

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 9th August, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

APPROVAL OF NOMINEES TO THE VETTING OF JUDGES AND MAGISTRATES BOARD

Mr. Speaker: Hon. Members, I have the following Communication to make. Sections 6 and 7 of the Vetting of Judges and Magistrates Act of 2011, Act No.2 of that year, provides for the establishment and membership of the Judges and Magistrates Vetting Board. Section 7 *inter alia* states:-

“The Board shall consist of nine members comprising a chairperson, a deputy chairperson and seven other members of whom:-

(a) six shall be citizens of Kenya appointed in accordance with Section 9(1) to (12) and of whom, three shall be lawyers; and,

(b) three shall be non-citizens of Kenya appointed in accordance with Section 9(13).”

Further, Section 9(7) provides:-

“The President, in consultation with the Prime Minister, shall within seven days of receipt of the names of the selected candidates under sub-Section 6 nominate a chairperson and five other persons for appointment as members of the Board and forward the names to the National Assembly.”

Upon receipt of the names of the nominees, the National Assembly is then required, under Section 9(8) and (9), to consider, within 14 days, all the nominations received and may approve or reject any nomination and request for the names of new nominees.

By a letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of Public Service dated 3rd August, 2011, the National Assembly has been advised that His Excellency the President has, in consultation with the Prime Minister, nominated the following persons to be considered for appointment as chairperson and members of the Judges and Magistrates Vetting Board:-

- | | | |
|----------------------------------|---|----------------------|
| 1. Mr. Sharad Sharadiv Rao | - | Chairperson (Lawyer) |
| 2. Mr. Justus Maithya Muniyithia | - | Member (Lawyer) |
| 3. Ms. Roseline Odhiambo Odede | - | Member (Lawyer) |

- | | | |
|-----------------------------|---|---------------------|
| 4. Prof. Ngotho Wa Kariuki | - | Member (Non-lawyer) |
| 5. Ms. Meleudi Mabruk Iseme | - | Member (Non-lawyer) |
| 6. Mr. Abdirashid Abdullahi | - | Member (Non-lawyer) |

Hon. Members, you may wish to note that the National Assembly has not to date received three names of nominees of non-citizens who are supposed to be appointed to be members of the Board by the President in consultation with the Prime Minister for approval by the House pursuant to the provisions of Section 9(13) of the Act. In order to progress this matter, I direct that these names and the accompanying curriculum vitae (CVs) be forwarded to the Constitutional Implementation Oversight Committee (CIOC) for consideration prior to approval by the House. In the meantime, I am requesting the nominating authorities to urgently forward the remaining three names of nominees to the National Assembly for consideration, bearing in mind that pursuant to Section 7 of the Vetting of Judges and Magistrates Act, the Board cannot be properly constituted unless it comprises all the nine members provided for under that section.

It must be noted that in order for the Committee to properly consider the suitability of the nominees proposed against the statutory and constitutional requirements as to appointments to public office, the Committee may require to have the full picture of all the nominees proposed. It must further be noted that the National Assembly has up to Wednesday, 17th August, 2011, to consider and approve or reject the nominees it has received. I accordingly now direct that the CIOC shall deliberate on the nominees received and table its report on or before Wednesday, 17th August, 2011. The House will not, however, proceed on the Motion to approve the names of the nominees presented if the submitted names do not fully constitute the Board as envisaged in Section 7 of the Vetting of Judges and Magistrates Act, 2011.

POINT OF ORDER

DELAY IN TABLING OF COMMITTEE REPORT ON JOINT SESSIONAL PAPERS

Eng. Rege: On a point of order, Mr. Speaker, Sir. Last week on Wednesday 3rd August, 2011 you gave instructions that---

(Loud consultations)

Mr. Speaker: Order hon. Members! Please, lower the level of your consultations so that the Chairman of the Committee can be heard!

Eng. Rege: Mr. Speaker, Sir, last week on Wednesday, 3rd August, 2011 you gave instructions that the Committee on Energy, Communications and Information, which I chair and the Committee on Finance, Planning and Trade, sit together to discuss Sessional Papers No.1, 2 and 3. We were supposed to meet during the weekend to discuss and agree on the Sessional Papers No.1, 2 and 3. We have planned to investigate the power interruptions throughout the country. We went to Embakasi and other places in central Kenya to look at the energy transmission stations but before we went, we tried to locate the Departmental Committee on Finance, Planning and Trade to schedule a meeting over the weekend to discuss the matter of those stations. It was not very easy to

get a quorum to meet over the weekend. Consequently, I am requesting that the business that appears on the Order Paper today Nos.13, 14 and 15 be deferred to Thursday. This is because we are planning to meet today in the afternoon and then meet with the Ministry tomorrow.

Mr. Speaker: Order, hon. Members! I have heard the observations by the Chair of the Committee on Energy, Communications and Information. Hon. Members will recollect that on Thursday last week, I directed that this matter be subjected to investigation by a joint committee. I did, among other things, assert that the matter was urgent because we are pressed for time. As I have heard from the Deputy Prime Minister and Minister for Finance, the country requires this support very urgently as is captured in those Sessional Papers. Hon. Members will notice that the Sessional Papers are, in fact, on the Order Paper as Order Nos.13 to 15. So, this matter, obviously, is of national importance. It is urgent and time is of essence so that the House is able to deliberate on it.

In the circumstances and for the reasons that you have given, which are not very persuasive, because all of us have to go the extra mile, we have to make sacrifices for this country including working much longer hours than normal. I think we are all agreed on this. Eng. Rege, please, talk to your counterpart and ensure that you now expedite this matter and finalize your report so that you can table it by Thursday this week at 2.30 p.m. It is so directed.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Member for Rangwe! Not on that matter! You can actually speak on that matter in the Committee. Even if you do not belong to any of the two Committees, you are at liberty to attend their meetings.

COMMUNICATION FROM THE CHAIR

DEFERMENT OF MOTIONS ON SESSIONAL PAPERS

THAT, this House adopts Sessional Paper No.1 of 2011, on Kenya Government Guarantee of a loan of Eur 39,100,000.00 equivalent to Kshs4,926,600,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for the Rehabilitation and upgrade of the Kindaruma Hydropower Plant laid on the Table of the House on Wednesday, July 27, 2011.

ADOPTION OF SESSIONAL PAPER No.2 OF 2011

THAT, this House adopts Sessional Paper No.2 of 2011, on Kenya Government Guarantee of a loan of Eur 60,000,000.00 equivalent to Kshs7,560,000,000.00 from the KFW, Frankfurt Am Main to the Kenya Electricity Generating Company for financing the 280mw Olkaria 1 and IV Geothermal Power Plant laid on the Table of the House on Wednesday July 27, 2011.

ADOPTION OF SESSIONAL PAPER No.3 OF 2011

THAT, this House adopts Sessional Paper No.3 of 2011, on Kenya Government Guarantee of Japanese Yen 29,516,000,000.00 equivalent to Kshs33,353,080,000.00 from the Japan International Cooperation Agency (JICA) to the Kenya Electricity Generating Company for financing the Olkaria 1 Unit Four and Five Geothermal Power Plant laid on the Table of the House on Wednesday July 27, 2011.

(Motions deferred)

NOTICE OF MOTION

GOVERNMENT GRANT TO KENYA FARMERS ASSOCIATION

Mr. Namwamba: Mr. Speaker, Sir, I beg to give notice of the following Motion.

THAT appreciating the critical role Kenya Farmers Association (KFA) once played in the agricultural sector as a reliable supply chain for farm inputs and a marketing conduit for produce; noting with deep concern that the collapse of the 65-Member Kenya Farmers Association has adversely affected the welfare of the Kenyan farmer and the stability of the agricultural sector; aware that the said collapse of Kenya Farmers Association was a consequence of mismanagement and abandonment by the Government; acknowledging that the gallant efforts by farmers to revive the Kenya Farmers Association has been hampered by a heavy burden of bad debt accumulated by reason of the said mismanagement and Government inertia; concerned that various creditors including National Bank of Kenya, Barclays Bank and workers are moving to auction properties of the Kenya Farmers Association further encumbering the noble revival efforts; convinced that the immediate resuscitation of KFA is a matter of strategic national importance; this House urges the Government to immediately avail a grant of Kshs1.3 billion to Kenya Farmers Association to help clear the bad debts and enable it restructure and contribute to the rapid growth of the agricultural sector in line with Vision 2030.

QUESTIONS BY PRIVATE NOTICE

DEPORTATION OF CLARA GUTTERIDGE

Mr. Imanyara: Mr. Speaker, Sir, I beg to ask the Minister of State for Immigration and Registration of Persons the following Question by Private Notice.

(a) Could the Minister explain the circumstances under which Ms. Clara Gutteridge, a human rights investigator, was deported from Kenya?

Mr. Speaker: Is the Minister for Immigration and Registrations of Persons not here? We will try and revisit the matter.

Next Question, Dr. Khalwale!

RE-TENDERING/RE-EVALUATION OF ISIOLO ABATTOIR PROJECT

Dr. Khalwale: Mr. Speaker, Sir, I beg to ask the Minister for Livestock Development the following Question by Private Notice.

(a) Is the Minister aware that the public stands to lose a lot of money if the construction of the recently started Isiolo abattoir project is not immediately stopped, re-evaluated and re-tendered?

(b) What measures will the Minister take to ensure that the project is stopped and re-tendered in compliance with the Public Procurement and Disposal Act?

However, I would to bring it to your attention that this Question was dealt with last week. When I rose to ask the second supplementary question, the Assistant Minister was not able to respond and so, you directed that it comes again. The question was: "What percentage of that project has been done and how much, out of the tender sum, has been paid out for the amount of work done?"

Mr. Speaker: That is the correct position. Proceed, Mr. Duale!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, the work done, in terms of percentage, is 32 per cent. The period is about nine weeks and the contract period was 52 weeks. The amount that has so far been paid to the contractor is Kshs25,535,158. I table the progress report for the construction of the slaughter house.

(Mr. Duale laid the document on the Table)

*(Dr. Khalwale stood up in his place
and pointed at Mr. Speaker)*

Mr. Speaker: What is, Dr. Khalwale? But, please, refrain from pointing fingers at Mr. Speaker!

(Laughter)

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to give a partial answer to the question when he should have told us what percentage that payment is and what is the percentage of the completed work? Could you direct that he indicates the percentage of the work done *vis-a-vis* the percentage of the money paid, so that we can see whether they are proportional?

Mr. Duale: Mr. Speaker, Sir, I have tabled the progress report which was prepared by the Ministry of Public Works. The project commencement date was 13th June, 2011. The contract period was 52 weeks and the completion date will be 12th June, 2012. The contract sum is Kshs122,099,741. The amount so far given is Kshs25,535,158. The project total works of 52 weeks is 100 per cent and, so far, the works physically completed is 32 per cent. That is equivalent to the amount paid. I have laid the report on the Table.

Mr. Speaker: Very well! That settles that matter!

ORAL ANSWERS TO QUESTIONS

Question No.735

NON-PAYMENT OF DUES TO FORMER EMPLOYEES OF AFRICAN SAFARI CLUB

Mr. Yakub asked the Minister for Labour:-

(a) whether he is aware of Industrial Court Case No. 648(N) of 2009 filed by the Transport and Allied Workers Union against African Safari Club Ltd;

(b) why the defendants (African Safari Club Ltd) have not paid full terminal dues and benefits to Mr. Omari Mwangiri and 47 other persons in spite of the court order; and,

(c) when the dues will be paid to the beneficiaries.

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

(a) I am aware of the Industrial Court Case No.648(N) of 2009 between the Transport and Allied Workers Union against African Safari Club Ltd.

(b) The defendant; that is, the African Safari Club Ltd, has partially paid the terminal benefits as per the court order of 15th September, 2010, amounting to Kshs800,000 through the claimants' union, leaving a balance of Kshs23,000,200. The matter is coming up on 25th August, 2011 for hearing in the Industrial Court.

(c) The outcome of the matter before the court will determine when the remaining dues will be paid.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I have the benefit of the HANSARD because this is a Question that is coming for the second time. What the Assistant Minister was required to do is what he offered. He said: "I was dealing with the issue of the payments which were due to these workers. As regards the winding up, I am not aware of that. If the hon. Member wishes that I should look for more information and report back to the House, I am willing to find out exactly what is happening." That is what he was supposed to be telling us this afternoon but, instead, he is answering a Question which he answered previously.

Mr. Ojaamong: Mr. Speaker, Sir, it is true that African Safari Club Ltd is in problems. It is winding up. The information I have is that they are now selling their properties to offset the debts that they have. So, that is the latest information I have.

Mr. Speaker: Very well! But you should have appreciated that from the very beginning, Mr. Ojaamong. Instead, you started to answer the Question as if you are answering it completely anew.

Mr. Yakub: Mr. Speaker, Sir, in the same HANSARD of Wednesday, the Assistant Minister informed the House that the claimants could go back to the Industrial Court, and the court would instruct the officers accordingly. The claimants went to the Industrial Court – I have a copy of the ruling here which I will table – and they were also given a decree from the same Court. What measures is the Assistant Minister going to take because the claimants have gone to the Industrial Court, awarded the amount and the

decree issued by the same court? Is he going to make sure that the claimants get their dues and give us a timeframe for the payment of the dues?

(Mr. Yakub laid the documents on the Table)

Mr. Ojaamong: Mr. Speaker, Sir, initially, one of the parties went to court and was given an order and an award. The management of African Safari Club Ltd did not go to court. So, when the court order was being executed by the Union, the management of the African Safari Club Ltd went to court. I want to assure the hon. Member that, immediately, the order is released from court and the award given, we shall assist the Union to execute the order so that the property of African Safari Club Ltd can be attached. That way, we will get money to offset the debts, salaries or dues which African Safari Club Ltd owes to its former employees.

Mr. Speaker, Sir, in the Employment Act, there is a provision in case African Safari Club Ltd become insolvent. I think the Minister for Labour can approach the National Social Security Fund (NSSF), at least, to get some funds to pay the affected employees.

Mr. Yinda: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House that they will help the Union to sell the properties of African Safari Club Ltd, whereas it is in the public domain that African Safari Club Ltd disposed of their assets a long time ago?

Mr. Ojaamong: Mr. Speaker, Sir, as I had indicated earlier on, the current information is that African Safari Club Ltd is going through a crisis. But it still has some assets which it is trying to offset and the matter is being discussed in the Industrial Court. So, I am not aware that they have disposed everything. As per the information we have now in court, they still have some properties which they want to offset and sort out the debts that they have.

Mr. Yinda: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: And restrict yourself to a point of order because a point of order does not persist unless it is not responded to. So, be careful even as you now rise.

Mr. Yinda: On a point of order, Mr. Speaker, Sir. Following on my point of order, would it be in order for the Assistant Minister to table a list of those assets that are still being sold so that, at least, we know that the Union has something to hold on?

(Applause)

Mr. Speaker: I am afraid, Mr. Yinda, that now is not a point of order. Given that I cautioned you that you proceed carefully, look at your Standing Orders on what amounts to a point of order, and what are the consequences of raising a false point of order. That amounts to a false point of order particularly in the light of the caution that I had given to you. But because I understand from the grapevine that you are still learning, I will send you out for 30 minutes!

(Laughter)

You must withdraw from the Chamber for 30 minutes, Mr. Yinda!

(Mr. Yinda withdrew temporarily from the Chamber)

Mr. Yakub: Mr. Speaker, Sir, on the issue of African Safari Club Ltd, I think the Assistant Minister is not fully aware. When will the Assistant Minister table the list of the assets which he has just mentioned in full, together with their values? When will he table that list in this House?

Mr. Ojaamong: Mr. Speaker, Sir, he is introducing a new dimension in his Question. But I am prepared to go back, talk to our officers and collect the information regarding the whereabouts of the assets. That is still an ongoing concern. They have not closed yet. They are still doing business in Kenya, all over and you know it. They have assets in Maasai Mara, Mt. Kenya region, Mombasa and many places. So, if given two weeks, I can bring the list of assets.

Mr. Speaker: Very well, Mr. Ojaamong! For the moment, I am satisfied that you have answered the Question as it appears on the Order Paper exhaustively. But you must then undertake to avail that information to Mr. Yakub within two weeks. If he is not satisfied with the information that you will furnish him with, then he may want to pursue the matter subsequently.

Next Question, Mr. C. Kilonzo

(Mr. Bahari stood up in his place)

Order, Mr. Bahari!

Question No.873

NAMES OF YOUTH GROUPS BENEFITTING FROM YEDF IN YATTA

Mr. C. Kilonzo asked the Minister for Youth Affairs and Sports:-

(a) whether he could provide the names of all the youth groups from Yatta Constituency that have benefited from the Youth Enterprise Development Fund (YEDF) channeled through various banks and financial institutions; and,

(b) what mechanisms the Government is putting in place to ensure that more young people benefit from the said Fund?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, before I answer this Question, I wish to apologize to the House that this Question should have been answered last week. But one of my colleagues who was to do this, unfortunately, was unable to make it.

On that note, I beg to reply.

(a) A total of 21 youth groups in Yatta Constituency have benefited from the YEDF channeled through financial intermediaries. I will table the names of the 21 youth groups.

(Dr. Otuoma laid the document on the Table)

(b) To ensure that more young people benefit from the Fund, the Government has, through the YEDF, put the following mechanisms in place:-

(i) It has initiated the process of enrolling more institutions, especially those with grassroots presence such as the SACCOs, to lend on to the youth.

