

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 28th July, 2011

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

EXCLUSION OF TAITA TAVETA COUNTY FROM DROUGHT MITIGATION

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) Why has the entire Taita-Taveta County been excluded from the current Government mitigation programme on drought and famine and yet the county is in the ASAL region?

(b) What measures will the Government take to ensure that the School Feeding and School Fee Waiver Programmes are rolled out to all schools in the county and water is delivered to the residents of the various areas affected by drought?

Mr. Deputy Speaker, Sir, I have not received a written answer.

Mr. Deputy Speaker: When it is a Question by Private Notice, the Ministers are not obligated to furnish you with a written answer in advance. But if he is willing to give it to you, then we could come back to this Question while you acquaint yourself with the answer. So, is the Assistant Minister willing to give you an answer?

The Assistant Minister for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, this Question just came to our offices yesterday evening and we have just concluded doing research on it. I have just dropped a copy for Mr. Mwazo in his Pigeon Hole and I have taken a few minutes with him to go through the response using the copy that I have. Unfortunately, I only have one copy. If he is willing to interrogate this Question, I am ready.

Mr. Deputy Speaker: Fair enough! We will come back to this Question later. In the meantime, could you give him a copy? Indeed, given the sensitivity of the matter raised there, the Chair is convinced that Mr. Mwazo should be given that answer now.

The next Question by Private Notice!

The Assistant Minister for Special Programmes (M.M. Ali): On a point of order, Mr. Deputy Speaker, Sir. I seek the indulgence of the Chair because I have just mentioned to the hon. Member concerned that His Excellency the President is going to Marsabit County tomorrow and we are required to go as an advance team. So, instead of queuing up to the last bunch, I can go out and get him a copy or, if he is kind enough, he could allow us to go ahead.

Mr. Deputy Speaker: Order! The Chair has given direction that this Question will be revisited in the second round. In the meantime, let us go to Question No.2 while you share the contents of the answer with the Questioner.

Dr. Khalwale!

POWER RATIONING BY KPLC

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

(a) Is the Minister aware that the Kenya Power and Lighting Company has commenced rationing electricity supply to most industrial parts in the country with effect from 27th July, 2011 and, if so, what are the reasons for the rationing?

(b) What mitigation measures are in place to cushion businesses against losses occasioned by the exercise?

(c) What long-term measures does the Government have to ensure that the country attains sufficient energy supply?

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

(a) Yes, I am aware that the Kenya Power and Lighting Company (KPLC) has commenced limited power rationing.

(b) First of all, we should note that effective generation capacity is 1,421 megawatts and the reasons are as follows:-

(i) Out of this, 246 megawatts is out of commission for maintenance and/or repair, thus leaving a balance of 1,175 megawatts.

(ii) Maximum power demand at about 1,260 megawatts, therefore, exceeds available generation capacity by about 85 megawatts.

(iii) In Nairobi and Western Kenya, the deficit is in some cases higher than 85 megawatts. The two existing transmission lines between Mombasa have a surplus generation and Nairobi does not have the capacity to evacuate all the surplus power.

(iv) Delay in providing payment securities to independent power producers without which they cannot reach the financial clause, that is, with respect to their contractual engagements.

(v) Because of this delay, three independent power producers which have power plants with a combined capacity of 252 megawatts, which should have been commissioned by May, 2011 have been rescheduled to the last quota of 2012. This also applies to the 300 megawatts from Lake Turkana wind farm which was originally scheduled for commissioning by November, 2011 but has now been postponed also to the second half of 2013.

(vi) Consequently, the country lacks critical minimum reserve generation capacity margin of about 20 per cent above peak demand. This margin is estimated to be 252 megawatts based on the current peak demand.

(v) Commissioning of 60 megawatts of gas turbine capacity which has been transferred from Mombasa to Nairobi after repair will commence by Friday, 29th July, 2011, that is, tomorrow with trial runs of the first 30 megawatts unit.

The second 30 megawatts unit is expected to be commissioned by mid-August, 2011. A 60 megawatts emergency power plant is scheduled for commissioning at Muhoroni within the next six to eight weeks. This plant, apart from providing voltage support to the western part of Kenya, will also help to meet the current generation shortfall.

(vi) Recommissioning of two power plants with a combined capacity of 68 megawatts by September, 2011. These two power plants have been undergoing significant repairs.

Finally, we shall be commissioning three small power plants with a combined capacity of 28 megawatts

(c) The long-term measures that my Ministry has taken to ensure that this power rationing does not reoccur is that the following power plants with a combined capacity of 1,208 megawatts are either under or programmed for implementation:-

(i) Five power plants with a combined generation capacity of 392 megawatts are scheduled for commissioning by the fourth quota of 2012. Four of these plants are heavy fuel fired totalling to 252 megawatts and the fifth one is a 60 megawatts wind power plant.

(ii) Two geothermal power plants with a combined capacity of 280 megawatts currently under implementation are scheduled for commissioning by the fourth quota of 2013. There is a delay in the contract award due to an appeal filed by one of the unsuccessful foreign geothermal turbine manufacturers.

(iii) A 300 megawatts wind power plant by the third quota of 2013.

(iv) We also have 136 megawatts geothermal power plant by the first half of 2014

(v) About 400 megawatts power imports from Ethiopia which is said to be available by 2015.

(vi) About 200 megawatts of wind power is also going to be available by 2015.

Mr. Deputy Speaker, Sir, the following major transmission lines are under implementation to improve power transfer capacity:-

(i) A 400 KV, 405-kilometre Mombasa-Isinya Line currently under construction is scheduled for commissioning by the first quota of 2013;

(ii) A 400 KV, 42-kilometre line from Loyongalani to Suswa which is supposed to be completed by the second half of 2013;

(iii) A 400 KV, 80-kilometre Suswa-Isinya line by the third quota of 2013;

(iv) A 500 KV, 1040-kilometre Ethiopia-Kenya (Suswa line) which is supposed to be completed by the second half of 2015; and,

(v) A 220 KV line which is 300 kilometres long, Kisumu-Lessos- Ol Karia, is supposed to be completed by 2015.

Dr. Khalwale: Mr. Deputy Speaker, Sir, listening to this Assistant Minister, you wonder whether the Grand Coalition Government---

Mr. Deputy Speaker: Order! Listening to the hon. Assistant Minister and not "this Assistant Minister". Accord the House the dignity it deserves, Dr. Khalwale! You are all hon. Ministers and hon. Members and not this or that!

Proceed!

Dr. Khalwale: Thank you, Mr. Deputy Speaker, Sir. Listening to the hon. Assistant Minister, Mr. Magerer, I wonder whether the Grand Coalition Government has any reason to continue being in power because they are unable to feed the country. They are unable to give security to the country and now they have thrown the country into darkness. The future of energy production in this country is not through hydro-electric power that the Assistant Minister has been tabulating. It is through geothermal production. Unknown to this Government, Kenya is only second to New Zealand, in the whole world, in terms of geothermal potential. We have a potential of

up to 7,200 megawatts. The Government is planning, by the year 2013, to get only 280 megawatts from geothermal and by the year 2030 to get only 5,000 megawatts.

Could the Assistant Minister confirm that it is within the plans of this Government to start a crash programme that can ensure that this potential of geothermal power is exploited so that we become a net exporter of power?

Mr. Magerer: Mr. Deputy Speaker, Sir, first of all, I want to thank and appreciate my senior colleague here. He has said that the Grand Coalition Government, which I work for and I am part of, has no business being in power. He has tried to blame it for lack of food and insecurity, which really does not fall under the Question that is before the House. But on issues of power, I have taken the trouble to take you through the programmes that we have up to the year 2015. I believe that if the hon. Member, who I know is a very vocal man, will continue to support the allocation of funds to geothermal business, we are going to move on very well.

(Applause)

However, I want to allay the fears of Dr. Khalwale that we are the second in the world--- That is a fact and he knows. We are the people who are spearheading geothermal productivity. Looking at what we have now, in my answer, I have clearly indicated that, within another two years, we expect, from geothermal alone, to generate about 300 megawatts. That is only from Menengai. I want to thank this House because, yesterday, it adopted a report that is going to give more funds to geothermal power generation and, definitely, we are going to increase the production. I know this is not about the Ministry or the Government doing very little to ensure that Kenya is not thrown into darkness. But we are only mitigating for the purposes of the shortfall that we have. We have to enumerate some of these small issues which I personally call “a control programme”. That way, we can mitigate about 85 to 100 megawatts shortfall.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for giving a detailed answer. However, I am concerned to note that the rationing of electricity is affecting industries. That is like cutting your throat to spite your face. I was wondering whether the Ministry is aware of Vision 2030 goals and the importance of one of the most important economic pillars - that is the industries. If you are now killing the industries, how are you going to generate wealth? Is there no other way to cut power elsewhere and give industries regular power, instead of the eight hours or five hours a day? You are breaking the back of the industries!

Mr. Magerer: Mr. Deputy Speaker, Sir, first of all, the fault of not having to meet the big demand is mainly because of the prolonged drought that has curtailed the full operations of the hydro-generation plants that we have in our country. But I have enumerated the measures that my Ministry is taking to avoid over-reliance on hydro-power. That is because hydro-power is subject to vagaries of weather which, sometimes, are out of control. So, the issue of not being able to supply enough to the industries--- The programme which we are calling the Load Management Programme has taken that into consideration. That way, the industries are affected the least in terms of production. There is no reason why Mr. Shakeel should have any fears that we intend to close the industries. The industries will go on. We are only making a few adjustments, after which we believe that, in a short while, we will recover fully.

