

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 4th May, 2011

The House met at 2.30 p.m.

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

PRAYERS

NOTICE OF MOTION

ESTABLISHMENT OF OPINION POLLS CONTROL BOARD

Mr. Jamleck Irungu Kamau: Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, appreciating that the freedom of speech and information is a fundamental right for all Kenyans as enshrined in our Constitution; realizing that this right ought to be exercised with utmost care and responsibility so as not to send false alarm and thus cause social disharmony; noting that recently there has been a proliferation of polls conducted by private entities and results which may not reflect the realities of the moment broadcasted without prior audit to authenticate the information; aware that the country is geared towards a general election next year, 2012; cognizant of the fact that propaganda and misinformation are potent tools for destabilization of peace and stability especially during electioneering; this House resolves that the Government develops a framework that includes an Opinion Polls Control Board for the regulation and conduct of opinion polls that are factual and adhere to the rule of law. Mr. Temporary Deputy Speaker, Sir, this is a party-sponsored Motion.

ORAL ANSWERS TO QUESTIONS

Question No.755

NUMBER OF SELF-SUSTAINING/GOVERNMENT-SUPPORTED PARASTATALS

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

(a) whether he could provide a list of all parastatals, stating their respective mandates;

(b) which of the corporations are self-sustaining and pay dividends to the Government; and,

(c) which of the parastatals depend on the Government for survival and why.

The Assistant Minister, Office of Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The Government owns 183 parastatals. Out of this number, 80 are self-sustaining and give dividends to the Government while 103 parastatals depend on the Government of Kenya for survival.

(b) As stated in part “a” above, the number of self sustaining parastatals is 80 and I hereby lay before the House a detailed list of the same.

(Dr. Oburu laid the document on the Table)

(c) The 103 parastatals listed in the list that I have laid on the Table depend on the Government for survival due to their nature of being non-commercial State corporations.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has indicated that 103 parastatals depend on the Government for their survival. Why should the Government continue to support certain parastatals like sugar factories and hotels, which do business and make profit? It also supports some banks like the Consolidated Bank. Why should that happen and yet the parastatals are making profit?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, most of the State corporations which are supported by the Government are non-profit making and are either regulatory or provide service to members of the public. For those which are involved in commercial activities, some make profit and contribute to the Government coffers and some make losses and, therefore, do not contribute to the Government coffers and are lined up for privatization. Very soon, they are going to be privatized. The Government is going to dispose them off. Like the hon. Member has mentioned, the balance sheets of some parastatals, for example, sugar factories, show that they are not making profit. That is why they do not contribute to the State coffers. If they happen to make any profit, they are required by law to make contributions in terms of dividends to the Government.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has clearly indicated that there are parastatals that are not making profit and continue to rely on the Exchequer for their survival. How long have they been under Government support and why?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, these parastatals are in various status. There is no uniform time that they have been under the support of the Government. There are some which make profit in some years and make losses in other years. Therefore, I cannot categorically state, for all of them, how long they have been supported by the Government. That is only with respect to the parastatals which are involved in commercial activities. The majority of the parastatals which depend on the Government 100 per cent for support are the ones which provide services to the public and are not generating profit. Some of the regulatory parastatals which charge some fees also do not provide dividends to the Government, but they do not also get support from the Government.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that the parastatals that are making losses are in the process of being privatized. Could he tell this House the status of the privatization programme?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, the privatization programme is at various stages. The Privatization Commission, together with the Government Investment Department at the Treasury, is working out modalities, for instance, of privatizing the sugar factories and they are at a very advanced stage. The process has been approved by the Cabinet and anytime, they will be advertized for privatization. The others are at various stages of preparation. Actually, all the parastatals which were meant for privatization have been tabled in Parliament.

Mr. M'Mithiaru: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think my question was specific. Any programme has a start date and an end date. What time frame has the Government given this programme?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, there is a time frame of two years, but the ones which are lined up for immediate privatization are the sugar factories, which will be advertized anytime.

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, in line with the question of privatization, how long does it take the Government to privatize these parastatals that are making losses and are depending on the Government for survival? What duration do you give them before they get privatized?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I have said that we have given ourselves a time frame of two years and that there are some which are lined up for immediate privatization.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister inform the House the amount of money the Government has continued to spend on the non-performing entities?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I cannot quantify the amount of money that has been spent. I do not know over what period the hon. Member is talking about. I do not know whether he is talking about the last one or two years or since those parastatals were formed. I do not have those figures with me, but various parastatals which are non-performing submit their requirements every year. Their budget is tabled here in Parliament for approved.

Mr. Gunda: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister confirm to the House the status of Kenya Ports Authority? Is it being privatized or not?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, the Kenya Ports Authority was one of the parastatals which were lined up for privatization. This was tabled in Parliament and it was also taken to the Cabinet but the Government, because of concerns which have been raised, has put a freeze on the privatization for the time being.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, the Member for Nyakach!

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that some of these parastatals, like National Bank of Kenya, Consolidated Bank, Pyrethrum Board of Kenya and other authorities like Tana, Lake Basin and so on, have continued to receive funding from the Government, and yet, they were meant actually to be very strategic so that they could also give back to the Government what they earn in

terms of profit. Up to now, they have failed to do so. Is the Assistant Minister trying to say that some of these parastatals will also be privatized despite their poor performance?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, one of the parastatals the hon. Member has mentioned; that is the National Bank of Kenya, is making profits and contributing to the Government, despite the fact that it is also lined up for privatization. So, not all the parastatals which are lined up for privatization are loss-making. The ones which are making losses are being privatized not primarily just because they are loss-making, but because the Government's primary responsibility and duty, as has been stated here before and as a matter of policy, is to divest and not to continue running commercial institutions. Therefore, this is one of the reasons they are being privatized. The Government has no intention of holding onto those parastatals for times longer than necessary.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Mr. Yakub!

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, although I have not received a copy of the written answer, I beg to ask Question No.728.

Question No.728

TABLING OF REPORT OF PRESIDENTIAL COMMITTEE
ON SPECIFIC MUSLIM CONCERNS

Mr. Yakub asked the Minister of State for Provincial Administration and Internal Security whether he could table the Report of the Special Presidential Committee chaired by Eng. Abdullahi Sharawe on the Specific Concerns of the Muslim Community, which was submitted to the President in July, 2009.

The Temporary Deputy Speaker (Mr. Imanyara): Do you wish to have a copy of the written answer?

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I will continue even without one, but I think it is the role of the House---

The Temporary Deputy Speaker (Mr. Imanyara): You are entitled to it. Do you want it?

Mr. Yakub: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, why have you not provided a copy of the written answer to the hon. Member?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, indeed, it is true that there is no answer to this Question. I wanted to seek the indulgence of the Chair because this is one of the Questions which the Speaker ruled the other day that---

The Temporary Deputy Speaker (Mr. Imanyara): Do you have a written answer?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, there is no answer to this Question. I am not ready to answer it simply because this is one of the Questions which the Speaker had already ruled on that there is no way I can table something which I do not have.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, the hon. Member needs a specific answer from you.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the answer which I have is that the appointing authority---

The Temporary Deputy Speaker (Mr. Imanyara): The hon. Member is entitled to a written answer. Do you have a written answer for him?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I do not have the answer yet, because the appointing authority has not released the report which he requires me to table.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Assistant Minister! Even that is an answer. The fact that the appointing authority may not have given, is an answer. So, he is entitled to that answer in writing. It is a custom and for usage of the House.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, if that is what he needs, I will give him.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! I will defer this Question to Wednesday, next week to enable you to provide a copy of the written answer to the hon. Member.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): It is okay with me, Mr. Temporary Deputy Speaker, Sir.

(Question deferred)

Question No.819

STATUS OF REGISTRATION OF SIM CARDS

The Temporary Deputy Speaker (Mr. Imanyara): The Chair has been informed that the Member for Igembe South had requested that this Question be deferred. Is the Minister for Information and Communications here?

The Assistant Minister for Information and Communications (Mr. Khaniri): Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): I have been notified by Mr. Speaker that the hon. Member had sought this Question to be deferred to Thursday, next week. Is that okay with you?

The Assistant Minister for Information and Communications (Mr. Khaniri): Yes, Mr. Temporary Deputy Speaker, Sir.

(Question deferred)

Question No.839

CRITERIA FOR ALLOCATION OF DELIVERY BEDS
TO DISPENSARIES

Dr. Monda asked the Minister for Public Health and Sanitation:-

(a) what criteria the Government uses in determining the number of delivery beds allocated to a given Government Health Centre or dispensary; and,

(b) why there is only one delivery bed at Ang'urai Health Centre in Amagoro Constituency and when the Ministry will provide more delivery beds at the facility.

The Temporary Deputy Speaker (Mr. Imanyara): Is anyone here from the Ministry of Public Health and Sanitation? Could anyone from the Front Bench indicate whether the Minister or any of the Assistant Ministers is ready with an answer?

The Assistant Minister for Education (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, maybe we could give a little time---

The Temporary Deputy Speaker (Mr. Imanyara): What does "maybe" mean? Are we expecting the Minister or not?

The Assistant Minister for Education (Mr. Mwatela): Yes, we are expecting the Minister.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Monda, I will come back to this Question in a little while.

Yes, the Member for Molo!

Question No.849

MEASURES TO REDUCE TRAFFIC JAMS IN NAKURU

Mr. Kiuna asked the Minister for Roads:-

(a) what measures the Ministry is taking to curb the ever-increasing traffic jams in Nakuru Town; and,

(b) what the Ministry is also doing to ensure that the blocked drainage system along the roads in the town is repaired.

The Temporary Deputy Speaker (Mr. Imanyara): Prof. Ongeri, do you have any idea where the Minister for Roads is?

The Minister for Education (Prof. Ongeri): Mr. Temporary Deputy Speaker, Sir, I have just come in, but whatever the situation, in the spirit of collective responsibility, I endeavour to inform him to answer this Question.

The Temporary Deputy Speaker (Mr. Imanyara): We will come back to this Question.

(Mr. Bett entered the Chamber)

The Minister for Education (Prof. Ongeri): Mr. Temporary Deputy Speaker, Sir, I am happy to announce that he has just arrived!

The Temporary Deputy Speaker (Mr. Imanyara): Next Question.

Question No.852

NON-IMPLEMENTATION OF POLICY
FRAMEWORK FOR NOMADIC EDUCATION

Mr. M.H. Ali asked the Minister for Education:-

(a) whether he is aware that no action has been taken since the Policy Framework for Nomadic Education was launched in Garissa on 15th July, 2010,

(b) when Aresa and Hareri Hosle Primary Schools will receive funding under the low-cost boarding primary schools programme as provided in the policy framework, and;

(c) what plans the Ministry has to provide adequate housing to all teachers in the nomadic rural areas as provided in the policy.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The Ministry has prepared a Cabinet memo seeking Executive Order for the establishment of the National Commission for Nomadic Education in Kenya (NACONEK) and several programmes in ASAL areas are currently being implemented under the Nomadic Education Policy.

(b) The request for funding for the two schools has been approved by the Mandera East District Education Board. The Ministry will provide funds to the schools when Treasury provides additional funds in the next Financial Year, 2011/12.

The Ministry has requested for Kshs658 million for funding the current 393 schools and an additional low-cost boarding primary schools.

(c) The Ministry will mobilize financial resources from parents, communities, donors and Government devolved funds for infrastructure development, including teachers housing, at the total cost of Kshs12 billion.

Mr. M.H. Ali: Mr. Temporary Deputy Speaker, Sir, I wish to appreciate the answer given by the Minister. However, I would like him to tell us what he is doing to ensure that children are in school despite the drought. In the past three months, on different occasions, the Government has promised that children in the drought affected areas will not be chased away from schools, but that is not happening. Boarding schools; whether they are primary or secondary schools need food. This food must be bought and subordinate staff must be paid their salaries. What is he doing to ensure that the schools get the necessary facilitation, so that these children are not affected?

Prof. Ongeru: Mr. Temporary Deputy Speaker, Sir, I fully appreciate the predicament our children in drought stricken areas are under. If you will remember correctly, during the Supplementary Estimates that were read here, we had to forego the infrastructure funds in favour of school-feeding programme. If that is not enough, we will be quite prepared on a case to case basis to do something. Where they have not been receiving food, we will be too happy and willing to liaise with the World Food Programme and the Ministry of State for Special Programmes in order to provide food for these children.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for the answer. He is aware that the Nomadic Education Policy was launched on 15th July,

2010; now we are in 2011. At that time when we were in Garissa, he gave us an indication that the President would do this within weeks, but it has now taken a year. How long does the Government take to use an Executive Order for a policy so important for the nomadic children in this country?

As I speak, he is talking about Kshs12 billion for infrastructure development in all the schools and yet the hon. Member asked about teachers in nomadic areas. If this policy was implemented, perhaps, it would have brought a short-cut in terms of implementation. Why can the Government not ensure that this policy is implemented?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, a specific allegation is being made that you indicated in a public rally on 15th July, 2010, that this policy framework would be implemented within weeks. That is what is being alleged here.

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, I am quite happy to answer that. First and foremost, the date quoted by Mr. Affey is wrong. I launched this Nomadic Education Policy in December last year.

Secondly---

Mr. Affey: On a point of order, Mr. Temporary Deputy Speaker, Sir. If that is true, the hon. Questioner had asked---

The Temporary Deputy Speaker (Mr. Imanyara): What is true?

Mr. Affey: Mr. Deputy Speaker, Sir, if the Minister's statement is correct---

The Temporary Deputy Speaker (Mr. Imanyara): That is not a point of order that you are raising.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, is the Minister in order to mislead the House when the Questioner himself had stated that it was done on 15th July, 2010 and he did not find any opportunity to correct the impression?

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, this policy was meant to be launched in July last year. But the actual date which the hon. Member is fully aware of because he participated in the launching was in December last year. First of all, we did a preliminary discussion with those coming from the ASAL regions in the Serena Hotel, just to refresh his memory. The official launching was actually done on December, 2010. That is the correct information.

As regards the allegation, obviously, I did indicate to the hon. Members at that time that if we took the route of forming a Nomadic Commission jointly with the Ministry of State for Development of Northern Kenya and Other Arid Lands, it would take time. The process of developing a sessional paper, having in place legal framework through Cabinet and taking the matter to the House would take time. I said I would endeavour to seek an Executive Order in order to be able to bring on board this Nomadic Education Policy. That is what I am about to do.

I have, indeed, developed a draft commission Executive Order and it has gone to the Attorney-General's Chambers for polishing. I cannot speed it any further than that. When that is done, then I will have the opportunity to present it before the Cabinet at the pleasure of His Excellency the President. This is because, at the end of the day, he is the one who will give the Executive Order. We will then start seeking for funding for that Nomadic Education Policy.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to contradict himself and misinform the rest of us that the reason why

he chose the route of the Executive Order was to expedite the implementation? Now he says he has reached a point where he cannot fast-track the process. So, who is frustrating him?

Prof. Ogeri: Mr. Temporary Deputy Speaker, Sir, by no means will I ever mislead this House. Mr. Ethuro knows very well that the Executive Order stays to be an Executive Order by somebody else other than me.

All I can do is to do the preparatory work which I have done. In fact, that preparatory work was ready three months later after we visited Garissa and we launched the policy. I have it here on record. However, because we have not been able to process through the necessary channels, it would be improper on my part to tell you that it has happened and it has not happened.

At any rate, the Executive Order will only give us an opportunity to now start looking for additional resources, including from the current budgetary provisions for 2011/12.

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, funding of local primary schools in semi-arid areas is very important and necessary. Could the Minister inform the House how much money he would require to fund the 200 low-cost primary schools in the next financial year? Secondly, have you requested the Treasury to give you the money as a matter of priority? This is a priority issue.

Prof. Ogeri: Mr. Temporary Deputy Speaker, Sir, I mentioned earlier on that there are about 393 schools under the current programme on low-cost boarding schools. We will be asking, and, indeed, we have put in our proposals to the Treasury, an additional 205 low-cost boarding schools to be catered for. We have, in fact, a list of the areas that we intend to go to, as a minimum package in order to deal with the problem of low-cost boarding primary schools.