(ii) It has also enhanced its range of products targeting new borrowers, while increasing allocations to all constituencies. Those products are constituency based and guided by equity principle.

(iii) We also have a revolving fund for repaid monies to the new youth groups. To achieve those efforts, we have lent and redoubled our recovery efforts.

(iv) The Fund is also currently running a rapid results initiative that involves sensitization of the youth on its products and services. Sensitization is one of the key strategies for attracting new clients.

Mr. C. Kilonzo: Mr. Speaker, Sir, the list provided has 21 names which are combined for two constituencies. My Question was for Yatta only, but he has given names for two constituencies. I have no problem with that, but this Fund has been in existence for over three years and only 21 groups in two constituencies have benefited while the money which is being held by the Ministry officer has been given to more than 100 youth groups in Yatta without taking care of Masinga---

(Loud consultations)

Mr. Speaker, Sir, the Members are consulting loudly and the Minister cannot hear. Please, protect me.

Mr. Speaker: Order, hon. Members! Please, lower the level of your consultations so that the Member for Yatta can be heard. Proceed, Member for Yatta!

Mr. C. Kilonzo: Mr. Speaker, Sir, the Youth Officer has given money to over 100 groups. This is the money that goes directly through the Ministry. The money which is being held by banks has only been given to 21 groups in two constituencies. Could the Government consider stop using banks to give the money to the youth and reverse this money to other channels, specifically through the Ministry or SACCOs?

Dr. Otuoma: Mr. Speaker, Sir, the Member for Yatta is very correct. That is the initiative that we have put in place. In fact, out of the Kshs1.8 billion that we released in December, only Kshs300 million went to the bank. The Kshs1.5 billion went directly to constituencies because of that flawed approach from financial institutions. Also, early this year, we advertised for more SACCOs to apply to provide these services at the constituency level.

Mr. Kutuny: Asante Bw. Spika. Je, Waziri ana habari kwamba vikundi vingi vya vijana kule mashinani ambavyo vinapewa pesa hizi vinapewa takriban Kshs20,000 ama Kshs50,000, pesa ambazo haziwezi kufufua biashara yoyote au kuwasaidia vijana kwa namna yoyote?

Dr. Otuoma: Bw. Spika, tulianza na Kshs50,000 ambayo ilikuwa ikipewa kila kikundi. Kuanzia mwaka huu, tuliongezea fedha hizo kulingana na mahitaji ya vikundi hivyo. Sasa wanaweza kuchukua Kshs50,000, Kshs100,000 au Kshs500,000 kulingana na vile watakavyokuwa wametimiza yale matarajio ambayo yamewekwa. Lakini pia tunakubali kuwa wakati huu mpango wa fedha kwa vijana ulipoanzishwa, kulikuwa na fedha ambazo zilitoka kwa Serikali na ikawa kuwa mashirika ya biashara yatafanya kazi

nasi ili kuongezea zile fedha na kupitia benki na mashirika ya fedha, kuna vikundi ambavyo vimepata hata zaidi ya Kshs1 milioni kulingana na vile walivyoweza kuyatimiza matarajio ya kukopa.

Mr. Njuguna: Mr. Speaker, Sir, I want to thank the Minister for the answer that he has given. Could he indicate to this House what efforts the Ministry is taking to relax the terms and conditions on this Fund, so that the youth can access these funds without any impediment?

Dr. Otuoma: Mr. Speaker, Sir, this is supposed to be a social fund. Indeed, it is a social fund and that is why we are saying that traditional financial institutions cannot cater for our needs. That is why the Government saw it prudent to start this Fund. One of the activities that we are carrying out, as I had indicated earlier, is the sensitization of the youth groups through the counties. We already started in Embu County. About eight counties have already been covered, but we expect to roll this out in all the counties through the youth groups. We are also carrying out a media campaign through the normal information systems, for instance, newspaper advertisements, bill boards and television in order to reach out to the youth. We are also leveraging with other departments in the Ministry like the sports and the training departments to reach out to more youths, more so, in the rural areas.

Mr. C. Kilonzo: Mr. Speaker, Sir, the Minister has admitted that the money which has been given to the banks has not achieved the intended goal. Now that we are in a new financial year and the money has not been spent, could the Government consider withdrawing the money from the banks and channel it directly through the Ministries?

Dr. Otuoma: Mr. Speaker, Sir, indeed, that is what we are doing. As I said earlier, the bulk of the money that we disbursed in December went directly to the constituencies. Some of the contracts that existed with those banks are expiring this year and we are not renewing them.

Question No.944

PROVISION OF FUNDS TO OPERATIONALIZE “CENTRES OF EXCELLENCE”

Mr. Ruteere asked the Minister for Education:-

- (a) whether he is aware that “Centres of Excellence” put up or upgraded through the *Economic Stimulus Programme* cannot be provided with the necessary infrastructure with the funds allocated;
- (b) when he will provide more funds to the schools; and,
- (c) whether he could also address the shortage of teachers in the schools.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I beg to ask for your guidance in regard to this Question. The centres of excellence were part of those projects that were initiated by the Office of Deputy Prime Minister and Ministry of Finance under the Economic Stimulus Projects (ESPs). I am wondering whether this Question would not be given a better treatment if it was forwarded to the Deputy Prime Minister and Minister for Finance.

Mr. Speaker: Very well! Member for North Imenti, you have heard the Assistant Minister!

Mr. Ruteere: Mr. Speaker, Sir, I have no objection. If the Office of Deputy Prime Minister and Ministry of Finance is the one which will give us an adequate answer, I accept that the Question be redirected there.

Mr. Speaker: Very well! I so order that the Question be directed to the Deputy Prime Minister and Minister for Finance to answer it.

(Question deferred)

Question No.1067

STALLING OF WORKS AT MODERN
MARKET IN PORT VICTORIA

Mr. Namwamba asked the Deputy Prime Minister and Minister for Local Government:-

(a) why the construction of a modern market at Port Victoria, with 40 per cent of the work done stalled in 2008; and,

(b) when the contract for the completion of the market will be awarded, when the contractor is expected on site and what the expected date of completion is.

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

(a) The construction of a modern market at Port Victoria Town Council stalled due to disputes relating to the scope of works and post-election violence. After the situation returned back to normal, the contractor was instructed to proceed with the works, but he persistently ignored to comply even after being granted an extension of time. The contract period was 12 months, which is 52 weeks. The commencement date was 11th October, 2007 and the original completion date was 12 October, 2008. The first extension period granted to the contractor was one month which was to end on 11th November, 2008. The second extension was for seven months and the completion date was to be 11th June, 2009. The contractor did not abide with these instructions and there was a fundamental breach of contract and a notice of termination was given to the contractor on 4th May.

(b) The contract for the completion of the market will be readvertised this financial year.

Mr. Namwamba: Mr. Speaker, Sir, this answer is laughable because there was absolutely no post-election violence in Port Victoria that could have occasioned the Ministry to classify that as one of the reasons why this project was interrupted. Be that as it may, I notice that even though works on this project stalled way back in 2008, the Ministry took three years to terminate this contract in May, 2011. This really is incredible. It is absolutely incredible that the Ministry took a whole three years to terminate the contract well aware of the difficulties that were encumbering this project. If, indeed, the contract was terminated for the reasons given, it then means that the funds originally allocated for this project are available and are at the disposal of the Ministry.

Could the Ministry indicate, unequivocally, exactly when they expect to re-tender the project? Could the Ministry be specific in terms of dates for the tendering of this project which is well behind schedule?

Mr. Nguyai: Mr. Speaker, Sir, the specific dates should be once the funds are released. As you know, the funds were returned to the Treasury at the close of the last financial year. I am certain that within the next two to three months, we should see the contract re-advertised.

Mr. Kombo: Mr. Speaker, Sir, just as hon. Namwamba said, I think that answer is frivolous. It is strange that the Assistant Minister is talking about post-election problems affecting these markets. It is not only the market in Budalang'i that has stalled. Even Miyanga Market in Bungoma has stalled for the last three to four years. Why is the Ministry stalling all these markets, whose work we started a long time ago?

Mr. Nguyai: Mr. Speaker, Sir, the markets under our Ministry fall within two categories. There are the mainstream markets which are constructed under the direct supervision of the Urban Development Department. There is the Economic Stimulus Programme (ESP). When the ESP was put in place, the allocation that was meant for the mainstream markets went to the ESP. We were not given anything extra funds for the mainstream markets. However---

Mr. Kombo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House about the ESP when these markets started before the ESP came into being?

Mr. Speaker: Mr. Assistant Minister, proceed and answer, bearing in mind that hon. Kombo is a former Minister for Local Government.

Mr. Nguyai: Mr. Speaker, Sir, I have absolute respect for him but I remember that in the year the ESP was put in place, we were left with money for only ongoing projects. The rest of the funds went to the ESP.

Mr. Ruteere: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell us that there is money for the ESP when last week but one, the Deputy Prime Minister and Minister for Local Government said that a report on the problems affecting those markets would be tabled here? To date, he has not tabled that report.

Mr. Nguyai: Mr. Speaker, Sir, I was just giving a clarification. Obviously, there will be substantial information relating to the ESP. We will address those issues then.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. Severally, the issue of these markets has come up in this House. I am sure you will remember that the Deputy Prime Minister and Minister for Local Government did, at some point, give an undertaking to the House to bring a comprehensive report about all the markets in the Republic of Kenya. Would I be in order to ask that we defer this Question until when the Minister tables the report he promised?

Mr. Speaker: Yes, you have a valid point but I will not defer the Question. I will want the Assistant Minister to indicate when he will table that comprehensive report and still proceed and answer this Question fully.

Mr. Nguyai: Mr. Speaker, Sir, we will give the comprehensive report on both the ESP markets and all the other markets within two weeks.

Mr. Speaker: Two weeks from today?

Mr. Nguyai: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well. Last question, Member for Budalangi.

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

Mr. Speaker: Order! Order, Member for Kisumu Town East!

Mr. Namwamba: Mr. Speaker, Sir, it is very worrying when you witness this kind of incoherence in Government planning and project implementation. The Assistant Minister can dare tell this House that the ESP project, which is a tiny project for about Kshs10 million, being a fresh produce market--- The other markets we are talking about are much bigger projects which were started during the reign of hon. Musikari Kombo as the Minister for Local Government. Could the Assistant Minister give a clear distinction between the ESP markets projects, and these separate projects and tell this House whether the commitment to advertise for this particular project in Port Victoria in three month's time is a real undertaking, or he is merely playing to the gallery? This is because, if he is talking about a mix up between these markets and the ESP market projects, then I have a problem accepting his undertaking to have the project advertised in three month's time.

Mr. Nguyai: Mr. Speaker, Sir, we have a signature on paper indicating that we undertake to advertise the project. I have given the timeline of three months, and this will happen.

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

Mr. Speaker: Member for Kisumu Town East, yes, you may raise your point of order, and it had better be a point of order.

Mr. Shakeel: Mr. Speaker, Sir, is the Assistant Minister in order to give a commitment of three months when he is aware that when he appeared before the Departmental Committee on Local Authorities, he clearly said that they would be unable to proceed with work on any market because they had no funds available? He is now giving a commitment that he will do it in three months' time.

Mr. Speaker: Member for Kisumu Town East, you have actually done very well.

Mr. Nguyai: Mr. Speaker, Sir, I want to repeat the answer to part (b) of the Question which says:-

“(b) The contract for the completion of the market will be re-advertised this financial year”.

Mr. Speaker, Sir, there is that commitment by the written answer to the Question. I believe this should settle the matter.

Mr. Speaker: Very well!

Next Question by the Member for Isiolo South!

Question No.765

RECENT MAJOR POLICY DECISIONS BY AFRICAN UNION

Mr. Bahari asked the Minister for Foreign Affairs:-

(a) what major policy decisions the African Union (AU) has taken, through the Heads of State Summit in the last five years; and,

(b) what steps the Ministry has taken to appraise the Kenya National Assembly on such major policy decisions.

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

(a) The African Union (AU) Summits are held twice a year, between the months of January and February, and June and July. In the last five years, the AU has held 11 sessions of the Assembly of the AU, during which 270 decisions were made. This is in addition to over 420 decisions taken by the AU Executive Council. The AU decision-making process entails declarations and resolutions. The decisions of the AU Assembly are usually derived from the broad aspirations of the AU, which are based on thematic areas such as peace and security, integration, gender equality, climate change, resource mobilisation, global partnerships, sustainable development of the Africa Continent and general development. Each Summit also has an over-reaching theme, which forms the general debate by the Heads of State and Governments.

As a result of all the declarations which have been passed by the AU Summit, I would like to table 470 such declarations. The chart, which is on the documents that I have, outlines the number of decisions which have been made during each session, the years in which the consideration took place, the annexes of all the details and what has been discussed.

(Mr. Onyonka laid the documents on the Table)

(b) It is true that the Ministry of Foreign Affairs has not been appraising the National Assembly on the decisions of the AU, the reason being that we did not have a *locus standi* whereas now, because of the new Constitution, the Ministry of Foreign Affairs and, indeed, all Government Ministries and departments, will have to make sure that they appraise Parliament of any decisions and Parliament will have to accept them before they are ratified in order for them to be constitutional.

Thank you, Mr. Speaker, Sir.

Mr. Bahari: Mr. Speaker, Sir, it is quite clear that these decisions are important and some of them are binding to this country. Under the requirements under the new Constitution, the Ministry must now table those decisions. What is the Assistant Minister going to do to properly update this House other than through these recommendations? This is binding to this country a lot. What is he going to do to update this House on these decisions?

Mr. Onyonka: Mr. Speaker, Sir, for obvious reasons, once the implementation of the Constitution has come to its conclusion and we have passed all the Bills and Acts of Parliament, I am not sure whether there might be need for us to change our Standing Orders to the requirements as to what all the Ministries will need to do, especially the Ministry of Foreign Affairs to make sure that any of the discussions on matters of policy initiatives which are brought or taken to the African Union Council (AUC) will be brought to this House, debated and passed so that they can be adopted as legally binding documents.

Mr. Kombo: Mr. Speaker, Sir, if we take the Ministry of Foreign Affairs as part of the Government, it would be the lead agent for the other Ministries. What has the Ministry done to ensure that if the other Ministries are not informing Parliament, as the lead agent, they make sure that they push them to do so?

Mr. Onyonka: Mr. Speaker, Sir, I can assure Mr. Kombo that we are just waiting to have a policy framework initiative whereby we are going to adopt and make sure that there is an inter-Ministerial Committee that will be shortlisting and discussing these

matters with the Office of the Attorney-General and the Ministry of hon. Mutula Kilonzo to make sure that all these matters which are discussed at the AU are implemented into law effectively.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Assistant Minister for the Statement he has given, I would urge him to inform this House what mechanisms have been put in place by the AU to make sure that peace and security resolutions are implemented to the letter by the partner States.

Mr. Onyonka: Mr. Speaker, Sir, when you look at the AU's discussions and debates as to the issues which have been affecting the African Continent including the issue of peace and security, the AU Assembly has mechanisms whereby, for example, we have the Peace and Security Committee which has been discussing and deliberating on issues where they have put and implemented mechanisms into place. Where there is conflict on the African Continent, there is early detection when there is hunger and starvation, where we need to be deliberating issues which are weighty on the continent especially engaging the regional economic blocs like IGAD and the EAC, to make sure that the matters which are outstanding on the African Continent are deliberated and discussed regionally before they can be taken over to the African Continent.

Mr. Speaker: Member for Isiolo South, last question!

Mr. Bahari: Mr. Speaker, Sir, the Constitution came into effect from August last year and the AU Summit took place this year. Why has the Ministry not informed the House as is required by the new Constitution?

Mr. Onyonka: Mr. Speaker, Sir, again, the reason that has happened is because we have been on the transitional mode. As my colleague knows, the implementation of the Constitution has not been fully effected. As a result of that, as he is aware, some of the laws and Bills have not been passed. Immediately, we finish this exercise within the next one month, I believe this will then automatically take effect.

(Messrs. Keter and Sirma consulted loudly)

Mr. Speaker: Order, hon. Members!

Member for Belgut and Mr. Musa Sirma, you can actually retreat to other parts of this Chamber and have your *baraza*!

Next Question by the Member for Kitui West!

Question No.871

CONSTRUCTION OF DAM AT RIVERS ATHI/THWAKE INTERSECTION

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

(a) whether she is aware that there is a big potential for a big dam at the intersection of River Athi and Thwake River; and,

(b) what plans she has to ensure that a dam is constructed at the intersection.

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

(a) Yes, I am aware that there is a big potential for a large multi-purpose dam at the intersection of Athi River and Thwake River.

(b) After identifying the intersection of Thwake and Athi rivers as a potential dam site, the Ministry undertook design of the dam in 2008 and thereafter moved to identify potential financing sources. In this regard, the Ministry through the Treasury submitted a project proposal to the African Development Bank (ADB) for funding. The ADB has considered the project and has accepted to fund it to a tune of Kshs7 billion. An appraisal mission from the Bank will be visiting the country to appraise the project in March 2012. The project will provide water for irrigation, electricity generation and domestic water supply for many areas including Mavindini/Kathunima in Makueni and even the proposed ICT village in Makueni and Machakos.

Mr. Nyamai: Mr. Speaker, Sir, I would like to thank the Minister for that answer. Some of the areas which are affected by this dam are in Kitui West Constituency, in particular, Nzambia, Kilisa and, Syomakanda. Apparently ---

Mrs. Ngilu: Mr. Speaker, Sir, hon. Members are consulting loudly. I cannot hear what the Member is saying.

