appropriation Bill.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! You know what to do if you are not satisfied with the Chair's ruling. You do not rise to challenge it in that manner.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, without challenging your ruling, I just want to draw to your attention to the fact that when hon. Mbadi was reading to you Standing Order No.108, there were some Members, in fact, from the Government side, who were distracting him. If the HANSARD can bear him out very clearly, he stood on a point order under Standing Order No. 108 and not 107. He just went to the Standing Order 107---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Dr. Nuh! I do not know who stood on what point of order. I am giving a ruling on my understanding of the Standing Order! Assistant Minister, continue!

## **BILL**

### *Second Reading*

#### THE SUPPLEMENTARY APPROPRIATION BILL

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Supplementary Appropriation Bill, 2011, be now read a Second Time. His Excellency the President has signified his consent to this Bill.

The Supplementary Appropriation Bill, 2011, seeks statutory approval from this Parliament of the expenditures contained in the Recurrent and Development Supplementary Estimates of the Financial Year 2010/2011. The Budget for the Financial Year 2010/2011 that I presented to this House amounted to Kshs998.8 billion comprising of the following: Kshs675.6 billion for Recurrent Expenditure, Kshs321.2 billion for Development Expenditure and Kshs2 billion provision for Civic Contingency Fund.

I wish to reiterate that since the commencement of the financial year, the Government has faced a number of challenges and emerging priorities which were unforeseen that require additional funding. These include the requirement for the implementation of the Constitution, insecurity along our porous borders and piracy and drought. Despite the challenges and huge requirements for additional funding, we have contained expenditures within the resources available in order to maintain macro-economic stability. Specifically, the additional expenditures have been financed using the existing Civil Contingency facility, rationalization and scaling down expenditures of slow moving projects, deferring projects not likely to commence within the remaining period of the financial year and additional borrowing of Kshs20 billion.

While finalizing the Supplementary Estimates, we have been guided by economy and efficiency in the utilization of the limited resources at our disposal. The funds allocated to the Ministries and departments shall therefore, be utilized efficiently to achieve the purposes and provide services for which this House has approved. Clause 2 of the Supplementary Appropriation Bill provides for the issue out of the Consolidated Fund of the sum of Kshs36,057,198,040 and to appropriate the funds for various services and purposes during the financial year ending 30<sup>th</sup> June, 2011. Clause 5 of the Bill seeks a reduction of the sum of Kshs29,561,786,298 of the supply granted for the services of the financial year ending 30<sup>th</sup> June, 2011. The net difference between the reduction and the addition is Kshs6,495,411,742.

Having briefly apprised the Members of the objects and the reasons for the Bill, may I now request the House to pass it in order to authorize the issue of funds from the Consolidated Fund to meet expenditures as contained in the Recurrent and the Development Supplementary Estimates of the 2010/2011 Financial Year.

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

*[Mr. Speaker resumed the Chair]*

I take this opportunity, once again, to thank the hon. Members for their contribution during the debate on the Supplementary Estimates Motion. I wish to assure the hon. Members that as indicated during the debate, I will Endeavour to the extent possible to ensure that the issues and concerns raised by hon. Members are incorporated in the next Medium-Term Expenditure Framework (MTEF) Budget. For instance, we recognize the outstanding arrears of Kshs1.8 billion for the CDF which has been included in the Financial Year 2011/2012 Budget that will be tabled in this House before the end of April.

Finally, I wish to thank the hon. Members of this august House for their continued support on matters of financial management which is significantly contributing towards the realization of the value of the taxpayers' money.

## QUORUM

**Mr. Pesa:** Mr. Speaker, Sir, the issue we are discussing is very important and when I look at the House, I expected a full House to be present. However, there is no quorum.

**Mr. Speaker:** Let us ascertain. Sergeant-At-Arms, will you, please, ascertain the number? Order, hon. Members! I am informed that there are 25 Members present, which is five Members short. Now 26 Members, so, please, let us ring the Bell!

*(The Division Bell was rung)*

**Mr. Speaker:** Order, hon. Members. You may now stop the Division Bell. I am told we have 31 hon. Members. So, there is requisite quorum to proceed.