Mr. Kombo: Mr. Deputy Speaker, Sir, I listened to the Assistant Minister very carefully as he enumerated the long-term measures. Apart from wind and

geothermal power, the sun is another important asset and source of electricity. The sun will always be with us! Gas can get finished. We have to look for wind in areas like Turkana. But the sun will always be there. What programmes do you have to harness solar energy and help homes and, therefore, cut down the use of the other power that you are generating?

Mr. Magerer: Mr. Deputy Speaker, Sir, it is true that solar power is one of the most readily available sources of electricity. However, it may only be sufficient to run the homes and, to this end, my Ministry has made sufficient arrangements to provide off-grid power supplies to areas that are far off from the grid, and to areas that are not within the connectivity that we have. We are also working with development partners to fund the solar energy programme. I think that within no time, we will finalize the programme. Thereafter, we will avail it to Kenyans. They will then enjoy electricity from solar power.

Mr. Namwamba: Mr. Deputy Speaker, Sir, it is truly tragic that, in this day and era, when the country is talking about Vision 2030 - which is only 19 years away - the Assistant Minister is still talking about dreams and visions without any concrete measures. My concern is the coherence within Government policies and operations. We have an incoherent situation where the Government expects the Rural Electrification Authority (REA) – which is a Government agency - to pay VAT to the same Government. It is shocking that, indeed, the Government has given notice to the REA for a hefty bill of arrears for backdated accumulated VAT amounting to about Kshs1.8 billion. Could the Assistant Minister explain how this works? If Government agencies providing critical services like REA are not fully backed to light up the country and spread energy to realize Vision 2030, how does the Assistant Minister explain that policy incoherence? Kindly indulge me to seek the assurance of the Assistant Minister that, last time we had this kind of prolonged drought, cartels and other wheeler-dealers sneaked into the energy sector and were then classified as Independent Power Producers (IPPs). That became one of the major reasons why the cost of energy shot up beyond the reach of many Kenyans. Could he also give assurance to the people that this is not going to be an avenue for another “kill” by the so-called IPPs to fill the gap?

Mr. Magerer: Mr. Deputy Speaker, Sir, I want to assure my brother, Mr. Namwamba, that he does not need to have any fears about those partners of ours we call IPPs. This House is aware that the IPPs are operating under stipulated regulations by the Ministry of Energy. I have no doubt in my mind that they could be up to something mischievous. In as far as we are concerned, as a Ministry, the IPPs have come in to see whether the gaps that have been created because of the very good consumption of electricity by Kenyans could be filled. I want to thank the hon. Member who has asked the question because REA has done a tremendous job. It has been able to access electricity to most parts of this country and many Kenyans---

(Applause)

I want to agree with him that while we have done quite well in distribution, we have to ensure that we match the demand that has been created by some of these good Government policies; that is to avail electricity to all Kenyans. I also want to tell the hon. Member and, of course, this House that, it is this House which can always give a leeway when it comes to the taxation of some of the Government agencies. If this House finds it important that the VAT being levied on a Government agent called

REA needs to be waived, then it is up to this House and these hon. Members to come up with some substantive Motions, so that we can support them. I believe that the Government is likely to accept that.

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. I am just wondering whether the Assistant Minister is in order to indicate that it is within the power of this House to move such a measure when he knows that taxation measures--- Any law touching on taxation has to be originated and processed by the Treasury. The Assistant Minister, in sharing collective responsibility, should even be giving an assurance to this House that the Ministry of Energy will be liaising with the Treasury to initiate the legislative measure required for that kind of relief for the REA.

(Applause)

Mr. Deputy Speaker: That is your mandate! The powers and the authority of taxation are all spread in the Government. When you say the House, the presumption is that you are referring to everybody, including the Front Bench like you. But, clearly, that is the Government's responsibility and you are bound by collective responsibility. So you cannot throw that back to the Back Benchers.

Mr. Magerer: Mr. Deputy Speaker, Sir, I stand guided. But I want to say that we have begun negotiating with our colleagues in the Ministry of Finance. I know that part of what we are going to be doing is to agree on how that VAT may be levied or removed from within the Ministry. But that is something we are still discussing. However, I want to assure the hon. Member that we are going to do exactly that, to ensure that we do not create unnecessary hurdles for Kenyans to access electricity.

Dr. Khalwale: Mr. Deputy Speaker, Sir, part of the reason why the public is not very well served is because of lack of competition within the energy sector. Could the Assistant Minister confirm that they are soon going to open up the market so that we can have a second, third and fourth power distributor to compete with the Kenya Power, so that it can wake up?

Mr. Magerer: Mr. Deputy Speaker, Sir, I think the problem that we have is about the ability of the Government to generate enough power to meet the demand that has been created by the expansion of the Kenyan economy. I want to assure the hon. Member that we, as a Ministry, are not sleeping. As I have said, we are going to ensure that the generation capacity is designed in such a manner that it will meet the demand of the Kenyan people. Still on that, I want to assure the hon. Member that this issue of competitiveness within the energy sector is something that we are also looking into. I cannot conclusively say how far we have gone into it, but there is a possibility that in the near future, we are definitely going to introduce other service providers to give the service that is required to meet the demand of Kenyans.

Thank you!

EXCLUSION OF TAITA-TAVETA COUNTY
FROM DROUGHT MITIGATION

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) Why has the entire Taita-Taveta County been excluded from the current Government mitigation programme on the drought and famine and yet, the county is in the ASAL region?

(b) What measures will the Government take to ensure that the school feeding and school fee waiver programmes are rolled out to all schools in the county and water is delivered to the residents of the various areas affected by drought?

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, I thank you for your indulgence very sincerely.

I beg to reply.

(a) It is not true that the entire Taita Taveta County has been excluded from the current Government mitigation programme on drought and famine. As a matter of fact, the county has been benefiting from relief food given by my Ministry to needy districts every month and has also been benefiting from Protracted Relief and Recovery Operation Programme run by the World Food Programme. In July 2010 to June, 2011, the Ministry allocated the county a total of 21,500 bags of maize, 1,120 bags of beans, 7,300 bags of rice and 2,050 cartons of cooking oil, all valued at Kshs113,368,250. The country further received Kshs3.6 million for transportation of food within the districts during the period as clearly indicated in the table attached, which the Member has.

(b) Taita Taveta County has been benefiting from the various school feeding programmes that include the Regular School Feeding Programme, the Homegrown School Feeding Programme and the Expanded Homegrown School Feeding Programme. The Regular School Feeding Programme is run by the Ministry of Education and the WFP while the Homegrown School Feeding Programme is run exclusively by the Ministry of Education. The Expanded School Feeding Programme, also run by the Ministry of Education, was introduced to cater for increased needs due to the prevailing drought. The Ministry of Education is yet to implement the School Fees Waiver Programme in Taita Taveta County and this is the same with the rest of the counties across the country.

On water, the Ministry through various constituencies, received Kshs4 million for water tracking, fuel subsidy and the maintenance of boreholes from the Ministry of Water and Irrigation.

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. There was a special mitigation Fund which was started in February and March this year and this is the Fund that I am referring to. This is the Drought Mitigation Fund which was a package to feed school children, waive fees and supply water to the affected areas. Taita Taveta was not included in that and that is why I asked why it was excluded. What was the criterion for admitting a county to the Drought Mitigation Programme?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I thank the Member for that intervention. On the School Feeding Programme which was specifically initiated due to this drought intervention, funds were exclusively allocated to the Ministry of Education to cater for that. That was meant for the expanded School Feeding Programme and also the fees waiver. That is not under the Ministry of State for Special Programmes. However, we have written a letter to the Ministry of Education and they have said that the Kshs4.4 billion, which was a total package for the fees waiver and the Expanded School Feeding Programme has not been implemented not only in the Taita Taveta County, but in all the counties. We have reminded the Ministry to undertake the same as a matter of urgency. They have been explaining a few issues here and there, between themselves and the Treasury, but I can assure you that this county has not been left out.

With regard to water, the county has benefited from the little funds which have been availed to all the counties.

Mr. Mwadeghu: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that two-thirds of Taita is under ASAL? As I speak, the entire county is experiencing a very severe drought.

(Loud consultations)

Mr. M.M. Ali: On a point of order, Mr. Deputy Speaker, Sir. The Members are consulting a bit loudly and I cannot hear the Member clearly.

Mr. Deputy Speaker: Order, hon. Members! Hon. K. Kilonzo and your colleagues, if you want to get into very passionate discussions and consultations, you can always do that in the comfort of the lounges in there. You come here to transact business and this is the business being transacted and then you are consulting. Let us be silent while the Assistant Minister is answering the questions, so that you can also hear it and participate.

Proceed, hon. Mwadeghu!

Mr. Mwadeghu: Mr. Deputy Speaker, Sir, I was asking the Assistant Minister whether he is aware that two-thirds of Taita is ASAL. As I speak, the entire county is experiencing severe drought. What measures is the Ministry taking to ensure that our community is not subjected to famine like we are seeing across the country?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, if the Member was keen, I mentioned that this county was not left out. It is being treated like all the other counties in the country. I know that it is part of the ASAL counties and that is why it is benefiting from relief food like all the other affected counties. In part "b" of the Question, the Member wanted to know what the Government is doing so that the current wave of drought does not consume more of our people than it has already done.