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, we appreciate the support that the Government gives to schools in Arid and Semi-Arid Lands (ASALs) through low-cost boarding schools. But my concern is that for quite a long period, the allocation given to the low-cost boarding schools has been constant despite the increase in enrolment of students to those schools? They are very congested.

Prof. Ogeri: Mr. Temporary Deputy Speaker, Sir, one other area that the hon. Member should appreciate is that, apart from the direct Government support for low-cost boarding schools, there are other organizations which are supporting them directly through a non-joint Government operations. This is the minimum that the Government has been able to do. I am now assuring this House that we have, indeed, factored in additional number of schools that will benefit from that support once the Treasury gives us the list. Those who may wish to come, I will be too ready to go through the list of every school that we intend to support in all those areas. I will be too happy to table this, so that you may know what we are able to support in each of those ASAL regions.

(Prof. Ogeri laid the document on the Table)

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, one way of making that nomadic education policy a success is to ensure that there are teachers in the classrooms. Could the Minister clarify the policy? I am aware that those teachers who get out of the teaching profession naturally or either through death or natural attrition are immediately

given a pay advice casualty. Could the Minister inform the House the policy in replacing those teachers who leave employment? They have their budget and we need them in classrooms in the nomadic areas and the rest of the country.

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, you appreciate that, that is a different question. We do not have a policy of teacher employment for nomadic communities versus the rest of the country. We have a policy of teacher deployments in the Republic of Kenya. As regards the teacher deployment in the Republic of Kenya, everybody is fully aware in this House that we employed contract teachers in each constituency in order to overcome the deficit of teachers in some of the constituencies. Those in ASAL regions will appreciate that when we apply that affirmative action---

Mr. Ogiendo: On a point of order, Mr. temporary Deputy Speaker, Sir. The clarification I am looking for from the Minister is: There are teachers who are already employed either permanently or on contract. When some of those teachers die or leave employment, what is the policy of replacing them, given that the Ministry has the budgetary provision?

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, first, that policy was launched in December. It is too quick to even think that people have died between December and now and, therefore, there must be a drastic change of policy. Secondly, we can deal with natural attrition by replacing those who have retired due to natural calamities from the schools where they left. That way, we will have the element of equity rather than advertising nationally. You run into difficulties of not getting the suitable teachers for areas that were affected by natural attrition. Now, if the attrition rates are in the order of 2,000 to 3,000 teachers, then the normal thing we do - like we did two years ago- is to advertise and everybody goes for it. But there is no guarantee that, that teacher is going to go back to the same school.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to thank the Minister and the Government for trying to do some things. But what we are asking from the Government today is actually provided for in the new Constitution. Article 56 talks about affirmative action and specifically (d) states:- "To provide special opportunities in educational and economic fields." When is the Minister going to issue an Executive Order, whatever it takes, that, that policy is implemented within a month? That is because what is happening---

The Temporary Deputy Speaker (Mr. Manyara): No, you have asked the question, Mr. Ethuro!

Mr. Ethuro: A school like Naroror has only one teacher.

The Temporary Deputy Speaker (Mr. Manyara): You have already asked the question. Let the Minister answer.

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, I had expected hon. Ethuro to say thank you for the affirmative action that I have taken in several areas. One, affirmative action is the admission to national schools. Two, there was affirmative action in the deployment of contract teachers. They were really satisfied that, for the first time, they were able to, at least, employ teachers. Thirdly, I intend, in line with the question that he has asked, to take further affirmative action when I have enough resources in the next budget.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister wanted me to be thankful to him. I said I am thankful to him, but he went ahead

to say that he has provided teachers. He is misleading the House. On the Floor of this House, you promised six teachers to Turkwell Boys Secondary School and you have not sent a single one. How do I thank him? Is he in order to mislead the House?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Ethuro, you rose on a point of order and not information.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, the Minister is aware that most day secondary schools do not have adequate teachers, especially the new ones that have been registered. They just provide the head teachers. How come they do not encourage those day secondary schools by providing adequate teachers?

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, indeed, I have on several occasions on the Floor of this House indicated on the paucity of teachers that we have in our teaching profession. Last time when I was seeking for additional funding for teacher employment, we were only given 18,000 teachers plus replacement of those who died through natural attrition. The figure came to 20,000. Those are the ones we distributed to every constituency. At the current level of teacher deficit, we have a teacher deficit of 61,000 teachers, comprising of 43,000 in the primary sector, and the other balance in the secondary sector. I have, in my forward budget for 2011/2012, asked for a specific figure to recruit teachers for a period of three years, so that we can reduce that deficit to a manageable level.

I may also say this; even if we were to employ 10,000 we need about Kshs10 billion from Treasury to be able to deploy them on a permanent and pensionable basis. That is what I am struggling with and I expect it to happen through the normal budget analysis, when it comes to the Floor of this House. Do not also forget that due salary awards, where we are paying the last award in July this year, will require an additional Kshs2.56 billion or above. Therefore, this is an enormous task for the deployment of teachers or payment of teachers in this country. So, I need goodwill both from Treasury and this House.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for the affirmative action that he took during the enrolment of Form One students in secondary schools. However, in part “c” of the answer, he is saying that the Ministry will mobilize financial resources from parents and communities. The policy of the Government is for free education, both primary and secondary and we all know how the nomadic people live. Could I get a clarification from the Minister how he is going to get funds from parents and communities from the nomadic people?

Prof. Onger: Mr. Temporary Deputy Speaker, Sir, the national policy on education and Sessional Paper No.1, 2005, specifies the ingredients of free primary education and 2008 modified free day secondary education. If you look carefully through that policy that we have adopted in the form of a Sessional Paper in this House, it clearly specifies the role of the Government and the role of parents. Whereas we are able to provide for free educational teaching materials for the teacher and other aspects of the course, obviously, the parents would need to meet the cost of uniforms and travelling expenses in the school where the child is residing. That is the element that we are saying that the parents should take up ownership. Therefore, once the Nomadic Commission Policy is in place through an Executive Order, that aspect of the cost would be borne by parents and the rest would be mobilizing resources from within the Government and

other international agencies, including partners to be able to fund what we thought initially would be a very ambitious programme of Kshs12 billion.

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

Mr. M.H. Ali: Mr. Temporary Deputy Speaker, Sir, as you have heard, the Minister says that this financial year, he will not be able to allocate resources to Aresa and Hareri Hosle Primary Schools because of lack of funds. I want him to appreciate that the local people and the Constituencies Development Fund (CDF) have endeavored to put up these boarding schools. The problem in our area is retention of primary school pupils. If the children are willing to come to boarding primary schools and yet there is no food and other facilities, how shall we be able to keep these children in the schools due to drought? Could he do something before the next financial year to make sure that these schools get some assistance?

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, earlier on, I indicated that in the case of provision of food, it is a matter we can look into on a one to one basis but it cannot be a blanket decision to all the low-cost boarding schools. The area I was referring to is about infrastructure because we cannot and we do not have any budget in the current budget allocation. That is why I refreshed your memory that during the Supplementary Budget all the allocations under infrastructure programme for primary and secondary schools were shifted to the School Feeding Programme, again expressing the urgent need of school feeding which is important. That is why I am saying that in the case of school feeding, we are fairly prepared to look at it again and see where we can get food from other sources including from the Ministry of State for Special Programmes so that we can get these children fed without any difficulty.

Mr. Letimalo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to seek your indulgence because going through the list of the proposed low-cost boarding schools, you realize that some deserving schools have been omitted and in other cases, you find that the number of students admitted is lower than the number of students in those schools. It should be recalled that those of us who come from cattle rustling prone areas, the only way that we shall be able to eradicate this vice is to ensure that children go to school and get education. I would like to plead to the Minister to allow us to go to his office so that we can revise that list so that the schools which have been omitted are included. This should not be taken to be the final list.

Prof. Ongeri: Mr. Temporary Deputy Speaker, Sir, that is a reasonable request. The list always changes and it originates from the grassroots. In fact, it is the District Education Officers (DEOs) and Members of Parliament who give us these statistics through the District Education Board where they are members. So, that list changes every year. What I have given you may be a list that was prepared early in the current financial year and we know that every year there is about 10 per cent increase in the enrolment of students. I said earlier and I want to repeat that we do not want any of our children in the nomadic regions to be out of school. It does not matter what it takes. We want them to be in school whether under a tree or under a low-cost boarding primary school. That is our desire.

Question No.839

CRITERIA FOR ALLOCATION OF DELIVERY BEDS TO DISPENSARIES

Dr. Monda asked the Minister for Public Health and Sanitation:-

(a) what criteria the Government uses in determining the number of delivery beds allocated to a given Government Health Centre or dispensary; and,

(b) why there is only one delivery bed at Angurai Health Centre in Amagoro Constituency and when the Ministry will provide more delivery beds at the facility.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I apologize for coming a little bit late. It is not usually my practice.

I beg to reply.

(a) The criteria is based on the level of care where we refer to standards and norms which are either a health centre or a dispensary. Other considerations include availability of space, utilization rate or workload, gapping pattern, procurement of delivery beds and delivery kits at national level, facilities which are specific partner support.

(b) The facility has two delivery beds with only one in use and the other one in store due to inadequate space. The facility maternity utilization is very low which stands at 19 per cent or 195 deliveries per year. Health centres receive equipment from Kenya Medical Supplies Agency (KEMSA), the Central Medical Stores, partners and CDF. The last time the facility received delivery beds was in 2009 from KEMSA. According to the facilities categorization as per the Ministry of Health Norms and Standards for Health Service Deliveries 2006, Angurai Health Centre still lacks the starting requirements for its level. There are only five nurses out of the recommended 14. The facility has adequate infrastructure requirement especially in the following area:-

(a) Delivery suit and other consultations rooms.

(b) Space for maternity services.

(c) Space and beds for in-patient services with disposal facilities which has incinerator but we have no laundry or kitchen in the facility.

My Ministry has no immediate plan to provide more delivery beds since this facility infrastructure, especially in-patient rooms and maternity suites are inadequate for the level of care and the population it is serving currently.

(b) Maternity utilization rate is very low.

(c) There are no facilities for post-natal care.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for her transparency and for owning up. However, Angurai Health Centre in Amagoro has insufficient staff and facilities. What is the Minister doing to enhance the number of staff and the infrastructure to ensure that there is sufficiency in our health facilities in the country to enable good service to the people of Amagoro and the people of Kenya, including Nyaribari Chache which I represent?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, as I indicated this morning, through the stimulus package we are employing more nurses. Indeed, we employed 20 nurses per constituency last year, except for those constituencies which did not have enough numbers. To fill in that quota, we requested the Public Service Commission (PSC) to allow us to import from constituencies which have an overflow. I believe that is forthcoming and we will start that exercise very soon.

I would also like to inform the hon. Member that from the number we received in this year's Budget, of the 15 extra nurses, we have requested to be allowed to exchange some of these for other needed cadres such as clinical officers, pharmacists and so forth. Indeed, we have already interviewed all those cadres, and we are waiting for the authority from the PSC. We will be employing nurses very soon; they have already been interviewed. What remains is giving them letters as soon as they are cleared by the PSC.

Mr. Temporary Deputy Speaker, Sir, as far as the infrastructure is concerned, I want to appeal--- I did not get enough funds for construction of any infrastructure other than the model health centre, which we are starting to build tomorrow. The Minister for Finance is flagging all the equipment to go to those facilities which are already completed. These include motorbikes, bicycles and other equipment.

I am requesting hon. Members who can use a bit of their Constituencies Development Fund (CDF) to help us with infrastructure. We will appreciate that very much. After all, this is a partnership. We are also working with our other development partners like the World Vision. We have come a long way together. As I said this morning, those Members of Parliament who have extra nurses who need employment should give the Medical Officers in their constituencies the list. They can even send it to my office, so that we can have them interviewed to be employed in other constituencies in the country.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, what special or corrective measures is the Minister taking to make sure that pregnant mothers who go to Government hospitals do not share delivery beds?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I certainly hope that there are no mothers sharing any delivery beds. That is not possible. Maybe they share beds after delivery or before delivery, but not delivery beds. We will be supplying equipment, especially for the model health facilities all over the country. We will try and give as much furniture as we can. Even from the CDF, there are many hon. Members who have really augmented our efforts by trying to supply some of those things. I have enough delivery beds which I will deliver where they are required. However, there must be room and infrastructure where we will put these delivery beds. That is why I am appealing to hon. Members to help from the CDF.

The Temporary Deputy Speaker (Mr. Imanyara): Last question by Dr. Monda!

Mr. Ethuro: On the CDF, Mr. Temporary Deputy Speaker, Sir, before Dr. Monda asks the last question, the Minister---

The Temporary Deputy Speaker (Mr. Imanyara): Are you giving her information?

Mr. Ethuro: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Minister, do you want the information?

Mrs. Mugo: Yes, Mr. Temporary Deputy Speaker, Sir.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, we work very hard with the Minister to ensure that there are enough health facilities. However, the issue is that the CDF has constructed over 3,000 health facilities, which the Minister is yet to make operational. So how do you ask for more help when we have already assisted you but you are not making the facilities operational?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, they are actually 600 health facilities. Those are the ones within my knowledge. You know every new health centre or dispensary must be budgeted for. We have requested for funds to be able to open all the 600 facilities. With the extra staff, I believe we will be able to open them. I am sure the Minister for Finance is also listening to this.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, the Minister has done well and I am satisfied with the answer.

Thank you.

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I thank Dr. Monda for that comment.

The reason I came a little bit late is that there have been a lot of Press reports that there is an outbreak of yellow fever. That is the information I was giving at a Press conference this afternoon; there is no confirmed case of yellow fever. Cases of yellow fever can only be confirmed by the Kenya Medical Research Institute (KEMRI) and not by every doctor, because it is a special case. I thought that is important information.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Minister! You are perfectly entitled at Statements Time to issue a Ministerial Statement without even a request. You can do that even today. So, if you wish to address that issue, when I come to the order on Statements you can do so.

Next Question by Mr. Kiuna!

Question No.849

MEASURES TO REDUCE TRAFFIC JAMS IN NAKURU

Mr. Kiuna asked the Minister for Roads:-

(a) what measures the Ministry is taking to curb the ever-increasing traffic jams in Nakuru Town; and,

(b) what the Ministry is also doing to ensure that the blocked drainage system along the roads in the town is repaired.

Mr. Temporary Deputy Speaker, Sir, I am asking this Question for the second time.

The Minister for Roads (Mr. Bett): Mr. Temporary Deputy Speaker, Sir, I want to apologize for coming late.

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

(a) Traffic congestion in urban centres is caused by a multiplicity of factors, and requires the participation of many players. With regard to this, my Ministry has undertaken the following measures geared at curbing the congestion in Nakuru CBD area:-

(i) We have completed the dualling of Lanet–Njoro turnoff, which is a length of 16.5 kilometers.

(ii) We are rehabilitating various roads in the Town of Nakuru.

(iii) We are re-designing some junctions and notably, the junction next to Hotel Kunste; that is the junction of A104 and B5 – that is the road leading to Subukia – and we will be doing an interchange as soon as the consultancy is finalized. Also, we are doing a consultancy to do another interchange at Njoro Turnoff; that is, A104 and C57. We are

also installing various road signs and, here, my plea to the members of the public is; let us respect our road signs. They are useful to us and they will help us.

Mr. Temporary Deputy Speaker, Sir, we are also proposing and a consultant has already been appointed to do a bypass in Nakuru Town. Nevertheless, for these measures to be effective, there is need to consider the following; and this has got to be done by the Municipal Council of Nakuru. Control movement of three-wheelers; that is *Tuktuks*, motorcycles, and bicycles within the Central Business District (CBD) area. We are also urging the Municipality of Nakuru to consider re-locating the matatu terminus which is almost in the centre of Nakuru Town.

Thirdly, we also urge the Municipal Council of Nakuru to revoke licences of all obstructive outlets on the road corridors; that is, PSV Booking Offices, car washing kiosks *et cetera*.

Fourthly, we urge the Municipal Council of Nakuru to remove all vendors from the streets of Nakuru.

(b) A total of Kshs85, 292,375 has been set aside for the routine maintenance of a number of roads in the town. The scope of works will include drainage works on the selected roads. Further, the Kenya Urban Roads Authority (KURA) is currently undertaking a major upgrading rehabilitation of key roads at a total of Kshs370 million. The scope of works will include storm water drainage. We are also minding the bridge that was pulled down by a truck on the A104 Road which also helped in easing traffic congestion; particularly, the human traffic.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, while I appreciate the answer given by the Minister, we have a major problem in Nakuru Town.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members!