Proceed, Mr. Assistant Minister.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry for Finance** (Dr. Oburu): Mr. Speaker, Sir, finally I wish to thank the hon. Members of this august House for their continued support on matters of financial management which is significantly contributing towards the realization of value for taxpayers' money.

We shall continue to take their views positively and incorporate them in the management of public resources.

With those few remarks, I beg to move.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I wish to second this Bill. In doing so, I would like to assure this House that the concerns the hon. Members have with regard to the issue of the Constituency Development Fund is a concern that the Deputy Prime Minister and Minister for Finance has agreed to address.

I am actually informed that his commitment is contained in the HANSARD. I want to plead with my good friend, the chairman of the CDF Committee and Member for Turkana Central, to be understanding of this situation. Effectively, if we do not pass the Supplementary Appropriation Bill, the whole of the Government system literally comes to a standstill.

What this means is that at the end of the month even Members of Parliament will have to go without their pay. I think the seriousness of this matter cannot be over-estimated. Therefore, I want to suggest that we take this matter with the seriousness it deserves, it being understood that the promise by the Minister for Finance who is also the Deputy Prime Minister will have to be made good in accordance with the provisions of the Standing Orders because now it is mandatory that before the end of this month he will have to place before the House the budgetary estimates for the year 2011/2012. This means that before the end of this month, the monies that are outstanding in the form of arrears with regard to the CDF will have to be made available and will have to be contained in the budgetary estimates by him.

Therefore, I just want to urge hon. colleagues to please recognize the importance of this matter, so that we do not have to bring to a grinding halt the whole of the Government. Right now, no Ministry is able to access funding from the Treasury. This is how serious this matter is. We are called upon to act in a manner that is always in the best interests of this nation.

All of us are Members of Parliament. In fact, we should thank the Member for Turkana Central for always standing strong when it comes to matters to do with the CDF. I think this point has been made. I want to plead that we pass this Bill, so that by Friday, His Excellency the President will have to issue the necessary warrants. Without this Bill, we are unable to proceed.

For the record, I need to state that since Independence, this has been the procedure. The other day, we passed the motion on Supplementary Estimates. What we are doing today is a mere formality. I, therefore, want to suggest that we take it in that spirit and be able to get this country to move on.

The most important business before us is what we have done today by shortening the publication period of necessary Bills which have to do with fast tracking the implementation of the Constitution.

Mr. Speaker, Sir, this Government cannot fast track constitutional implementation if it comes to a grinding halt. This is what we are trying to avoid.

I beg to second.

*(Question proposed)*

**The Minister for Education** (Prof. Ongeru): Mr. Speaker, Sir, we have debated extensively the Supplementary Estimates. There were several concerns which were raised and they have now all been captured in the Appropriations Bill which is before this House.

I would, therefore, move that the mover be called upon to reply so that we can expeditiously dispose of this matter.

### **COMMUNICATION FROM THE CHAIR**

#### **FINANCE MINISTER'S UNDERTAKING TO INCLUDE CDF AMOUNT IN SUPPLEMENTARY ESTIMATES**

**Mr. Speaker:** Hon. Members, before we take the next contributor, I have ascertained from our records in the HANSARD that on the 30<sup>th</sup> of March, 2011, during his reply to the Motion on Supplementary Estimates, the Deputy Prime Minister and Minister for Finance did undertake to this House that the CDF amount which may have been left out of previous estimates will be included in the next budget. That was an express statement by the Deputy Prime Minister and Minister for Finance to the House. As I see it, there can be no stronger undertaking than a commitment made in the House.

Hon. Ethuro!

*(Resumption of Debate on Supplementary Appropriation Bill)*

**Mr. Ethuro:** Mr. Speaker, Sir, I want to thank you for giving me this opportunity to contribute to this particular Motion. In doing so, I want to speak in my capacity as the Chairman of the Parliamentary Select Committee on the Constituencies Development Fund. This House, on 6<sup>th</sup> October 2010, passed a Resolution that, with immediate effect, the Deputy Prime Minister and Minister for Finance must release all monies due to the Constituencies Development Fund (CDF). The reason why this Supplementary Appropriation Bill comes to this House is so that the House can help the Government in terms of knowing its commitments and in terms of agreeing on what are shared priorities.