I would like to mention that this is a global phenomenon and the Government is taking it very seriously. We have scaled up the amount of food allocated to all the counties. Only two weeks ago, the Cabinet approved a total of Kshs10.9 billion for drought intervention and that will equally benefit the county the Member is referring to. We also had a meeting with the G-20 only on Sunday last week. Since this is a global phenomenon, they had called for that meeting to address this problem across the globe. Many countries have pledged to assist the host countries like Kenya. These are Norway, Yemen, Saudi Arabia, among others. Their assistance will complement Government efforts.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. You have just heard the Assistant Minister referring to the Kshs10 billion which he alleges that the Cabinet approved. Is he in order to refer to that money, yet yesterday, the Deputy Prime Minister and Minister for Finance said that it was upon the Ministries to see where they are going to reduce their budgets to get that money? Is he in order to refer to that as being in place yet it depends on whether the Ministries are going to get the money or not?

Mr. Deputy Speaker: Are you sure what you heard yesterday is what you are saying?

Mr. K. Kilonzo: Certainly, Mr. Deputy Speaker, Sir. It is true.

Mr. Deputy Speaker: The Chair was of the opinion that, that was in addition to cuts that Ministries were told to do.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, as you rightly observed, I am not too sure that I needed to come back to that. It was the Cabinet's decision that that money was approved. What the Deputy Prime Minister and Minister for Finance indicated, and that is what I have here also, is a gap of Kshs2 billion. The rest is readily available and he is going to source for that. I know that there is a gap of Kshs2 billion which the Deputy Prime Minister and Minister for Finance said that he would look for where to cut expenditure from other Ministries, so that this amount can be availed.

Mr. Deputy Speaker: Order! Indeed, this is a matter that the Chair very well remembers. As part of the collaborative arguments as to why the NSIS Budget should not be tampered with, the Chair distinctly heard the Minister saying that he has put in money for this purpose. So, you might as well go to the HANSARD and then come back.

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

Mr. Deputy Speaker: Order! You are out of order!

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I was standing up to seek your attention so that we can ask for further clarification, but even if you do not grant us, the---

Mr. Deputy Speaker: Order! Whereas the Chair is cognizant of the fact that you people come from areas which are affected by drought and famine, when you have been very passionately consulting with hon. Noor and hon. K. Kilonzo was consulting with hon. Muoki, in effect, you made it impossible for the Assistant Minister to be heard or to hear, then why do you suddenly wake up from a kind of slumber and decide that you are going to get engaged in the debate?

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

Mr. Deputy Speaker: Order! You are out of order! Hon. Mwazo, proceed and ask your last supplementary question!

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, when is the Assistant Minister going to increase the funding? As he has been told, the Taita Taveta County is affected by severe drought. In terms of the distribution of water, could he give a bowser to every district? Could he also double the allocation of maize and implement the School Fees Waiver Programme as a matter of urgency?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I cannot commit myself as to when I am going to give a bowser to each district in that county, but I can quickly say that in liaison with the line Ministry, which is the Ministry of Water and Irrigation, already some water bowsers have been mobilized and are in the various counties. My Ministry already has a programme to buy extra water bowsers in the next one month or so.

As I said, about two months ago, we got some grant from Japan. Unfortunately, you know what happened there, but we are purchasing 30 extra water bowsers. We shall distribute them equally across the counties which do not have them. On the School Feeding Programme, as I said, we have alerted the Ministry concerned, namely, the Ministry of Education, to sort it out with the Office of Deputy Prime Minister and Ministry of Finance, so that the waiver and the feeding programmes can be effected as a matter of urgency.

ANNEXATION OF LAND BELONGING
TO GWASSI RESIDENTS BY KFS

Mr. Mbadi: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Forestry and Wildlife the following Question by Private Notice.

(a) Is the Minister aware of the plan by the Kenya Forest Service (KFS) to annex additional 2,737 hectares of private land from residents of Gwasssi to add to the gazetted 4,835.7 hectares of Gwasssi Hill Forest and, if so, what are the reasons for the move?

(b) What measures will the Minister take to ensure that the KFS does not acquire the private land?

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the KFS has commenced a legal and consultative process to gazette an additional 2,733.61 hectares or pockets of ecologically sensitive forest areas in Gwasssi Hills, which constitute a vital water catchment land as a source of rivers and streams. These pockets or forests were left out during an earlier gazette process in 2005 where an area of approximately 4,835.7 hectares of the Gwasssi Hills was gazetted as a forest area for protection of water catchment. The intention to gazette the additional pockets of Gwasssi Hill Forest was as a result of public hue and cry from the residents of Gwasssi, occasioned by massive destruction of the remaining forests which serve as a source of rivers and streams that the local population depends on.

Arising from the massive destruction of the water catchment, the Suba County Council in consultation with the local leaders and ourselves, the Department of Land Adjudication and other stakeholders arrived at the decision of gazetting the remaining pockets of forest for proper protection. The forest intended to be gazetted falls under adjudicated land held under the trust of the Suba County Council and the KFS has no intention of gazetting private land.

(b) During a survey exercise carried out in May 2010 to map out the areas to be gazetted, there arose disagreements on the exact areas that could qualify for gazette as one of the blocks was noted to have been adjudicated earlier. As a result, the process was suspended awaiting further consultation to identify the areas already adjudicated so as to exclude these areas from the gazette process. The consultations are still ongoing between the Suba County Council, the KFS, the Department of Land Adjudication, local leaders, the local residents and other stakeholders to identify areas already adjudicated, so as to exclude them from the additional areas to be gazetted.

My Ministry will, in this respect, make the necessary follow up and prudently ensure that no private land is included in the areas to be gazetted for public protection and posterity purposes.

Mr. Mbadi: Mr. Deputy Speaker, Sir, sometimes I wonder and I keep on asking myself so many questions as to why this Government hates my people. I say that because this Government allowed the Uganda Government to take Misingo Island which is in my constituency. As if that is not enough, now they are annexing land and evicting my people. About 8,000 people are affected. There are also six schools in the area. The Minister is misinformed. He comes and says: "Just pockets". About 2,700 hectares of land added to 4,800 is almost three quarters of the current forest. Where are you getting that land? You are getting it from my people!

I do not know why this Government is doing this, but I hope the Minister, who is my friend and who knows this area very well, having worked there, will sympathize and empathize with the plight of the people of Gwasssi. The area is very hilly. The

Minister has talked about complaints from the residents of Gwasssi. He has also talked about the county council and the stakeholders. I wonder who these are and where they held the meeting. Are there minutes? When was this meeting held, where the people of Gwasssi decided that they needed more land to be added to the forest instead of preserving the forest which is there? Is there evidence that the people of Gwasssi asked for additional forest? I wanted to table a map of the land which has been proposed to be annexed.

There is a letter from the Gwasssi Community Support Organization, which if the Minister reads and was in my position, he would feel pain. They are complaining of an NGO which wrote to the Minister. The NGO is looking for funding elsewhere and using the plight of my people to get that funding on the pretext that they are protecting forests. How can the Minister rely on a letter from Mrs. Odongo, just one lady, in the whole constituency and claim that the people of Gwasssi have petitioned him? I am the Member of Parliament for the area.

If the majority of my people wanted this decision to be made, would I be foolish to question it in this House? Mr. Minister, my question is: Could you provide evidence that the Gwasssi people wanted people to be evicted, so that more land could be added to the already gazetted 4,800 hectares?

Dr. Wekesa: Mr. Deputy Speaker, Sir, I appreciate the sentiments of the hon. Member of Parliament for Gwasssi, but I want to state very clearly that we, as a Government, will not go to an area, particularly an area that has private land, and unilaterally propose that we want to gazette land. We only respond to the need of the people. In any case, when you consider the current Act that we passed in this House in 2005, we will only work with the local communities as far as forest issues are concerned. So, I am under the impression that the request came from the local people. Indeed, if what the hon. Member is alleging, that the local community does not want this gazettelement is true, we, as a Government, will have no business in forcing people to look after the environment. However, this area is a source of rivers in the area. I was working in this area for many---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to imply that our people do not want to protect the forest? What we are saying is that the 4,800 hectares which are already gazetted be protected; there is no river in Gwasssi. There are only streams in Gwasssi. The streams originate from the already existing forest. What you are now taking is where the streams flow to. If you take land up to where they are flowing to, then all Gwasi constituents will be evicted; where will you take them?

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead this House that what hon. Mbadi has stated are allegations when we know that in December 2007, the people of Gwasssi voted for one Hon. Mbadi, to come and present their plight here, and that whatever evidence he is presenting here shows the true thinking of the people of Gwasssi? Which is the allegation? Is it what hon. Mbadi has said or what the Minister is alleging, because he has no evidence to show that the people of Gwasi had, in fact, asked for the gazettelement of this forest? Which is which? Do we believe what hon. Mbadi is saying, or what the Minister, who is a very good friend of mine, is telling us?

Mr. Deputy Speaker: Order! Whoever can prove his position.
Proceed, Minister!