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, there are about three major roads in Nakuru Town which have a lot of traffic jams. They are Oginga Odinga Road, Mburu Gichua Road and Kanu Street. What immediate measures has the Minister taken to make sure that these roads are passable because, currently, you can spend over one hour to cover a very small distance?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, the road running parallel to A104, that is the Oginga Odinga Road, is currently under rehabilitation and the contractor is China Road and Bridge Corporation. That road measures 4.5 kilometers but already, 3.2 kilometers has been done. Kanu Street is amongst those roads that will be looked after, soon after the KURA finishes its exercise on which roads to rehabilitate in Nakuru Town.

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, while I appreciate what the Minister is doing in Nakuru Town towards alleviating traffic jams in that town, is he aware that motorists in Nairobi are going through hell because of the construction of the roads in this City and there are no proper traffic signs erected by the contractors? For example, last night---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Please, give the hon. Member speaking an opportunity to ask his question, so that the Minister can respond. Consult in lower tones!

Continue!

Mr. James Maina Kamau: Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me, because there is a lot of noise and people cannot hear what is being said.

Mr. Temporary Deputy Speaker, Sir, last night, we went through hell from Museum Hill all the way to Aga Khan. We spent seven hours and I got to Aga Khan Hospital at around 2.00 a.m from the time we left this Parliament at 6.30 p.m. What has the Ministry done to make sure that Nairobi motorists do not go through that kind of hell?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I want to assure this House that appropriate road signs are placed by the contractors. It is only our behaviour as drivers and, particularly the PSV drivers, who seemingly do not abide by those instructions on our roads. There are also police who are manning them and I want to take note of what the hon. Member has said. However, yesterday, there was again the issue of fuel and people were queuing all over the place. So, I do not think it was only the issue of the roads. I think there was also a problem yesterday with regard to fuel shortages where people were queuing on road junctions to petrol stations.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, the Minister has given us a very good record of what is happening in Nakuru. May I kindly ask whether the bypass that was dug up for Kisumu can be made motorable because big lorries pass through the City and spoiling its roads? All that is needed is just to fill up the swampy area so that the big lorries can use it.

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I am aware of that problem and specific instructions have been given to the Kenya National Highways Authority (KENHA). I also want to inform the hon. Member that we have finally received an agreement with our development partner for that road to be bitumenized between Nyamasaria and Kishan through Kibuye. So, that will be done because we have received a letter of no objection from the development partner and, in particular, the World Bank.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, there used to be a turning around Kunste and Section 58 and when the Minister was a powerful Comptroller of State House, he used to host us Nyama Choma there. However, since he did this road, which is causing a lot of traffic jams in Nakuru, he has cut off that link and I think it is contributing to the traffic jams. What has the Minister done to make sure that, that turn-off is operational in order to reduce the traffic jams in Nakuru Town so that we can eat our *nyama choma* at Crater View?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I was not aware he still remembers the *nyama choma* because he used to take me around Section 58.

Mr. Temporary Deputy Speaker, Sir, it is the junction I earlier on mentioned as between A104 and B5. The B5 Road goes to Subukia and A104 is the main highway from Nairobi to Nakuru. We have noted that problem and it is a design problem. I have, therefore, released Kshs78 million for that to be re-designed so that we are able to access Nakuru easily or to exit Nakuru without difficulties. So, that problem has been noted and we are already taking action.

Thank you, Mr. Temporary Deputy Speaker, Sir.

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

Mr. Kiuna: Thank you, Mr. Temporary Deputy Speaker, Sir. I am very glad that the Minister has set aside over Kshs369 million to rehabilitate and upgrade some major roads in Nakuru Town. However, when will this work commence so that people can benefit from that money?

Mr. Bett: Mr. Temporary Deputy Speaker, Sir, I want to inform the Member that most of the works are already in progress. I am aware and he can notice this when he is on the main Nakuru- Nairobi highway, he would be seeing a contractor on Oginga Odinga Road building that road. The same applies to the other roads. So, I want to assure him that already, the works are in place and the contractors are already working.

PRIME MINISTER'S TIME

Question No. QPM014

DISCHARGE OF SEWAGE INTO RIVER RUIRU

Mr. Kabogo asked the Prime Minister:-

(a) whether he is aware that sewerage from Ruiru Town flows into Ruiru River resulting in several deaths caused by water borne diseases, and,

(b) What immediate measures the Government is taking to curb the menace?

The Temporary Deputy Speaker (Mr. Imanyara): Who is answering this Question? Is it the Deputy Prime Minister and Minister for Finance or the Minister for Public Health and Sanitation?

(Mr. Kenyatta consulted Mrs. Mugo)

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, the Minister for Public Health and Sanitation will answer this Question.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Ruiru Town currently lacks a conventional sewerage system. Sewage from Ruiru Town occasionally overflows from filled up septic tanks and pit latrines and has been finding itself into Ruiru River. However, I am pleased to inform the House that the Ministry of Water and Irrigation has procured and donated an extra sewage exhauster to alleviate the problem. I am also aware that plans to provide a conventional sewage treatment plant for Ruiru Town were initiated in 2009, commencing with appropriate site identification and acquisition, followed by a detailed feasibility study at a cost of Kshs3 million. Spatial mapping and detailed design drawings have been completed by Ruiru and Juja Water and Sanitation Company. The first phase is estimated to cost Kshs1.5 billion, and the Ministry of Water and Irrigation is exploring the means of funding.

Further, I am also aware that between the months of November, 2009 and June, 2010, Ruiru Town and its environs experienced sporadic outbreaks of diarrheal diseases, including cholera, where 17 cases were reported and nine deaths occurred.

(b) My Ministry, Ministry of Water and Irrigation, Ministry of Environment and Mineral Resources have undertaken the following immediate measures, among others:-

1. Rehabilitation of sewer networks and flushing has been undertaken. Additionally, three major soak pits have been constructed at a cost of Kshs1 million through the *Kazi Kwa Vijana* Programme.

2. In effect of water supply, I am aware that the Athi Water Services Board is undertaking the development of Ruiru Water Supply to improve water provision at a cost of Kshs650 million. It is important to note that this increased water supply will as a matter of necessity, require improved sewerage networks and treatment.

3. Vigorous public health inspection of the entire town and its environs has been undertaken.

4. Stepping up comprehensive health promotion campaigns in the affected regions.

5. Prompt treatment of all suspected cases and prophylactic treatment of contacts.

6. Treatment of water at household level in the affected areas using chlorine based disinfectants or aqua tabs.

7. Continue with targeted diarrheal cases surveillance to date.

8. Instituted legal measures under the Public Health Act, Cap.242 Laws of Kenya, 485 notices have been served and are at various levels of compliance.

9. My Ministry also took Ruiru and Juja Water and Sanitation Company to court on 9th August, 2010, for failing to provide sewerage services and that is case No.3311 of 2010, which is ongoing.

The above measures will continue until my Ministry is satisfied that Ruiru Towns' sanitary status is up-to-date and to prevent further infections and deaths.

Mr. Kabogo: Mr. Temporary Deputy Speaker, yes, I do have an answer from the Ministry of Public Health and Sanitation. This Question also touches on the Ministry of Environment and Mineral Resources. The purpose of taking the Question to the Ministry of Environment and Mineral Resources was that the Government or the Prime Minister's Office, so to speak, does not understand this Question.

Mr. Temporary Deputy Speaker, Sir, you can see that in part "a" of my Question, the Minister says that Ruiru Town lacks a conventional sewerage system, yet, there is none at all. There is no sewage system. So, is she convinced that one extra sewage exhauster to cover Githurai, which is in Ruiru, Kahawa Sukari, and Ruiru Town itself, is adequate. Is she satisfied that one exhauster will stop sewage flowing into the river?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I said that was on emergency situation. It was a stop gap measure. However, a major rehabilitation on development of sewerage networks is being undertaken. We said that the area has already been identified and a feasibility study has been done at a cost of Kshs3 million. The cost has also been established at Kshs1.5 billion. The Ministry of Water and Irrigation is exploring the means of funding that project. So, the measures we have undertaken between the Ministries are stop gap measures. But a major rehabilitation is being planned.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, Yatta Constituency and other constituencies which benefit from the Athi River are some of the victims of

pollution, purely because of lack of treatment of raw sewer from Nairobi, Ruiru and Thika towns.

Mr. Temporary Deputy Speaker, Sir, this House is still awaiting a report from the Government chemist on what caused the death of Athi River fish. The Government is spending millions of money providing water, and yet we are not giving money to the water companies, which are the creation of the Government. Instead of giving money to water companies to set up sewerage systems, we are taking them to court. What urgent measures are you taking as a Government to give money to water companies in those affected areas, so that they can set up sewer systems and make sure waters of rivers or streams are not polluted?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, even with the collective responsibility as this Question touches on three Ministries, as far as how the funding is planned is concerned, that can well be answered by the Minister for Water and Irrigation under whose docket this matter falls. As far as my Ministry is concerned---

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Now, you see the frustrations the Minister is going through. She is saying that this bit about the sewage can only be answered by the Minister for Water and Irrigation. This is why the Question was referred to the Prime Minister. Now, we do not have a conclusive answer. Would it be in order to request you to defer this Question for the Prime Minister to be able to come to the House and answer it properly to the satisfaction of the House?

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Sir. I just want to remind the Chair that the Chair did rule that the three Ministers of Public and Sanitation, Water and Irrigation and Environment and Mineral resources address this issue jointly and one of them comes to answer the Question.

So, when the Minister who is now responding tries to push a section of the Question to another Ministry, it can only mean that there is a division within the Government, and the Minister is not talking to the other Minister. So, my appeal to the Chair is, if the Minister is not ready to respond to this Question adequately, let her go back and consult those other two Ministries, and then they come up with a conclusive answer because we are affected.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Chanzu, is your point of order on a similar issue? Is it related to that issue or is it not?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, can she not address the Question?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! If you were listening, you would have heard the Deputy Prime Minister and Minister for Finance say that the Question would be answered by the Minister for Public Health and Sanitation. The Chair is also aware that, in fact, the Speaker did make a ruling on this issue. The three Ministers had to consult and determine between them who would the Question, and whoever was going to answer the Question should be able to address all the aspects of the Question. So, Minister, Since you have not consulted your colleagues, we can defer that portion of your answer relating to the Minister for Water and Irrigation to enable you consult her and come back next week to answer to that particular bit of the Question.

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, if I may react to that---

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

The Temporary Deputy Speaker (Mr. Imanyara): Is it on the same issue or a different one, Mr. Ethuro?

Mr. Ethuro: On the same issue, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Minister, just hold on, so that we can hear what Mr. Ethuro's point of order is about.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.40(3), which provides as follows:-

“40(3) In the absence of the Prime Minister, a Deputy Prime Minister designated by the Prime Minister may make a statement or answer Questions under this Part.”

Are you satisfied that hon. Beth Mugo---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, Mr. Ethuro! If you were listening, you would have noticed that the Deputy Prime Minister and Minister for Finance rose and directed the Minister for Public Health and Sanitation to answer that Question. So, it is perfectly in order for her to answer that Question as directed.

Minister, will you be able to consult and answer that part of the Question?

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to the Chair---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Minister, are you---

Mrs. Mugo: Mr. Speaker, Sir, we have consulted, but the Question is specific to a Ministry.

Mr. Ethuro: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Continue, Minister!

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, we have consulted as directed by this House. However, an issue has now arisen about giving money from the Ministry to the water companies. We must appreciate the fact that each Ministry has its own budget, and I cannot pretend to speak on how the Minister for Water and Irrigation will divide her budget. So, when it comes to budgetary issues, we must respect the fact that the particular Minister is the one who can answer, even with the collective responsibility principle in play.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Imanyara): If you want the sympathy of the Chair, you do not stand in unison. I will see Mr. Kabogo, because he is the author of this Question.

Mr. Kabogo: Mr. Speaker, Sir, this is a very serious matter. The Minister has said that there has been consultation, but I am aware that the Ministry of Environment and Mineral Resources has not been consulted. I went to the Ministry yesterday, and the person in charge ordered that a site visit takes place tomorrow.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kabogo, the Minister for Public Health and Sanitation is in the House. You are saying that she has not been consulted?

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, it is not the Minister for Public Health who has not been consulted. I referred to the Ministry of Environment and Mineral Resources.

The Temporary Deputy Speaker (Mr. Imanyara): Very well! I am sorry about that.

Mr. Kabogo: Mr. Speaker, Sir, the person in charge of this matter in the Ministry of Environment and Mineral Resources has ordered a site visit to take place tomorrow. May I request that the Minister for Public Health and Sanitation accompanies the team that will go and see one of the tributaries of this river, from which it is not water that flows but rather, something which looks like crude oil? Children and women swim in that water. Can we---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kabogo, you know, you are on a point of order!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, would I be in order to request a visit by the Minister?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, it is not correct for the hon. Member to insinuate that there has not been consultation. I personally spoke to hon. Michuki on this issue. He told me that he accepted the request. He said that he was travelling out of the country. He instructed his Permanent Secretary (PS) to consult with my PS. The two PSs, in consultation with the PS, Ministry of Water and Irrigation, prepared this answer. Hon. Michuki also informed me that his Ministry will visit the site. So, it is wrong for the hon. Member to insinuate that I am saying something which has not happened. My Ministry can accompany the team from the Ministry of Environment and Mineral Resources.

The Temporary Deputy Speaker (Mr. Imanyara): Minister, you did point out that the issue relating to budgetary allocation can only be referred to the Ministry of Water and Irrigation. That is the only aspect of the Question that I want you to address. I am satisfied that you have handled the rest of the issues. On the issue that was raised by hon. Kabogo, I have also heard you accept that you will provide somebody to accompany Mr. Kabogo or Mr. Kabogo will provide somebody to accompany your officers to the site. So, on the issue of budgetary allocation, could you consult the Ministry of Water and Irrigation and let this House know how much money they are making available for you to address that bit of the Question. How long do you require to do that?

(Several hon. Members stood up in their places)

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

Can I hear your reaction, Minister?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I undertake to consult.

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, Dr. Nuh?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I am on a supplementary question, and not a point of order.

The Temporary Deputy Speaker (Mr. Imanyara): I thought you were on a point of order.

What is your point of order, hon. Mbadi?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I am rising on a point of order on a matter of procedure. If you look at Standing Order No.40(3), which says that in the absence of the Prime Minister, a Deputy Prime Minister---

The Temporary Deputy Speaker (Mr. Imanyara): If you insist on re-visiting an issue on which I have made a ruling, I will not throw you out but I will do something very close to that. If you have stood on a point of order, let it be a point of order. Do not re-visit a matter on which the Chair has ruled.

Last question, Mr. Kabogo!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, first, I would like to correct the impression that I said there were no consultations. I did not say that there were no consultations. I said that the consultations were not good enough, because something is going on. I am now aware that the Minister is aware.

Since the Minister has undertaken to go and find out how much money is available, could we get a timeframe within which she will report back to the House? What immediate action does the Ministry intend to take? The part of the Question that you have deferred is the main bit; it is about sewer flowing into the river.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kabogo, that will only arise after we find out how much money is available and whether it is, in fact available, for that purpose.

Minister, how long do you require to consult your colleague in the Ministry of Water and Irrigation?

Mrs. Mugo: Mr. Speaker, Sir, I will consult my colleague immediately. She indicated that she was travelling out of the country. I do not know when she will come back. However, work must go on. So, my PS will start consultations with the PS, Ministry of Water and Irrigation.

(QPM014 deferred)

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

MINISTERIAL STATEMENTS

DISBURSEMENT OF INFORMAL SECTOR FUND

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, on 28th April, 2011, hon. Mwathi sought for a Ministerial Statement on the disbursement of the Informal Sector Fund. In particular, he wanted clarification on the following:-

1. Who are eligible for the Fund and the criteria used in determining the beneficiaries of the same.
2. The financial institutions that will disburse the money, how they were identified and the percentage interest they will charge.
3. The institutions that would utilize the Kshs800 million for capacity building and how this will be distributed within the institutions.