Mr. Speaker: Proceed, Mr. Nyamai! What is distracting you?

Mr. Nyamai: Mr. Speaker, Sir, she is complaining that she cannot hear.

In Kitui West, the areas of Nzambia, Kilisa and Syomakanda are affected by this dam. Apparently, they are not going to benefit in any way according to your answer. What are you intending to do to the people who are going to donate their land for the sake of the dam and they are not benefiting?

Mrs. Ngilu: Mr. Speaker, Sir, wherever we get land to do projects, first and foremost, people are involved. They are informed and told of what is expected of their land and they are compensated according to the laws of the country. I believe they are going to be given water in one way or another. It is a policy of the Ministry of Water and Irrigation to ensure that wherever we get water to give other people, we must ensure that we give water to people in the areas over and above compensating their land.

Mr. Nyamai: Mr. Speaker, Sir, could you allow me to ask the second question because I have only asked one supplementary question? This Question is quite specific to my area!

Mr. Speaker: One question at a time! Ask the first one!

Mr. Nyamai: Mr. Speaker, Sir, I would like to thank the Minister for confirming the compensation aspect. In fact, our issue is not compensation but it is about the people of Kanyangi Location. The current design does not include any supply of water to those areas. That is why I was asking what you are planning to do about them.

Mrs. Ngilu: Mr. Speaker, Sir, if the Kanyangi people are not included as part of those who are supposed to be given water from that particular dam, we will get another source from within the area. It may be boreholes or other smaller water pans. We will check and ensure that people are given water. The hon. Member needs to know that they may not get water, but they might get electricity because we are going to generate electricity from that dam.

Mr. Speaker: Next Question by Member for Juja

Question No.886

TARMACKING OF ROADS BY GOVERNMENT IN JUJA CONSTITUENCY

Mr. Kabogo asked the Minister for Roads:-

- (a) what roads the Government has tarmacked in Juja Constituency since 2000; and,
- (b) what plans are in place to improve roads in the constituency.

At the same time, I would like to seek the indulgence of the Chair. I have just received a detailed answer. However, I will not be able to interrogate the Minister properly. I request that you allow me a week so that I can come back and interrogate this Question properly.

Mr. Speaker: Mr. Assistant Minister, that sounds legitimate. Will you grant your colleague time?

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, I had spoken with the Member and agreed that after he has interrogated the answer, we will be able to respond.

Mr. Speaker: Very well! I direct that the Question appears on the Order Paper on Tuesday next week at 2.30 p.m.

Next Question by Mrs. Odhiambo-Mabona!

Question No.965

RATIFICATION OF OPTIONAL PROTOCOL ON CONVENTION OF RIGHTS OF THE CHILD

Mrs. Odhiambo-Mabona asked the Minister for Gender, Children and Social Development:-

- (a) whether Kenya had ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography and, if not, when the Government plans to do so; and,
- (b) what the Government is doing to deal with increased cases of child pornography and prostitution in the country.

The Assistant Minister for Gender, Children and Social Development (Mr. Keya): Mr. Speaker, Sir, I beg to reply.

(a) The Government of Kenya adopted the Optional Protocol to the Convention of the Rights of the Child (CRC) on the Sale of Children, Prostitution and Child Pornography on 9th August, 2000, but has not yet ratified it.

The ratification of the protocol will be done in line with Article 94(5) of the new Constitution, which requires Parliament to play a role in the process unlike in the past when this was the preserve of the Cabinet or the Executive.

My Ministry sought the advice of the Attorney-General's Office and was advised that the latter was drafting the ratification of International Treaties Bill to facilitate ratification and assent to conventions and protocols.

In the light of this, the ratification of the protocol in question will be done as soon as the appropriate legal framework is in place.

(b) My Ministry is aware of the increased cases of child pornography and prostitution in the country. In order to deal with that undesirable situation, the Government has put the following measures in place:-

(i) The legal and policy frameworks which are in place are:-

The Children Act, 2001, the Sexual Offences Act, the National Children's Policy, the Penal Code, the Draft National Code of Conduct on Commercial Sexual Exploitation of Children and the Tourism Code of Conduct.

(ii) The Government, in conjunction with UNICEF, carried out a study in the year 2006 on commercial sexual exploitation of children, which came up with the district action plans in four districts; namely, Kwale, Mombasa, Malindi and Kilifi. The recommendations from the study have to be replicated in other major districts and towns, all the other borders of transit, districts and towns, where child prostitution is rampant.

The Code of Conduct for Hoteliers along the coastal regions was developed and signed by 96 hoteliers to protect children from prostitution. The establishment of four rescue centers for abandoned babies, young girls and boys at Thika, Nairobi Children's Home, Machakos and Garrisa, has been done. The process of establishing one in Kisumu is ongoing. We have established a child help line - which is a 24-hour toll free line - where such cases of pornography and child prostitution can be reported. We have established area advisory councils in 145 districts to handle the increasing cases of child pornography and prostitution in the country. The above is in line with the establishment of area advisory councils which are mandated to deal with child issues locally within the districts.

Finally, My Ministry, in collaboration with partners, has established a toll-free child help line 116 in Eldoret, Garissa and Nairobi which serve the entire country and is used for reporting any form of child abuse. The facility is accessible to children as well as the entire public. Plans are in place to expand the capacity of the service.

Thank you.

Mrs. Odhiambo-Mabona: Thank you Mr. Speaker, Sir. I would like to thank the Assistant Minister for that comprehensive answer.

Mr. Lessonet: On a point of order, Mr. Speaker, Sir. I have looked at hon. Millie Odhiambo-Mabona while walking to the microphone, and I doubt whether she had intended to come to this House today because of her dress code. She looks as if she was headed elsewhere. Could you guide us on whether she is properly dressed?

Mr. Speaker: Order. Could you be specific on what is not proper dressing on her?

Mr. Lessonet: Mr. Speaker, Sir, probably, she could stand so that I can be able to explain.

(Mrs. Odhiambo-Mabona stood up in her place)

Mr. Speaker, Sir, if you look at her trousers, she is in a jeans. Look at her jacket. If all hon. Members decide to come in jeans tomorrow like she has today, would we be properly dressed? I thought you could guide us on that dress code so that we could dress better when we are coming to this honourable House.

Mr. Speaker: Order, Member for Eldama Ravine. As you are aware, the code of dress for Members is covered by the Speaker's Rules. As I see it, on the face of it, *ipso facto*, she appears to be properly dressed.

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. I know where he comes from, he is not used to modern trends. But I will forgive him. I want to thank the Assistant Minister for a very comprehensive answer. I would like to say, in response---

An hon. Member: Those are jeans!

Mrs. Odhiambo-Mabona: They are not jeans!

Mr. Speaker: Proceed, I have already ruled on that.

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. I would like to indicate that I do not agree with the Assistant Minister when he says that the Constitution does not allow us. If you look at Article 2(6)---

Mr. Sirma: On a point of order, Mr. Speaker, Sir. Hon. Millie has referred to where hon. Lessonet comes from. I also come from there and I would like to tell her that we are modern.

Mr. Speaker: Order, hon. Sirma! Hon. Sirma, you have been in this House for a long time. I think you are doing your ninth year. Obviously, you know that when you want to raise a point of order on a matter, you have to do so instantly. Hon. Millie Odhiambo referred to where the Member comes from about two minutes ago. We are now away from there and dealing with a different matter all together. She was beginning to put her question. So, hon. Sirma, I am afraid, notwithstanding that, we belong to the same generation, you will have to withdraw for the next one hour. You must leave.

(Mr. Sirma withdrew from the Chamber)

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. I was saying that if you look at Article 2(6) of the Constitution, you will see that it does not require us to have ratified the protocol. Indeed, I have brought the Ratification of Treaties Bill which will be coming for First Reading, hopefully, this week or next week.

Having said that, I would like to say that, noting that many children are subjected to pornographic materials in cyber cafes, especially in rural areas, what is the Ministry doing to work with the Film Censorship Board under the Films and Plays Act, together with the police, to ensure that children are protected from accessing pornographic materials?

Mr. Keya: Mr. Speaker, Sir, from the answer I have just given, we are working up to the districts, but I agree with the hon. Member that we should now involve the police and everybody up to the grassroots to curb child pornography that is being displayed in the rural areas.

Mrs. Shebesh: Mr. Speaker, Sir, the issue of child pornography in this country is really meant for the international market. Just a few weeks ago, the American investigative service, or the government, bust a ring of child pornography and Kenyan children were cited on that pornography. What is the Ministry doing to ensure that they work together with Interpol because child pornography in Kenya is really for the international market?

Mr. Keya: Mr. Speaker, Sir, the Ministry of Gender, Children and Social Development is really concerned with that, and it will do as the hon. Member has recommended. We shall work with Interpol to curb this problem.

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir, when we are talking about a very serious issue like child pornography that is affecting our children, is it in order for the Assistant Minister to answer my question by saying that they are concerned, but without giving a substantive answer as to what they are doing to work with Interpol? That is what we are looking for here.

Mr. Speaker: Order, hon. Shebesh! I am satisfied that the Assistant Minister has answered your question. He did, among other things, if you cared to listen, say that they are proceeding to work with Interpol to ensure that the requisite remedial measures are in place. Instead of listening to him, you were already standing on a point of order and you did not hear him.

Mrs. Noor: Mr. Speaker, Sir, you will remember that we have passed the Counter-Trafficking in Persons Act, 2011, which largely deals with child trafficking and prostitution. Could the Assistant Minister inform the House what his Ministry is doing in order to put in operation this Act of 2011?

Mr. Keya: Mr. Speaker, Sir, the Ministry is working with the relevant authorities to make sure that we implement that Act.

Mr. Njuguna: Mr. Speaker, Sir, could the Assistant Minister indicate to this House the far reaching measures the Government is taking to address the rampant rape cases of young girls in the society? If this is not addressed, the future of our innocent girls will be ruined?

Mr. Keya: Mr. Speaker, Sir, as I have said repeatedly, the Government is taking this issue very seriously. We are going to take every necessary measure to make sure that this practice is curbed.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, from the response, you can see that the Government is working on very many widespread activities, including awareness creation and using a help line. Could the Assistant Minister inform the House when the Government intends to come up with a comprehensive policy on issues of child pornography and prostitution in the country as we wait for the ratification of the treaty?

Mr. Keya: Mr. Speaker, Sir, the Government intends to come up with a policy on those issues as soon as possible.

Mr. Speaker: Next Question by Mr. Ochieng.

Question No.999

CAUSE OF POWER BLACKOUTS IN KILELESHWA/LAVINGTON

Mr. Ochieng asked the Minister for Energy:-

(a) what the cause of the frequent power blackouts in Lavington and Kileleshwa areas during the last three years is; and,

(b) when this situation will be improved, so that the residents of the areas can enjoy uninterrupted electricity supply.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Speaker, Sir, I beg to reply.

(a) Lavington and Kileleshwa areas are supplied with electricity from two substations, one located on Ngong Road and the other at Kileleshwa. These two substations are connected to a bigger substation next to the inland container deport which is called Embakasi by the Kenya Power and Lighting Company (KPLC). The supply line from the Embakasi Substation passes through the slum area of Mukuru, which has made it extremely difficult to carry out emergency responses and maintenance of the line. Due to the erection of houses below the power line in this slum area, frequent fires have continued to be encountered, thus disrupting power supply to Kileleshwa and Lavington areas. Additionally, the rapid expansion of residential and commercial high rise buildings in the two areas has strained the existing power supply quality since the infrastructure has been developed for occupation density.

(b) The KPLC has embarked on a major reinforcement work aimed at boosting supply to these areas through an ongoing construction of two new substations at both Lavington and Kabete. These substations are expected to be commissioned by November 2011 and will, therefore, greatly improve the quality of power supply to the affected areas. Additionally, my Ministry, in consultation with the Provincial Administration, is working out modalities for resettlement of persons currently living below the power line at Mukuru; the concerned persons are expected to be resettled by December, 2011.

Mr. Ochieng: Mr. Speaker, Sir, I will struggle to raise a supplementary question on that, although I do not have an answer from the Assistant Minister.

Could the Assistant Minister confirm or deny that these substations are fitted with substandard parts and that is why they keep on breaking down, and this leads to the frequent power interruptions?

Eng. M.M. Mahamud: Mr. Speaker, Sir, I deny that the substations are fitted with substandard materials and that is why there are frequent power interruptions. I have given the reasons for the power interruptions and the steps we are taking to stabilize the power supply to the affected areas.

Mr. Lessonet: Mr. Speaker, Sir, considering that the KPLC is the sole supplier of power to all consumers in Kenya, is it not in order for consumers of that electricity to claim compensation from the KPLC for the time lost in their work and also for their products which are destroyed or spoilt due to lack of power?

Eng. M.M. Mahamud: Mr. Speaker, Sir, although the KPLC is the sole supplier of power, they do not generate electricity. As of today, our generation capacity is below the amount of power requirement. Indeed, the generation has been delayed because of funding which--- In fact, you will see a Sessional Paper coming before Parliament in the next few days.

Mr. Speaker: Order, Assistant Minister! You have been asked a very simple and straightforward question. Why do you not just concentrate on the question?

Eng. M.M. Mahamud: Mr. Speaker, Sir, I do not think it will be right for consumers to penalize the KPLC for not supplying a commodity they do not have.

Mr. Joho: Mr. Speaker, Sir, recently, we had a power blackout in Mombasa that lasted about 48 hours; we are aware that many hotels have reported that they have incurred serious losses. Could the Assistant Minister inform this House what his Ministry is doing to ensure that they compensate for the losses that occur when power is interrupted? Things like televisions and refrigerators which do not have power guards are spoilt when there is power failure.

Eng. M.M. Mahamud: Mr. Speaker, Sir, there is no policy in place to compensate consumers for power outages. We, at the Ministry, are increasing power supply, so that outages can be avoided.

Eng. Rege: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Assistant Minister, do you want information from the Chairman of the Energy, Communications and Information Committee?

Eng. M.M. Mahamud: Yes, Mr. Speaker, Sir.

Eng. Rege: Mr. Speaker, Sir, as I said earlier, last week our Committee went around in an attempt to investigate the power rationing that the KPLC announced last week. We went to Embakasi Power Station and found out that KenGen had just brought in two power generators adding up to 60 megawatts from Mombasa. It could be that the dismantling of these power generators, which were brought to Nairobi, caused that power outage. I think the Assistant Minister could clarify that. However, with the installation of these two new power stations, we have been told that will stabilize the power system in Nairobi because they will be powered by kerosene.

Mr. Speaker, Sir, our committee is looking into a more stable power supply in Nairobi after these installations, which should occur within the next three weeks. In the meantime, KenGen and Kenya Power (KP) can supply additional power to Nairobi from the neighbouring power stations.

Mr. Speaker: Assistant Minister, does that information help you?

Eng. M.M. Mahamud: Mr. Speaker, Sir, as I mentioned earlier, the current power supply is below the demand. In fact, at any given time, there are some stations which are not supplying power to the national grid. They are currently being serviced. As of today, we have 174 megawatts which are not being supplied to the network. If we do not invest more, we might have shortage of about 300 megawatts. So, what the Chairman says is correct. The KP depends on supply of generated power from KenGen and from other sources. So, they only distribute what they have. So, it is not fair to say that they will be penalized.

Mr. Speaker: Last question, Member for Nyakach!

Mr. Ochieng: Mr. Speaker, Sir, although the Assistant Minister is denying that they fit those systems with substandard equipment, could he tell us what temporary measures he will put in place to make sure that these interruptions are at least minimized for the benefit of consumers?

Eng. M.M. Mahamud: Mr. Speaker, Sir, they are not temporary solutions. We are putting permanent solutions. We are building two substations. As I said, these are supposed to be commissioned by November this year.

Mr. Speaker: Very well! Those Members who are worried about compensation may want to consult Members for Mbita and Central Imenti, respectively. You will get answers from them.

Question by Private Notice by Member for Central Imenti.

QUESTION BY PRIVATE NOTICE

DEPORTATION OF CLARA GUTTERIDGE

Mr. Imanyara: Mr. Speaker, Sir, I beg to ask the Minister of State for Immigration and Registration of Persons the following Question by Private Notice.

Could the Minister explain the circumstances under which Ms. Clara Gutteridge, a Human Rights investigator was deported from Kenya?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Speaker, Sir, I apologize for coming late. I have an answer which is not quite different from the answer I gave sometimes earlier.

Mr. Speaker: Order, Mr. Minister! Concentrate just on the area from which the Question was deferred last time. Just deal with that part.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Speaker, Sir, the Question was actually broad. It asks us to explain the circumstances under which Ms. Clara Gutteridge, a Human Rights investigator was deported from Kenya. I have some supplementary information that I would have wanted to share with the House, if this could clarify the reasons for our decision.

Ms. Clara was deported following adverse information we received from the security agencies, the National Security Intelligence Service (NSIS), indicating that the subject was involved in subversive activities which were a threat to national security and contrary to our national interest. Her involvement with known terrorist operatives and *Al-Shabaab* was considered not to be in any way related to human rights activities.

In view of the above, on 23rd February, the NSIS wrote to request for deportation orders from me. Consequently, I issued the orders declaring her a prohibited immigrant on 22nd, March, 2011. In fact, later on, when she was inspected, we found that she was travelling on two different passports; one was Passport No.402364500 and another Passport No.801554705. The subject was arrested at the Jomo Kenyatta International Airport and found in possession of materials relating to *Al-Shabaab*. This included printed materials and a lap top which was handed over to the NSIS and later returned to the subject. She was subsequently, deported from the country.