Dr. Wekesa: Mr. Deputy Speaker, Sir, let me be very clear. I worked in Gwasssi before the hon. Member of Parliament was born in 1967; I know this area. I

want to assure the House that we, as a Government, have no wish to force people to conserve whatever is in their area. I want to believe that the hon. Member is presenting the views of his people; if that is the case, I am willing to rescind this proposed gazette, because of the needs of Gwassi leaders and people.

Mrs. Noor: Mr. Deputy Speaker, Sir, the pastoralist communities in Ijara, Fafi, Lagdera and Tana River have moved to Lamu District and Lamu people have welcomed them. Is the Minister aware that the Kenya Forest Service (KFS) personnel at Lake Kenyatta are demanding Kshs50 for each head of cattle that moves in? They do not have a problem with the cattle entering the forest, but they are demanding Kshs50 despite the drought situation. What is the Minister going to do in order to waive the Kshs50 fee? Can he confirm whether that Kshs50 fee is legal and should be paid to the KFS?

Dr. Wekesa: Mr. Deputy Speaker, Sir, we allow those who live near the forest to graze in our forests, and there is a small fee to be paid; a lot of people are grateful for this service. So, I know that we do it all over our forests. This is quite in order; also you can purchase the grass within our forests.

Mrs. Noor: On a point of order, Mr. Deputy Speaker, Sir. First, I do not know where that is in the law. Secondly, can that Kshs50 be waived at this crucial moment?

Mr. Deputy Speaker: What is the Kshs50 for? Is it paid per day, week or year?

Mrs. Noor: It is paid per head of cattle, per week, Mr. Deputy Speaker, Sir.

Dr. Wekesa: Mr. Deputy Speaker, Sir, in view of the prevailing drought throughout the country, we can consider this.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I want to take the Minister back to Gwassi, because I believe this matter is really critical. I want to say that I spent my last weekend in Gwassi, and it is absolutely a beautiful place that I will encourage hon. Members to spend their leisure time in.

Looking at this map, and I believe the Minister is familiar with this map of the Gwassi Hill Forest, it amounts to additional ten blocks. I realize that the Minister was proposing to have an additional ten blocks to the already existing and gazetted 4,800 hectares of land. This is a massive measure that the Minister should not lightly sweep aside, and say he is rescinding. My question is this: Before the Ministry took the decision to add these ten blocks to the Gwassi Hill Forest, what had it done to protect the already existing 4,800 hectares of land, and manage other resources in this area under the Ministry, including Ruma National Park, which park is already of several concerns to the local people? It has tsetse flies that are making it impossible for the people of Gwassi to engage in livestock rearing and other activities. Could the Minister tell this House what exactly the Ministry is doing to ensure that the resources within Gwassi which the Government is investing in, are also beneficial to the people of Gwassi? How have you managed the existing 4,800 hectares, and how are you responding to the concerns of the people of Gwassi regarding challenges emanating from Ruma National Park?

Dr. Wekesa: Mr. Deputy Speaker, Sir, this exercise is over a recent development. As I said in my reply, the matter is still being discussed between ourselves and the leaders in Gwassi. So, there is not much we had done in terms of establishing more tree plantations in this area; suffice it to say that if we protect some of these areas, natural regeneration does take place.

However, I have stated very clearly that we are not going ahead with this. In fact, I would like to invite myself to the area. We can go with the hon. Member of

Parliament. I want to meet the people on the ground because it is likely that I have been misled, particularly when it refers to the fact that there has been a consultative meeting between the local leaders and ourselves. The hon. Member says very clearly that this consultation has not been there.

Secondly, as far as Ruma National Park is concerned, a lot has been done in the last two to three years. We have introduced more animals in this park. There are plans to put a fence around this park, so that there are more animals in the area. These animals will attract more tourists to the area. This place is a beautiful place. It is very scenic and it is a potential tourist destination.

Mr. Pesa: Mr. Deputy Speaker, Sir, I have a lot of interest in this Question because my mother happens to come from Gwassi. One of the people that are supposed to be a victim is my uncle and he is somebody known in that area.

Mr. Minister, you have agreed that you will look at this point again. However, for an issue to come here so that you present your data that you will annex an area of ten blocks, your officer on the ground, must have told you the truth as to whether people were living there or not. If they were leaving there, for how long have they been living in the ten blocks in question? If that is the case, they should have given you proposals as to what you were going to do with them when you remove them from that land. This is what happened in Mau Forest. We have had that problem. Apparently, we will have it in Gwassi again. What are you going to do about your officer who has misled you?

Dr. Wekesa: Mr. Deputy Speaker, Sir, I have said and repeated that it is possible that I was misled. So, let us not flog the dead horse.

As to what I am going to do to the officer, let me, first, get to Gwassi and I will inform you accordingly.

Dr. Nuh: Mr. Deputy Speaker, Sir, I have engaged the hon. Minister, not when he was the Chairman of PNU, but as the Minister for this specific docket, on matters of pastoralists and national parks. I have come to know him as a humble Minister who has a soft spot for people who are suffering. However, when I did a quick calculation of how much a pastoralist is supposed to be charged for grazing around Lake Kenyatta, per day is Kshs50. This comes to Kshs1,500 in a month. With this drought that has been going on for three or four months, that is like telling the pastoralist to forfeit his cow. So, since he has confirmed that something will be done, could he give us a firm commitment because of the drought and shortage of water and grass, that he can actually waive this fee until we are out of these menace. Once and for all, be humble again!

Dr. Wekesa: First of all, I did not say it is Kshs50 per cow per day, it is per week.

Mr. Deputy Speaker, Sir, I have been to Bura with the hon. Member of Parliament when he had problems two years ago. We solved his problems. However, I am surprised that he is still not very happy with Kshs50 per week, per head of cattle. I have said we will consider it in view of the severity of the drought currently in the country.

Mr. Deputy Speaker: Hon. Minister, this is a debate over which the Chair would gladly want to be on the other side. Not on the Chair, but in the benches. Could you confirm that you said that you shall consider the problems of the pastoralists? Indeed, that is what the questioner is asking. He is seeking a firm answer.

Dr. Wekesa: Mr. Deputy Speaker, Sir, this year the drought is worse than we have ever seen. When I say, we will consider, I am going to call on to my officers. We will discuss it with a view to suspending the Kshs50.

Mr. Deputy Speaker: The last supplementary question on the same, the hon. Member for Gwasssi

(Mr. Langat stood up in his place)

What is your point of order, hon. Langat?

Mr. Langat: On a point of order, Mr. Deputy Speaker, Sir. Given that the Minister is going to consider and that this House obviously will require some feedback after consideration, do we say we defer this Question, so that he comes back with a comprehensive answer?

Mr. Deputy Speaker: Order! You must appreciate the fact that this is a Minister who always keeps his word. He is not a Minister who has changed his position many times, not even once in the past.

Under the circumstances, the Chair does trust that the undertakings of the Minister are firm and will be acted upon.

Hon. Mbadi, could you ask your final supplementary question on the same.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I am happy that for the first time I have found a Minister who really considers the plight of the Gwasssi people. I am impressed by the Minister's answer.

Mr. Minister if you want to know that what I am saying is true, hon. Pesa's uncle is Zedekea Ogunyo and he is being evicted. So, I just want to confirm with the Minister; how soon will this trip to Gwasssi be so that we settle this matter, once and for all? Who are these people masquerading as leaders, so that I can also see them, because I thought I am the senior most leader in Gwasssi?

Mr. Deputy Speaker: Fair enough, you have made your point, hon. Gwasssi. Allow the Minister to give you the date now.

Dr. Wekesa: Mr. Deputy Speaker, Sir, I can confirm that after this, I will have a cup of tea with Mr. Mbadi and we will arrange the date. He will pay for this cup of tea!

Mr. Deputy Speaker: Next Question by Mr. Namwamba!

ORAL ANSWERS TO QUESTIONS

Question No.936

FATE OF CONTRACT TEACHERS EMPLOYED BY TSC

Mr. Namwamba asked the Minister for Education:-

- (a) What is the status and terms of service for teachers employed by TSC on contract terms in the 2009/2010 Financial Year,
- (b) When and how the Government plans to absorb the contract teachers on permanent and pensionable terms, and,
- (c) What is the success rate of the contract teacher's initiative and what is the fate of this initiative.

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

(a) The TSC employed 18,060 teachers on contract terms under the Economic Stimulus Programme (ESP). The ESP was meant to spur economic growth by creating jobs and income in all the constituencies. The terms of the contract were as follows: The teachers engaged shall be paid a monthly salary of Kshs10,000 for primary school teachers, and 15,000 for post-primary school teachers. The salary paid is all inclusive. The contract period shall be three years, with the option of renewal at the sole discretion of the TSC. TSC shall meet the contractual teacher's monthly National Hospital Insurance Fund and also National Social Security Fund contributions. The teachers engaged shall be entitled to paternity and maternity leave, and also sick leave. The TSC or the person engaged can at any given time terminate the contract by giving to the other party, three months notice, or one month's salary in lieu of notice. The person engaged shall abide by the provisions of the TSC code of regulations for teachers and any other policy for the public service.

(b) The Ministry of Education in a letter dated 31st March, 2011 and on the 2011/2012 to 2013/2014 Medium Term Budget requested the Treasury for Kshs6.556 billion for the recruitment of additional 10,000 teachers and absorption of contract teachers on permanent and pensionable terms for the 2011/2012 Financial Year.