Mr. Speaker, Sir, we have a new Constitution and the Fiscal Management Act in place. Those Acts have given this House an opportunity to agree on things. I want to go on record that the Leader of Government Business, the Assistant Minister for Finance and you, yourself, have persuaded me in my capacity as the Chairman of CDF Committee, not to proceed with the amendments I had proposed. However, as I concede that, I also want it to be on record that there is no need of putting in place new Standing Orders that give powers to Committees if a Committee like mine is lying low; that you can take that as if it is just an exercise in futility; it is a matter of personal feelings; it is a matter of political considerations and a matter of a political environment. This House cannot be part of the game of playing politics with the lives of Kenyans. This House must be a House that will uphold and demonstrate the commitment to the rule of law and order and

constitutionalism. That is the difference between this House and a fish market, any other place or a *baraza*.

Mr. Speaker, Sir, so, I want it to be on record - and we, as a House, appreciate your direction and wisdom--- But we have been around for three and a quarter years. It inspires my confidence that for the next one year, we are going to deliver what we have been unable to deliver in three and a quarter years. It is just a matter of looking at the options available. So, it is true that all of us want the Government to operate. This is our Government. Some of us have senior positions and interests in this Government. We voted for this Government without any contestation. We have even invited others to come on board. It is in our interest to make sure that it works. But---

**Mr. Mbadi:** On a point of order, Mr. Speaker. I did not want to interrupt my good friend, hon. Ethuro. But he has made a very serious allegation that there are some people who have been invited. Who are the people who have been invited? Could it be that the people who should have been invited are the ones who are saying that they have been invited?

**Mr. Speaker:** Order! I do not find that to be valid. What is your concern in your point of order?

**Mr. Mbadi:** Mr. Speaker, Sir, I want hon. Ethuro to say who are the people who have been invited.

**Mr. Speaker:** Order! If that is your concern, then you are asking a question. So, I rule it out of order!

**Mr. Ethuro:** Thank you, Mr. Speaker. I only meant to say that the guilty are always afraid. However, I just want to emphasize the point that the sense of ownership in this Government is great. That is why I was trying to qualify that. However, we want this Government to perform and run. But we also want a Government that is based on the rule of law. We want a Government that honours commitments. That is all we are asking. We want a Government to commit itself to its own commitments as provided for by the law and not by the wishes of the Member of Parliament for Turkana Central. If I had that opportunity to provide for my own wishes, they will not be up to the task. Let them do what the law has required of all of us.

With those remarks, I oppose.

*(Mr. Washiali interjected)*

**Mr. Bahari:** Thank you, Mr. Speaker, Sir. I need protection from the hon. Member for Mumias. That is because he is pushing me not to say.

**Mr. Speaker:** Proceed. You have my protection.

**Mr. Bahari:** Thank you, Mr. Speaker, Sir. I also want to make my voice heard on the Motion which is before the House. I agree, to a great extent, with the sentiments expressed by hon. Ethuro because this is a requirement of the law. The Minister had promised before and this House should not be taken for granted. As far as we are concerned, hon. Ethuro is on the right track as the Chairman of the CDF Committee. He is entitled to raise debate so that the Ministry complies with the requirements of the law. However, on the other hand, with the drought that is ravaging my constituency and so many other things that are at play, I have to look at the opportunity cost. It is only reluctantly that I have to support this Motion. However, this will not continue forever. It

is also courteous that if the Treasury is not able, the Chair of the CDF Committee is always available. You can call him even if he is in Turkana. They should have discussed this with him. It is this kind of arrogance that we will not entertain from anybody. However, because of the ravaging drought that is affecting my constituency, I can only agree to this reluctantly.

Thank you and I support.