The British High Commission was fully briefed on the circumstances of the arrest and the reasons for deportation. At the time of her arrest, the following officers from the British High Commission were present; Mr. Tuckman and Ms. Bisusa. Besides, I would say that if she was, as it is alleged, a human rights investigator, although that may be a new profession--- If she was, indeed, a human rights investigator, and she was doing this as a job, or as a researcher, she would have needed a permit from the Office of the

President or from my office. So, she was found to be working in Kenya without a permit contrary to Section 13(2) (f) of the Immigration Act. We acted accordingly.

Mr. Imanyara: Mr. Speaker, Sir, if, indeed, this human rights investigator was involved in unlawful activities as the Minister says, why was she not subjected to due process if, indeed, the reasons for her deportation are not geared to cover up the conspiracy between the NSIS and CIA to suppress information relating to rendition of Kenyans to Uganda and Somalia where they are being held unlawfully and in solitary confinements? Why was she not taken to court?

Mr. Kajwang: Mr. Speaker, Sir, I really do not know what she was doing here. However, she was found in company of people whom we knew to be *Al-shabaab* operatives. If there is a person who is certain that she was doing lawful job here, let us know. We do not take to court everybody---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I asked the Minister why Ms. Clara was not subjected to due process if she, indeed, was committing an offence known to Kenyan law.

Mr. Kajwang: Mr. Speaker, Sir, deportation is due process. It is provided for in law and I acted accordingly.

Mr. Wambugu: If I understood the Minister properly, he says Ms. Clara was found with documents relating to *Al-Shabaab* operatives. Could he tell the House what action he has taken against those *Al-Shabaab* operatives? It is a grave issue when he says she was in accompany of those operatives and he is the Minister responsible for Registration of Persons and Immigration in this country.

Mr. Kajwang: Mr. Speaker, Sir, there are very many people who according to the information that we get from our security agencies are closely associated with the *Al-Shabaab* or other terrorist organizations. However, it does not always mean that anybody associated with them or is their friend has committed some offence that we can take to court. Not all matters are taken to court. That is why we have administrative wing of the Government.

Mr. Imanyara: Mr. Speaker, Sir, the Minister says that information is received from the NSIS. What is the policy of the Government in vetting information given to them by the NSIS given the well-known practice of the NSIS to break the Kenyan law with impunity?

Mr. Kajwang: Mr. Speaker, Sir, the NSIS has a Commission and a Board. I am sure that whoever works under that organization is responsible both to the board and Parliament. Whenever they make their reports here, hon. Members can subject them to any kind of questions they may have.

Mr. Speaker: Very well! That brings us to the end of Order No.6.

Next Order!

Mr. Speaker: Do we have any Statements which are due, so that they can be delivered? The Minister for Agriculture was ordered to deliver a Statement today with respect to sugar matters. She did undertake that she will be available to do so today.

Leader of Government Business, what happened to the Minister? I thought she was very diligent.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am surprised. I actually thought she was here to issue the Statement. So, we will just continue prevailing upon her to be here. In the meantime, we will try to get her to be here tomorrow.

Mr. Speaker: Could you persuade her to be here tomorrow morning at 9.00 a.m. to deliver that Statement because there is a lot of anxiety in that region over this matter?

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

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

POINTS OF ORDER

DEPRECIATION OF THE KENYA SHILLING

Mr. Baiya: Mr. Speaker, Sir, last Tuesday, the Assistant Minister, office of the Deputy Prime Minister and Minister for Finance undertook to deliver a Statement today on the depreciating value of the Kenyan currency.

Mr. Speaker: The Assistant Minister does not seem to be here either?
Again, Deputy Leader of Government Business take up the matter.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I do remember that Statement was requested and I will remind them to come tomorrow morning to deliver it.

Mr. Speaker: Could you prevail upon them to do so tomorrow morning. This is because we will have a little more time in the morning than we will have in the afternoon?

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

Mr. Speaker: Very well. Let us move on to requests, beginning with Ms. Shebesh.

DISCIPLINARY ACTION AGAINST CHIEFS IN TURKANA SOUTH

Mrs. Shebesh: Mr. Speaker, Sir, I would like to request for two Statements. The first one is directed to the Minister of State for Provincial Administration and Internal Security. I would like him to explain why his Permanent Secretary has contemplated taking disciplinary action against chiefs in Turkana South on issues relating to the ongoing famine in the area. In the Statement, he should clarify the following:-

(1) Why the chief of Kalapata was issued with a warning letter dated 3rd August, 2011, for gross misconduct while two other chiefs in Turkana South have received show cause letters; they have been asked to show cause why disciplinary action should not be taken against them and they risk being dismissed due to the information they gave to the public and the media on deaths of hunger victims in the area.

(2) Is the Government going to continue to deny that people have died due to drought in Turkana South?

Mr. Speaker: This will be to the Minister of State for Special Programmes or Office of the President?

Mrs. Shebesh: Mr. Speaker, Sir, the Minister in charge of internal security.

Mr. Speaker: Is the Minister of State for Provincial Administration and Internal Security not here? Deputy Leader of Government Business when will that Statement be delivered?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am aware that this Thursday there are quite a number of Statements you promised.

Mr. Speaker: Tuesday, next week?

The Minister for Transport (Mr. Kimunya): Yes, Tuesday, next week, so that we do not overload the business of the House.

Mr. Speaker: Very well! Next request, hon. Shebesh!

INTEGRITY OF KENYA FOOTBALL FEDERATION ELECTORAL PROCESS

Mrs. Shebesh: Mr. Speaker, Sir, my next request is to the Minister of Youth Affairs and Sports on the current uncertainty facing the upcoming football elections. I would like him to clarify the following:-

(a) The integrity of the electoral process given the fact that the final list of candidates and clerks has not been published.

(a) Whether the vetting criteria has been followed and met by all candidates.

(b) Whether the upcoming football elections to be held on 13th August are viable.

Mr. Speaker: Very well! Mr. Minister, you are here. Are you able to deliver it now? It does not seem so complicated.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, I think I can deliver it straightaway.

Mr. Speaker: How long will you take?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, if I give straight answers, it should not take me more than five or ten minutes.

Mr. Speaker: Five minutes!

Proceed.

MINISTERIAL STATEMENT

INTEGRITY OF KENYA FOOTBALL FEDERATION ELECTORAL PROCESS

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, on the issue as to whether the integrity of the election process of Football Federation in Kenya and whether the candidates and the clerks have already been identified, I had a meeting with the Independent Electoral Board (IEB) which was appointed by FIFA to try and co-ordinate the activities of football elections in Kenya. This was due to the fact that there was no federation that had the credibility to carry out these elections. We agreed that an IEB must be put in place to prepare for the elections and to carry out the elections.

Mr. Speaker, Sir, as much as FIFA requested the Government to play just a facilitative role, this process has been very slow. We were supposed to have done these elections last year. Every time, we have postponed for one reason or another. This prompted me to have a meeting with FIFA where they sent their representative all the way from their head office. They have reassured me that we will have elections this week on 13th. But last week when I had a meeting with the board, it appeared that was when the final list of the candidates and also the final list for the clubs were being put up.

I had requested the board that we would like to see the lists of the clubs and candidates published in our daily newspapers at least with national circulation, so that members can have the opportunity to raise any issues that may have arisen from those lists. However, as I speak now, this has not been done. I am yet to find out why the lists of candidates and clubs were not published last week as we agreed. I have just come back to Nairobi.

Mr. Speaker, Sir, on the issue of vetting, nine candidates applied to vie for chairmanship and various other candidates applied for other positions. The vetting process, procedure and guidelines were published sometimes back and agreed on. So far, I am assured that all the other vetting processes have been finalized. What was remaining was clearance by the Kenya Revenue Authority (KRA) where some candidates who had not fulfilled that requirement had asked for more time to sort out their issues with them.

Mr. Speaker, Sir, I was assured that this process should come to an end by today. Those who will not have been cleared by the KRA by today, would have been considered

not to have fulfilled part of the vetting process. That is the information that I had been given by the chairman of IEB.

As to whether we will have the elections on 13th, this is something that has caused anxiety among ourselves. We had agreed with FIFA that the IEB should be left to act as independently as possible and the Government should only play a facilitative role. However, having spoken to them, they told me they had approached Interim Independent Electoral Commission (IIEC) to help them conduct these elections, so that they could have the credibility required. The last information I heard was that IIEC had not given them the budget required for them to carry out this process.

Mr. Speaker, Sir, by last week, the IIEC also wanted to see the number of teams and candidates participating, so that they could work out their budget. That is where we stand now. I am very anxious because I had said that we do not want to pass this 13th August date. As I said, the issue of a credible federation to run our football in this country is so critical. I know my Cabinet colleagues have supported me on this process. His Excellency the President, the Prime Minister and even the Vice-President have really supported this process, so that Kenya's rating in football cannot continue to drop. We are currently at number 130 and this is not a country that should be beyond 60. It is my intention to make sure that this process takes place. We have been very patient, but I have to admit that my patience has also been overstretched by the process. We still have an alternative as the Government that, if FIFA is not going to honour its part of the bargain, we are prepared to sever our links with FIFA so that we can re-organize our own football in our country.

This is the message that I have told them very clearly. I have told them that as much as we have taken one whole year trying to organize for these elections, as much as the Government has given all that we can, all the co-operation and everything that we can as a Government, we will be very disappointed if at this last hour, FIFA does not honour its part of the bargain. I am sending a very clear message that we will have no any other alternative but to decide as a country to run our affairs and re-organize our own football.

Mr. Speaker: We will take three clarifications. Let us begin with hon. Nyamweya.

Mr. Oyongo-Nyamweya: Mr. Speaker, Sir, the Minister has explained that there is voter register as it stands today. He has also said that he does not know the number of candidates who are going to be put on the ballot paper. Obviously, given the time left, it is not possible for the federation to have free and fair elections. It is for the Minister to decide. He cannot say that he is leaving it to them. What is he leaving to them to do? He has all the details that he needs to have. What action is he taking?

Mrs. Shebesh: Mr. Speaker, Sir, I thank the Minister for responding immediately. Today, we even had demonstrations in the streets because of this issue. Will the Minister be categorical about the elections on 13th August? He should tell us whether or not they will continue with the elections. If they will, will the Ministry take charge of those elections?

Mr. Mureithi: Mr. Speaker, Sir, I am very grateful that the Minister has responded to this issue of the clubs and the terms of the elections which are coming up on 13th August. Is he aware that many clubs have been left out and are not expected to participate in the elections on 13th August? As a result, the names of those clubs do not appear on the programme of the 13th August elections.

What is he going to do to make sure that these clubs are brought back on board, so that they can participate in the elections of 13th August, to avoid a situation whereby our youth are going to be left out from participating in the selection of their leaders in football?

Mr. Koech: Mr. Speaker, Sir, football in this country has faced serious challenges. We have so many talented youth in this country and with proper management and a credible body running it, I believe we can be somewhere in the map of Africa. Could the Minister confirm whether these elections are going to be credible elections given that we only have three days to the election date?

Dr. Khalwale: Mr. Speaker, Sir, the level of corruption in Zurich, the Headquarters of FIFA is such that we cannot expect FIFA to preside over free and fair elections in Kenya. Given that football is an industry that can employ so many of our talented youth, what is the Minister doing to ensure that the Government is pro-active to identify *bona fide* clubs to participate in the elections on behalf of the electoral process by, for example, limiting the participating clubs to only those that are currently in the premier league, the national-wide league and the provincial league?

Mr. Ochieng: Mr. Speaker, Sir, I have heard the Minister contemplating severing our relationship with FIFA. Should that happen, what is at stake? What will Kenya as a country lose from FIFA?

Mr. Sambu: Mr. Speaker, Sir, one item that has let football down in this country is integrity in the leadership. This integrity in leadership is provided for in Chapter Six of our Constitution. What process is the Minister going to use to ensure that those vying for the posts are people of integrity?

Mr. Speaker: Minister you can respond to those!

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, hon. Oyongo-Nyamweya wanted to know whether the process will take place without the list of the voters and the candidates. Indeed, I said when I was making the Statement that there was the voters' list of clubs that was out last week and even the number of candidates, but there was the issue of verification and agreeing whether those voters are really the genuine voters and whether the candidates meet the criteria to be candidates as provided for in the guidelines. That is the process that was supposed to have taken place last week and be concluded. We had asked them that if it was possible, they publish this in, at least, two or three media houses which have a national circulation because the elections are being done nationally. As I had said, this was not done and that is why I was saying that I am equally disappointed that FIFA was not keeping its part of the bargain with the Government.

The issue of demonstrations and whether the elections will take place; the whole country is very anxious to get over this process. As a Government, we are equally committed to give Kenyans a credible federation that is elected by Kenyans themselves, has the integrity and the will to manage football in this country. Some of the problems that we have gone through previously in terms of running soccer in this country are contributing to these demonstrations because of the history that we have. People think that these elections will not be fair but I want to assure them that I will do everything possible to make sure that we have the right people to run football in this country.

Mr. Speaker, Sir, on the issue raised by the Member for Ol Kalou as to whether some clubs were left out, there was a criterion and guidelines that were being used to

select the clubs. So far, 1,500 clubs were selected, but as a Government, we had listed more than 6,000 active clubs that are registered in Kenya. We anticipated this to come. As a Government, we did our own check and we wanted the list published so that we could compare it with what we have, just to verify. This is what we had got from our Sports Officers. We need to see whether all those teams are part of the teams that are in the master roll. Of course, there were guidelines as to whether those clubs have participated in some league either nationally or provincially. That is why the list was watered down to 1,500 clubs. Once that is published, then the public can verify that, that is true.

On the issue of credibility, the Kenya Football Federation has one of the worst records of all federations in this country. That is why we said that we wanted an independent body and not the federations themselves. Those are interested parties and we know how they have been conducting their elections through the delegates system where most of the delegates have nothing to do with football. That is why this time we want the clubs to vote directly as clubs and not through the delegate system. That is what the Member for Mosop wanted to know.

Mr. Speaker, Sir, hon. Khalwale knows very well, even what happens during the FIFA elections themselves. We saw what transpired during the FIFA elections. There should be no doubt in anybody's mind that there are problems in Zurich, and those problems are being transferred to Africa. In Europe, UEFA is the federation which regulates football. It deals with football federations in Europe. When it comes to Africa, FIFA wants to micro-manage football. The CAF is not playing its legitimate role. So, we have a wider problem, which is beyond our borders. We are trying to say that once we have a federation that is credible, it should be the one to confront FIFA and say we want CAF to have the same mandate that UEFA has been having, so as to deal with issues of football in Africa.

As regards the question asked by the Member for Nyakach, if we sever links with FIFA, the only thing that will happen is that we will not participate in FIFA organised matches for two years. Thereafter, we can reply. Had I done that from the time I took charge of the Ministry, one year would already have lapsed. So, we are ready to sever links with FIFA, so that we can re-organise ourselves if these elections are not going to be credible, or if we feel that we have tried, as Government. As I told you, my patience has really been overstretched on this issue. People say that I am not commenting on the matter. I have been trying to see what we can do to salvage the situation. However, as it appears, I am equally anxious about the young men and women you have seen demonstrate out there.

Mr. Speaker, Sir, as a veteran of football administration in Kenya, hon. Sambu knows better. He was even injured because of football. He is very much aware of the kind of thuggery that exists in the management of football in this country. Some of the officials who were there during his time are still there. So, he should be aware of this, if he is contemplating to, once again, participate in this football affair. The issue of integrity and leadership is still a major problem in the management of football. I have no doubt in my mind that FIFA is the root cause of all these problems, because of trying to micro-manage football in Africa and maintaining *status quo* in certain countries. Europe is resisting this tendency. I am sure that we can also resist it in Africa. That is why I said we are ready to sever our links with FIFA.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Order, Minister. Avoid being repetitive.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. The Minister has said that he has no confidence in the elections being organised through the FIFA, because there is no list. He has told us that he has no confidence in FIFA's manner of managing football in Africa. He finally said that Kenya's FIFA ranking is so bad, and that if we pull out of FIFA we will only have to wait for two years to re-apply. Is he in order, despite all that, to actually continue exercising patience with the management of football instead of taking immediate and drastic measures to salvage this very important activity for our children?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Speaker, Sir, as you are aware, currently we do not have a law in place, under which to govern sports in this country. The Cabinet approved the Sports Bill only the other day, but it is still at the Attorney-General's Chamber. I hope that we are going to speed up its fine-tuning, so that it can be brought to this House for debate and passage. So, there are certain things we need to do to also put our house in order.

As to whether we have confidence in the FIFA process or not, I have my doubts. That is not in question but we are saying we could get Kenyans of integrity to manage this process for us, so that the Government does not get involved in business which is not supposed to be Government business. We are supposed to have federations to run sports in this country. That is what the Sports Bill envisages. Once Parliament passes that Bill into law, it will be very clear as to what role the Government should play and what role the federation should play.

Mr. Speaker, Sir, we are currently operating in a very delicate situation. That is the kind of situation we are in. We still do not have an Act of Parliament clearly defining the relationship between the sports federations and the Government. That is why my predecessors' attempts to clean up the management of football in this country ended in court and the *status quo* remained. I did not want to take that route because the outcome is quite obvious.

Mr. Speaker: Very well; that must rest the matter.

Mr. Sambu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Sambu. That must rest the matter.

Yes, Member for Cherengany!