However, the Treasury failed to allocate the funds in the Budget for 2011/2012. The Departmental Committee on Education, Research and Technology is currently handling the matter with the Office of the Deputy Prime Minister and Ministry of Finance. I assume they did it some time back. Meanwhile, the teachers on contract are offered the first priority during the replacement of teachers who exit through natural attrition.

(c) The initiative has significantly reduced the understaffing in most schools. However, some teachers turned down the offer citing low remuneration. Concerns have also been raised about the level of commitment of these teachers given that they have similar qualifications and offer the same services with other teachers and yet their remuneration is lower.

The contract teachers who turned down the offer of employment, resigned or deserted duty as at 31st May, 2011 are as follows: Among the post-primary teachers, 199 of them did not take up the appointment or deserted duty; among the primary school teachers, 69 of them deserted duty. That gives us a total of 268 teachers.

I wish to table in this House the letter which was written by the Permanent Secretary, Ministry of Education to the Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Finance to prove that we requested the Treasury to give us money to employ teachers.

(Prof. Olweny laid the document on the Table)

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. I need a clarification from the Assistant Minister for Education as to what they really mean on the employment of these teachers. He has just stated that it was an economic stimulus meant to spur economic activity. What is the mission of the Ministry? I thought the mission of the Ministry is to ensure it employs teachers to teach and enhance education. The Ministry seems to be lost. Is it imagining that the employment of 10,000 teachers is an economic activity? Is that employment for purposes of

economics or to ensure that there are teachers in class? Could the Assistant Minister clarify this confusion?

Prof. Olweny: Mr. Deputy Speaker, Sir, I remember very well that the Deputy Prime Minister and Minister for Finance initiated a number of projects under the Economic Stimulus Programme (ESP), and contracting of teachers was part of that.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that the request by the Teachers Service Commission (TSC) for the contract teachers to be taken on a permanent basis is being considered by the Departmental Committee on Education, Research and Technology when he is aware that yesterday we passed the Budget Committee Report? In fact, a resolution of this House states that those teachers should be taken on a permanent basis. Is the Assistant Minister not aware of that? Is he in order to mislead the House?

Prof. Olweny: Mr. Deputy Speaker, Sir, I was reading the answer as it is stated here, but I made a remark that it was done. Of course, the Departmental Committee on Education, Research and Technology considered this in its meetings with staff from the Ministry and the Budget Committee. That is how the recommendations in the Report that was laid and debated here came up.

Dr. Nuh: And passed!

Prof. Olweny: Mr. Deputy Speaker, Sir, we are yet to pass the Finance Bill.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Did you hear the Assistant Minister say that we discussed the Report in this House but we are yet to pass the Finance Bill? Is it in order for him to imply that we did not pass the Budget Committee Report in the House recommending that 28,000 teachers be taken on permanent basis? That is 18,000 teachers on contract and 10,000 new or fresh recruits.

Mr. Deputy Speaker: Hon. Member, the operationalization of the Budget is passed through the Appropriation Bill. The Motion of yesterday is merely a recommendation. So, you cannot say that it was passed and the Government has got to implement. It is a recommendation which the Government can either bring on board, refuse or fail to take on board.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. You know we take your rulings very seriously. Only yesterday we passed a resolution in this House. Are you telling us that the resolutions and Bills we pass in this House have no effect on the Government?

Mr. Deputy Speaker, Sir, especially with the secure knowledge which you know as the enforcer of the Standing Orders, we have a Departmental Committee on Implementation which ensures that every resolution of the House is implemented; failure to do so within two months, we are allowed to come back and take appropriate action against the Minister who has failed to implement the resolution.

Mr. Deputy Speaker: Order! Hon. Members, the Chair would like to help you. Whereas the Chair should not be involved in this debate, this was a Motion and not a Bill. The Bill that becomes a law is the Appropriation Bill. Not only that, what you should be asking for is the Deputy Prime Minister and Minister for Finance to bring a law because of the fact that the current Constitution gives a lot of powers to Parliament, but you do not have those in law now. You should be talking to the CIOC---

(Several hon. Members stood up in their places)

Order! Listen, try to digest and internalize what the Chair is telling you. The Chair is trying to assist you! You should be pushing the CIOC to get the Minister to come with a piece of legislation or a Bill to be passed by the House on how the powers that are in the Constitution and those given to Parliament can be operationalized.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. With due respect to your ruling, I have the feeling that you may be blowing so much air into the head of the Executive for them to disregard the resolution of the Budget Committee. This is because the Constitution clearly says that the recommendations of the Budget Committee shall be considered. That being the case, we have given no room for them to disregard. Whether the Finance Bill will come or not, that is the spirit in which the Assistant Minister for Education should have answered this Question.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I am saddened and, indeed, my heart bleeds for the 18,000 young men and women that this Ministry engaged under this programme. Let it go on the record of this House that I placed this Question before this Minister two months ago. The answer that the Assistant Minister has brought to this House is straight from the archives. This is exactly the same answer the Minister brought to this House and was asked to go back and bring a more substantive answer especially with regard to part "b" of the Question which requires him to outline when and how the Government intends to absorb the contract teachers on permanent and pensionable terms.

Mr. Deputy Speaker, Sir, just to tell you how casual - and I am glad that the Minister, his two deputies and the Permanent Secretary are here. This Ministry is being casual about the plight of these teachers; not only do they bring us something straight from the archives, but they also fail to tell us exactly what measures or plans they have made in the Budget. Do they anticipate to be granted money or did they inform the Treasury, instead of hiding behind this Report? What exactly has this Ministry projected in terms of resources expected, when expected, and how the same resources shall be applied? Could this Assistant Minister stop hiding behind a Report of this House and tell us exactly what they have done in terms of concrete measures to absorb the more than 18,000 teachers under this programme? This Assistant Minister is not serious!

Prof. Olweny: Mr. Deputy Speaker, Sir, first and foremost, the Ministry of Education is not a money-making Ministry. I have laid on the Table a letter to the Treasury by the Permanent Secretary, Ministry of Education and if you go through that letter, you will find that Item No.3 talks about turning the contract teachers into permanent and pensionable teachers if we were given the money we requested for.

Hon. Members: We gave you the money yesterday!

Prof. Olweny: Mr. Deputy Speaker, Sir, hon. Members should know that yesterday we passed a proposal by the Budget Committee and we are yet to pass the Finance Bill. I said this earlier on. The Finance Bill will be final if we can incorporate those proposals. If I am wrong, please, let me know. Let the hon. Member read Item No.3 in the letter by the Permanent Secretary, Ministry of Education to the Office of the Deputy Prime Minister and Ministry of Finance Permanent Secretary and he will understand it.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Wamalwa: Thank you, Mr. Deputy Speaker, Sir. We were glad to learn yesterday about the 20 per cent increment of the teachers' salaries. Were the teachers

on contract also considered? What happened to the Early Childhood Development (ECD) teachers? The Assistant Minister promised to look into their plight this year.

Prof. Olweny: Mr. Deputy Speaker, Sir, the 20 per cent increment was a negotiated increment in 2009 and it does not include the contract teachers. As regards the ECD teachers, if the hon. Member reads Item No.2 in the letter from the Permanent Secretary, he will find that it includes that aspect but we did not get the money from the Treasury. What does the hon. Member expect the Minister to do if money does not come from the Treasury? We hope that what was recommended by the Budget Committee will carry the day and we shall employ all the teachers the hon. Members want.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Kizito: Mr. Deputy Speaker, Sir, issues of education are too dear to me and I want, first of all, to think that the answer that was given by the Assistant Minister was insufficient. As you know, anything injurious to the teaching profession in this country should be resisted by all means. Now that the Assistant Minister has talked about employing those teachers once he gets the monies that he needs--- Those teachers have been discriminated against because they are qualified people - they are P1 teachers like others. When we later employ on permanent basis, will we also backdate what should have been their rightful salary since they started working up to this time?

Prof. Olweny: Mr. Deputy Speaker, Sir, if those teachers are employed permanently, they will sign a new contract on the day they are employed on permanent and pensionable terms.

Mr. Ruto: Mr. Deputy Speaker, Sir, I really want to take issue with the very careless and cavalier attitude the Ministry has towards the 18,000 teachers.

(Applause)

Mr. Deputy Speaker, Sir, it is very shameful for the Assistant Minister to stand here and tell us that the employment of 18,000 teachers was an economic stimulus project. What is the mission of this Ministry, if you do not understand?

The Minister for Education (Prof. Onger): On a point of order, Mr. Deputy Speaker, Sir. I take great exception at the terminology being used in this House. Would the hon. Member be able to substantiate the carelessness that he is talking about and yet he is seized with the full information on the concrete steps that the Ministry of Education has taken in order to address this issue? This includes the Departmental Committee on Education, Research and Technology.

Mr. Deputy Speaker: Order! Order, Minister! Careless and cavalier are not un-parliamentary language!

(Applause)

But Mr. Minister, you should be addressing the issue at hand. The hon. Member has asked: "How can the employment of teachers be termed as an economic stimulus project, as if it is an economic undertaking on the part of the State?" Can you explain that?