**Mr. Okemo:** Thank you, Mr. Speaker. Not too long ago, we had the Supplementary Printed Estimates which were debated and actually approved by this House. The Supplementary Appropriation Bill is meant to rationalize it and put it in the form of a Bill that can then be assented to by the President. So, actually, we have grievances, but we are trying to solve them the wrong way. That is because once we have approved the Supplementary Estimates, you cannot again attempt to go through the back door to amend them after you have approved them yourself.

However, that does not mean that the grievances that the Members of Parliament are raising are not valid. I think the Assistant Minister for Finance, during his contribution here, made a commitment - and I heard him - that the issue of the CDF was going to be addressed in the 2011/2012 Budget. We must hold him to account because he is still going to come back here. It is this same House that is going to consider that and approve it. I think it is better, so that we can make better use of the time of the House, to proceed and deal with the issues that have to do with the implementation of the Constitution and get over with this issue of the Supplementary Appropriation Bill. That is because at the stage where we are, it is really a formality.

Thank you, Mr. Speaker, Sir and I support.

**Mr. Abdikadir:** Thank you very much, Mr. Speaker, Sir. I actually disagree with those who are saying that it is a formality. This is a Bill before the House. This is, indeed, the law that is going to approve those appropriations. What we passed earlier on was a Resolution and the Finance Bill. So, this House has powers to amend, reject or do anything it so wishes with this Bill. So, that needs to be clarified.

Mr. Speaker, Sir, secondly, if the law says 2.5 per cent, that law ought to be agreed with and implemented. Again, that is not in any doubt. So, when we say that those of us who are implementing the Constitution need to watch the Treasury very carefully, we shudder when we look at implementation without--- If the CDF committee did not have Parliament pushing this matter this hard, can you think about how it could have been dealt with?

Now, that does not take away the fact that, because the Treasury has decided to misbehave, the House does not need to go ahead and do an "eye for an eye" to get the work done.

That is why looking at the fact that 2.5 per cent is for services and the remaining 97 per cent is also for services, and looking at all the other critical services, we should not determine this based on the behaviour of Treasury but based on our duty as the National Assembly to look out for the good of the country. It is because of that reason that I disagree with the Chair of the Constituencies Development Fund (CDF) Committee that this should not move forward. But I must thank the Chair of CDF and his Committee for the diligence with which they have handled this matter. This House must send a very strong signal that the laws must be obeyed. Because of the other weightier issues, this House must approve this Appropriations Bill.



With those few remarks, I support.

**Mr. Kathuri:** Mr. Speaker, Sir, I also stand to support this Bill. From the onset, I would like to congratulate the Chairman of the CDF Committee for coming out very clearly and eloquently to state the position as it is on the ground. Yes, we need the Executive and the other arms of the Government to function but it is also very important to realize that much as they are functioning, our involvement at the constituency level is what determines whether we shall be back here or not. The Executive will be there and we also know that we still need to earn a salary, but at the same time, we also have to remember that these are monies the constituents are expecting to receive and the moment we appear to ignore them, they will just imagine that we are taking their problems for granted. There are many issues that we need to raise with this Supplementary Estimates but for now, I think it is only fair that we support the Bill.

With those few words, I support.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I will also support this Bill. But I think it should go on record that what some of us wanted was respect for the law. If the law says that they should provide 2.5 per cent for CDF then let it be so. If the Executive cannot respect and provide 2.5 per cent, how will they respect the provision of 15 per cent to the counties as devolved funds? This House should not allow the Executive and especially Treasury to start on a wrong note. In fact, Treasury does not have courtesy. It is writing to Parliament to say that they cannot implement certain provisions of Chapter 12 of the Constitution and giving all kinds of excuses. They are even writing to Parliament saying that they cannot provide for the Equalization Fund which has not been suspended. They are even writing to Parliament to say that they cannot honour the deadline that is constitutionally provided. If we allow Treasury to go on without reprimanding them when they misbehave with the resources of this country, then we are starting on a wrong foot and the counties will have problems. That is what we are trying to discourage.