POINT OF ORDER

DE-GAZETTMENT OF KEBS MANAGING DIRECTOR

Mr. Kutuny: On a point of order, Mr. Speaker, Sir. I request a Ministerial Statement from the Minister for Industrialization regarding the sacking of the Kenya Bureau of Standards (KEBS) Managing Director, Mr. Joseph Kosgey. In the Ministerial Statement, I would like the Minister to address the following:-

(a) the circumstances under which the KEBS Managing Director, Mr. Kosgey, was de-gazetted;

(b) clarify whether the KEBS Board was consulted and if so, whether he could produce the Minutes of the board meeting that arrived at the decision to sack Mr. Kosgey;

(c) outline to this House the performance report of Mr. Kosgey during his tenure at the helm of KEBS; and,

(d) state why Mr. Kosgey has not been paid for the period he served as Managing Director of the standards body.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Minister for Industrialization, when will the Ministerial Statement be delivered?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, he will get the Ministerial Statement by Tuesday, next week.

Mr. Speaker: Deputy Leader of Government Business, we directed that the two other Ministerial Statements or so---

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, it will be delivered on Wednesday morning.

Mr. Speaker: Wednesday morning will be fine.

Yes, Mr. Affey!

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 23

HUMANITARIAN CRISIS DUE TO FAMINE IN NORTHERN KENYA

Mr. Affey: On a point of order, Mr. Speaker, Sir. Pursuant to Standing Order No. 23, I beg to move that the House adjourns to discuss the humanitarian crisis brought about by the ravaging famine in many parts of the country and support the ongoing home grown initiative by Kenyans for Kenya.

Thank you.

Mr. Speaker: Hon. Members, indeed, hon. Affey has complied with the provisions of Standing Order No.23, in the sense that I received notice of his intention to so move at least two hours before the commencement of this sitting. I am further satisfied that the matter is definite, urgent and of national importance, and that it may be raised on a Motion for Adjournment of the House.

(Several hon. Members stood up in their places)

Order! Hon. Members, I am satisfied further that hon. Affey has the requisite numbers. This House will adjourn for that purpose to take the Motion at 5.30 p.m., so that you can have one hour to deliberate the Motion.

Next Order!

MOTIONS

**ADOPTION OF REPORT ON APPROVAL OF
DR. SAMUEL KOBIA FOR APPOINTMENT
TO JUDICIAL SERVICE COMMISSION**

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Constitutional Implementation Oversight Committee on the approval of the Rev. Dr. Samuel Kobia for appointment to the Judicial Service Commission (JSC) laid on the Table of the House on Thursday August 4th, 2011.

Mr. Speaker, Sir, this is pursuant to Article 171(2) of the Constitution. The Committee had already considered Members of the Judicial Service Commission, which Members were actually approved for appointment on the Floor of this House. Under the Article, one woman and one man were appointed by the President to represent the public. However, following the resignation of Bishop Antony Muheria from the JSC, the National Assembly received a letter informing the House as much. The Speaker then directed that the name and Curriculum Vitae of Dr. Samuel Kobia be referred to the Constitutional Implementation Oversight Committee for consideration prior to approval by the House.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

He further directed that the Committee tables its Report on the nominee on or before Tuesday the 2nd of August 2011.

Mr. Deputy Speaker, Sir, the Committee held a meeting with the nominee on Tuesday 2nd August 2011 at 10.00 a.m. The Committee deliberated on the suitability of the nominee to serve in the Judicial Service Commission (JSC) and found him qualified for appointment to the JSC.

Some of the issues that came up in relation to Rev. Kobia just to give a background are that; he is a Kenyan citizen born on 20th March, 1947 and holds a doctorate degree in divinity from Christian Theological Seminary in Indianapolis, Indiana USA, he has a Masters in City Planning from Massachusetts Institute of Technology, Cambridge Massachusetts USA, a Diploma in Urban Ministry from the Institute on Urban and Industrial Society at Marcomic Theological Seminary, Chicago USA and a Diploma in Theology from St. Paul's United Theological College. He is currently an ecumenical special envoy to Sudan where he provides high level diplomacy and advocacy on Sudan for the All African Conference of Churches (AACC) and the World Council of Churches (WCC). He has served as the Secretary-General of the WCC and is a member of several organizations including the AACC, National Council of Churches of Kenya (NCCK) and Africa Council of Elders (ACE), Africa Monitor South Africa, amongst others.

Mr. Deputy Speaker, Sir, we questioned him in relation to his tax obligations and he has fully complied with his tax obligations to the State and he has never been dismissed from office for contravention of provisions of Article 75 of the Constitution which deals with the conduct of State officers. He has not been adversely mentioned in any investigatory report of Parliament or any commission of inquiry. He is not a member of any political party and does not expect any conflict of interest to arise. He has never been charged in a court of law for any offence.

Mr. Deputy Speaker, Sir, I would want to add that following the approval by the Committee of Dr. Rev. Kobia, we saw newspaper reports in relation to him about some PhD and the fact that somebody was disputing it. The Committee today deliberated on the issue and noted that, that information was not before the Committee at the time of our deliberations and further that we were not looking for PhD qualifications. The issues that have been raised do not actually raise issues of integrity. Therefore, as a Committee, we are still convinced that he is qualified and we, therefore, would wish to encourage the House to adopt the Committee Report.

On behalf of the Committee, it is my pleasure and privilege to present and commend this Report on the approval of the nominee to serve in the JSC, to the House for adoption, pursuant to the Communication from the Chair made on Wednesday 27th July, 2011 and in accordance with Article 171(2) (h) of the Constitution.

Mr. Deputy Speaker, Sir, I beg to move. I request Mrs. Noor to second.

Mr. Deputy Speaker: Yes, hon. Sophia!

Mrs. Noor: Thank you, Mr. Deputy Speaker, Sir. I beg to second the Motion.

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

Mr. Deputy Speaker: Yes! What is your point of order, hon. Harun Mwau?

Mr. Mwau: Mr. Deputy Speaker, Sir, I would like your ruling on this particular matter of this nomination based on Schedule Six - the Transitional and Consequential Provisions of the Constitution and more particularly Article 20 of the Schedule. This is the Article that establishes the JSC.

Mr. Deputy Speaker, Sir, the JSC that was established and which is in force, is the JSC established under Article 20 (3). The lifespan of that particular Article is three years. The person being replaced was appointed to serve for three years. The power of the President is to appoint a person only for the time being under Article 20 (3) (d) which states that:-

“One of the members appointed by the President under Article 171---

Mr. Deputy Speaker: Order, Mr. Mwau! Could you switch off the microphone?

(Mr. Mwau switched off the microphone)

Mr. Harun Mwau, a matter is only validly seized of the House after it has been proposed. When it is moved, seconded and proposed by the Chair, only then does it become a matter that is validly before the House. Before the Chair says anything about the Motion, as you are requesting, it must be proposed.

Mr. Mwau: Thank you, Mr. Deputy Speaker, Sir.

(Question proposed)

Mr. Deputy Speaker: What is your point of order, Mr. Mwau?

Mr. Mwau: Mr. Deputy Speaker, Sir, I request for your ruling on the matter of appointment or replacement of the bishop in question. This is on the fact that the Sixth Schedule – the Transitional and Consequential Provisions of the Constitution establishes the JSC. The persons who are appointed to the JSC under Article 20 (3) are to be in office for three years. That is what gives the President the power to appoint the person in question under Article 20 (3) (d) of the Schedule which states:-

“One member appointed by the President under Article 171(2)(h) to be identified by the President”

That is the person. However, currently the person we are appointing is under Article 171(2) (h) of the Constitution which states that:-

“One woman and one man to represent the public, not being lawyers, appointed by the President with the approval of the National Assembly”

The lifespan in office of this particular person, under these particular provisions, under Article 171(4) is five years. This is completely contradictory. Therefore, I think the appointment under Article 171(2)(h) is inconsistent with the Constitution itself.

Mr. Deputy Speaker: In other words you are saying certain provisions of the Constitution contradict other provisions of the Constitution?

Mr. Mwau: That is correct Mr. Deputy Speaker, Sir. The particular JSC that is existing now is supposed to be a JSC appointed under Article 20 of the Transitional and Consequential clauses which is supposed to have a lifespan of three years only. That is the only place where the President has the powers to appoint a person under Article 20(3)(d). You cannot, therefore, move from there.

Of course, that is the same person whom we are replacing. The person who resigned was appointed under Article 20(3)(d) of the Sixth Schedule. We have now moved from there to Article 171(2)(h) where the lifespan is five years. This is clearly inconsistent.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you, Mr. Deputy Speaker, Sir. With utmost respect to hon. John Harun Mwau, I think, yet again, he is reading the Constitution very selectively. The fact of the matter is that this House has already appointed the JSC and approved the names. The question of going back to Section 20 of the transitional clause is spent because that section, strictly speaking, was merely seeking to provide for the short-term measures to ensure that the Judicial Service Commission is established. Therefore, the business on the Floor of the House – and I want to salute my student who, apparently, learnt very well from me in moving the Motion – is clearly seeking to satisfy the requirements of Article 171, not because we are now appointing a new Judicial Service Commission as hon. John Mwau is suggesting, but because we appointed and one person, out of his own constitutional right, decided to resign. Therefore, what we are doing is merely to satisfy Article 171(2)(h) because there is a vacancy. The vacancy was created by a person nominated and appointed under Article 171(2)(h). Therefore, I beg with respect to my good neighbour from Makueni County, to withdraw his objection and you rule that this Motion is in order.

Mr. Mwau: On a point of order, Mr. Deputy Speaker, Sir. With due respect to hon. Mutula Kilonzo, I would like to say that the power of the President under Article 171(2)(h) is to appoint one woman and one man. So, if the President was to exercise that power, then he must appoint one man and one woman. However, in reference to Article 20, the current Judicial Service Commission – it has a lifespan – it must only exist for three years. The power of the President is to appoint a person for three years under Article 20(3)(d). That is the person we are appointing. We are now not appointing a person under Article 171(2)(h). The President is supposed to appoint under Article 20(3)(d). If you look at Article 171, you will not find that Sub-article (4)(h). It does not exist. Therefore, your ruling is completely necessary as it might cause a lot of problems

with the current Judicial Service Commission. You might appoint one person to serve for five years while the lifespan for the current Commission is constitutionally three years only.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Yes! I hope that the Committee can make a comment on that. Could you comment on the objections raised by hon. Harun Mwau?

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir. I would like to agree with the Minister for Justice, National Cohesion and Constitutional Affairs that we are filling a vacancy from a resignation of a member. Therefore, the appointment had already been done. Unless the Member is saying that he is questioning the entire process of the appointment of the entire Judicial Service Commission. Then, that would be a totally different issue. However, if he is not questioning the entire process, then I agree with the Minister for Justice, National Cohesion and Constitutional Affairs that what we have done as a Committee is correct.

Mr. Mwau: Mr. Deputy Speaker, Sir, I would like to insist that Article 20 of the Transitional and Consequential Provisions--- When you look at Article 20(3), the persons enumerated there are Court of Appeal Judges, High Court Judges and one of the advocates to be appointed. However, if you look at Article 171(2) of the Constitution, you will see that a High Court Judge must be elected. There is a total difference between appointment and election. So, the process is completely different. The people who will serve a term of three years will be appointed and those who will serve in the Judicial Service Commission under Article 171(2) will be elected. That is the difference I am trying to bring out.

The Minister for Energy (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. I do not see the confusion that the hon. Member is talking about because Section 20 of the Constitution that he is referring to relates to transitional provisions. We have already passed that as far as the Judicial Service Commission is concerned because it has already been appointed. So, Section 20 no longer applies. All the appointments are to be under Section 171. Therefore, there is no conflict because we have already moved away from Section 20.

Mr. Mwau: On a point of order, Mr. Deputy Speaker, Sir. I do not know why we are missing the point. The transitional provision that the hon. Member has referred to under Article 20 (3), under the Constitution itself, states clearly that the Judicial Service Commission would serve for a period of three years. You cannot amend that. The Judicial Service Commission that exists is a transitional one with a lifespan of three years and not otherwise. That is why your ruling is very necessary.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I would like to seek a clarification from hon. Mwau. The team has already been appointed. Unless he says that was an illegality, then we would have to start there. Secondly, it is on the basis of those appointments that you are replacing one of those, who is not available. Is hon. Mwau saying, according to the law that we should neither have appointed nor have replaced? Otherwise, what would be his recommendation?

Mr. Mwau: Thank you Mr. Deputy Speaker, Sir. Hon. Assistant Minister, I am trying to say that to appoint or replace a person like Dr. Kobia he needs to appoint him under Article 20(3). It is the President who has power under Article 20(3)(d) of the

Constitution. That is the process upon which all other members of the current Commission were appointed. I am pointing out that we cannot jump from Article 20(3)(d) where the lifespan of the Judicial Service Commission is specifically stated as three years, and we move to Article 171(2), whose process is completely different. The power of the President, under 171(2)(h) only empowers him to appoint one man and one woman. So, if he is going to exercise his powers under Article 171(2)(h), he must appoint one man and one woman or one woman and one man. However, under the transitional clauses, Section 20 only requires one and not two.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I can actually see what the hon. Member is talking about. I will read the transitional clause 3(d) that he is talking about. It says:-

“To ensure continuity in the operation of the Judicial Service Commission, despite Article 171(4), when the Commission is first constituted, the following member shall be appointed to serve for three years only.”

It moves on to part “d” to say: “One of the members appointed by the President under Article 171(4)(h) to be identified by the President. If you go back to Article 171 of the Constitution, which we are talking about, you will see that it is the prerogative of the President to determine who out of those two appointees will serve for three years and who will serve for five years respectively. I do not see a contradiction.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, hon. Odhiambo-Mabona has said what I wanted to say, that hon. Mwau is stuck with transition but transition is over, and now we are dealing with a Commission that is in existence and replacing one person. The other woman, whom he has forgotten about, is Prof. Mango, my good friend, who is already serving and was acting as Vice-Chair. So, this is a matter that is quite clear. His Excellency the President is replacing one man because one man resigned.

Mr. Imanyara: Mr. Deputy Speaker, Sir, indeed, there is no constitutional issue here, because the duration of appointment is not the same as filling a vacancy. All that we are doing now is filling a vacancy. We are not determining the constitutionality of the term. If that issue should come at a later stage, then the proper organ for determining that issue will be the Supreme Court as provided by the Constitution.

Finally, this is an issue that the Committee itself has deliberated upon, reached a conclusion and made recommendations to this House. I think it will be proper for us to continue and debate this Motion. If we feel that for some reason it is unconstitutional, then it will be perfectly in order for us, for that reason or ground, to say so and vote against it. But for now, I do not see, on the face of this Motion, anything unconstitutional.

Mr. Deputy Speaker: If there was a contradiction between a substantive section of the Constitution itself and a transitional clause in Schedule Six, what would be--- The Chair is not saying that there is a contradiction, but in the event that it was there, then hon. M. Kilonzo should shed some light on that.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, thank you very much for using the word “if” because we cannot see any contradiction, but if there was, the substantive provisions of the Constitution would override the transitional provisions, particularly in a situation like that in which we are today. The House has already vetted, approved and

forwarded to the President names. In fact, it is rather sad that it has taken so long to replace the bishop who resigned. Therefore, there is no contradiction, but even if there was, because the transitional provisions have already occurred; we have already made the first appointment following the Constitution. Therefore, the operational article today is 171.

Mr. Deputy Speaker: Precisely. Hon. Mwau.

Mr. Mwau: Mr. Deputy Speaker, Sir, I would want to respond and say two things: One is what hon. Odhiambo-Mabona said about the President having discretion. I would want to state categorically that the President would have no discretion on the term of the members of the Judicial Service Commission (JSC). The term is constitutional. It is three years for the current JSC, and for the one in future it will be five years, and the President cannot reduce or extend it. Secondly, I would want to say that the Constitution itself provides that the current JSC will serve for a term of three years, and we are replacing a person who left having been appointed to serve for three years under Article 20(3)(d). So, it is there where we are struck. We have not moved to the particular--- Also the other officers like the judges of the High Court and those of the Court of Appeal are appointed. When we come to the substantive Article 171(2), then those people will be actually elected and not appointed. If we look at what is supposed to happen, under Article 20(3)(d), it is appointment. Under Article 171(2), it will be election. So, the Constitution creates completely different processes of appointing these people; I am saying that we are only---

Mr. Deputy Speaker: Order, hon. Mwau! You can have a nomination, an election and an appointment. Members are either nominated or elected, ratified by Parliament and appointed by the President. Is that not how it is, Mr. M. Kilonzo?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, that is so.

Mr. Deputy Speaker: So, there is no contradiction. In any case, the actual appointment is the swearing in itself. Mr. Wetangula.