4. Whether the Ministry has approved membership registration charges which are currently being levied by some District Steering Committees in compiling their database for applicants.

Arising from the above request, I wish to state the following:-

(1) All Kenyans involved in economic activities within the informal sector, including non-banked and under-banked businesses in rural and urban areas of Kenya are eligible. The Fund was established by the Government as an initiative to scheme up a very successful project run by the Ministry of Finance in partnership with commercial banks and with the support of the French Development Agency (FDA). As a result of lessons learnt from the project, it was clear that a commercial approach could be used to reach Micro and Small Enterprises (MSEs) and to formalise the informal sector. The objectives of the Fund were, therefore, to address youth unemployment and encourage the MSEs as key drivers of economic growth and development. Through the Fund, the Government seeks to empower an estimated 8.3 million Kenyans working in the informal sector, including two million in the *Jua Kali* industry, with the rest in the informal transport sector and small manufacturers. The Fund is expected to allow them to access credit, expand their businesses and increase savings which will help to reduce the nation's twin problems of unemployment and poverty.

The Fund addresses the financial sector's policy goals under the Vision 2030 that includes increasing financial access. It will also widen and deepen financial inclusion of the under-banked and unbanked in Kenya and increase the use of innovative delivery channels like M-Banking. The Fund will support the transition of the informal sector enterprises into formal sector through access to formal providers of financial services.

(2) The Fund is being implemented through banks, namely; the Co-operative Bank of Kenya, Equity Bank and K-Rep Bank. These banks were selected through a competitive tender process in accordance with the provisions of the Public Procurement and Disposal Act. The selection criteria amongst other areas of assessment include the following:-

(a) Matching contribution ratio to loan from the Government. The minimum matching ratio of Kshs5 for every Kshs1 is provided by the Government to be lent to the target clients. The minimum matching contribution of 50 cents for every Kshs1 is provided for by the Government as capacity building grants.

(b) M-Banking platform that ensures efficiency of delivery systems, office or robust platform to remotely reach large numbers and lower costs to make credit more affordable to the target clients.

(c) Existing outreach capacity assessed on the basis of infrastructure linking the banks to the informal sector through existing branch networks and agent banking arrangements, ability to mobilise the target clients and prepare them for credit and other banking and financial services.

(d) Capacity building and capacity assessed by examining the following:-

(i) Bank's existing infrastructure for capacity building, ability and commitment to match the Government's capacity building grant with the bank's own funds.

(e) Sustainability of the Fund and banks' strategies for continued outreach to the target groups.

On average, the market lending rates for the sector range from 20 to 30 per cent based on their risk profiles. Participating banks will continue to bear the credit risk under

this programme and it has been agreed with them that the interest to be charged to the target groups should be affordable.

(3) The Fund includes capacity building component for banks and their banking agents to improve the effectiveness and outreach to the MSCs and the final beneficiary to increase their knowledge on business management and available banking products and services. This capacity building also includes training and systems development that will ensure that the Fund is sustainable and the MSEs become regular banking clients. The Kshs800 million for capacity building will, therefore, be channelled in tranches over a period of time through the participating banks to achieve the goal. The capacity building funds while initially will be shared on an equal basis amongst the current banks, in future the additional disbursements will be based on measureable performance by the current and future participating banks.

(4) The Office of the Deputy Prime Minister and Minister for Finance has not authorised any personal organisation to recruit members or charge registration fees to access the Fund. Any person purporting to be registering members for the purpose of accessing funds from the selected banks is, therefore, acting illegally.

(5) The Fund is a revolving Fund through which the Government enters into a long-term credit facility agreement with selected banks for on-lending to MSEs through branches authorized, banking agents and other channels, particularly mobile banking. Due to the longer duration of the credit facility, it allows the banks to advance term loans to their clients.

(6) The Fund is accessible in all the counties through the participating banks. The selected banks will use their own internal criteria to avail funds to qualified applicants. The banks are required to match the Fund at a minimum of Kshs5, as I said, for every Kshs1 invested by the Government. This will, therefore, leverage the Fund fivefold to a minimum of Kshs15 billion.

(7) As indicated above, the main benefit expected from the Fund is increased access to affordable credit by MSEs. It is known that the current market lending rates range from 20 to 30 per cent for MSEs, which is way too high for the MSE segment. With this programme, we expect significant reduction in transaction costs through the economies of scale and leveraging of ICT and mobile banking as channels of loan disbursements and repayments. It is, therefore, expected that this will translate to more affordable interest rates, not only from the funds lent by the Government to the banks, but also from their own funds. This will in turn result in higher productivity of the informal sector business, increase formalization of the informal sector, improve turn-over and profits for MSEs and ultimately, lower the cost of doing business and generate employment opportunities, particularly amongst the youth.

Last but not least, I wish to refer hon. Members to the Press Statement that was issued on Thursday, 14th April, 2011, by the Office of the Deputy Prime Minister and Minister for Finance which was carried on Page 25 of the *Standard* newspaper and Page 48 of the *Daily Nation* newspaper. It explained in detail, the objectives of the Fund, eligibility criteria, how the Fund works, benefits of the Fund, related services, the participating banks and the national coverage.

The Temporary Deputy Speaker (Mr. Imanyara): I would like some indication on how many clarifications are being sought, so that I can see how we will proceed. Hon. Deputy Prime Minister and Minister for Finance, please, take notes because I am going to

allow the Members in the following order:- Mr. James Maina Kamau, the Member for Subukia, Mr. Kabogo, the Member for Lari, Mrs. Shebesh, the Member for Gwasssi and finally the Member for Rangwe. After that, I may take another set. Start in that order, please, and do not take more than one minute. Take strictly one minute and you will be timed.

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir. I would like to appreciate the answer given by the Deputy Prime Minister and Minister for Finance. It is comprehensive and everybody has understood. These funds, as he has explained, are supposed to be given at a certain rate that has not been clarified. He has said that the rates given by the banks range between 20 to 30 per cent, which is a bit too high. In my constituency, Kandara, there are officials who have been telling the people that, that money is free. They have even been doing campaigns using those funds. I would like the Deputy Prime Minister and Minister for Finance to tell us the actual interest rate which is supposed to be paid by the borrowers. There is a lot of misinformation.

The Temporary Deputy Speaker (Mr. Imanyara): You have exhausted your minute. You wanted to know the interest rates. Next!

Mr. James Maina Kamau: Mr. Temporary Deputy Speaker, Sir, there is a lot of misinformation---

The Temporary Deputy Speaker (Mr. Imanyara): Order! One clarification at a time! Who was Number Two?

Mr. Gaichuhie: Mr. Temporary Deputy Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Finance for that noble idea of giving funds to Small and Medium Enterprises (SMEs). However, why does it take 14 weeks for the banks to train people who want to access that money, while they are already using it to do their own business? This is because with the Kshs250 million which is Government money, they can buy Treasury bonds or do any other business.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, while I thank the Deputy Prime Minister and Minister for Finance for that Statement, I would like him to clarify the following. He has said that those who are collecting money are doing so illegally. For example in Thika, the Municipal Council is collecting Kshs1,000 from every group. We also have cartels which are collecting Kshs100 for every member who is registered. What will the Deputy Prime Minister and Minister for Finance do to stop this menace? I understand that this is coming from a senior officer in the Office of the Deputy Prime Minister and Ministry of Local Government by the name PMG. It is said that all this money is being channeled to private accounts that belong to this fellow and other people. What will the Deputy Prime Minister and Minister for Finance or the Ministry do to stop this menace, where Kenyans lose money to cartels in the name of recruiting people to get free money, and yet the money is said to be loan money?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while commending the Deputy Prime Minister and Minister for Finance for the bold Statement, I would like him to inform this House the effective efforts he has taken to make sure that illegal collections that have been effected by these cartels are returned immediately to the unsuspecting Kenyans?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, could the Deputy Prime Minister and Minister for Finance, tell us how to deal with the questions that we are being asked by many women who had already been initiated into this programme?

Specifically, I would like to bring to his attention the women who operate at Kenyatta Market. They were asked for money and taken for training. Some parted with Kshs100 while others Kshs1,000. What can we specifically do to the women who we know have already been swindled out of their money?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, now that the Government has decided to use banks, including private banks, to disburse these funds, I would like to know what mechanism or method the Ministry is using to monitor these banks to ensure that the rates they charge are affordable, as the Deputy Prime Minister and Minister for Finance is implying.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Finance for the initiative to empower communities. How is the Ministry ensuring that there is training, particularly targeting those who are still outside the fund's net, so that there is increased absorption of these funds and widespread benefit from these funds?

Mr. Temporary Deputy Speaker, Sir, lastly, what motivation is there for the financial institutions to bring their matching funds, knowing that their funds would earn more interest if they put it elsewhere other than to match these funds?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, Mr. James Maina Kamau has asked a question about rates and I think I mentioned it in my Statement that rates currently charged to the target group range between 20 per cent and 30 per cent. One of the objectives of this fund was to try and ensure that we reduce that rate. However, like I said, this has been left to banks with ourselves monitoring. One of the criteria used in terms of using M-banking platforms and other cost-reducing efforts as well as being able to use this facility--- One of the principle objectives is to reduce this rate of interest from a high of, say, approximately 30 per cent. Our target originally was that this should be provided for between 14 per cent and 16 per cent. This was what we had already envisioned, but like I said, this will largely be left to banks, similarly to the same programme that we had under AFD.

Mr. Temporary Deputy Speaker, Sir, with regard to the question by Mr. Gaichuhie about 14 weeks training while waiting for disbursements, I need to say here quite clearly that our contracts with the banks are still not yet completely finalized. We have gone through the tender process, but the contracts are yet to be finalized and monies are yet to be released. Some institutions have already begun their own training under their own scheme and we encourage that because, therefore, it means that by the time they receive the funds, they will have people to lend to.

Mr. Kabogo has asked about cartels and this is not the first time we are hearing about this. We have heard it through Members of Parliament, the media and reports that have come to our office. We have consistently been, through radio and other media, informing the public that this is an illegal activity and there is no request for anybody to be contributing any money. What I would encourage – and this is more or less in line with the question by hon. Shebesh – is that anybody who knows people who have had to pay monies to be registered, those people should go to the police and report the matter so that action can be taken against the people who have illegally taken other people's money. I think that is the advice I will give the hon. Members. This is because as a

Ministry, when we started getting these reports, we made it very clear to various media fora that whoever takes this action, is taking an illegal action.

Mr. Temporary Deputy Speaker, Sir, there was a question asked by the Member for Gwassi on how the Ministry will monitor the banks. We will monitor them the same way we monitored the AFD programme. We have a small unit in the Office of the Deputy Prime Minister and Ministry of Finance that handles SME situations. We are developing a reporting format that all banks will now be required to follow. We expect to receive six monthly reports, first and foremost, whether the target market has been reached, the number of people who have been lent funds and the amounts that have been disbursed by each respective bank. This is because, like I had indicated in the Statement, that monitoring tool would be the same tool to be used to figure whether those banks will be entitled to further disbursements. Their own track record will be the determinant as to whether they will be eligible in future for additional funds. That is why the monitoring process or unit is very critical.

There was a question by Mr. Ogindo which I did not fully get. Maybe, he can just repeat it.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ogindo, could you just repeat your question for the Deputy Prime Minister and Minister for Finance?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I wanted the Deputy Prime Minister and Minister for Finance to clarify on the training that will be given to SMEs that are outside the SME net today, so that they can get in to increase absorption. Secondly, what will be the motivation to the financial institutions to leave out more lucrative interest earning investments, to bring their money to the SMEs where they will charge lower interest rates?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, the answer to part “b” is very clear and obvious. The framework itself is very clear that any bank that is participating and that shall utilize these monies must lend to this particular target group. That is why it is clear that for every shilling that the Kenya Government contributes into this programme, participating banks must contribute an equivalent of a minimum of Kshs5 because we wanted to bring the total up to about Kshs15 billion or a minimum of Kshs15 billion being lent to this target group. That is why the monitoring unit as was raised by Mr. Mbadi is very important to ensure that these monies are being lent to the specific target groups.

As to how they will access the SMEs that are outside the band, I really do not know. I think the most important thing for us is just to create awareness that this facility does exist wherever we are in our respective constituencies, so that people are able to approach banks. I do not know how else I can answer that because we do not have a particular platform because this is supposed to be a case where a person walks in and they are offered the facilities accordingly.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, you have pointed out to the public that the collection of funds is an illegal activity. Would you also write to the office of the Attorney-General, so that he can direct the Commissioner of Police to immediately start investigations because this is a matter that concerns all hon. Members? It is happening in my own constituency, for example. We have pointed this out, but the OCPD and the Deputy OCPD said their hands are tied; they have not received any instructions. Now that you have given clear policy of the Government on

the issue, would you also communicate to the Office of the Attorney-General for him to direct the Commissioner of Police to conduct these investigations within a given timeframe to enable you to come and inform the House what steps have been taken to bring this to an end? If any monies have been lost, for example, how much, so that hon. Members can feel that their concerns are addressed?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Point taken, Mr. Temporary Deputy Speaker, Sir. We will instruct the Attorney-General accordingly.

The Temporary Deputy Speaker (Mr. Imanyara): There were quite a number of statements. Was there any other Minister who was giving a Statement? Mr. M. Kilonzo, was yours for today?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, my Assistant Minister kindly approached you, now that you are on the Chair because the Statement was particularly asked by yourself, I was going to ask two things:

One, I have looked at the Statement and I am not completely satisfied, knowing your ability. Secondly, I would want the opportunity when you are not in the Chair.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, how long do you require?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): I want to do it on Wednesday, next week.

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

The Temporary Deputy Speaker (Mr. Imanyara): I hope you are not overtaken by events.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I am not overtaken by events. The Minister said knowing you he has---

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

Mr. Ethuro: Let me finish, Mr. Temporary Deputy Speaker, Sir. This is serious. The Minister said that he has looked at the Statement and he is not satisfied. Who originated the Statement? He must have signed it before coming to this House. Is he in order?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ethuro, you may ask that question when he delivers the Statement next week. I would encourage you to do so.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, last week, I sought a Statement from the Minister---

The Temporary Deputy Speaker (Mr. Imanyara): Just before that, were there any other Ministers giving Statements?

Let us have the one from the Minister for Public Health and Sanitation, then I will come to the ones that have not been given and the requests.

MEDIA REPORTS ABOUT YELLOW FEVER OUTBREAK

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, mine is a very short Statement, just to allay any fears that hon. Members might have about the yellow fever which has been reported by some sections of the media. I want to confirm to you that up to now, all the specimens of the two people

who had passed on which have been taken to KEMRI, did not test positive for yellow fever. One of the people had taken rat poison. The other one had died of other causes, but not yellow fever.

Regarding the other 16 cases where it was alleged that nine died of yellow fever, again, it is not true. The specimens have been taken to KEMRI. We are waiting for the results. As soon as the results are out, we will inform the public. We understand that some tourists had even started canceling their hotel bookings because of this fear. There is no such thing yet.

The campaign which we are starting in Baringo is regular. We normally carry out a campaign for yellow fever every ten years. The last one was carried in 2000. We are now doing the regular campaign in Baringo. In those high risk areas, like Koibatek, every ninth month after a child is born, they are given yellow fever vaccine as part of our routine vaccinations. So, there is no cause for alarm. There is no yellow fever confirmed up to now. Not every doctor can diagnose it. That was the mistake done, when a doctor announced in that area that those people had died of yellow fever. It is for the laboratory tests to confirm this and the only laboratory that can do so, is KEMRI.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Were there any hon. Members who had issues with Statements that were requested and have not been given?

POINTS OF ORDERS

ILLEGAL IMPORTATION OF SUGAR

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, last week, I sought a Statement from the Minister for Agriculture over the illegal importation of sugar. Given the magnitude of that issue and the fact that I do not see her here, when is the answer likely to come?

The Temporary Deputy Speaker (Mr. Imanyara): Mrs. Mugo, when will the Statement be given? There was a Statement that was due from the Minister for Agriculture. It was due this week and it has not been delivered. When will it be delivered?

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I undertake to inform the Minister, so that she can give the Statement next week on Wednesday.

The Temporary Deputy Speaker (Mr. Imanyara): Wednesday morning or afternoon?