Prof. Olweny: Mr. Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance, in his Budget Speech, talked about it. It was one of the projects at the time when the Office of the Deputy Prime Minister and Ministry of Finance

rolled out the Economic Stimulus Programme (ESP). It is there in the HANSARD! It is not the creation of the Ministry of Education. When the Ministry of Education has money to employ, it employs teachers the normal way; that is on permanent and pensionable terms! But this was done through the ESP.

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

Mr. Deputy Speaker: Who do you want to inform?

Mr. Ethuro: I want to inform the House.

Mr. Deputy Speaker: Proceed!

Mr. Ethuro: Mr. Deputy Speaker, Sir, the Standing Orders allow us, hon. Members, to be accurate with our facts.

Mr. Deputy Speaker, Sir, as the Chairman of---

Mr. Deputy Speaker: That is a point of order. Proceed!

Mr. Ethuro: I just want to be very clear, Mr. Deputy Speaker, Sir, that it is true that the teachers who have been employed on contract were part of the ESP. That is a fact we cannot change.

Mr. Ruto: Mr. Deputy Speaker, Sir, I was continuing. According to me, the Ministry of Education cannot hide under the ESP by the Deputy Prime Minister and Minister for Finance to help us staff schools. Their job is to ensure that there are teachers in every primary school and not to come here and tell us that that was an ESP. What has the Assistant Minister done to staff the schools?

Mr. Deputy Speaker, Sir, the Ministry should give us a programme. For example, there are schools now up to Standard V with only one teacher and yet, the Assistant Minister can come here and tell us that it was an ESP. What is their mission? What is the work of the Ministry? What do they intend to do and what have they been doing? How come there is only one teacher in a school with five classes and yet the Assistant Minister has got the audacity to tell us that it was an ESP? So, he will not do anything about it? What is happening, professors? You are all here! What are you professing in this Ministry?

(Laughter)

Prof. Olweny: Mr. Deputy Speaker, Sir, our mission in the Ministry is to deliver good quality education, equitably. It is the responsibility of the whole Government, including Parliament, to allocate the Ministry of Education money to hire the teachers. We shall do that today if we are allocated the money.

Mr. Koech: Thank you, Mr. Deputy Speaker, Sir. The issue of shortage of teachers is a serious problem in this Republic, which we have been handling, together with the Ministry as indicated in the Question.

However, I am wondering whether this answer was prepared long time ago because yesterday, this House passed the Budget Report which gave the Teachers Service Commission (TSC) Kshs5 billion to absorb the 18,000 teachers beginning October and employ 10,000 extra teachers to report in January.

(Applause)

Could the Minister confirm that, that is the position now, rather than to say that this thing is being handled by this Committee and the Office of the Deputy Prime Minister and Ministry of Finance?

Prof. Olweny: Mr. Deputy Speaker, Sir, I repeated it and I shall repeat it. The House passed the report yesterday. We, in the Ministry, are very happy about it because we are getting the support of this House. However, we are yet to pass the Finance Bill. The Finance Bill will give us money. It is the Finance Bill that will approve everything for us. The Budget process is not even complete yet.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I would rather advise the Assistant Minister to start preparing to employ these teachers because there is money. Is it in order for him to purport that money has not been made available yet he is very conversant with the provisions of the new Constitution that the budget-making process is now the preserve of Parliament and that even Ministers will not be in the next Parliament? So, how will the Appropriation Bill be brought through the Budget Committee? So, if the Budget Committee has told you we are giving you money, that is final. You should not even doubt. Prepare to employ teachers from tomorrow.

Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohammed): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to purport to interpret the Constitution for us? That interpretation is not right.

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

Mr. Deputy Speaker: Order, Mr. Ruto! You will have your day.

Hon. Members, clearly it is important for us to appreciate that we are going through some kind of transition. There are a lot of issues in our implementation of the Constitution that are not complete. Section 221(4) of the Constitution says that:-

“Before the National Assembly considers the estimates of revenue and expenditure, a committee of the Assembly shall discuss and review the estimates and make recommendations to the Assembly.”

Sub-section 5 states as follows:-

“In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.”

Sub-section 6---

(Dr. Nuh held loud consultations)

Dr. Nuh, one more time, you will not participate in this debate.

Sub-section 6 states as follows:-

“When the estimates of national Government expenditure, and the estimates of the expenditure for the Judiciary and Parliament have been approved by the National Assembly, they shall be included in an Appropriation Bill, which shall be introduced into the National Assembly to authorize the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill”.

Hon. Members: Yes!

(Applause)

Mr. Deputy Speaker: We have not done the appropriation. Whereas---

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

Mr. Deputy Speaker: Order! Could you just hold your horses? The Chair is trying to help you.

Whereas sub-sections 4 and 5 talk about recommendations, sub-section 6 is very definitive and firm on the role of Parliament in this. However, there are two things we need to understand. One, the Appropriation Bill is not there in place. When the Appropriation Bill itself is done, that is the law. That is the time when the Minister has money for his Ministry and he knows how much it is. By the passing of the Motion yesterday, he has absolutely no money or authority to expend any money. That is the point.

What is of importance is that we still have a problem because we are trying to draw our practice both from the Standing Orders, the old Constitution and the current Constitution. There is a serious lacuna in this. This lacuna can only be eliminated by the Public Finance Bill. There has to be no impasse. There has to be law in place to remove these grey areas, so that Parliament is able to exercise its role as provided for in the Constitution, but in a flowing manner.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I would like to agree with the guidance you are giving the House. However, allow me to also ventilate in the meaning of what you are saying. The Appropriation Bill does not just happen in the House. There is a build up to it. The build up under the new Constitution, now includes what we did yesterday. That build up is continuing up to today. In fact, for your Ministry, it is coming today. So, if you do not respect the build up that we started yesterday be prepared for this Motion to be defeated this afternoon. We realized that these two professors do not want the children of the poor to also become professors like yourselves. This is a very serious matter. Children cannot become professors unless they are taught.

The Minister for Education (Prof. Ongeru): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Whom do you want to inform?

The Minister for Education (Prof. Ongeru): Dr. Khalwale.

Mr. Deputy Speaker: Does he need your information?

Dr. Khalwale: Yes, I would like him to inform me. He was my teacher at the medical school.

The Minister for Education (Prof. Ongeru): Mr. Deputy Speaker, Sir, now that I made him a very worthy student and a very brilliant doctor, who is now a Member of Parliament, we do, indeed, have the interests of a child at heart. The interest of a child is at the centre of our business in the Ministry of Education.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. You have aptly explained to us and we have listened carefully. This is a very serious matter. A matter touching on children's education is so dear to every citizen of this country.

The Assistant Minister has listened to your interpretation. The Deputy Leader of Government Business is also here. Could we get an undertaking that they actually intend to respect the spirit and intentions of the Constitution and also the procedures of Parliament? What is appearing now and what is causing us a lot of tension here is that apparently the Government side is treating parliamentary business casually; we actually met yesterday to ventilate and that what we passed yesterday is not serious business. If we, indeed, get that view, we shall then draft the Finance Bill ourselves; if the hon. Assistant Minister is refusing. Could we get an undertaking from the Deputy Leader of Government Business?

Mr. Deputy Speaker: Order, Mr. Ruto! You just said that you have the powers as the Committee on the Implementation of the Constitution to draft that Public Finance Bill and bring it to the Floor of the House and operationalize the

powers that essentially are vested in Parliament under the current Constitution. Final question.

Mr. Namwamba: Mr. Deputy Speaker, Sir, for three months since I asked this Question the Ministry has prevaricated; it has circumlocuted; it has ducked; it has taken every possible effort to avoid making a commitment. Meanwhile, 18,000 young Kenyans from Budalangi to Kinango, Loitokitok to Wajir are waiting to know their fate from this Ministry unequivocally, without prevarication.

You can see the mood of this House confirming that yesterday they passed a Report of the Budget Committee unanimously. The mood here is indicative that any legislative measure brought to this House in the form of the Appropriation Bill to actualize the intent in the Budget Committee Report will sail through this House, so that this is implemented.

On the strength of Article 221(6) of the Constitution which makes that whole process a given thing if passed by this House, could this Assistant Minister, therefore, simply expressly, directly and equivocally without prevarication, give a commitment to these 18,000 Kenyans that, indeed, they shall be employed on permanent and pensionable terms within this financial year? This House has already indicated the intent to have them so absorbed as soon as these funds are with the Ministry. Could he place that commitment on record?

Prof. Olweny: Mr. Deputy Speaker, Sir, first, I would like to inform the hon. Member that the Ministry has never avoided answering this Question. There was a time when we were supposed to answer it, but the hon. Member was away. The second time we did not address the Question because there was some other business of the House. Parliament then went on recess and we are now dealing with it today.

The Minister for Education appreciates the support given to him by Members of Parliament. I remember the PS in the Ministry of Education wrote to the Chair of the Committee on Education, Research and Technology and the Budget Committee requesting for support, so that we could get the money we had requested for from the Treasury for hiring teachers and converting our contract teachers into permanent and pensionable ones. If we get that money, through the Appropriations and Finance Bills, they will be employed the same day. That is an assurance that I want to make. We stand guided by the two Bills once they are passed by Parliament.

Question No.996

REHABILITATION OF LAKE KAMNAROK IN KERIO VALLEY

Mr. Mwaita asked the Minister for Environment and Mineral Resources.