Mr. Wetangula: Mr. Deputy Speaker, Sir, I think hon. Mwau is misreading and misinterpreting the Constitution for reasons that have been advanced by my learned colleagues, hon. Imanyara, Odhiambo-Mabona and Mutula Kilonzo. Indeed, if you have been listening to the Member, he is not challenging the constitutionality of the Motion. He is just engaged in arguments and arguments. So, what we should do, in my view, is allow the Motion to proceed. Hon. Mwau can contribute in the manner he wishes. He can cite as many provisions of the Constitution as he thinks fit. In the process, he can convince some Members who may be swayed to vote for or against the Motion. As it is, we have already transitioned. What is transition? It is moving from one place to another. You cannot transition continuously. We have already transitioned and there is a Chief Justice, Deputy Chief Justice and a Supreme Court in place, and the Judiciary is being reorganized. Therefore, what we are doing here is that we are replacing a person who was appointed and resigned for reasons that he gave. So, I do not see any difficulty that hon. Mwau is facing in the issues that he is raising. I would really urge you that if there is any reason for you to give a ruling at all, it can come as debate goes on, so that we can move on with the debate; I do not see any issue that should hold us back from debating this Motion.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. I think I need to clarify on record that hon. Mwau is misrepresenting me. I am not saying that the President sets the term. It is the Constitution that sets the term; putting it in a layman's language, Article 171 basically states the term for the JSC. It says that members of the JSC shall serve for five years, except---; then it goes to the transitional clauses which talk about the exceptions. The exceptions talk about one person appointed by the President at his discretion; he appoints two. It is for him to decide which one will serve three years and which one is to serve five years. That is what this is saying in simple terms. That is as far as the discretion goes; that is what I read. Actually it says one of the members appointed by the President under Article 171(4)(h) will be identified by him. That gives discretion.

Mr. Deputy Speaker: Fair enough. The Chair rules that this debate goes on; in the meantime, hon. Mwau, the Chair is also making the necessary references and trying to digest and understand the whole context; but it does not see any reason for this debate to be halted at this stage.

Proceed, hon. Imanyara!

Mr. Imanyara: Mr. Deputy Speaker, Sir, I rise to support this Motion and recommendation for Dr. Kobia's appointment.

Mr. Deputy Speaker, Sir, he is a person well known to any person who has been involved in the struggle for the introduction of democratic reforms in this country, and particularly for the adoption of the new Constitution. His history in the NCK and other places he served speaks volumes for itself. When the Committee met to determine whether or not to recommend the appointment of Rev. Dr. Kobia, they were unanimous that he qualified fully. They went further, as a result of reading extraneous matters that were raised by the media regarding his qualifications to have a second meeting to consider those issues that the media raised. In their opinion, they came to the conclusion that those issues were unrelated to the integrity and qualification of Dr. Kobia to be appointed to serve in the JS C.

Mr. Deputy Speaker, Sir, I see no reason why this debate should be extended for long and I support this Motion.

Mr. Wetangula: Mr. Deputy Speaker, Sir, I support the nomination of Rev. Kobia. He is a person with a very rich history in this country. In the ecumenical world, he has been very distinguished. In fact, I support him because I gave him an assignment to support the process of independent South Sudan leading African churches. He did a distinctive job. He was lauded by the AU for having been a person who spearheaded the reconciliation of churches in South Sudan to see the need and support the process of independence.

Indeed, Dr. Kobia will enrich the Commission. I have no doubt that he will live to the expectations of everybody. I urge the House not to belabour this too much, but to support the appointment so that we can move and do other things to implement the Constitution.

Mr. Musyimi: Mr. Deputy Speaker, Sir, as the House may know, I was privileged to take over as General Secretary of NCK from Dr. Kobia way back in 1993. He is somebody that I can say I know. When I learnt that this position fell vacant, I was happy that he applied for it and he was interviewed. The Committee has done the needful. May I take this opportunity to commend the Committee; they have done a remarkable

job, and especially the idea of going back to deal with the matter after the media reports, speaks highly about them.

Mr. Deputy Speaker, Sir, a lot of very good things can be said about Dr. Kobia and I will be one of those who can say so. He has distinguished himself in helping this country in many ways; not only grasping the importance of justice, but also he is a tremendous player in civic education and building civic competence in our Republic. Knowing him and the experience that he brings on board from ecumenical world globally, this country will benefit a great deal from the judicial mind and the wisdom, reflective of the person that Dr. Kobia is.

I beg to support.

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I also rise to support this Motion.

Mr. Deputy Speaker, Sir, the purpose of the JSC is to promote independence, transparency and accountability within the Judiciary. The question that we should be asking ourselves as a House is whether Dr. Samuel Kobia is qualified to be appointed a member of the JSC. In so doing, whether he is competent in promoting the competence, independence and transparency of the Judiciary in this country.

Mr. Deputy Speaker, Sir, personally, I know Mr. Samuel Kobia. He is a man of high integrity. Indeed, his academic qualifications are also not in doubt despite what we have read in the media. I have seen a copy of the PhD thesis that he wrote. I have also seen a copy of the book that was published as a result of the research that formed the PhD.

Mr. Deputy Speaker, Sir, as to what happened to that university there, it was not of the making of Dr. Kobia. In any case, he has another doctorate. He has a Doctor of Divinity. So, the title “Doctor” is still properly used as one of his titles because with or without that PhD which has been challenged, he is still a Doctor of Divinity. Dr. Kobia will do a perfect job. As I said, he is a man of high integrity.

I would like to support this Motion, so that he can join the JSC.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir, for this brief moment to also add my voice in support of Rev. Kobia.

Mr. Deputy Speaker, Sir, I am a member of the Committee. We interviewed Rev. Kobia. He appeared to us as a very dedicated person. He is somebody who this country can trust to be able to carry out the duties of the JSC. My only contribution here is to ask the public and the media, that when we are vetting candidates for whatever position, it will only be prudent that they actually bring written memoranda or appear before the Committees themselves, rather than using media reports to cast innuendoes and portray people in bad light when it is not proven. I think it is only right that they respect the Committees that are doing the vetting and actually bring this material if they have substance at all. They should bring them before the Committee, so that the Committee can consider them. Otherwise, using the media to try and discredit a candidate of Rev. Kobia stature, I think is a very underhand move and it should be discouraged as much as we can. Even as a Committee of the House vets a candidate, it actually operates as Parliament. We know in Parliament we cannot take newspaper reports as evidence unless they bring us the actual evidence. So, in this particular case, we should discourage such moves by the public or media because we will be vetting very many candidates for

various positions. If this kind position continues, it might cause a lot acrimony for no reason.

With those few remarks, I beg to support.

The Assistant Minister for East African Community (Mr. Munya): Mr. Deputy Speaker, Sir, I want to join my colleagues in supporting this Motion nominating the Rev. Samuel Kobia to the JSC.

There is no doubt that he will add a lot of value and integrity in this very important institution in the country. He is a towering theologian who has led the ecumenical movement, not only in this country, but also in the world. He has always fought on the side of the oppressed people of the world. Indeed, some of the problems he has encountered and some of the enemies he has made in the world are because of fighting on the sides of the voiceless people, people who are fighting liberation like the Palestine and people who are fighting for independence such as the Southern Sudanese. That has not always made friends for him. Some of the problems he experienced when he was heading the World Council of Churches arose from this fact that there are right wing movements within the council and church that were opposed to the church standing up for the oppressed people of the world. Indeed, that strengthened his Curriculum Vitae (CV). That does not make his CV weaker. It makes it stronger that when he works in the JSC of this country, he will be standing firm and giving that integrity and independence of mind that this important institution of this country requires.

With those few remarks, I beg to support.

Mr. Mwau: Thank you, Mr. Deputy Speaker, Sir. I would like to say that Dr. Kobia is a person of good integrity, reputation and dignity. He will be an asset to the Judicial Service Commission (JSC). He is a person who befits to be appointed as a member of the JSC. He is a person whose morals have stood for themselves. He is a person who commands respect. He is a person who people believe. I support his appointment, save for the provisions of the Constitution that appoint him.

Thank you, Mr. Deputy Speaker, Sir.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I also rise to endorse the nomination of Rev. Kobia. It is very important to give rewards even in places of work. It is important to give merit. For those who have stood and have the requisite credentials and have had the courage to be torch bearers for the reform movement, it is important to give them a chance.

That chance cannot be compromised because of some controversies that may deviate from the main issue. The question here is integrity; whether the person is qualified and whether that individual has the courage to face the task ahead.

It may also be important to note that we do not need to be very worried about the criticism that may come from other sectors. I think that is an important criticism. We do not need to be worried. We can only do our responsibility and our duty. Those other organs, be they the civil society or the media, they also have a responsibility in this new dispensation to engage with what we as Parliament do.

Rev. Kobia has had his credentials endorsed previously by organs that were completely independent of the conservative and negative forces that were blocking reforms. That is an important reason to consider when we are doing appointments. Some of our worries have been that we recycle individuals because they have been baptized in a political process and, therefore, we just give them positions for ethnic and patronage

considerations. However, this is a different case. He is an individual who is recognized nationally, regionally, continentally and internationally for his integrity and his firm position on making the State accountable in dealings of public affairs.

I strongly support.

Mr. Ruteere: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity also to add my voice that I support this Motion of the appointment of Rev. Samuel Kobia to the JSC. I know him longest amongst us all because we were in Athine Secondary School with him. We have been with him in the Methodist Church for a long time.

I support this Motion for reasons that have been advanced; that he is an honest man with very high integrity. He has the right qualifications and has wide experience in world international affairs, having served as the General Secretary of the World Council of Churches and handled very important and controversial matters and brought peace in Sudan. Currently, he has been given a mission by the World Council of Churches to bring about reconciliation between the warring parties in Sudan. Even after having retired, the World Council of Churches recognizes his role in bringing peace to the world.

For these reasons and having known him for that length of time, I wish to say he be appointed. Thank you.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, one of the most fundamental items that must be noted in this country is the requirements in Article 10 of the Constitution: National Values. As we are well aware, in Article 20 of the Constitution, we say that in interpreting the Bill of Rights, a court, tribunal or other authority shall promote:

(a) The values that underlie an open and democratic society based on human dignity, equality, equity and freedom.

Mr. Deputy Speaker, Sir, I want to salute His Excellency the President because for the second time he has shown that he is well aware of the new Constitution and the dreams that Kenyans have. Why do I say so? I say so, because even during the transitional period when the first Commission was being set up, he nominated, not only a distinguished lady, Prof. Mango, but also a minister of the church, Bishop Muheria. Sadly, Bishop Muheria had to resign, citing problems of work and overload.

Now for the second time, His Excellency the President and, I believe, in consultation with the Right Hon. Prime Minister, has shown the country that he is on top of everybody else including those who want to succeed him. This is because he has nominated again a person of whom it can be said without fear that he understands the national values, the principles of human dignity, equality, equity, freedom and above all, the Bible.

Therefore, I am privileged to be speaking in favour and support of this wonderful Kenyan product, who has now been recognized the world over.

For those and many other reasons that do not need to be repeated, I beg to support.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to also support the nomination of Rev. Kobia. I was in the committee that discussed this name. The Committee, as we were told earlier on, was quite unanimous on this matter for a number of reasons. One, the history of Rev. Kobia in terms of the liberation of this

country is well known to many of us. It is an appropriate time and he would be the right person to be part of the change that we are witnessing now; a change that he has contributed to.

Secondly, coming from a religious background, he is a different kind of pastor. Apart from being intelligent and analytical, he brings some soberness. He is the kind of person who appreciates diversity as it came out clearly in the Committee. He has made it very clear that it is high time that the church and those who belong to the secular State began to appreciate their differences for the sake of the country and to appreciate the fact that we all are not the same. It is, therefore, much more important to tolerate and to be aware of some of the factors that may not relate to what we believe in. He is widely traveled. He is widely published. His publications are renowned, including the controversial dissertation. I think it is a very good piece of work. A lot of people have read it already.

I would like to also add my voice to those who say that, not only was the PhD not a requirement, but that he has another PhD, anyway. Secondly, even that other second PhD was being paid for by the same World Conference of Churches where the president who began this controversy doubted it. So, it was actually a product of the same church and the same forces that were doubting it.

My regret is that Rev. Kobia was not recruited to the Truth, Justice and Reconciliation Commission which he tried to be recruited to initially because he would have been a very good addition to that. However, I am happy that now he has got a chance to serve this country. I have no doubt that he will do a very good job.

I beg to support.

Mr. Deputy Speaker: Mr. Njuguna!

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

Mr. Deputy Speaker: Order, Mr. Affey! You do not want to take away the chance of the hon. Member for Lari to also contribute.

Proceed, Mr. Njuguna.

Mr. Njuguna: Thank you, Mr. Deputy Speaker, Sir for seeing me. I have repeatedly risen up in order to get a chance to make a contribution to this very important Motion.

Let me start by saying that the CIOC has done a very good job by way of preparing a very credible report. We thank the Vice-Chairlady of this Committee for the very able manner she presented this Motion.

Let me also support very emphatically this appointment of Rev. Dr. Kobia. He is a man who is well read, a distinguished learner and a servant of the people. This man has served the local church well, the international community and he has initiated good harmony in our churches in the country.

Mr. Deputy Speaker, Sir, Mr. Kobia is a role model and a good ambassador of this country. He is a man who should be emulated by many in this society. Therefore, I fully support the appointment of this distinguished son of this land.

I support.

Mr. C. Onyancha: Mr. Deputy Speaker, Sir, I rise to support the appointment of Rev. Kobia to the Judicial Service Commission. My Committee unanimously agreed that this is a man of substance who will bring credit to the panel and whose credentials are unquestionable. I also want to mention that the qualifications for that position did not

include a PhD. It did not matter to us if he had it or not. It is high time that we stopped being political and also stopped dealing with trivialities. I want to congratulate the Minister and his team for forwarding to us a name of a person of substance.

Mr. Deputy Speaker: Before I give the Floor to another Member to contribute to the same, I had told the House that I am going to digest and try and understand the objections that were raised by hon. Harun Mwau.

I want to give a definite direction on that. Hon. Mwau, when you look at the Transitional Article 20(3) which says that:-

“To ensure continuity in the operation of the Judicial Service Commission, despite Article 171(4), when the Commission is first constituted, the following members shall be appointed to serve for three years only-“

Always when we read the Constitution, we not only look at the figurative face value interpretation of the Constitution, but we also look at what was the intent and object of the framers of these provisions in the Constitution. This is basically a staggering. Continuity can be realized by either staggering the appointments. You appoint some now and then others later or as it is done right now as provided for in this Transitional Article or making an exception to certain appointees in the first constitution and appointing them for three years. Subsequent to that, the ones who are going to replace the ones who are appointed for three years will be appointed for five- year terms, which is the period provided for under Article 171. That way, you will have the terms of certain members of the Commission ending at different times. They do not end at the same time. This is the assurance of the continuity. So, I do not see any contradiction between the two and, consequently, rule that this debate continuous to conclusion.

Mr. Affey: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity o also support this Motion. I want to thank both the Minister and the Committee for a job well done.

This nominee is a known Kenyan and nobody doubts his ability to transact efficient and effective business within the JSC. But in future, I would like the Committee to make sure that they are very sure about the candidates that they bring before this House. They should investigate thoroughly and recommend the way they have done in unison, so that we are not treated to the kind of treatment that we had when we were approving the name of the Director of Public Prosecution where the Committee recommends and at the same time suggests investigations. This goes against the spirit and the text of the Constitution. What we had last time was a recommendation and no recommendation. In future, they should be very emphatic like they are with Rev. Kobia, so that we can know that once a name comes here having been deliberated very strongly by a Committee of this House, then that name only requires a few minutes for it to pass because the Minister is pressed with many other Bills. Then we can proceed to debate other Bills that are urgent and important.

Mr. Deputy Speaker, Sir, if that was done, perhaps, the kind of hullabaloo that we had surrounding other nominees would not have been there. The Chairman, the Vice-Chair and the Members of the Committee are here. They should be emphatic every time they bring a name before this House that, that name deserves to be passed. They should never bring a report that is divided. They must, as much as possible, build consensus the way they have done in this one.

With those few remarks, I support the Motion.

Mr. Deputy Speaker: Order! Nonetheless, on the same ruling, I wish to also point out the fact that there is a typographic error. There is no Article 171(4) (d). It should be Article 171(2) (d). This is merely a typographic error, which I am sure will be corrected. This is also based on the spirit and the object of the Constitution and the mind-set of the framers. The framers of this Constitution are us. It is not 200 years ago or the 250 years ago like the American Constitution. We tend to forget what we were thinking and imagining when we were trying to put this Constitution together at many levels including the Parliamentary Select Committee as well as the Plenary of the House.

Mr. Mwau: Mr. Deputy Speaker, Sir, I take this opportunity to appreciate your ruling and I am very grateful. Thank you.

Mr. Deputy Speaker: Hon. Odhiambo-Mabona, you have one and a half minutes to conclude your reply.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I just want to thank the Members for their unanimous support. This basically reflects what happened in our Committee. Not only did we have unanimous support for this candidate, but it was overwhelming support. He is one candidate that was passed with a lot of distinction. We were extremely impressed and even if anybody is in doubt as to his academic credentials, the fact that he even went to the Massachusetts Institute of Technology (MIT) speaks for itself. That alone, without a PhD is enough. I want to thank the Committee that we were able to even go back and look at the issues that appeared in the media and we did not see any issue arising on integrity.

I just want to challenge the public to be extremely vigilant so that we do not bring up issues after the fact, which happens very frequently. We are moving very fast as Parliament to ensure that we implement the Constitution timely, we urge the members of the public to keep up with our pace.

With those few remarks, I beg to move.

(Question put and agreed to)

Mr. Deputy Speaker: Hon. Affey, you have the leave of the Chair to move, under the Standing Order No.23, adjournment on a definite matter of urgent national importance. Proceed!

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.23.

HUMANITARIAN CRISIS DUE TO FAMINE IN NORTHERN KENYA

Mr. Affey: Thank you very much, Mr. Deputy Speaker, Sir. I beg to move that the House adjourns pursuant to Standing Order No.23 to discuss the humanitarian crisis brought about by the ravaging famine in many parts of the country. I support the ongoing homegrown initiative by Kenyans for Kenya.