The Minister for Public Health and Sanitation (Mrs. Mugo): Afternoon.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, next week, I will not be around. Maybe, she can do so, a week after. Given the magnitude of this, could we also refer this matter to the Committee of Agriculture, so that they can also do investigations?

The Temporary Deputy Speaker (Mr. Imanyara): You know, you do not require any direction to refer any matter to any Committee. Let us get the Statement first in a fortnight's time.

The Minister for Public Health and Sanitation (Mrs. Mugo): Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Is there any other request that was made for a Statement that has not been delivered?

Any requests? I will start with Mr. Shakeel.

PERFORMANCE IN CONCERT BY JAMAICAN ARTISTE DING DONG

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I request a Statement from the Minister for Immigration and Registration of Persons. Is he aware that a Jamaican artiste called Ding Dong, but his name is actually Shavon, who performed at the KICC and other venues in Kenya over the Easter weekend has been banned from performing in Jamaica and all over the West Indies due to the pornographic nature of his concerts? The question is who hosted---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Shakeel, it is not a Question. You are seeking for a Statement.

Mr. Shakeel: In the Statement, could the Minister also verify whether the artiste called Ding Dong who was hosted by a Mr. Denis Oliech of Fishbone Events was given a work permit to allow him to promote a concert that was called "Swaggerific" which promoted and encouraged immoral and pornographic behaviour among underage Kenyan audiences which was broadcast all over the world by YouTube and thereby damaging our image, as pornographic promoters?

In his Statement, could he also address the issue whether the artiste has now left the country? If not, whether he could be charged together with the sponsors for promoting immoral behaviour and pornography in this country?

The Minister for Public Health and Sanitation (Mrs. Mugo): Next week on Wednesday.

The Temporary Deputy Speaker (Mr. Imanyara): That is a very serious issue that has been raised. Could you make it earlier than Wednesday?

The Minister for Public Health and Sanitation (Mrs. Mugo): Tuesday afternoon, because I have to find the Minister concerned.

The Temporary Deputy Speaker (Mr. Imanyara): The Statement will be brought on Tuesday next week at 2.30 p.m.

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

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, Mr. Shakeel?

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Meanwhile, could that artist be banned because he is damaging our---

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have heard the Minister say that she is going to consult a colleague. She cannot make that decision. But I am sure she has mentioned that, that is a very serious issue. I am sure she will be able to raise all those issues with the Minister and, if necessary--- They will not have to wait until next Tuesday. They can issue a statement through their own ministerial public offices. But the House expects a Ministerial Statement on Tuesday next week addressing those issues. Mr. Ochieng'!

MEASURES TO ADDRESS FUEL
SHORTAGE IN THE COUNTRY

Mr. Ochieng: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to request for a Ministerial Statement from the Minister for Energy on the current crippling fuel shortage in the country. In his statement, the Minister should clarify the following:-

- (a) The reasons for the shortage.
- (b) The measures he will take to ensure a sustainable availability of fuel products.
- (c) The punitive measures he will take against dealers who are responsible for the shortage.

I end my request.

(Mr. Mbadi stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): On the same issue?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, you realize that I also approached the Chair over the same issue. But just to add on this---

The Temporary Deputy Speaker (Mr. Imanyara): Order! The approach to take is that while the Minister is giving the Statement on those issues, you will also address him and point out what you want him to clarify.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, as the Minister prepares to answer this Ministerial Statement, could he also consider explaining why a company called Gulf, which was awarded a tender to bring in 70,000 metric tonnes of petroleum products, has not been able to offload its vessel? The tender was awarded in March. Could he also indicate whether that has caused the current fuel shortage in the country? Is there a possibility that the buyers have refused to accept the products from that particular company?

Finally, could the Minister give details of the petroleum products in terms of volume held by Kenya Pipeline Corporation (KPC) in their tanks and most, specifically, the volume meant for transit against the volume meant for local consumption? That is as per today.

The Assistant Minister for Energy (Mr. M.M. Mahamud): Mr. Temporary Deputy Speaker, Sir, we shall issue a Ministerial Statement tomorrow Thursday, at 2.30 p.m.

PERSONAL STATEMENT

EVENTS SURROUNDING VIOLENT ATTACK AGAINST HON. ESELI AT PARK VILLA HOTEL IN WEBUYE

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order No.76 to issue a Personal Statement.

On the night of 29th and 30th May, I and some members of my political party, FORD(K), were victims of a violent attack at Park Villa Hotel in Webuye at around midnight. I wish to make a Personal Statement regarding the events of that fateful night, since it may be a serious threat to my personal security, that of my supporters and to set the record straight in view of some utterances by senior labour movement leadership and distortion of events by a section of the media.

Mr. Temporary Deputy Speaker, Sir, I left Nairobi on Friday 29th at about 2.00 p.m. for Western Kenya, with the intention to lay down campaign programmes for my political party nominee for Kimilili Municipality Civic By-election that is due soon. I arrived in Webuye just after 8.00 p.m. and went straight to my hotel room at Park Villa Hotel, a room which I had booked via a telephone call while in Nairobi. I had also made several appointments for people from Kimilili Town to see me in the course of that evening.

Upon arrival, I started seeing the various people I had summoned, and held lengthy discussions with separate groups of FORD(K) members. At about midnight, I completed the exercise and they all went for a meal in the hotel dining room while I opted to stay and eat from my room. As I was eating, there was a knock on the door with a call "room service". Not suspecting any foul play, I opened the door only to be confronted by the waiter with three men dressed in police jungle uniform. One of them was wielding a gun. They asked if I was hon. Eseli and I answered in the affirmative. They pushed me into the room and proceeded to harass me, stealing money, a camera, a pair of shoes, a black leather wallet with cheque books and my two telephones. They then herded in those who were in the dining hall and also harassed them, stealing money and telephones from them while beating up some of them, including one hotel watchman.

They locked us up in the room from outside and left. After ten to 15 minutes, we broke the door and found our clothing abandoned at the doorstep. We went out to the reception area and found out that it had also been broken into, but we could not find anybody. The whole hotel was quiet. The watchman, who was bundled in the room with us, managed to trace a colleague of his in a secluded part of the hotel compound asleep. He claimed he had not heard anything. He used his telephone to call the manager of the security company that deals with them.

At this stage, we decided to report the incident to the police station, but could not find the keys to the gate. We used force to break the chain and lock of one gate. We got into the two cars used by the people from Kimilili and reported the incident to the police station, which is about three kilometers away. We came back with the police and found the hotel manager, the waiter, the receptionist and the manager of the security company at the hotel reception area. They told us that another room had also been broken into and a resident robbed. But they had since moved the resident to another room. The manager claimed to have been asleep in a room opposite my room as it was being broken into, but said that he did not hear anything despite the loud commotion the attackers caused, the noise we made as we broke the door and the gate and the loud talking we did on freeing ourselves from the room.

The police and manager knocked on the door and windows of the room where the alleged other victim was transferred to and identified themselves. But whoever was in the room never opened for them. So, we did not know who was in that room. We recorded the telephone numbers of our stolen sets with the police and I released the people from Kimilili to go while I opted to stay, so as not to cause anxiety when my driver and guard came for me in the morning, since I had no means of communicating with them. Despite the hotel offering me an alternative room for the remaining night, I opted to secretly go back to the room where I was attacked, fortified by our Bukusu beliefs that lightning does not strike the same tree twice. In the morning, my guard and driver came for me and we left the hotel, only returning on Sunday to the police station to write my statement.

Mr. Temporary Deputy Speaker, Sir, at the moment, there is heightened political activity and temperatures in Bungoma County and especially Kimilili Constituency, fanned by frequent political rallies organized by people from outside the constituency. There is also what promises to be a hotly contested by-election for a civic ward in Kimilili Municipality. Kimilili Constituency is the stronghold of FORD(K) and is represented by me, since I am the only pure FORD(K) MP here. Consequently, there have been concerted efforts to dislodge FORD(K) from that vantage position.

The incident in Webuye, to me, appears to have been arranged to intimidate and humiliate the Kimilili FORD(K) membership, and has the potential to turn tragic if repeated. I fear that my life and the lives of my supporters may be in danger. I, therefore urge the security services to urgently investigate the matter to conclusion, so as to discourage any such incidents in future. I urge my supporters and the entire FORD-Kenya membership, especially in the region where the incident occurred, to remain calm but vigilant, as far as their personal security is concerned.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! You may also wish to take advantage and I refer you to Standing Order No.24, which is hardly used. That is Members Half-Hour Statements every Thursday at 6.30 p.m. Members do not appear to be aware of this provisions which enables a Member to rise at 6.30 p.m. every Thursday to make personal statements. So, I would urge Members who may wish to make these statements to avail themselves and make them every Thursday. If you read Standing Order No.24, you will see what it entitles you to do every Thursday at 6.30 p.m. That is because on Thursdays, we are supposed to rise at 7.00 p.m. and not on 6.30 p.m. But because Members do not give notices of their intentions to issue statements, we not use those provisions of the Standing Orders. So, hon. Members who may wish to utilize them, may do so.

Hon. Members, you will notice that we did not have the Prime Minister's Time today. There is a communication from the Prime Minister that he is not able to be here for his time. That is because he has left for Cape Town, South Africa to attend the World Economic Forum.

Next Order!

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the Publication period of the Vetting of Judges and Magistrates (Amendment) Bill (Bill No.9 of 2011) be reduced from 14 to 8 days.

Mr. Temporary Deputy Speaker, Sir, we are facing an amazingly remarkable situation where during the 20 years in which the country was seeking a new Constitution, the public demanded that all judges be sent home. The country settled for a compromise that all judges and magistrates serving be vetted and that is in our Constitution. It will be

recalled that on 21st March, 2011, His Excellency the President assented to the Vetting of Judges and Magistrates Act passed by this House. On the following day, 22nd March, 2011, the law came into force. That law requires that within seven days of the law coming into force, advertisement by the President in consultation with the Prime Minister for the nine member board for vetting this very important officers of our country be advertised notwithstanding the publication of the Gazette Notice, because Parliament in its wisdom restricted this advertisement to only the Kenya Gazette. As it so happened, allow me to think so because I do not have facts, the wider public, particularly our women folk, did not get an opportunity to know that these vacancies were there.

Therefore, the closing date for these applications under the wisdom of this House was set for 12th April, 2011. As it happened, the selection committee established under the Act - under the wisdom of Parliament - when it sat down to look at the applications, it so happened that there were not enough people seeking these vacancies. What is more devastating is that Mr. Titus Gateere, the Chairperson of the Public Service Commission stated very clearly in a public advertisement which I will table in a minute that:-

“The Selection Committee wishes to inform the Kenyan people that the requirements of both the Constitution and the Act having not been satisfied, the Selection Committee made the decision not to proceed with the process of considering the applications received, interviewing or selecting candidates for the offices of chairperson--
-“

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Minister! We are on a Procedural Motion, so concentrate on the reduction of the period.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you. I wanted to give that background. So, it is for those reasons that I beg that we do not wait for the 14 days required so that this House, in its wisdom again, reduces the period.

I beg to move and in the spirit of gender balance, Ms. S. Abdallah has agreed to second the Motion.

Ms. S. Abdalla: Mr. Temporary Deputy Speaker, Sir, I second the Motion. It is very important for this period of time to be reduced so that we compete with time. Since we passed the Constitution, we need to do implementation and this is part of it.

We need a credible judiciary in place so that Kenyans can be sure of the judiciary system in the country. When we reduce this time limit, it will give the Judicial Service Commission (JSC) a chance to recruit more judges and, more so, women so that we can have women in the Court of Appeal and the High Court. Right now, there is no woman in the Court of Appeal. When we pass this Bill, the JSC will get the opportunity to do the recruitment. It will also get the chance to do the promotion and recruitment of more women. We want to see the 30 per cent representation of women---

The Temporary Deputy Speaker (Mr. Imanyara): Order! For the same reason that I pointed out to the Minister, we are not at the substantive Bill yet.

Ms. S. Abdalla: Mr. Temporary Deputy Speaker, Sir. I beg to second.

(Question proposed)

Mr. Ruto: Mr. Temporary Deputy Speaker, Sir, what is before us is an example of rushed Bills. They want to solve an anomaly in a rushed Bill through rushing other

amendments. It is not in vain that the regulations require that we look at a Bill for 14 days. A culture seems to be developing and it is creeping in very dangerously; this Parliament is moving towards handling legislative matters in an extremely casual manner. We are hearing that it is not even necessary for Committees to look at Bills. In my view, this is dangerous. We shall rush through these laws and we shall pass very faulty laws. I want to oppose this tendency by the Executive to reduce publication period and I also want to oppose the current tendency by the Chair to ignore Committees and to say that we can go straight to handling Bills on the Floor of the House without giving such Bills quality time.

The Constitution demands that there should be participation of the public in all the laws that we are actually dealing with. Why are we not willing to go by the spirit of the Constitution? The Minister himself is quite alive to these issues. It is through the “rush” arrangements that you made, that we actually went ahead to make a law that you could not implement. Look at several others that are before us. I want to request that we allow Parliament to scrutinize this particular Bill. There is nothing exceptionally bad with this one but I am opposed to that tendency.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion. We are in the process of implementing this Constitution. It has many new things and maybe we have to make room for something which has been overlooked or which did not go right. As the Minister explained, there were no women who applied for these jobs. If we do not amend this which is within the Constitution---

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are not opposing the amendment. Is she in order to say that we are debating the Bill as of now? We are debating the reduction of the publication period but we support the Bill.

The Temporary Deputy Speaker (Mr. Imanyara): Indeed, that is the point that I have been making to both the Mover and the Seconder. We are not actually debating the Bill. We are only addressing the publication period. So, please, let us be relevant to the Motion before the House.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, on this particular Bill, the hon. Members say there is nothing wrong with it, yet we have a deadline of August 27th. If we take that long period, there might be a danger of the Committees not being able to finalize their work properly. We do not want them to be rushed and then they do not pay enough attention to their work. That is the reason for reducing the period.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I want to oppose this Procedural Motion in the strongest terms possible. I am glad this Motion has been moved by none other than Mr. M. Kilonzo, who is on record accusing this House of frustrating the implementation of the Constitution, when he and his Government--- No! He is part of the Government.

Mr. Temporary Deputy Speaker, Sir, it is the Government which takes its sweet time and does not publish Bills. They then come here and want to rush Bills through the House and want Kenyans to think that it is Parliament that does not want to implement the Constitution. I want it to be on record; it is this Minister and the Government that is frustrating the process.

Another point I want to raise is that---

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member really in order to blame the Executive when we published these Bills as long ago as August last year? It is hon. Ruto, my good friend, who moved a Motion on the Floor to delay debate on these laws! Is it in order to just turn around on the Executive and say that we are the ones who are delaying Bills when, in fact, these Bills were published on time?

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, Mr. M. Kilonzo knows I sit on the oversight Committee. We have invited him and he knows the tug of war between and amongst Ministries. He knows the issues that the Committee on the Implementation of the Constitution (CIC) has been raising. He knows that the Government has appeared before a Committee of this House and argued that some of these Bills are yet to be approved by the Cabinet, thereby stalling the process. What other proof does he need?

Mr. Temporary Deputy Speaker, Sir, having said that, you can look at Standing Order No.110 and Standing Order No.111. Standing Order No.110 says:-

“Every Bill shall be read a First Time without Motion made or question put”

Standing Order N0.111 (1) says:-

“A Bill having been read a First Time shall stand committed to the relevant Departmental Committee without question put”.

“(2) The Chairperson of the Departmental Committee or a Member designated by the Committee to which a Bill is committed shall present the Committee’s report to the House within ten calendar days”.

So, when you reduce this period from 14 days to eight days and the Departmental Committee is supposed to present its report within ten calendar days, you are, in fact, telling us the Committee cannot really do its job.

The final reason why I am opposing this Motion is that, fundamentally, this is the Constitution of the Republic of Kenya. A fundamental principle of the Constitution is that there should be public participation. The only way the public will participate in the process of making laws is when that period of publication is long enough. In the wisdom of the Government and of this country, 14 days seemed to have been a period that is acceptable.