Mr. Speaker, Sir, if you look at the Appropriation Bill and the entire Supplementary Budget Estimates, there are certain provisions which should not have been there. This Government is extravagant. How can they increase travelling expenses in the Office of the Vice-President and Ministry of Home Affairs from Kshs60 million to Kshs260 million for shuttle diplomacy which is yielding no fruit? They are back here. In fact, he has now admitted that whatever he wasted Kenyans' money on was not attainable. This is the kind of wastage that this House should discourage. We should not just pass Motions and Bills in this House because it is a tradition and that is how it has been done. That is why we want change in this country through a new Constitution.

**Mr. Speaker:** Order, hon. Member for Gwassi! What is it Mr. Vice-President?

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** On a point of order, Mr. Speaker, Sir. It is this kind of attitude which makes doing business sometimes very difficult because at no time has the Office of the Vice-President and Ministry of Home Affairs owned up to wastage of public funds. On the contrary, the great respect that we now have in this country to the extent where the United Nations Security Council (UNSC) for the first time is able to listen to Kenya and even failed to take a vote is a very important matter. Therefore, it is important for the hon. Member for Gwassi to show just a little respect for once.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mrs. Odhiambo-Mabona! Hon. Member for Gwassi, would you like to respond to that?

**Mr. Mbadi:** Mr. Speaker, Sir, I would like to respond to it. I really do not know whether this country has earned respect or ridicule. We are not supposed to be discussed at UNSC in the first place. So, by the mere fact that the UNSC has discussed Kenya, to me, that is a disgrace. We have been discussed in a negative way. So, we should not be happy that the UNSC discussed Kenya. Did we have to be discussed in the first place?

**Mr. Mututho:** On a point of order, Mr. Speaker, Sir. The rules of this House are very clear. When an hon. Member states certain things and casts aspersions on a particular hon. Member, you should prove what you are saying. Could the hon. Member show us how the Vice-President has spent Kshs200 million in shuttle diplomacy? Could he table those documents so that they can be part of the records of this House?

**Mr. Mbadi:** Mr. Speaker, Sir---

**Mr. Speaker:** Order hon. Member for Gwassi! Please, relax. Hon. Member for Naivasha, I do not find that that is a valid point of order. You have actually posed two questions. That does not pass for a point of order.

**Mr. Speaker:** Have you finished your contribution?

**Mr. Mbadi:** Mr. Speaker, Sir, although you have already ruled on the issue of the Member for Naivasha---

**Mr. Speaker:** I have ruled already so do not revisit it.

**Mr. Mbadi:** Mr. Speaker, Sir, I think it is important that hon. Members also look at the Budget Estimates. If you look at them, you will realize that we are increasing the budget for foreign travel under the Ministry of Home Affairs from Kshs60 million to Kshs260 million. You do not need any proof that Kshs200 million has been added to that Ministry. It is here in this booklet.

With those very many remarks, I beg to support.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I rise to support this Bill. There is great need for us to head forward and emphasize on the need to put resources in place, in order to complete the very critical projects. For example, in my Ministry, there are very many major projects in all the counties of this country that require completion so that we may, in our small way, occupy the population of the youths lying idle in the villages. The Youth Empowerment Centres have not been completed and those that have infrastructure do not have equipment and resource persons have not been allocated. We have hundreds of polytechnics constructed by Local Authorities Transfer Fund and CDF in this country and many of which are lacking instructors. The hiring of over 2,000 personnel by my Ministry will make a difference in all the constituencies. This will enable us to attain the constitutional obligation of this Government in order to access training, employment and resources to our greatest segment which is the youth. As we all know, the major reason for the 2007/2008 post election violence, in addition to the other reasons that have been presented, was really the impatience of our youth because of non-involvement in economic activities.

Having said that, it is also important to send a message to the Treasury and our officers that we need to spotlight on diligence. We have the Kenya Industrial Estates and the Industrial Development Bank which needs about Kshs3 billion to create over 200,000 jobs for young people so that they are occupied and can get an income and develop in a

way that will create personal satisfaction and wealth for the people of Kenya. We have many other projects like partnership with Non-Governmental Organizations (NGOs) and partnership with international investors that require this allocation to be fast-tracked.

Mr. Speaker, Sir, the Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance has stated that some of the pending issues like CDF allocations will be taken care of in the Budget of 2011/2012. The message that should go to the grassroots is that hon. Members have complained about processing of Bills of Quantities by officials.