First of all, I want to thank you and the House for acknowledging that this Motion is important and timely. We live in a country where majority of our people are living in

severe strain. They live in pain and frustration. They live in almost utter hopelessness. The current situation that we face in our country is not acceptable. It is not a situation that we can accept 45 years after Independence.

Mr. Deputy Speaker, Sir, we cannot be proud of a country where people in part of it have full stomachs for a night, while people in other parts are ending up in graves because of lack of food and water. We had been forewarned of this situation. Our country had been forewarned. Our experts informed our Government over one year ago what lay ahead. The situation we are in today could have been controlled or managed but we have not been able to do so. I have just returned from Wajir County. The situation in almost all the constituencies of Wajir, Garissa and Mandera Counties is deplorable.

The people who live in the constituencies of Turkana, East Pokot and West Pokot Counties are a frustrated lot. They are in pain. That is why, as Parliament and as a country, we applaud the home grown initiative known as “Kenyans for Kenya”. This is an important initiative, which shows how Kenyans are thinking outside the box. It shows that we are no longer a country which does not care for her less privileged members of society.

Mr. Deputy Speaker, Sir, in May this year, Members of Parliament from pastoral areas, under your leadership and the leadership of senior Ministers, held a session with His Excellency the President and the President acknowledged the situation in which Kenyans were. In May, the Government declared drought a national disaster as a result of pressure by Members of Parliament, who felt the pain of their own constituents.

However, from May to August, action by the Government has been very slow. Of course, the Government moved in and declared a national disaster. However, somebody who speaks on behalf of the Government and the President, personally made it look like what Kenyans were going through was trivial. He said that Kenyans never died, and that if anybody had died he had died of diseases. To be precise, he said “hunger-related diseases”.

Mr. Deputy Speaker, Sir, it is strange that the officer contradicted the position of the same Government. If there was no problem in this country, the President and the Cabinet would not have declared drought a national disaster. When you declare something a national disaster it means that, truly, there is a disaster, and the disaster has to be confronted. The manner in which the Government Spokesperson spoke on this issue was reflective of a Government which does not care. He was not really a caring Government official. We are pained by his outright denial on national television.

I want to applaud the efforts by the Kenya Red Cross Society. The Kenya Red Cross Society has done exceptionally well in making sure that food and the requisite support reaches Kenyans. This House has risen to the occasion by being a caring House, not only by debating this matter but also by contributing money. Every Member of Parliament and member of staff of the National Assembly has shown that they truly care by their gesture, through the contribution that Parliament made.

Mr. Deputy Speaker, Sir, we are requesting that the Government provides immediate financial support to the Kenya Red Cross Society, because it is the Kenya Road Cross Society and the media who have confirmed that people are suffering out there, and that we have actually lost lives. A chief in Turkana County is now being threatened by the Permanent Secretary (PS), Ministry of State for Provincial

Administration an Internal Security, and by the local District Commissioner (DC) for exposing the pain of his people and confirming that lives were actually lost to hunger.

We saw that chief showing a television journalist fresh graves of Kenyans who died in Turkana. What does he get for it? Instead of getting acknowledgement and promotion for exposing what was happening in his own backyard, he got a threatening letter from the Ministry of State for Provincial Administration and Internal Security. Relate that to the statements attributed to the Government Spokesperson. This does not project the image of a caring Government; it does not project the image of a Government that is actually concerned.

Mr. Deputy Speaker, Sir, there is so much contradiction in the Government. The President and the Prime Minister have made statements on this matter. I went to Wajir County with the Vice-President and the Minister for Home Affairs to provide support to vulnerable groups there. When we have these leaders speaking in that manner, we have other leaders in the same Government playing a reverse role, by trying to trivialise the situation in which we are.

I want to acknowledge, and sincerely thank, our media. It is our media which actually exposed the real situation we were going through. Kenyan journalists travelled thousands of kilometres, at great risk to their lives, in order to expose the pain that Kenyans are going through. The true heroes are those who have exposed what we are going through; those Kenyans who continue to contribute to the Kenya Red Cross Society in support of Kenyans in pain, and that police constable from Wajir South District, who donated his entire salary to the Kenya Red Cross Society in support of this initiative. Those are the true heroes we have, and not Government officials who live in glass houses, and who want to perpetuate self denial.

Mr. Deputy Speaker, Sir, we must, therefore, find long-term measures to mitigate drought, so that we do not have to complain year in, year out. We expected this famine. Last year, we went through this kind of mess. Every year, we approve budgets here for irrigation but there is no monitoring. Even the farmers who have had a bumper harvest of maize in Bura and Hola Irrigation Schemes have nowhere to sell their crop. The Ministry of Agriculture tells us that we have a lot of food in the country but Kenyans are dying of hunger. Foreigners come into this country to visit refugee camps and offer support to those refugees, yet the Kenyans hosting those refugees in Lagdera and parts of Wajir South Districts continue to suffer. We acknowledge the visitors who visit refugee camps and offer support. We thank them for what they do. However, you do not forget your own nationals who host those refugees.

This morning, Nation TV aired footage of a village in Lagdera, where people complained that the refugees are getting attention whereas they are ignored. It is very evident that the wife of the Vice-President of the United States of America was in a refugee camp the other day. High level Government officials were in the refugee camp, yet our Government cannot provide food to the residents who host those refugees.

Mr. Deputy Speaker, Sir, it is a shame that every year, we have to request the House to adjourn to discuss this matter. This matter requires aggressive efforts. It is, in fact, criminal, under our current Constitution, for any Kenyan to die of hunger. No Kenyan should suffer or die because our Government is able to provide food. Kenyans pay taxes but there is no co-ordination.

I am told that there were complaints in certain Government Departments that we have a problem of co-ordination. The Government was lamenting about co-ordination when it was supposed to co-ordinate these activities. If the Kenya Red Cross Society – a small organisation in terms of stature – can effectively co-ordinate relief efforts, what about the Government, which has the appropriate machinery in place?

Mr. Deputy Speaker, Sir, the Government has DCs, PCs, DOs and chiefs on the ground, in addition to PSs and what have you. It is a coalition Government. Everybody is in Government. The Government is bloated enough. Why are they allowing Kenyans to die of hunger?

I want to thank hon. Members for their support and request hon. Mutava Musyimi to second this Motion.

With those remarks, I beg to move.

Mr. Musyimi: Mr. Deputy Speaker, Sir, I beg to second the Motion.

I wish to also thank my colleague, hon. Affey, for moving this Motion. I would also like to take this opportunity to thank the mobilizers, particularly the media, as has rightly been pointed out, who brought sad pictures of people into our hearts, minds and imagination; this caused us, as Kenyans, to feel the need to do what we can do. We thank ordinary Kenyans who have given donations out of their hearts, and despite the many difficulties they have; they have sent money to the Kenyans for Kenya kitty in different ways; they have supported this cause. I think it is also encouraging to state that today Parliament gave money from each Member and also the staff of this hon. House.

Mr. Deputy Speaker, Sir, it is also worth mentioning that the Government on its part is doing what it can. We are also equally concerned. I think those who are saying what we have is not a crisis of food but a crisis of leadership have a point. It is inconceivable that after all the warnings that we have received, people should be dying. It is very sad that that which need not happen is actually happening.

I happen to chair the Committee on Lands and Natural Resources and I am particularly aware of the issues of climate change. I just begin to wonder whether we are doing enough as a country as we do what one might call physical infrastructure in terms of roads and ICT; whether we are giving particular sensitivity to ecological infrastructure and making sure that we invest in the importance of our water towers. We should invest again in the importance of the Mau, Cherenganyi, Mt. Elgon, Aberdares and Mt. Kenya forests. If our rivers are dry, where will we get the water to irrigate our plantations and, indeed, the rain that we need to grow our crops?

Mr. Deputy Speaker, Sir, it is quite obvious that the drier parts of the country need particular attention. I think time has come for the Government in particular to do what it needs to do.

It is very difficult for one to understand what is wrong; is it our food policy? I do not think it is the policy. I doubt that it is the concept in our food policy. I rather suspect that the real problem is what we have seen with this Government for many years; the challenge of implementation. As I sit down, I think it is important as we thank Kenyans, to also ask the Government to take full political and moral responsibility for the tragedy that we have.

Thank you.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! You know that the House cannot be seized of any business until such time the question is proposed!

(Question proposed)

Mr. Imanyara: Mr. Deputy Speaker, Sir, I rise to support this Motion. In supporting it, I want at the very outset to thank the organization that forms Kenyans for Kenya for the very sterling job that they have done within a very short time, to identify with the people of parts of Kenya that have been marginalized for long. In particular, I also wish to congratulate and commend the efforts of the Red Cross Society of Kenya for the job that it has done in ensuring that this effort that resulted in raising of close to Kshs500 million within a very short time, took place in the manner it did.

As we do this, it is a great shame that at a time when Kenyans' attention is directed towards the dire needs of other Kenyans, this Government continues to engage in "business as usual" with regard to corruption. When we want to raise money for the people of northern Kenya, we hear that we have just paid money for a fertilizer factory that does not exist. What policies is this Government pursuing to ensure that this famine does not ever occur again?

Mr. Deputy Speaker, Sir, this is not something that was not predicted. There were early warnings as late as last year. There were newspaper write-ups about what is likely to happen and the Government knew it. However, instead of preparing, we are hearing that even the little that was collected as relief food is being stolen. Just yesterday you saw people being arrested offloading relief food in some private warehouses. Chiefs in northern Kenya and other places are being arrested. Why? This is because they have informed the world of their plight. They have given refuge to media persons who want to expose the truth for what it is. The Government's reaction, as usual, is to suppress information.

In an era when under the clear language of Article 35 the Government should be open and provide all information necessary, they are busy suppressing information. In the course of this suppression, we get situations arising in Kenya such as we got where thousands of Kenyans, thousands of livestock and vegetation is destroyed, yet we have a Government in place that claims it is serving the people of Kenya.

Mr. Deputy Speaker, Sir, just the other day they refused to reduce the budget of the National Security and Intelligence Service (NSIS) which could have gone towards alleviating these problems. What work does the NSIS do if they cannot get intelligence on a calamity such as is happening in northern Kenya? They come to this House and we give them billions of shillings.

I want to thank the Kenyan media for the heroic role they have played in exposing what is happening in northern Kenya. In doing this, I also want to ask the Government; what has the Minister done other than saying we should recognize the efforts of the Government? What specific measures have they taken to alleviate the situation, assist the people and provide medical relief? Nothing! But they are at the forefront of taking credit for things they have not done.

Mr. Deputy Speaker, Sir, I am working together with the Red Cross and other stakeholders on amendments to the Red Cross Society of Kenya (RCSK) Act to make provision for annual grants to this organization in the same manner we make grants to the Kenya National Human Rights Commission (KNHRC) so that every year, in the estimates, there is provision for the RCSK so that they can react as they normally do without having to make appeals to the public.

This is an issue that all of us should be united in supporting. Since there are many Members wishing to speak, I beg to support.

Eng. Maina: Mr. Deputy Speaker, Sir, I rise to support this Motion. Let me say that a country that wants to talk of its sovereignty has to start with being able, at worst, to feed itself. It is a great shame that this country should be in this situation at all. This is not a situation resulting from any natural calamity. This is a situation caused as a result of poor planning and our priorities being upside down.

I may wish to remind this House that after Independence, one time Kenya had to import yellow maize. The then President Kenyatta stood and told the country: "I will ensure that my people will never eat yellow maize". People were not dying but he felt insulted that Kenya had imported yellow maize. I want to say in very simple terms that he challenged the then agricultural department which came up with something called GMR. The following year the *Standard* newspaper had the headline that Kenya had a bumper harvest. From then on, Kenya never again looked back during his rule.

Mr. Deputy Speaker, Sir, we are talking of Vision 2030 and the new Constitution which are just papers. It is high time this country sat down, put plans in order and moved along to implement those plans. This should start with the basics of a nation. The famine in this country touches on everybody. Even in Central Province today, there are areas where people have no food to eat. This sometimes is not because of lack of food but because the cost of living is beyond the ordinary man.

Mr. Deputy Speaker, Sir, the most profitable business to do today in Kenya is that of running funeral homes, making coffins and ferrying dead people because the people of Kenya are living ugly lives. I wish the Government could wake up and come up with policies--- As the late President Kenyatta did with his Government; he made sure we did not look back. This country has no real desert. One time, we invited some Israelis to come here and advise us on farming and irrigation. After they went round, they told us that they had not seen any desert.

Mr. Chachu: On a point of order, Mr. Deputy Speaker, Sir. While I really appreciate what the hon. Member has said about the drought situation in northern Kenya and other parts of the Republic, there is a real desert known as Chalbi in my constituency. It is well known all over the world. Chalbi Desert is a reality.

Eng. Maina: Mr. Deputy Speaker, Sir, it depends on how you look at it. If you can dig 100 feet and get water, you cannot call that a desert. We can get water anywhere in this country. Ewaso Nyiro cuts across the northern region. Tana River flows next to Garissa. You just need to go with a bucket and get water. I am sorry but this is the naivety that has led this country to where we are. There is water in every part of Kenya. In Ukambani here, I wish we could dig simple earth dams of 100 feet so that we can get water. We will then see the miracles that the people of that area will get. They would feed this nation.

The Ministry of Water and Irrigation, truly, should have a prime duty to provide food. We have seen what has happened in Bura. However, when people grow food, they have nowhere to sell it. Therefore, this whole thing has to do with leadership and planning. Buying food is not the solution to our country's hunger. Our solution is in our planning and our leadership that is focused and not based on papers called "Vision 2030" which may as well be "Vision 3020."

Dr. Khalwale: Thank you Mr. Deputy Speaker, Sir. I rise to strongly support this Motion. I really must thank hon. Affey for asking for this Adjournment Motion. Whichever way this National Assembly would want to look at it; whichever way the country would want to look at it, this is a failure by three people. The Cabinet has failed; the Prime Minister has failed and the President has failed. That is all. It is amazing that the same Members of the Cabinet, who have failed, are the same ones who are flying around in choppers saying that next year, they want to be our Presidents. We will see another five years of failure, death and hunger of our children in this country. I would like to appeal to anybody who has sat in that Cabinet to forget about the Presidency next year. We want to start a new Kenyan under the new Constitution. Chapter 4 of the new Constitution---

The Minister for Medical Services (Prof. Anyang'-Nyong'o): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member from Ikolomani in order to deny Members of the Cabinet their constitutional rights to contest for office? Is he in order to deny Members of the Cabinet their constitutional right?

Mr. Deputy Speaker: Order! The hon. Dr. Khalwale is giving his opinion. He is not saying that you do not have a right to contest. He said that they should not contest. Proceed!

Dr. Khalwale: Thank you Mr. Deputy Speaker, Sir. You heard it yourself. To them, the right to leadership is greater than the right to life by the Kenyans who die. Given that he is the corner handlers of one of the presidential candidates, it sends a real fear in me.

Mr. Deputy Speaker: Order!

(Applause)

Dr. Khalwale: Mr. Deputy Speaker, Sir, I would like to remind Members - and this they know - that Israel is one of the poorest countries in the world. They have no resources. However, Israel, which is in a desert, is able to feed its own people, give its people water and sell technology, including agricultural technology to other countries of the world.

The issue of wrong priorities to this Government is such that those of us who sit in the Public Accounts Committee wonder why there is no money to feed Kenyans. Members of this House know that in our last Report of the Public Accounts Committee, we told you that the Government has been paying some ghost being called KenRen. The billions of shillings being used to pay KenRen would be going a long way to alleviate the suffering of the people who do not have food.

I do not want to conclude my submission without remembering what happened to the chiefs in Turkana. Those are chiefs--- As you have seen; an hon. Member has already raised a Question, wondering why the Government is disciplining the chiefs. It should not

be forgotten by this House that those chiefs are supervised by DOs. When you see them selling food, they sell it on behalf and with the blessings of the DOs. The DOs do it on behalf and with the blessings of the DCs. The DCs do it on behalf of the PCs and the PCs do it on behalf of the Cabinet.

Now that we have gone into the county governments, we must restructure the Provincial Administration such that all the organs of the Provincial Administration are rotational in all the counties. No single county administrator should stay in one county for more than three years. That allows them to create god fathers and fiefdoms that enable them to perpetuate corruption. The second thing we must achieve under the devolved Government is to ensure that anybody who is presently serving as a DO, or has been promoted from a DO to a DC, is withdrawn from the county governments and made clerks in Ministries so that, the new broom is clean to sweep the entire House so that this country can start on a new slate.

With those few remarks, I wish to support.

Mr. C. Kilonzo: Thank you Mr. Deputy Speaker, Sir. I wish to support this Motion. Democracy is defined as follows: Government of the people for the people by the people. We need to ask ourselves whether this Government fits into that description. Is this Government a Government of the people? Is this Government a Government for the people? Is this Government a Government by the people? It fails the test because this is a Government of a few politicians who are busy campaigning to see who is going to be the next President. If they were not busy campaigning for that, they would have locked themselves in their offices and come up with a solution. This is a Government of a few technocrats who never leave their Treasuries or the Ministries to go to the fields and see the problems which are there. It is a government by a few people who are busy doing big business in maize imports. When a government ceases to be for the people, it becomes the kind of government we have and that is why we have something called “Kenyans for Kenya”. Kenyans for Kenya is a result of this Government having failed to deliver even after these Kenyans have paid taxes. Why would big corporations be contributing towards the famine when they are paying taxes? It is because the Government has failed.