(a) whether he is aware that Lake Kamnarok in Kerio Valley is drying up; and,

(b) what measures the Government is taking to rehabilitate this important national resource.

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

(a) I am aware that Lake Kamnarok in Kerio Valley is drying up.

(b) My Ministry is taking measures to rehabilitate and reclaim Lake Kamnarok by restoring the degraded Kiptilit Valley. This is being done through structural intervention with a view to reverse the current degradation trends of the

area habitat while, at the same time, improving the livelihood options for the local community through a participatory integrated eco-system management plan.

My Ministry is also undertaking a national resource inventory and mapping, including the Lake Kamnarock region, as a baseline upon which a standing cross-sectional technical committee, which has been constituted, will oversee the rehabilitation exercise of the degradation areas in the whole country. In addition, various site rehabilitation sub-committees comprising the local communities have been set up for purposes of mobilizing and sensitizing the affected communities to fully participate in that venture.

Together with other lead agencies, afforestation efforts have been undertaken in the upper part of Parwesa where there are water retention dams. In addition, silt diversion, ditches and gabions will be constructed in Lake Kamnarock area in the Financial Year 2011/2012, despite the existing budgetary constraints.

Mr. Mwaita: Thank you Mr. Deputy Speaker, Sir. I wish to thank the Assistant Minister for the answer and secondly, for accepting that Lake Kamnarock is drying up and is at the verge of extinction. She has said that there is an enhancement programme on the management of the lake and a plan on how to rehabilitate it. She has even promised that it will happen in this financial year. Could she specify whether the money for rehabilitation is in the Budget and, if so, how much is it?

Prof. Kamar: Mr. Deputy Speaker, Sir, I will not be able to specify how much money it is because in the Budget, we have money for lake rehabilitation. As I mentioned, we are carrying out an inventory of the whole country. We are looking at the various lakes and Kamnarock is in our priority list of 2011/2012. So, yes, we will be having sufficient money for that. But I cannot give you the figures right now.

Mr. Yakub: Thank you Mr. Deputy Speaker, Sir. Through the maintenance and rehabilitation of our rivers and lakes; the resources that should save us from future droughts and food crisis, we can save the lives of Kenyans in Turkana and other areas. What is the policy of the Ministry, since we know that there are other lakes in Rift Valley and Turkana, in making sure that there is conservation of water in all those lakes?

Prof. Kamar: Mr. Deputy Speaker, Sir, as I stated, our policy currently is that we are doing a thorough survey, a reconnaissance and baseline survey which is national. Once we identify all our freshwater lakes and especially those which have been threatened by degradation including Kamnarock--- In fact, we are looking at the lakes that cross our dry areas. He has mentioned Turkana. We are looking at the rivers that feed Lake Turkana, one of which crosses Kamnarock. So, the policy of the Ministry is that, after we have identified them, we will rehabilitate them. Currently, we have a major project in Lake Naivasha area. The whole zone has been zoned out for rehabilitation. We are dealing with dams as well as the streams that feed Lake Naivasha. The other rives will also be taken care of. As I mentioned, Kamnarock area will be in the 2011/2012 Budget.

Mr. Koech: Thank you Mr. Deputy Speaker, Sir. The drying up of lakes in the Republic of Kenya is a serious reality which we must all accept. One of the reasons behind that is lack of serious commitment to protect the springs and the catchment areas of all the rivers in Kenya. In this specific one, with regard to Kerio River which feeds Lake Kamnarock, what specific works have been done in terms of planting trees? How many were planted in the last financial year? How many will you plant in this financial year to ensure that the entire stream is covered with trees?

Prof. Kamar: Mr. Deputy Speaker, Sir, it is true, as the Member has mentioned, that one of the major problems is the non-protection of the streams. Our streams have been degraded. We have people who are ploughing right into the rivers. Using our National Environment Management Authority (NEMA) regulations, we are prohibiting people from cultivating near the rivers. Using the same law, we have the ability to arrest anybody who ploughs 30 meters on the sides of the river. So, the protection is going on. With regard to the case of Kerio River, as I mentioned, the 2011/2012 Budget includes Kamnarock Lake. It touches both the lake and the river. Now that we have issues with the Omo River in Ethiopia, we are looking at Kerio River as one of the main sources of water to Lake Turkana. For that reason, it is in our budget. So, the budget that will rehabilitate Kamnarock Lake will also rehabilitate Kerio River. We have both rehabilitation and afforestation plan for the whole stream, from the source to the entry.

Mr. Mwaita: Mr. Deputy Speaker, Sir, Lake Kamnarock falls within Kerio Basin. I would like to know from the Assistant Minister what long term plans they have to manage Kerio Basin, where Lake Kamnarock is found at the centre.

Prof. Kamar: Mr. Deputy Speaker, Sir, as I have mentioned, the long term plan is to ensure that there is rehabilitation of the Kerio River catchment and water shed areas. We are going to look at the streams that feed Kerio River, starting from Kojolwa in Keiyo South all the way through Baringo, Marakwet and West Pokot to Lake Turkana. That programme is in a plan. As I said, in our baseline data, we have identified a number of rivers which are very important to us. Some are important because of the lakes they feed. Others are important because of the people living around them. We have a major plan to rehabilitate the water shed areas of Keiyo River. The programme will start in the 2011/2012 Financial Year.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Question No.922 by hon. Ekwe Ethuro.

Question No.922

PROFILES OF GOVERNMENT WORKERS IN TURKANA

Mr. Ethuro asked the Minister of State for Public Service:-

(a) whether he could provide a list of names, title, positions, job groups, salary, academic qualifications, and number of years worked by all persons employed in Ministries and other State corporations/Government agencies in each district of the Turkana County;

(b) whether he could also provide the details of all persons originating from the Turkana County in all Ministries and State corporations/Government agencies including their names, titles, positions, job groups, salary, academic qualifications and number of years worked; and,

(c) what the Government is doing, under the Constitution, to accelerate development and requisite staffing levels in Turkana County.

The Minister of State for Public Service (Mr. Otieno): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I have a list here running to 103 pages, giving all the particulars and the information required.

(b) I have a list labelled “B1”, running to 61 pages, giving all the information, and another list labelled “B1”, giving names of seven people from the county who are in the parastatal category.

(c) Staffing and development of all counties is still going to be the responsibility of the National Government. In order to determine staffing levels in all the counties, the Ministry is currently undertaking staff audit in the Civil Service. Once the exercise is completed, the database will identify existing gaps in terms of staff numbers, skills levels, qualifications and regional balance amongst all the human resource requirements. Turkana County will, among other counties, benefit from the identified interventions. An example is in respect of redistribution, training and recruitment as will be necessary. In the re-organisation of the Government areas with unique challenges, as in the northern and north eastern parts of the country, I am sure that the hon. Member is aware that we have a specific Ministry which has been given this specific mandate.

Mr. Deputy Speaker: Table the documents.

Mr. Otieno: Mr. Deputy Speaker, Sir, I hereby table the lists.

(Mr. Otieno laid the documents on the Table)

Mr. Ethuro: Mr. Deputy Speaker, Sir, I want to thank the good Minister for the very comprehensive answer. I would have requested for more time to internalise the details contained in the lists but I think I can proceed.

The new Constitution requires that you ensure that there is proportionate employment for every community. Those who are employed should also be in senior positions, and not have the majority in the lower cadres as in the case of Turkana County. There are only three officers in Job Group “Q”, one of whom was promoted only the other day, and another three in Job Group “P”. We are talking of an entire country having only five persons in senior positions. What is the Minister doing to ensure that we have more people in senior positions?

Mr. Otieno: Mr. Speaker, Sir, all hon. Members are aware that there were historical injustices not only in respect of development but also in respect of employment. With regard to the personal development of individual staff members in the Public Service, we are already taking measures to get facilities for members of staff to develop themselves by furthering their education. In that regard, the Training Revolving Fund has been established from this year. Parliament has already approved funds for that purpose.

Secondly, we are setting in motion a new performance appraisal system which will identify the abilities of officers to avoid the possibility of sidestepping an officer for a long time simply because he did not have a godfather.

Thirdly, I am developing a fast-tracking programme for high achievers, in terms of performance. We will identify such officers and help develop those talents for the benefit of the whole country. The hon. Member will appreciate that we still have to insist on promotion on merit despite the fact that there must be regional and ethnic balance as directed by the new Constitution.

Equity is an important principle and an important value. So, in an effort to rectify those past injustices, we are all one in making joint efforts in the entire

leadership of the country to make sure that there is equity, as opposed to marginalisation and discrimination in the Public Service.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the hon. Member has agreed that we go ahead, and I quickly scanned this list. Maybe, there is merit for us to be given time to have a look at it because of the names of three people I have seen. I have seen people listed as “Turkana” hidden in the list to please the House. Gabriel Rokata Wosone is not a Turkana. I am telling you this because I am a neighbour of Turkana. There is Obed Lichiria, who is obviously from Kakamega. There is also a Mr. Boniface Walaal.

So, there is merit in us having a look at this list and interrogate it because it cannot be possible that the Turkana people who have produced Dr. Ekuru, hon. Ekwe Ethuro and hon. Munyes, are not in the top echelons of Government structure. Probably, the chances that the Turkana people were supposed to have are the ones used by the President in the Office of the President, and by the Prime Minister in the Office of the Prime Minister, to staff those offices with people from their communities. We need to take time to look at this document.