Hon. Members have complained about processing of Bills of Quantities by officials of the Ministry of Public Works. I am happy that the Minister is here. Sometimes it takes six months or up to one year and projects are not completed. A statement must come from all Ministries in this Grand Coalition Government that officers on the ground need to wake up and know that they need to target on performance. They have been contracted by the Accounting Officers, under the witness of the Ministers, and committed themselves to achieve certain targets.

Mr. Speaker, Sir, it is important to say that this House needs to embrace the spirit of moving forward in a positive way. As we do politics out there, within the House and parliamentary Committees we need to bring sanity. We need to emphasize that while we may be in political competition, the mischievous, and sometimes cheeky, behaviour that we witness in press conferences and political rallies has a direct bearing on the well being of majority of Kenyans, who may not be enjoying access to opportunity as we, Members of the Tenth Parliament, do. Statements that may affect the index at the Nairobi Stock Exchange (NSE), or statements that may affect pending partnerships with international organizations in order to complement the work of the Government, statements that will give the impression that Kenya is on a cliff will endanger investments. I think such statements need to be moderated, so that we may focus ahead, which is where we need to take this country.

With those very many remarks, I support.

**The Minister for Education** (Prof. Ongeru): On a point of order, Mr. Speaker, Sir. Earlier on I had indicated that the mood of the House is that this is an Appropriation Bill. All issues were discussed during debate on the Supplementary Estimates Motion. So, would I be in order to ask that the Mover be now called upon to reply?

*(Applause)*

*(Question, that the Mover be now called upon to reply, put and agreed to)*

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Omburu): Mr. Speaker, Sir, I wish to thank hon. Members for the contributions they have made to this very important Bill. The issues in this Bill were properly canvassed during the discussion of the Supplementary Estimates Motion, which went through all the stages. My Ministry took note of all the concerns of the hon. Members.

Regarding Treasury's relationship with the Committee on the Constituencies Development Fund, we have taken note and we are going to improve in areas where there

are concerns, or where there was insufficient co-operation. We have taken full note of all the issues which have been raised and we are going to take care of them in the main Budget.

With those very few remarks, I beg to move.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House today)*

### **COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

**IN THE COMMITTEE**

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

**THE SUPPLEMENTARY APPROPRIATION BILL**

*(Clause 2 agreed to)*

*(Clauses 3, 4 and 5 agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Supplementary Appropriation Bill and its approval thereof without amendment.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT AND THIRD READING**

### THE SUPPLEMENTARY APPROPRIATION BILL

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Supplementary Appropriation Bill and approved the same without amendment.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

**The Minister for Education** (Prof. Ongeru) seconded.

*(Question proposed)*

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, having gone through all these processes, it is expected that the Treasury will quickly disburse the resources required to the Ministries without any further hiccups so that whatever has been planned is implemented as required. This is particularly in the drought stricken areas where, for a few months, food has not been supplied to Kenyans. This is a highly sensitive matter.

*(Question put and agreed to)*

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance** (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Supplementary Appropriation Bill be now read the Third Time.

**The Minister for Education** (Prof. Ongeru) seconded.

*(Question proposed)*

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I just want to thank the Treasury for the tremendous efforts they are doing in meeting the Development and Recurrent Expenditures of the Government. That is not easy. I know the arrears arose out of interpretation of what is ordinary revenue regarding the Constituencies Development Fund (CDF) Act. The Treasury and the CDF Committee had different opinions, but I am glad that these issues have been sorted out and we have the confirmation and undertaking from the Deputy Prime Minister and Minister for Finance that this will be done.

Mr. Temporary Deputy Speaker, Sir, the increase on the Vice-President and Minister for Home Affairs' travel allowance is not because of shuttle diplomacy. He is the Principal Assistant of the President and maybe the President wants to send him on various missions on behalf of the country.

Mr. Temporary Deputy Speaker, Sir, I thank the Treasury for a job well done.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, 14<sup>th</sup> April, 2011, at 2.30 p.m.

The House rose at 5.40 p.m.