Mr. Temporary Deputy Speaker, Sir, I beg to oppose.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support the Minister in his attempt to reduce the publication period for this Bill. We have been here for almost eight months and we have transacted very little business. These are special times, and I want to plead with my colleagues and my friend, Mr. Ethuro, that we do not mean bad. We canvassed this issue in the House Business Committee (HBC). We thought that Kenyans desire changes in the Judiciary. We promised them this.

Mr. Temporary Deputy Speaker, Sir, Mr. Ethuro was the one who was in the forefront of campaigns for the new Constitution. Therefore, I want to plead with him that it may look like the Executive has delayed Bills, and that is true. However, we are trying to catch up with time, so that we do not let down Kenyans. Please, I plead with you, let us not be here next week, earn allowances and not have business! I beg you, Mr. Ethuro. Mr. Mbadi, I beg you. I beg you, Mr. Ruto.

I beg to support.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I rise to support-

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Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. In Mr. Midiwo's contribution, he mentioned my name together with Mr. Ethuro, yet I have not contributed. How come he knows what I am going to say?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion. In supporting the Motion I realize that as a country, we need to implement the Constitution with speed. The Minister has very aptly explained the crisis that precipitated the return of this Bill, so that we can bring an amendment to it. It was not the fault of the Executive, contrary to what we are saying. I do not ordinarily support the Executive, but let us give credit where it is due. Please, let us allow reduction of the time and implement the Constitution, because the country needs us to implement it.

I support.

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Bearing in mind the mood of the House can we call for---

(Applause)

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, let me close this mood with your permission.

I want to support the amendment. In supporting this amendment let me say that, really, this is not the first time that this House will be shortening---

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

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order Mr. Ethuro? This is only a Procedural Motion!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, we have the right to be accurate. Mr. Namwamba is supporting an amendment which I have not heard of.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Namwamba, you are out of order! It is not an amendment!

Mr. Namwamba: Mr. Temporary Deputy Speaker, Sir, that correction is acknowledged. I support the Procedural Motion.

In supporting this Motion, let us acknowledge that this is not the first time that this House will be shortening a publication period. We have taken record time to debate and adopt even more critical Bills, like the National Cohesion and Reconciliation Act. Implementation of this Constitution is a critical matter. I do not think it is also in order that we blame the Minister, who has worked his soles off to ensure that we beat the deadlines in the Fifth Schedule. We know that a Coalition of "Nos" and "Watermelons" have come together to impede the implementation of the Constitution.

I support.

(Applause)

The Assistant Minister for Higher Education (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this Motion. I think we need to make progress. I know there is politics of Committees. The politics of Parliamentary Committees is irrelevant to the business of this House, especially if it is

going to derail us. I would like to beg the Committee Members that, in spite of those difference, we forge ahead as a country, because the country is under a new Constitution. We can resolve our differences with time.

Mr. George Nyamweya: Mr. Temporary Deputy Speaker, Sir, I am going to support the Motion for different reasons from the ones advocated.

I do not think we should rush ourselves purely because we might have made mistakes earlier on. We may have rushed the National Accord, we may have rushed everything else, but, for goodness sake, that is not a good enough reason for rushing anything else.

Mr. Temporary Deputy Speaker, Sir, let us very sensibly look at what faces us. Let us deliberate properly on what faces us. I, for one, do not think I am persuaded that it is the politics of the Committees which is, in any way, interfering with this. I think we just need to say we have a very short time for doing this. We need to be able to agree. We do not have to disagree on everything. I would even venture to propose that it might be time for the Speaker's office to organize a retreat for all Members, where we can urgently sort out some of these issues which might be derailing us.

With those few remarks, I beg to support.

Mr. Mbadi: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to oppose this Procedural Motion.

(Applause)

What are we required to do? The Minister or the Government is asking us to reduce the publication period of the Vetting of Judges and Magistrates (Amendment) Bill from 14 days to eight days. Why is this the case? There is no reason. We decided to have the publication period for 14 days to allow for public participation. It was also to allow us to have time to look at what is in the proposed Bill. However, if you reduce the publication period from 14 days to eight days, you are not only denying this House an opportunity to look at the amendment critically, but you are also denying the people of Kenya an opportunity to know why an Act of Parliament which we passed just the other day is being brought back to this House. I will tell you that many of us, probably even in this House, do not even know why this amendment has been brought to this House.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I agree with Mr. Ethuro that it is the Executive which has failed us on this, and I want to tell you why. The way the advertisement was done--- You need to advertise in the local dailies for wide coverage for Kenyans to apply. However, we are here today because of limited advertisement; that Kenyans could not make applications. It is not that Kenyans are not qualified for these positions.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member whom I respect a great deal in order to mislead the House and the country? It is this Parliament that enacted a law limiting the advertising to the *Kenya Gazette*, and he is now asking---

An hon. Member: Because of politics!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): No, there was no politics! I wanted to advertise in all the newspapers but you refused.

An hon. Member: But you rushed the Bill!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Aah!

(Laughter)

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, the Executive has a responsibility to play in the drafting of the Bill.

So, let me conclude my submission by saying that this is not something to support. In fact, I do not know why we cannot wait for six days so that we do not make another mistake. You are already accusing Parliament of making mistakes and that is why we are telling the Minister that we need more time to look at this Bill.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I have allowed sufficient time. Since this is a Procedural Motion, I will put the Question.

(Question put and agreed to)

BILLS

First Reading

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

(Order for First Reading read – Read for the First Time and Referred to the relevant Departmental Committee)

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

Second Reading

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION BILL

(The Minister for Justice, National Cohesion and Constitutional Affairs on 26.4.2011)

(Resumption of Debate interrupted on 3.5.2011)

The Temporary Deputy Speaker (Mr. Imanyara): Who was on the Floor contributing last time? I do not have the records.

(Mr. Clerk consulted the Chair)

Proceed, Mr. ole Metito!

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill is about elections in Kenya. Within the very volatile and charged partisan political environment that exists in this country, it is extremely important that we have a trusted election process where elections will be regarded as fair even by the losing side. Therefore, laws about elections are, obviously, critical to democracy.

Mr. Temporary Deputy Speaker, Sir, in Kenya, the importance is even more evident where elections are deeply flawed, bribery and intimidation are wide spread, party nominations are effectively sold to the highest bidder or even given to the cronies of party leaders. Regardless of the law or party regulations, voters' rolls have always been rigged. Therefore, it is very important that we get a good law to address all these shortcomings.

This law originates from the Kriegler Report that found the last general elections generally abused or fully characterized by widespread bribery, voter buying, intimidation and ballot stuffing. In the Kriegler Report, the former Electoral Commission of Kenya (ECK) was found to lack the necessary independence, the capacity and the functionality and, therefore, it recommended for urgent and radical review of the law.

Mr. Temporary Deputy Speaker, Sir, the Independent Electoral and Boundaries Commission (IEBC) Bill is central to a fair electoral process. This process needs to be very independent and competent for people to have faith in the IEBC. Therefore, even as we set out to consider this Bill, we know that there is a real need for such a commission.

If we will have free and fair elections, the IEBC should not be subjected to the discretion and control of any person or any authority. It should be given adequate finances and other resources for it to function properly.

Mr. Temporary Deputy Speaker, Sir, this and other provisions of the Constitution, for instance the right to vote and stand for an election; the freedom of expression and of the media; the right of association in the Bill of Rights, the role of regulation of political parties as shown in Chapter 7 of the Constitution and the recognition of independent candidates is very important and vital. The regulation of parties' processes for nomination of candidates, the potential to regulate the amount of money that can be spent in respect of the election; the principle underlying the independence of the IEBC and the principle of integrity as enshrined in Chapter 6 of the Constitution really provide for a suitable framework for a fair and free election.

The Independent Electoral and Boundaries Commission Bill, 2011 as published has shown the nature, structure and authority of the Commission.

It is, perhaps, the very most critical Bill we need to pass as a House. However, there are some observations that need to be addressed. I am happy that this Bill has attracted a lot of interests from this House. If I can recall well, this might be even the fourth day this Bill is being debated. That calls for a thorough relooking of the Bill, taking into account the observations and recommendations by Members.

Mr. Temporary Deputy Speaker, Sir, Schedule Five of the Bill is on the provisions relating to the delimitation of boundaries of constituencies and wards. This is a very important provision, where I know hon. Members as lawmakers have personal interest in. The political parties have also fought bitterly over the contents, especially how constituencies are curved out and who controls the Commission. It is in this respect that I really wish to urge my colleagues to keep the national interest above party interests. We should have in our minds the great damage that squabbles between political parties and pursuing party interests can do. We need to be very careful on Schedule Five on delimitation of constituencies and boundaries. I am very happy with the way it is proposed in the Bill. Clause 3(2) of the Fifth Schedule says:-

“The Commission shall publish and publicise the pleminary report for a period of thirty days within which it shall invite representation from all interested parties and hold public forum in each County on the proposals contained in the report during that period”.

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

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

Mr. Temporary Deputy Speaker, Sir, I also support the proposal in the Bill that the Commission shall, as a primary reference, use the material of the Interim Independent Boundaries Review Commission (IIBRC) as tabled before this House. Given the shortage of time and resources that have been used in the former Ligale-led Commission, we really need not throw away that report, but use it as a primary reference for the unfinished business. By publicising all the findings and also holding forums in all Counties, where the Commission will consult all the interested parties, everybody will get a chance to really air their views as required by Article 89 of the Constitution. The proposed Bill even goes further to say that the Commission shall within 21 days, again review the proposed delimitation of boundaries considering the views received from the public. Anybody who is not satisfied as per Clause 4 can seek redress from the High Court of Kenya. That is a very important part of the Bill with respect to delimitation of boundaries of constituencies and wards.

Mr. Temporary Deputy Speaker, Sir, this Bill covers structures, functions and finances of the Independent Electoral and Boundaries Commission (IEBC). I want to talk about the independence of this Commission. The independence of this Commission is key to a successful, free and fair election in this country. I am talking of not only the independence of its finances, but first of all independence from any political patronage. This is a key challenge. If you refer to Clauses 5, 6, and 7 of the Bill, all these talk about the composition and appointment of the commissioners. It is really important that we note that the independence of this Commission depends on several factors. The most important one is the appointment and removal of its members. I have gone through the Bill, especially Clauses 5, 6 and 7. I have not seen anywhere where the removal of a member of this Commission is covered. That is an oversight that needs to be addressed.

Maybe these are some of the shortcomings that we have when Bills do not go through the departmental Committees of this House.

The most important issue is the appointment of the Commissioners. If you look at the manner in which the appointments are done, you will see that there is a selection panel. Its most important role is identification and recommendation for the appointment of commissioners. Unfortunately, that is now in the First Schedule. I am referring to the First Schedule of the Bill. But unfortunately, the recommendations are to be filtered by the President. Indeed, the panel itself is to be appointed by the President. The President will appoint a panel of nine Members drawn from the private and Government sectors. The panel will then advertise the vacancies, interview the candidates and submit nomination to the President. The President will choose out of the three names submitted for the Chair, and eight names for the commissioners out of the 13 names. Then the National Assembly will approve the names.

Getting that approval will not be a problem if the President has a majority in Parliament. If the President has Parliamentary majority, which is very likely, getting that approval is not a problem. So, the President, who is the head of a political party, will have an interest in who to nominate as commissioners. By choosing the selection panel, he will indirectly be choosing the commissioners. Even if the President lacks Parliamentary majority, the final composition of the Commission will be as a result of party haggling and deals. This will not guarantee the independence of the Commission. We, therefore, need to do something to guarantee the independence of the Commission and protect it from any political patronage.

I want to propose that at the Committee Stage, something should be done about these issues. When we say “appoint a selection panel comprising of distinguished professionals”, that phrase needs to be explained. What is the meaning of “distinguished professionals?” We really need to put specific criteria because there are so many professionals.

Mr. Temporary Deputy Speaker, Sir, another important aspect of this Bill is captured under Clause 28, which provides that the Commission may request legal advice from the Attorney-General.

The Attorney-General is an appointee of the President. As such, the President can remove him at will. So, it will be very difficult for the Attorney-General to go against the wishes of the President since he has no security of tenure. So, it would be better for the Commission to have its own legal adviser. The Commission can as well seek legal advice from private legal practitioners.

Clause 5 of the Bill talks about the composition and appointment of the Commission. We have countries with bigger populations and bigger territorial jurisdictions, which have very few commissioners. In India, there has been one electoral commission for a long time with three commissioners. Australia also has three commissioners.

In the Kenyan fashion, we seem to have very large commissions. Even though the Constitution provides that this Commission should have a minimum of three commissioners and a maximum of nine commissioners, there is no need for us to always go for the highest number. We can even have three commissioners for an efficient Commission. There have been considerably big problems with big commissions. We

have problems of expenses and slowing down decision-making. There is greater factionalism in bigger commissions than in small commissions.

Mr. Temporary Deputy Speaker, Sir, there is the issue of always trying to satisfy the diversity of our country. It is important to appreciate the fact that a diversity of more than 40 ethnic groups cannot be accommodated by the nine positions provided for by the Constitution. We can satisfy that wider ethnic diversity through appointments to other institutions. In this case, we need a lean policy-making commission with a membership of three. We can make all the three full-time commissioners.

That brings us to the issue of having non-executive chair and deputy chair. That leaves the Commission with a vacuum. Who will be in charge of the Commission? In my humble opinion, I want to suggest that the chairperson of the Commission should be the face of the Commission, and as such the spokesperson of the Commission. That can only be possible if he is an executive chairman. So, we should have full-time executive commissioners. In my view, three commissioners can provide good service to this country.

Mr. Temporary Deputy Speaker, Sir, there is the issue of qualifications of the chairperson of the Commission. We have provided in this Bill that the chairperson of the Commission should be a person who is qualified to hold the office of judge of a superior court. We further say that other commissioners should have qualifications in electoral matters, management and the like.

We are creating a law to ensure that you can only be the chairman of this Commission if you are a lawyer, or if you have a legal background. We have many successful Kenyans whose professions are management, finance, banking, public administration, *et cetera*. These are persons who can become---

The Temporary Deputy Speaker (Mr. Ethuro): Time up, Assistant Minister!

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I would like to congratulate the Minister for bringing this Bill. This Bill reflects the spirit of the Constitution. It ensures that, as a country, we will have an electoral system which will stand the test of time. This Bill will also ensure that the management of the electoral process in Kenya will no longer be left to chance or trials.

This Bill goes further to address impunity in the electoral process. I wish we could even go further to make provisions for serious penalties against those who will violate our electoral laws. The implementation of the proposals contained in this Bill will boost public confidence, which we have lacked for so long in our electoral body and in our electoral process.

Mr. Temporary Deputy Speaker, Sir, one important element of this Bill is that it provides for professional management of our electoral body. It provides for competitive, transparent and immunity-based appointment procedures not only of the commissioners but also of the members of a very powerful secretariat.

Another element of this Bill is separation of responsibilities between the secretariat and the Commission. In this Bill, the secretariat will serve as an administrative organ which will play a major role in policy implementation, while the Commission will largely play the policy-making role. What is so critical in this Bill is the independence of this electoral body. Justice Kriegler stated clearly in his Report that in order for us to

have an electoral body which will stand the test of time and win the confidence of our people, we must ensure that it is independent.

Mr. Temporary Deputy Speaker, Sir, the question that we need to ask ourselves is: Who runs elections in this country? Is it the Commission or the Commission Secretariat? For the most part, elections in Kenya are run by the Secretariat. The Commission oversees that very important process. If that is the case, as it is in other parts of the world – be it India, South Africa, the United States of America (USA) or Australia – we should have, as proposed in this Bill, a very powerful Commission Secretariat which is independent not only from the Executive, the Legislature and the Judiciary, but also from all foreign forces.

The Secretariat should have its full independence and only be accountable to the Kenyan people. If we will have such a secretariat, this Commission will not be controlled by anybody or any authority. Since the Constitution provides for such a secretariat, this Bill goes further to ensure that this aspect is fully realised. The Bill pays attention to the Report of the Kriegler Commission, which calls upon us to have a very solid and independent electoral body.

Mr. Temporary Deputy Speaker, Sir, the issue of a limited tenure of office is very critical, and it is fully catered for in this Bill. The commissioners will serve for a term of six years non-renewable, while members of the secretariat will serve for only two terms of five years. This is a very important provision.