Mr. Deputy Speaker, Sir, you remember this matter came to Parliament and the Minister was asked to declare famine a national disaster. Hon. Esther Murugi said it was not a national disaster and that was it. It was four months ago. Do you know the irony of the Government Spokesman? He advertised on one page in the newspaper which costs Kshs300,000 to say that, indeed, there is no famine when the Government is finding it very difficult to transport food. The Government has no idea how to move that food from the NCPB to people who are dying in Turkana and in northern Kenya, and then you say you have a Government for the people. What we have is not a Government for the people, but a Government which has no idea which direction to move.

Mr. Deputy Speaker, Sir, when you have a Government which fails to plan for irrigation, obviously we will have a shortage of food, because importing maize is a big business in this country. In every famine, a few people become billionaires; these are the few people who are in the Government; they are the people who own the Government and not the Kenyan people. As we talk now, they are all busy. If you go to the offices of senior Ministers, you will find they want to import maize; they are looking for funds to import maize; this is a golden opportunity for them to bring maize to Ukambani and

become millionaires. So, will that Government ever want to come up with policies which will ensure that there is no famine in Ukambani? The answer is “no”.

Mr. Deputy Speaker, Sir, the Government has failed to introduce technology in farming. Why would a desert like Israel, or a country like Egypt, be able to feed itself and have more water than Kenya? It is because this Government has no idea how to rule people. Given the opportunity, a few of us seated here will effectively replace this Government and deliver. If a country like Malawi was able to address the issue of famine, why is it that a country like Kenya, which has so many professors and people in Government, is unable to do the same? Do you know what they do? You are going to witness a Government member standing up and telling us that the Government should do the following or this and that.

With those few remarks, I support.

The Assistant Minister for Nairobi Metropolitan Development (Mrs. Ongoro): Mr. Deputy Speaker, Sir, I stand to support this critical Motion. I want to start by congratulating the Government for the initiatives they have undertaken and put in place. I specifically congratulate the individual *wananchi* who gave their Kshs10, Kshs20 towards this initiative.

As I support this Motion, I want to make a comment on one Dr. Mutua who sits in the office that is labeled “Government Spokesperson”. I do not know if he is living in the same planet as we are. What we are going through has become an international matter of concern and we have responses even from the international community. If the same Government is trying to put in place initiatives to provide food for those who are dying of hunger, and every news time we see people dying, should the Government Spokesperson actually give a contradictory statement? Is this what is happening in this amorphous arrangement that we call “a coalition Government?” Do we really need this person and this office of Government Spokesperson?

Mr. Deputy Speaker, Sir, I believe that this country has got enough policies to alleviate this perennial hunger. What we are lacking is the bridge between policy formulation and implementation; I do not know if it is a creation of a few, or it is by design or a coincidence that we have had such good policies over the years. If you visit any of our libraries, we are not lacking in policies; what is lacking is the implementation. I was watching news the other day and I saw a catholic missionary who is producing maize, oranges and bananas in an area, and he started with only about Kshs50,000. Now, if we are able to collect a lot of money, for example Kshs1 billion, and somebody has only started with Kshs50,000 and is feeding the surrounding community, do we need so much money just to buy grain to hand out to these people, or do we need maybe Kshs300 million to put in place an initiative that will produce a lasting solution? I really do not understand why about 50 years after Independence we do not have the kind of brains to design the kind of agricultural institutions in this country that we need. Are we not able to just take a department and officers to the North Eastern Province and allow them to put in place whatever they learnt in institutions and provide food? We are being reactionary as a Government; I think, as a member of the famous or infamous cabinet, according to Dr. Khawale, I do not want to be packaged and to carry a load of problems that were initiated long before I was born.

I think what this Government is handling right now is a perennial problem that has been in place for many years, and I do not know why we cannot just have a

Government of people who would put certain policies in place, and make sure they implement them in time and to ensure that we do not become an international laughing stock; every year we have to have Kenyans dying from hunger. I do not quite understand that.

Mr. Deputy Speaker, Sir, lastly, I think we are dealing with a very serious problem here and nobody, including Members of this House, should use it as a platform to make populist statements. This is a very, very serious issue. Lives are at stake; if my memory serves me well, I recall that the Prime Minister of this Republic, about eight months ago, blew the whistle and told the nation that it was time to take action. We must bear in mind that we are in this amorphous arrangement that is called a coalition Government. He did what he could within his office and asked the other part of the coalition to come in and put in place lasting solutions, but nobody took him seriously until we lost so many lives and now we are being reactionary. This is why we are saying this country needs a change in leadership. We want the kind of leaders who will see a problem and insist that we put in place policies that will bring lasting change; we need leadership like that of the person of the Prime Minister of this country.

With those many remarks, I support.

(Several hon. Members stood in the places)

Mr. Ochieng: On a point of order, Mr. Deputy Speaker, Sir, you can see so many Members have risen to speak. At this rate, it is only about four Members who will be able to contribute. Could we reduce the contribution time to three minutes, so that quite a number of members can participate?

Mr. Deputy Speaker: That can only be done with the leave of the House. For us to do it with the leave of the House, it takes a bit of time. You will be losing more time. However, you can use your own discretion as hon. Members and take as little time as possible. Let us not be repetitive.

Mr. Keter: Mr. Deputy Speaker, Sir, I want to join my colleagues who have supported this Motion.

It is really sad that in the 21st Century, we are talking about people who are dying due to lack of food. It is really painful, because it shows that the Government does not have proper policies to do the necessary things. I say so, because if you go to the South Rift right now, it is harvest season. There is plenty food. It is very painful for us to see our brothers and sisters dying due to lack of food and yet, for some years, the Government had been warned that there will be food shortage, but they did not put resources where it is necessary. Will this country continue being a net importer of food? That is the question we want answered. Why do we create crises for some people to benefit? Right now, the allocation to the Ministry of Agriculture is negligible. This means even next year, we will still have problems. It is really painful. Are we going to be a net importer of food year in, year out?

Mr. Deputy Speaker, Sir, I appeal to the Government to have proper policies. We should invest where it is necessary. We should give more money to the Ministries of Agriculture, Water and Irrigation, so that we can do irrigation in some areas. We can also subsidize farmers in other areas where there is rain; areas such as South Rift, North Rift and Kitale. If we do so, in the next few months, they will be harvesting.

My worry is that as farmers prepare to harvest, the Government is struggling to import a lot of food. To my knowledge, some of this food is not fit for human consumption. Just two days ago, the Managing Director of the Kenya Bureau of Standards (KEBS) was sacked because of refusing to allow 8,000 metric tonnes of maize which is unfit for human consumption into this country.

As much as we sympathize with our brothers and sisters that they need food, let them get proper food. Let us not give them food which is not good for human consumption. The sacking of Mr. Koskey by the Minister for Industrialization is because he refused to be used for importation of bad maize into this country.

The Minister for Medical Services (Prof. Anyang-Nyong'o): On a point of order, Mr. Deputy Speaker, Sir. While I appreciate my dear friend's passion for the Motion which I share with him, is he really in order to say that the Government is importing maize? The Government is not importing maize. Maybe the maize he is talking about is being imported by private persons. Definitely, it is not the Government.

Mr. Keter: Mr. Deputy Speaker, Sir, I stand corrected. It is the individuals who are importing, but in connection with the individuals like him in the Government! These individuals cannot do it by themselves.

Mr. Deputy Speaker: Are you saying individuals like him?

Mr. Keter: Mr. Deputy Speaker, Sir, not him in person, but a Minister like him! Of course, not Prof. Anyang-Nyong'o!

The Minister for Medical Services (Prof. Anyang-Nyong'o): Like him in generic!

Mr. Keter: Yes, that can be generic, Mr. Deputy Speaker, Sir. I do not want him to take my time, but I want to appeal to the Government to invest in the Ministry of Agriculture and the Ministry of Water and Irrigation, so that come next year, we will not talk about hunger in this country.

With those few remarks, I beg to support.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I stand to support this very important Motion. In doing so, I want to commend the Mover for bringing it forward.

Mr. Deputy Speaker, Sir, we better begin by talking about the positives. Let me start by thanking hon. Members, through the Speaker, for contributing today to the Kenya for Kenyans kitty.

Secondly, I want to commend the Government for putting aside Kshs14 billion to mitigate this problem. I also want to thank the Kenya for Kenyans initiative which has already contributed to the tune of Kshs500 million. This is positive.

As a country, when we are debating an issue of this magnitude, we should avoid bringing in populist statements. The Government cannot live in denial. We cannot accept this. Everybody knew what happened in Turkana. Some people died due to hunger. The Government must accept this reality. The Government is composed of the Executive, the Judiciary and the Legislature. In the National Assembly, we have Departmental Committees on Agriculture. Early warnings for this drought were given as early as July last year. I want to know the action the Committee of Parliament took, because that is part of the Government. We should all take the blame. What action are we going to take to mitigate this? We should fund line Ministries concerned with the problem of mitigating hunger. These are Ministries of Agriculture, Livestock and Water and

Irrigation. These are areas which should be targeted. Of course, we cannot forget national security because without security there is no development. We can fund the Ministries of Education, Agriculture, Water and Irrigation and Livestock. These are the areas we must target.

Mr. Deputy Speaker, Sir, we know there is a lot of money for restocking. We want proper auditing. In 2009, my people of Kajiado lost 80 per cent of their livestock. Although we are trying to restock now, we are still at a very low level. So, this money should not only take care of the Turkana and North Eastern, but also South Rift because we are also affected.

Mr. Deputy Speaker, Sir, a policy on food security is lacking. This Parliament, especially the Committee on Agriculture, should bring powerful recommendations. We should not just blame the Government. It includes you. You should, therefore, wake up.

Mr. Chachu: On a point of Order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to keep on repeating that this Parliament is not doing enough when in 2009, I brought a Motion here about the establishment of a Drought Management Authority to deal with issues of drought on a long term basis? This Motion was passed, however, up now, it has not been implemented.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaissery): Yes, I am in order, Mr. Deputy Speaker, Sir. The hon. Member has not followed up to ensure that whatever recommendation made in this House has been implemented. Therefore, he brought up the issue, but went to sleep. This is where the problem is. We continue whipping the Government, but we do not push this agenda forward.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to blame the legislature, which legislates and keeps the Government of the day on its toes? The position of the Legislature is that the current Ministers are not able to perform their duties because of incompetence. The feeling of the Legislature is that the backbench should be appointed to take over those positions.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaissery): Mr. Deputy Speaker, Sir, what I am saying is that, in supporting this Motion, we need to come up with a national food security policy that targets the line Ministries so that this country does not go to the opposition.

With those few remarks, I beg to support.

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, I stand to support this Motion.

Mr. Deputy Speaker: Dr. Kosgei you could also use this opportunity to respond on behalf of the Government.

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, I want to say that the House as far as I can remember has tried very hard to bring to the attention of the whole country, the crisis that we continue to have so that first of all---

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

Mr. Deputy Speaker: Order! Allow the hon. Minister to contribute.

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, At least, let me finish my sentence. So, in the first place, that is not a matter for argument.

Mr. Deputy Speaker, Sir, the other thing that I keep hearing is that there are no policies. The policies are there and they are sound policies.

It is not a matter of incompetence or competence. It has to do with how we utilize these resources and if the resources are, indeed, adequate. Let me give you an example. We in the Ministry of Agriculture were allowed a little money to do some irrigation in South Turkana even though the media puts it out as if it is done by the World Vision. The people who run that project belong to the Ministry of Agriculture. There is very good maize; we have impressive food in that area.

There is also a lot of sorghum around the country which is the initiative of the Ministry of Agriculture. We have done these things. To me, it seems our programmes are not adequately funded. We---

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: On your fellow Minister?

The Minister of Agriculture (Dr. Kosgei): But you cannot do that.

Mr. Deputy Speaker: Order! Proceed, hon. Minister.

Mr. Assistant Minister, you are out of order!

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, our abilities are curtailed by the fact that---

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Madam Minister, do you want that information?

The Minister for Agriculture (Dr. Kosgei): No, I do not want that information. I have enough information. This is the Ministry which I run. I have refused to accept the information, so he has to let me finish.

Mr. Deputy Speaker: Proceed, Madam Minister.

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, when we talk about the problems of livestock we all know that somewhere along the line we have to try and destock. We cannot do that without having enough resources for the livestock farmers to have an alternative lifestyle. In any event, we know that we could assist to get them to be able to feed their animals with the right water and, perhaps, have for them some type of fodder.

We do have a problem and I would invite any of you to look at the Budget we had in the last 12 months and tell us if there is anything there that we could have done, but we did not do.

I am on record in this House in January saying that we in the Ministry of Agriculture wanted to bring to the attention of the country that there was a grain shortage around the world. We called for the maize to be made available for people when there is a shortage of food.

I want to use this opportunity to say the same thing. There is enough maize in the country for us now not to spend so much of our time arguing about GMOs or lack of GMOs. There is a lot of maize. In some areas like the North Rift, farmers will have their maize ready. Maybe we should direct our collective responsibilities or voices towards buying from them.

You may well ask why I have not done it. I can only do what the Vote allows me to do. However, we need our collective voices to be able to feed these people. As I once said in this House, those who have the food are not the ones who are actually starving.

Those who have the food need to sell it to somebody. That person should then be able to make it available for the people who are suffering.

Furthermore, we have policies which we have started to implement in all these areas where there is constant food deficit. If we have enough water we can actually grow food in those areas which then does not involve us in buying. If we grow enough food, then we, as a Ministry or as people, can make it available.

Currently, what am I doing about this? I have at least three or four countries which are willing to do something for us to start having proper agriculture in those areas and also to deal with the constant loss of animals.

I think that we should all, however, accept that climate change is real and it is with us. It is not a story; it affects us. Yes, there is much that the Government can do. However, there is also a lot that we cannot respond to immediately because of the fact that it is somewhat expensive. For example, we have tried constantly to make fertilizer available and we have not used the money to build a fertilizer factory even though that was a Motion which was passed by this House because we do not have those resources yet.

We have made access to credit possible and we are trying our best – we are almost halfway there – to make available insurance to farmers for crop loss. This has to be done if Kenya is going to be able to produce food. Kenya's problem is that over half of this country is arid or semi-arid. We have to address that issue of being arid or semi arid. We can, in fact, pass the blame here and there, but the truth of the matter is that the policies exist. We are not all brain-dead; we know what should be done. However, we need the resources to do so. We are trying our best.

Where we have not been able to get them locally, we are working very hard. I can tell you there are about three or four countries which are willing to help us with irrigation to produce food in the food deficit areas, so that permanently, we are able to feed those people.

Thank you.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Thank you, Mr. Deputy Speaker, Sir, for giving me this chance. Let me thank Mr. Affey for bringing this Motion. Let me also thank the international media and our media and the Kenya Red Cross for bringing the plight of our people in the region to the limelight. Thank you very much for the support from various regions.

Mr. Deputy Speaker, Sir, the drought which we are experiencing today is said to be the worst in the last 60 years. I am told that this type of drought was there in 1950s. Today, the drought we are talking about is not going to be a normal drought. In fact, people are saying there is no famine, but there is actually famine in our region. The talk that there is famine only in Somalia is not true. So, we need urgent response. The effects of the response that we have seen in the last three weeks have not been felt on the ground up to now. There is serious food shortage. There is serious water scarcity and our animals are also dying.

We need to get our priorities right. Up to April, there was a big drought. However, food delivery to our regions has been very poor. We know that food is there in Kenya, but delivery of that food to the people has not been there. There is a serious transportation problem in the region. Something must be done to airlift that food which is available and which has been collected by the Kenyans for Kenya initiative to be

delivered to the people. If we do not do that in the next few days, I think we will have a serious catastrophe in the region.

We must get our priorities right. We hear the Minister for Planning wants to do a census in the region. He wants to spend over Kshs400 million. We do not want a census; he must give us that money for food. You cannot imagine that the Ministry is talking about having a census at this time of the year when we know what is happening in that region. We must get our priorities right. Leaders of this country must move to those regions now and see what is happening on the ground because what they are hearing and seeing on the TV could just be stories to them.

Let us save lives because this situation is life-threatening. We really have to put in a concerted effort and mobilize all the resources we have, including transport from the military, the NYS and various departments of the Government and move there and save lives. We can be talking about other long term measures like irrigation, but for now, we are talking about how to save the situation in light of what we have today.

With those few remarks, I beg to support.

Mr. Chachu: Mr. Deputy Speaker, Sir, I want to thank Mr. Affey for moving this Motion and the Members of Parliament and Kenyans at large for supporting this very noble Motion.

What we need is to enable pastoralists to do pasture irrigation, so that we have pasture. Once we feed those animals, those animals will feed us and we will not need food aid.

Mr. Deputy Speaker, Sir, I think it is time we thought about doing irrigation in terms of pasture land in northern Kenya.

With those few remarks, I support the Motion.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I have two issues. First is to ask that the relevant Ministry should also take advantage in order to complement by getting the grains, particularly rice from Bura Irrigation Scheme (BIS) that has been produced by the National Youth Service under my Ministry. A lot of work has been done through *Kazi kwa Vijana* programme. There is a lot of rice available. We are trying to connect, but we need the pressure of this House.

Secondly, we should celebrate constituencies like Yatta, South Imenti and Mukurweini which on record have done very many micro-irrigation projects, including greenhouses, tissue culture bananas. Those three constituencies have found a way of appreciating their strategic interventions in this country.

I strongly support this Motion.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to adjourn the House. The House stands adjourned until tomorrow, Wednesday, 10th August, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.