The controversial issue in this Bill is whether the commissioners should be executive or non-executive. As it is, we will have the chairperson and the vice-chairperson of the Commission serving as executive commissioners, who will be full time, while the other seven commissioners will be non-executive. The Constitution provides for commissioners to serve on non-executive and part-time basis. The issue here is the power relations between the two categories of commissioners. There will be two Commissioners who will be serving on full-time basis, and who will be insiders, and others who will be serving on part-time basis, and who will be seen to be outsiders. So, the issue of the power relations between these two categories of commissioners must somehow be addressed. Even though both categories will be Commissioners, the Commission will be seen to be having two categories of commissioners.

We are doing this to address the problems we have had in this country. In the past, we have had very powerful commissioners. In fact, it was tantamount to having 10 Chief Executive Officers (CEO) running one institution. That kind of system did not work in Kenya, and it does not work anywhere else in the world. Therefore, I strongly support the idea of having a very powerful secretariat.

I do not think there is any problem in some commissioners serving on part-time basis. If you look at our case critically, you will appreciate that we have elections once every five years. In the fifth year, the commissioners are very active and heavily engaged, but what will the commissioners, whom we will be paying so much money, be doing in office in the first four years? That is an issue we need to address. It is for that reason that we should have a very powerful secretariat, and have commissioners serving on a part-time basis. I do not think there is anything wrong with this. It has worked elsewhere in the world and it can also work in this country. I am not rigid on this issue. I can be persuaded otherwise, but I believe that, that may be the way to go.

This came from the Kreigler recommendations. We asked for reforms and we have been given one. Let us live with it. What is important here is to have an independent electoral body. Independence is paramount here in order for us to build confidence in our electoral system and remove the perception that has always been there that this Commission might be partisan and as a result, build the trust that we need in that system.

Mr. Temporary Deputy Speaker, Sir, on the issue of staggering appointments of the commissioners, this seeks to enhance continuity. As it is, the Chairman and four commissioners will serve in the first Commission and the other few will come on board at a later stage. This will address the issue of regional balance. I think in some of these commissions, we do not have to deal with the issue of regional balance. Let us give them the independence. It is about this country, Kenya, and all of us believing, having confidence and trust in the Commission.

Staggering the appointment of the commissioners, in addition to enhancing continuity, serves a major purpose here. If we appoint these commissioners by June this year and they serve for six years on non-renewable terms, the next batch will come up for appointment in 2017 since we have elections every five years. We are basically saying that by 2017, the commissioners will be done with their job and we will be appointing a new Commission to conduct elections that year. I do not think it will be realistic. I think we should be far sighted, look at this issue holistically and embrace the staggering concept because it serves a fundamental purpose which will serve us not just now, but even, God willing, seven years from now. If we do not do that, then, for sure, come June or July, 2017, we will be looking for a new body which will be conducting that election maybe within even five months. I do not think it will be realistic. Because of that, the staggering concept here does serve a purpose.

Mr. Temporary Deputy Speaker, Sir, I welcome the use of appropriate technology in terms of managing our electoral system. As we have seen, it served us very well during the Referendum. To a degree, appropriate technology was used in Wajir South, Juja and Makadara by-elections and, even during the national referendum. That is the way the world is going. By embracing this modern technology, we will be able to have the sophisticated democracy that we have been yearning for as Kenyans for a long time. I hope that in addition to using the appropriate technology, we will go ahead and include the appropriate approaches where necessary in the conduct of our electoral management process.

I have a major issue with the Fifth Schedule of this Bill. I want to quote Paragraph Two of the Fifth Schedule which says:-

“The Commission shall, in addressing the issues arising, take into account Articles 88 and 89 of the Constitution and use;

- (a) as primary reference material, the report of the former Boundaries Commission as tabled before the National Assembly; as well as
- (b) the report of the Parliamentary Committee on the former Boundaries Commission; and
- (c) any other relevant material”.

I want us to give serious thought to the latter and the spirit of the Constitution on this fundamental issue. Chapter 15 of the Constitution covers Commissions and independent offices. The Independent Electoral and Boundaries Commission is one of those commissions. Article 249 of the Constitution covers the authority and funding of

these independent commissions. Some of the objects of these commissions as provided for in Article 249(1) are to:-

- “(a) protect the sovereignty of the Kenyan people;
 - (b) secure the observance by all State organs of democratic values and principles;
- and,
- (c) promote constitutionalism”.

In Article 249 (2), it further says that:-

- (2) The commissions and the holders of independent offices-
- (a) are subject only to this Constitution and the law; and,
- (b) are independent and not subject to direction or control by any person or authority”.

Mr. Temporary Deputy Speaker, Sir, when you keenly observe that, then you will ask yourself what the intention of the Fifth Schedule is. Is this Bill by using the word “shall”, which is imperative or mandatory, trying to direct and control the work of the Independent Electoral and Boundaries Commission? Is that constitutionalism? When the Bill further says that, the Independent Electoral and Boundaries Commission shall use the report of the Parliamentary Committee on the report of the former Boundaries Commission, are we subjecting the work of the IEBC to the authority and control of Parliament? Is that constitutional? Furthermore, this fundamental issue of constitutionalism, which is one of the objects of the IEBC, must be addressed. This Bill is not superior to the Constitution of Kenya. It is actually a creature or a creation of that Constitution.

In a nutshell, it is not in the power of this Bill to lead the focus of the IEBC with the boundaries aspect. The IEBC is primarily to be guided by the Constitution and nothing else. The Bill also requests the Commission, once it comes into force, to use Article 89 of the Constitution. It is very important for us to have very clear definitions of some of these critical issues in that article, for instance, the issue of population quota. The population quota is derived from the national census data. We have an incomplete census results in this country. This is a fact. The Minister of State for Planning, National Development and Vision 2030 nullified census results for 11 districts. The credibility of that census results is being questioned. That is a fact and a statement from the Government of Kenya. The census in those districts must be redone before this Commission starts addressing the issues of the boundaries. That is the only way it can be credible so that we can live with the results as they are. But using vicious figures and going to the High Court to force the Commission to use those census figures is not the way to go. This is impunity in itself. Let us have credible census results and use that to drive the population quota in order for us to curve out the 80 new constituencies.

The other issue is the issue of definitions. When we talk of cities in electoral matters, it is only Nairobi that is a city, but any other time, Kisumu is a city and Mombasa is a city. We must do what is necessary to have charters for all these cities and subject them to the same measures and parameters as Nairobi when it comes to electoral matters. This is provided for in the Constitution and we must do what is necessary, as Government, to undertake that. Moreover, when we talk about sparsely populated areas, which parts of the country are sparsely populated and which ones are not? Then we also say “other areas”. Which are these other areas? We want to have clear definitions and categorization of these areas before this Commission does its work.

With those few remarks, I support with the necessary amendments.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir, for the chance to contribute to this very important Bill. First, I want to thank the Minister for Justice, National Cohesion and Constitutional Affairs for the diligence and commitment he has shown in the manner he has presented this Bill in this House this afternoon.

This new law will create or bring in a new era in our electoral system. Kenyans have hungered, yawned and desired to have a law that will bring fairness and justice in our judicial system. This law will guide fairly the coming general elections to be held in 2012. The *mlolongo* system is still vivid in our minds, where the shortest queues won while the longest queues lost. There were protests from church representatives and the whole nation was stigmatized. This really denied Kenyans their right to choose.

Mr. Temporary Deputy Speaker, Sir, the new law carries with it new benefits. One of them is that it will unite our country and bring prosperity, peace and sobriety. The new judges who will be vetted through the new law will be competent and patriotic Kenyans. They will be expected to reclaim the glory that has been lost in the judicial system. We remember very well that there are more than one million pending cases in our courts today. This is the case and yet many Kenyans have been waiting for these cases to be determined. Some of them have already died while the others are sick. There is no hope of these people having their cases determined. So, the new law will address those challenges.

The new Independent Electoral and Boundaries Commission (IEBC) will have power to draw its funds from the national Consolidated Fund. Therefore, the new body, with competent leadership, will be able to utilise the funds already obtained from the national Consolidated Fund prudently. We note that the new Commission has been given powers to investigate and prosecute electoral offences, particularly during the campaign period. In the past, we have seen cars being burnt during the campaign period. We have also seen people beaten and maimed and even witchcraft being applied in some regions of this country. Deaths have also been noted---

Mr. Bahari: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member substantiate his allegation that there was witchcraft in some parts of the country to influence elections? Which part of the country was it?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, there was a time when the Kithitu Oath was applied in one part of this region. I recall a sentence being meted out and this is a part of our history. So, I request hon. Members to go and dig deeper into our past history.

The new law will address some of these unpleasant upheavals that we have seen in this country. I note that the term of office for the in-coming commissioners will also be limited to a period of six years. Noting the kind of credible leadership that has been given by the Interim Independent Electoral Commission (IIEC), it is my view that if extension of that Commission will be considered, it will give this country a better chance to continue managing our electoral system.

Mr. Temporary Deputy Speaker, Sir, I also note that the President, in consultation with the Prime Minister, is mandated to consult one another on the appointment of the new commissioners. This will be healthy for the smooth running of our Government and the cohesion of this country.

I note that business interests will not be allowed to be conducted by the commissioners, therefore, minimizing corrupt deals and erasing the impunity that would have been manifested in the new Commission. I also note that the Members will not be allowed to transact or trade business with the new Commission. Even relatives of the commissioners will not have an opportunity to conduct any business. I also note with appreciation that members of the public will be treated well by the new Commission. At times, members of the public have been harassed and humiliated when they visited these offices. Therefore, decency will be extended to the members of the public if this law is implemented. The Commission will be expected to conduct business in a very friendly atmosphere.

We further note that the members of this Commission will not have any room to demand any request or *Harambee* contributions as it has been the practice in this country. This means that corruption will also be minimized. The Members of the Commission will also be required to maintain self-discipline. Even disclosure of information will not be tolerated by the new Commission.

Mr. Temporary Deputy Speaker, Sir, it is also important that we note that the leaders who will be appointed will be expected to provide credible leadership. National elected leaders and those aspiring for any leadership position in this country should be expected at all times not to issue statements that will be scaring, threatening and even trying to tear this nation into pieces. This is because by so doing, we are likely to jeopardize tourism, industrialization and national cohesion in our country.

This law will bring sanity and room for competition; the competition that we have seen being exhibited by our versatile athletes. I wish to take this opportunity, again, to thank the athletes who particularly won huge victories in London and Boston marathons. These are patriotic Kenyans and the new Commission that will come should be given room and leeway for those very competent and qualified Kenyans to take charge.

Mr. Temporary Deputy Speaker, Sir, I very strongly support this Bill.

Eng. Gumbo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this important Bill.

Mr. Temporary Deputy Speaker, Sir, I will start by saying that it is important that at all times, we understand the responsibilities of those working for the Commission. However, I have to say – and I think the Minister has been told before – that in my view, this Bill would have served its purpose best if it went hand in hand with the Bill on elections management. I am saying this because I want to believe that fairness in elections is served by a number of factors which include location of polling stations, criteria for assigning polling stations and centres, locations of tallying centres and clear and unambiguous procedures for appointing part-time staff and workers for the Commission, such as returning officers, presiding officers, deputy presiding officers, clerks and so on. I also think that fairness is served when the operations of the Commission, both at the headquarters and the local level, are served and carried out through open and transparent procedures at all levels.

Mr. Temporary Deputy Speaker, Sir, I know for a fact that the current Members of the IIEC have received a lot of praise. But I have to say that I am one of those people who have been reluctant to praise them, because in my view, they have done nothing which nobody has done before.

Mr. Temporary Deputy Speaker, Sir, people will remember that the Kivuitu Commission did a referendum which was more challenging than this one, in my view, because the country was almost divided into half. They also came out and performed very well at the mini-general election following the Marsabit air crash. I think we may be rushing to praise the members of this Commission too much and in the process, a lot of things could be going on which may require more scrutiny.

Mr. Temporary Deputy Speaker, Sir, turning to the Bill itself, I note that Part II on Administration has provisions for regulating the processes by which parties nominate candidates for elections. It also talks about the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results. In my view, and I think the Ministers and some speakers before me have alluded to this, part of the problem we have had with elections in this country is the chaotic, in fact, barbaric manner in which party elections are conducted in Kenya. I remember during the height of the post-election violence, some of the SMSs we used to receive were alluding to the fact that, by allowing the party elections to be the chaos that they were, we actually prepared the ground for what followed at the main elections. So, I think the regulation process by which parties nominate candidates for elections should be very clear. What punishment is there for parties which flout their rules in the nomination of candidates?

Mr. Temporary Deputy Speaker, Sir, Clause 5(4) says:

“The chairperson and members of the Commission shall respect the delimitation of duties between the Commission as the policy making organ and its secretariat as the policy implementation and administrative organ”.

This is important. If this can be clearly separated, it will be useful for us as a country to completely distinguish the role of the commissioners as opposed to the role of the secretariat because that has been a centre of conflict and we have seen even at the interim commission, there have been times when we have had some conflicts between the secretariat. So, it is important to distinguish the two.

Mr. Temporary Deputy Speaker, Sir, Clause 6 gives the qualifications for the chairperson of the Commission. I have said it before when we did the Commission for the Implementation of the Constitution that I am against this idea of trying to list qualifications of people into these posts. I have never understood why, when we enumerate these qualifications, we leave out engineers. I am talking as somebody with vested interests. This is a major omission. I am aware that if you go to any country just by knowing the ratio of the citizens to engineers, you will be able to tell whether the country is developed or not. An example is China where the ratio between citizens and engineers currently stands at about one engineer for 150 citizens. In Kenya, it stands at one engineer for about 20,000 to 30,000 citizens. I do not need to tell you which country between Kenya and China is more developed. I do not understand. I do not see how an engineer cannot be useful in managing elections. I need to be convinced. If you look at, Clause 6(2)(b), the Minister should note that at this point in time that with so many graduates in this country, it is important that those who hold these positions must, as a requirement, hold a post graduate degree.

A basic degree is something that people now do from the armchairs of their houses. I think we need to appreciate that the country has grown. That should really also apply to the chief executive and the secretary.

I will be proposing an amendment here. This requirement that the CEO should have at least five years proven experience, I am just looking at myself. I left the university when I was in my early twenties. Five years later, I was still about 27 years. Are we saying that with all the requirements and all risks which go with it, would we be comfortable with a 27 year old as the CEO of the IEBC? I think in my view, we cannot. Whether we like it or not, experience is an issue in some of these things. It is a known fact that no matter how brilliant you are, I have never heard of any university in the world which teaches experience. Experience is something that you gain because you have been around. Much as we are not stating it, I would be quite uncomfortable with anybody below the age of 30 years heading the Commission.

Mr. Temporary Deputy Speaker, Sir, I have looked at Clause 29(3) and I think it is important that we should add Clause 29(4) which will require--- We have done it before in some of the related Bills that we have done, that because of the importance of the work of the Commission, I think we should make it a requirement that any regulations that they will make for the day to day running of the Commission should be subjected to debate and approval in this House. This is because some of the regulations that these people make have got very far reaching effects. I think it is important that we put them into scrutiny.

Mr. Temporary Deputy Speaker, Sir, turning to First Schedule, I do not know what this Bill intends to achieve. Clause 1 says:-

“For the purposes of this Act, the President shall, within 14 days of the commencement of this Act or within twenty one days of a vacancy arising in a Commission, appoint a Selected Panel comprising of a chairperson and eight members drawn from distinguished professionals in private sector or the public service with relevant expertise.”

Who are distinguished professionals? I would request the Minister that let us try to elaborate on terms like “distinguished” and “outstanding”, so that we know for a fact what we are talking about when we talk about “distinguished professionals in private sector or public service with relevant expertise”. I think this clause can be opened up because as it stands, it is a bit too vague.

Mr. Temporary Deputy Speaker, Sir, I was just looking at Article 13(4) of the Second Schedule where it says: “A member or employee of the Commission shall not transact any business or trade with the Commission”.

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

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

This clause is a contradiction. Article 13(1) of the Second Schedule talks of somebody disqualifying themselves if they have an interest in the business. So, really, if you are not trading with them, how then do you get a chance to have an interest?

Article 13(1) on Disclosure of Conflicting Interests says in a part “If a member or an employee is directly or indirectly interested in a contract--- You can only be interested, if you are already trading with the Commission. When you say that a member

or employee of the Commission shall not transact any business--- I would request the Minister to try and look at that apparent contradiction. Then, Mr. Minister, I could be wrong but I think you need to look at the Fourth Schedule, Article 13(2) and (3) of the Bill. To me, that is a repeat. I looked at it about five times and the more I look at it, the more it looked like a repeat. You should look at it.

Madam Temporary Deputy Speaker, then Article 6 of the Forth Schedule, I want to encourage the Minister, through the Chair, to be courageous here. It says:-

“A member or an employee shall conduct their private affairs in a manner that maintains public confidence in the integrity of their office and the Commission as a whole and shall

(d) not engage in political activity that may compromise or be seen to compromise the neutrality of their office, or the Commission; and---”

Madam, Temporary Deputy Speaker, Sir, suppose they engage in political activity, what is the penalty? Why are we shy about stating the penalty because you are telling them not to engage in political activity? What happens if they engage? So, these are the areas that we need to look into.

Madam Temporary Deputy Speaker, I note and Members are concerned that--- I think it will be practical to go that way. We should use appropriate technology in the forthcoming elections. I think we need to distinguish two areas here. In my view, from what the Minister stated and what we know, it will be impossible to conduct the next general elections in the traditional way. But I plead with my fellow citizens not confuse appropriate technology with electronic voting. When it comes to electronic voting, I want to request the Minister, through the Chair--- Let us tread very, very carefully. Why do I say this? Machines, anywhere in the world, do not have any integrity. What machines have is donated integrity by individuals. That means that if I go to operate the machine and I am prejudiced not to let the hon. Mutula Kilonzo be elected, I can program the machine to make sure that he is not elected. Whether we like it or not, greed, personal prejudices and occasionally malice, will find their way into machines. My view is that if we have individuals who are committed to democracy and integrity, even queue voting can give us very respected leaders. But if we do not have them, then it is not possible.

Look at the elections in 2002 and 2007. What was the difference? The same machines were used. Almost the same individuals were there. But why did we have more credible elections in 2002 and not 2007? In my view, the only difference in 2007 as opposed to 2002 was that in 2007, greed, selfishness and determination by some individuals - not all of them - to tilt the results in a particular way led us to where we are. So, we have to be extremely careful. We do not have to look far. Look at the 2000 American elections. We saw situations where computers lost votes. Some added votes, some subtracted votes. In fact, in one county in Florida, Albert Gore who was then challenging George Bush, was given negative 16,000 votes by machines. Three years later, in a county with 50,000 voters in America, the machines tallied 140,000 votes in municipal elections.

It is such instances that have made some people to believe and say that in modern times, the greatest threat to democracy can actually be technology and prejudiced human beings. So, we need to be extremely careful because when we go to vote, the intent of the voters is important but can machines do it? So, I urge caution. I am somebody with the technology background and I respect technology but I urge caution. At this point, we

need to ask ourselves why it is that up to now, less than 20 countries in the world have attempted to use electronic voting. I will give you the scenario as it existed as at January last year. By January last year, the only countries which had legally binding electronic voting systems were Australia, Brazil, Canada, France, India, Japan, Kazakhstan, Peru, Russia, United States of America (USA), United Arab Emirates and Venezuela. Those are twelve countries. The only countries with legally binding internet voting was Austria, Australia, Canada, Estonia, France, Japan and Switzerland. Trials are going on in other countries.

In some leading democracies, and this is notable, e-voting projects were actually abandoned. These include; Germany, Ireland, Netherlands, Belgium and United Kingdom (UK). United Kingdom as we speak does not do electronic voting. So, we have to be very careful. Let us not just rush into this thing. As far as I am concerned, there are too many prejudices in this country. There are too many personal considerations in this country. We think too much about tribe. We have not learnt to accept that going for an election means two things; you can win or lose. Until we accept that, I would caution the Minister that we should be extremely careful.

Madam Temporary Deputy Speaker, I am also very worried about the tendency of civil servants in this country. They come up with very grandiose projects but most times, are mainly meant for personal enrichment. For example, the one we talk about the Kenya Pipeline Company capacity enhancement project. For example, I have heard in some forums that I have attended, that electronic voting system would cost us Kshs7 billion. Where did this come from? Who did this? You cannot just bill Kshs7 billion overnight.

Finally, as a believer in this country, I am a lover of this country and I am proud to be a lover of this country, I want to urge my fellow parliamentarians that we should move on in our growth in democracy. Let elections not be and must not be the reason why Kenyans fight. Let elections not be and must not be a reason for Kenyans to be reminded which tribes they come from. Elections should not be and must not be a reason for Kenyans to slaughter each other. I urge the Minister that we should have very tough laws for electoral malpractices, particularly laws against raw animalistic violence that we witness every five years. It is a shame to our country and it is a shame to us, Kenyans, and we must get rid of this practice. Let us have the magnanimity; those of us who lose in elections, to accept the loss. For those of us who win, let us have the humility to sympathize with those who lose. Let it not be the adversary that it has always been. I want to end by stating that we, as Kenyans, must say with one voice that not a single drop of blood of any Kenyan should be shed on account of the pursuit of the ambition of an individual.

With those few remarks, I support.

Mr. Bahari: Madam Temporary Deputy Speaker, thank you for this opportunity. This is a very important Bill because it is the one which is going to determine the future of this country. It is important because we can see what is going on across the continent, which is very worrying.

When Kenya went through the last general election, what happened, which is known to everybody, left a very big dent on the history of this country. It left a very big dent on the international relations of this country. We went down very badly in history. We have no room to do something like that again. For us to do that, it is a question of the process. The process of election starts with voter registration, civic education and the

campaign period; all these stages must be seen to be free and fair. Kenyans are very good at some of those things, but in practice, we have done extremely badly. In fact, we must be ashamed, as a country, that the last elections went the way they went. It was an embracement. Indeed, we cannot justify our continued stay in this House as I speak. This is because if my party or your party cannot send an agent to my electoral area for fear of intimidation, and then you are saying you are conducting an election, what election is that?

Madam Temporary Deputy Speaker, on the basis of such an election, we claim to be in positions of responsibility. It is a shame! The entire electoral process must be protected. This is because it cost the whole country lives. We have seen it happening in Africa. Now whenever there is said to be an election in Africa, everybody's attitude is: "Let us wait and see". I must say that incumbents must be very careful. Normally, they are the ones who significantly contribute to that. I am not saying that others do not do wrong also. However, the incumbents say, "By all means I have to be there". It is also extremely dangerous.

I must say that the next electoral commission must prove beyond doubt that they are capable of not being influenced and that they are capable of handling some of the big boys. They should not spare anybody. If they are going to be lenient, we will not go far as a country. You will be surprised that in some countries with a week to elections, you will not even know that there is an electioneering process going on. This is because it is done in a very civilized manner. All the hullabaloo we see in this country and money pouring do not happen. That is where we should aspire to be, as a country.

Madam Temporary Deputy Speaker, the next Commission, which we are just about to form, will have that serious responsibility. The entire environment during elections must be correct. I want to applaud my good friend, the Minister for Justice, National Cohesion and Constitutional Affairs. The other day, he took one of the candidates in the Kamukunji by-election to task. I think on that, and any other matter that is constitutional, the Minister should not keep quiet. Indeed, he should be at the forefront of warning those who are bent on ignoring the Constitution of this country. It is not important for us to say that we have passed the new Constitution by such a majority, and then at the same time, leave it on the shelves without applying it. Indeed, some of these people should be getting a warning straightaway. They should get a reprimand and the possible action. If all of us want to be "good", then this country cannot go far, just like any other institution that cannot go far. The entire election environment must be seen to be free and fair. When it comes to the independence of the proposed Commission, it will have to be jealously protected.

I want to warn hon. Members, who want to play partisan politics, that by the time they go to the elections, they will not be sure which party they will belong to. So, be careful and let us be fair. Let us be careful and fair. We have seen this in the past. You can be a very good buddy with the chair or the leadership of the political party now but wait until this Parliament is dissolved. Some of them will behave as if you have not even met before because they have already developed other interests. So, get out of that cocoon. We must stop manipulation. This business of saying "This team serves my interest" and, therefore, even when you have a point, you start manipulating it to reflect that localized interest will not enable us to go far

Madam Temporary Deputy Speaker, going by what we have seen in this continent, we have a lot of fears. This is the time to fortify ourselves against those fears through the independence of this Commission.

The other issue is between the commissioners and the Secretariat. I have had an opportunity to meet the current Secretariat through the parliamentary process and I am very impressed with the quality of the persons that the commissioners have recruited. I think they need to be given further strength so that even at individual levels, you can say no to the secretary and the secretary can say no to the chairman and the person in the IT Department can say no to whoever else when it deserves so.

Madam Temporary Deputy Speaker, sometimes we do things through chorus in this country and it does not help us. Hundred of us can shout while five others who are few may have a point. However, I can assure you that you will go back to where the truth is because it shall always prevail. At the same time, neither the Secretariat nor the Commission should be created to a level where they become infallible. I think the spirit of the new Constitution is to disperse power both vertically and horizontally because all of us need each other; all of us agree to reason together; all of us remember that we have a country first and other things can follow.

One issue that I have noted in this Bill is that, while the Secretariat has been strengthened, which is very good, I think we need to revisit the issue of disbursing power. Article 7 (b) says that given an opportunity to put in defence against any allegations either in person or through an advocate. The way I know is that the place for advocates is the court corridors. On the issue of employer and employee relationships, I think we must desist from bringing in advocates because it becomes a bit nasty. The advocates can take those matters to court and let them be handled to conclusion. However, in the issue of employer/employee relationships at that level where you take a simple disciplinary action, we must avoid bringing them in, otherwise it complicates matters. I have seen this before and we should refrain from that approach in life or in this process.

Madam Temporary Deputy Speaker, I have an issue with some of the basic data that we use or we tend to use in this country. We have just had a census in which we spent billions of shillings. However, I just want to give the case of Isiolo. According to the last census, the population of Isiolo has only increased by 6,000 from 1999. That cannot be true. Others will be doubling and tripling. It is on the basis of that we will be allocating resources. That is why I am saying we must stop manipulation. When you raise this issue, nobody takes it up. It is left with impunity.

Madam Temporary Speaker, a lot of the things from the issue of the constituency delimitation to resource allocation in this country, to appointment to positions, including the one of the police, when we were doing recruitment, the issue of population, will always be a factor. When that is not done right, it is not even this country alone, in a number of third world countries, this is not done right. However, that does not give us the freedom to entertain serious disparities that we have seen. I want the Minister for Justice, National Cohesion and Constitutional Affairs to listen to this and, perhaps, take it up. Where there is a lot of boardroom pressure, I think he better come out in the open, so that the rest of the Kenyans know. Some of these basic data must be corrected, where the anomaly is conspicuous. We should not go along because it serves me well or in my constituency, it is right, and then we ignore others. We want to rush so that we can benefit. These are small things that will create problems in this country.

Madam Temporary Deputy Speaker, there is a law that exists on sexual offences. If you look at Clause 7 on Fourth Schedule, it has introduced the issue of sexual harassment. There is a whole law on this. We are discussing about the Independent Elections and Boundaries Commission. I do not understand why this matter is brought in here. Of what relevance is it? There is a whole law on sexual harassment. We made sure it will be very punitive if anybody attempts, or even dreams of abusing sexually anybody else. It is very clear. I remember when we passed that law, it was highly celebrated. We, as a country, must protect our boys and girls against sexual harassment. I want to be at the forefront of that. Why bring it here? I do not understand. It is the high time that we started doing relevant things where they are relevant.

Madam Temporary Deputy Speaker, I do not intend to take a lot of time because I know there are a number of Members who want to contribute. But I just want to mention only one thing about the implementation of the new Constitution. Indeed, I know this House has not received a number of Bills that we are required to pass. I want to urge the Minister responsible for this, who is here, to ensure that these Bills are brought to the House. At the same time, I have an issue with the oversight Committee. I think the Oversight Committee needs to direct, because most of the things they have been doing in my view--- They have been persuading the Executive to do it. They have not directed. The role of Parliament is to direct. I know lately, probably, they have awakened and pushed. We cannot blame anybody. The buck stops at us. Even Kenyans know this very well. When things have not happened elsewhere, they will be asking: What about Parliament, what have they done about it? They know very well that this was not within your realm or domain but they know the buck stops with us. It is simply because we represent the people. You are popularly elected. We have a fresh mandate and on the basis of that authority, we can speak for them. Indeed, that is our obligation.

Madam Temporary Deputy Speaker, the buck stops with us. The Constitution Implementation Oversight Committee should publish what they have agreed. I am happy that some of the Members have what they have agreed with the Executive. Do not keep it in the boardroom, publish what you have agreed on, so that it can be very clear to the rest of Kenyans as to who is going to take responsibility. We should not only do that but we must also make sure that the responsible departments deliver, because the buck stops with us.

With those few remarks, I beg to support.

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Madam Temporary Deputy Speaker, I thank you for allowing me to contribute to this Bill. In the few remaining minutes of my time, I will just concentrate on the functions of the Commission. I want to, first, congratulate the Minister for moving very fast to bring this Bill to us.

If you look at the functions of the Commission, you will appreciate that there are issues which needed to have been tackled yesterday. We need this body to be formed immediately. We need to name the new commissioners immediately, so that we are able to function as a country. We want the things of the past to be by-gones. We want to forget what happened in 2007.

Madam Temporary Deputy Speaker, I want to touch on a few of the functions of the Commission. On Part II – Administration, Clause 4(g) in particular is the one which concerns me a lot. We are almost getting too late to provide civic and voter education.

Elections will be held next year, and there is a lot that is required to be understood by the population in this country.

On the issue of civic and voter education, we know that the number of candidates who are going to be voted for this time round is going to be bigger than usual. We need the Commission to be out there now and educate the people on how they are going to vote, and what voting means to them and future generations. I am a bit worried due to the fact that it is unclear what the women's vote is going to be. Considering the number of Members of Parliament we are going to have, more than 350, it means that the one-third of women that we are looking for, which is stipulated in the Constitution, is about 116 Members of Parliament. So, if they will claim 116 seats, we need to start talking to women. The problem currently is that we hear people saying at *baraza* or public gatherings that women have got their 47 seats. That is not true. The number of seats for women is 116 seats.

Madam Temporary Deputy Speaker, Sir, we need to start civic education and make sure that women know that only 47 seats are being given to them, but they must start fighting for the balance of over 60 seats. There is need to have urgent civic education. So, the sooner we form this Commission, the better. I can tell you that if we do not have 116 seats for women in the Parliament of 2012, this country will be in a crisis, because as the women of this country, we will not allow anybody to violate the Constitution. The Constitution is supreme and we must obey it. A total of 116 women must come to this House at that time.

Another very important aspect is the issue of disputes over nominations. We have had a lot of scandalous ways in which nominations have been handled. This Commission is very important, and we need to form it to come and deal with those issues.

The other issue we must deal with is that of the code of conduct for candidates and parties. Some political parties have become rogue parties. They do not obey the Registrar of Political Parties. So, we need a body which is independent and empowered to actually deal with such political parties. We need to have a level playing ground.

Madam Temporary Deputy Speaker, one of the functions of this Commission, as we have been told, will be the regulation of the amount of money to be spent by a candidate during the campaign period. We need this team so that it can formulate those regulations and bring them to the House, so that we can pass them. Mr. Minister, even in your Ministry, you should be able to deal with the issue of regulations and come up with ways in which we can regulate the amount of money to be spent on election campaigns. Currently, you cannot tell whether people vote for candidates or for money. So, this Commission must be in place as soon as possible.

The last issue I would like to touch on is the Independent Electoral and Boundaries Commission (IEBC) Fund. I want to commend the Minister for the way it has been articulated, and add that he must ensure that nobody can use the funding of this Commission as a bait. That is what the former electoral commission suffered in 2007. They did not know whether they were an independent commission or they were working for Government, and which Government they were working for, since our own Government had been dissolved and we had gone into elections.

Therefore, we need to ensure that the proposed Commission performs during elections, be they national elections, referenda or county elections.

With those remarks, I beg to support.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time for interruption of business. Therefore, this House stands adjourned until tomorrow, Thursday, 5th May, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.