Mr. Otieno: Mr. Deputy Speaker, Sir, I am sure the hon. Member is aware that Dr. Ekuru himself was not only a very capable Secretary of the past Commission but has now been proposed to be a Commissioner in the panel that is being appointed. Be that as it may, I am not talking about Turkana the tribe. I am talking about Turkana the county. Hon. Members will need to focus on regions. So, somebody living in that county can fill an employment form indicating that county as his county of origin. We could have Dr. Bony Khalwale giving Migori as his county of origin. That is the kind of record I have. As to his or her tribe---

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It looks like the Minister is answering his own question. The spirit of this Question is that we want to use the National Assembly to confirm that this Government is practising affirmative action in respect of marginalised community called “Turkana”. As if that is not enough, we even now have Hezron Lishenga Wabomba and Wilson Sitati being listed as Turkanas. We have Japheth Omuga Ajwang being listed as a Turkana. Surely, why do you not give us an answer for the Question we asked you, Minister? You know how much I respect you.

Mr. Otieno: Mr. Deputy Speaker, Sir, where there is specific affirmative---

Mr. Deputy Speaker: Order, Minister! I want to---

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Given the appeal by Dr. Khalwale and the interest on this matter, I am willing to consider that this Question is deferred to another day. Given that the response the Minister gave me was still on generalities; things we already know the Constitution has asked for, I was expecting more specific concrete steps towards the marginalized people from Turkana County and similar areas. I think the Minister needs to do a bit more homework. I know he does his homework and will deliver at the appropriate time. So why can both of us not do ourselves a favour and give ourselves more time?

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I want to thank the Minister for failing to have the courage to complete the audit of the Public Service workforce which we have been promised for the last one year. Maybe more importantly it is because of the ghosts he is afraid to unearth.

Mr. Deputy Speaker, Sir, as the Question is deferred, would I be in order to also ask the Minister to tell us the tentative date when they expect to complete this audit?

Mr. Deputy Speaker: Minister, the Chair made a casual look at this list. Indeed, there are few things that do not add up both in terms of those who are supposed to be indigenous Turkana and the names we have here. I appreciate the fact that it is a very long list and these kinds of things are likely to happen. The Chair is of the opinion that you need more time for you to go through this list. In any case the hon. Questioner also had a very short time to be able to acquaint himself and adequately prosecute it. Much as he was initially willing to proceed, issues are emerging as we progress to convince the Chair more than ever that this matter should be deferred to another day.

Mr. Otieno: Mr. Deputy Speaker, Sir, my proposal in that respect is that, I am in agreement except where there is information required of an individual, I will need that question in advance, given the size of the list.

Secondly, the next distinction that should be made is that, the Question asked about Turkana County; if you are asking about the Turkana tribe and half the Turkana tribe have a Luhya mother and Turkana father or a Pokot father and so on, you will have to give that explanation when you are asking for further clarification on any individual on that particular list.

Mr. Deputy Speaker: Fair enough! Under those circumstances, the Chair directs that this Question appears on the Order Paper on Wednesday next week in the morning.

Minister, are you okay with that?

Mr. Otieno: Mr. Deputy Speaker, Sir, I am ok. I will be available.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I was trying to clarify to you that, that day will distress me. Therefore, I am not okay with it for the reasons you know.

Mr. Deputy Speaker: Yes, you will be travelling out of the country on parliamentary business.

So can we say---

Mr. Ethuro: We can say the other Wednesday.

Mr. Otieno: On a point of order, Mr. Deputy Speaker, Sir. The long list is now the property of the House. I would do a thorough job if the Member interested in the Question looked at the list and addressed me separately on each question, and then I can make a Statement and answer all of them together at any appropriate day.

Mr. Deputy Speaker: Fair enough! I can see the hon. Member nodding his head.

Mr. Ethuro: In fact, Mr. Deputy Speaker, Sir, I really appreciate the gesture by the Minister. He is just confirming my belief in him that he is a thorough man and he wants to answer properly. I will grant him his wishes in entirety.

Mr. Deputy Speaker: So this Question appears on the Order Paper two weeks from now! Ethuro, two weeks from now is fair with you?

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

(Question deferred)

Mr. Deputy Speaker: Next Order!

COMMUNICATION FROM THE CHAIR

HON. MEMBERS' CONTRIBUTION TO FAMINE RELIEF KITTY

Mr. Deputy Speaker: Hon Members, the Chair has had numerous requests by Members of Parliament in that, Parliament would not want to be left out in standing up and being counted to assist Kenyans in this moment of need when a couple of million Kenyans are faced with famine and drought. Members of Parliament would be willing to contribute Kshs30,000 each towards that kitty.

(Applause)

I want to see whether that, indeed, is the overall mood of the House itself.

(Several hon. Members stood up in their places)

Fair enough! The Chair is satisfied. Under the circumstances, the Chair will direct the Clerk of the National Assembly to make a cheque for the same. In addition to that, most of those indications are that the money should be channelled through the Kenya Red Cross. Are we in agreement?

Hon. Members: Yes!

Mr. Deputy Speaker: Therefore, I will send the cheque to the Kenya Red Cross to be able to mitigate that help in our own small way to the Kenyans who are affected by the drought and famine.

Mr. Koech: Mr. Deputy Speaker, Sir, I would really want to thank you for that initiative and I believe all our colleagues are going to contribute. Kenyans are suffering and on this note, I have just been in consultation with the World Food Programme (WFP) and UNICEF and they have offered that during the August holidays the children from ASAL areas shall receive school based free food. This is because when they go to their homes, they may not be able to access or get food.

I really want to plead with the Ministry of Education and the entire Government to ensure that they facilitate the transportation and also look into issues of the semi arid areas.

Thank you.

(Applause)

Mr. Deputy Speaker: That is also a very good initiative on the part of the Chairman of the Departmental Committee on Education, Research and Technology who himself is a professional teacher. This is a source of pride for us.

POINT OF ORDER

EXTENSION OF TIME FOR COMMITTEE PROBING
APPOINTMENT OF MOI TEACHING HOSPITAL CEO

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek the indulgence of the House on a matter of the appointment of the Chief Executive Officer, Moi Teaching and Referral Hospital that was referred to the Departmental Committee on Health on the 7th June 2011. The Speaker directed that the Committee concludes the matter in 30 days. However, the 30 days elapsed when we were still on recess and the Committee is in the process of finalizing its report. There are some documents we have requested from the Ministry of Medical Services and the Board at

the Moi Teaching and Referral Hospital. We are still waiting for this and I seek the indulgence of the House for an extension of two weeks from today within which we will be able to table the report as a Committee.

Mr. Deputy Speaker: The matter was not referred to the Committee through a resolution of the House. It was not by leave of the House. It was a direction by the Chair. In any case, under the circumstances you seek extension from the Chair. Be that as it may, the Chair grants you the two additional weeks that you need.

MINISTERIAL STATEMENT

BUSINESS FOR THE WEEK COMMENCING
2ND AUGUST, 2011

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, pursuant to the provisions of Standing Order No.36(4), I take this opportunity to make the following Statement with regard to the business for next week.

Next week the House is expected to deliberate on Votes in the Committee of Supply scrutinizing various Ministerial Budget Votes for the Financial Year 2011/2012 but with a rider, depending on the outcome of discussions with the Speaker on the Budget process.

The House will also consider the following Bills which are to be read the First Time; The Water (Amendment) Bill (Bill No.18 of 2011) by Mr. John Mbadi, The Engineers Bill (Bill No.25 of 2011) by the Minister for Roads and also the following Constitutional Bills are scheduled for debate:-The Political Parties Bill (Bill No.20 of 2011), The Commission on Administrative Justice Bill (Bill No.21 of 2011), The Kenya National Human Rights Commission Bill (Bill No.22 of 2011) and the National Gender and Equality Commission Bill (Bill No.23 of 2011) which should be going for the Second Reading.

The Unclaimed Financial Assets Bill (Bill No.7 of 2011) by hon. Joseph Lekuton, currently at the Second Reading stage will also be considered.

Mr. Deputy Speaker, Sir, next week the following Motions have also been lined up for debate:- The Motion by hon. Ekwe Ethuro urging the Ministry of Water and Irrigation to allocate 10 per cent of its budget to all constituencies in equal proportions and another 10 per cent of the budget to the northern Kenya and ASAL constituencies. There is also the Motion by hon. (Eng.) Nicholas Gumbo, urging the Ministry of Education to establish a department to facilitate, co-ordinate, source and receive funds for a national programme to distribute sanitary towels to all school going girls in primary and secondary schools in Kenya.

Mr. Deputy Speaker, Sir, finally, the House Business Committee will also be convening on Tuesday 2nd August to consider business for the rest of the week.

Mr. Deputy Speaker, Sir, I wish to thank you and the House for the gesture that you have just shown in terms of empathizing with the Kenyans who are suffering from this drought. That support is appreciated.

Thank you, Mr. Deputy Speaker, Sir.

POINT OF ORDER

ACTS OF OMISSION/COMMISSION BY GOVERNMENT PRINTER

Mr. Ogindo: Mr. Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the persistent and consistent, and bordering willful, errors of omission and commission on the part of the Government Printer.

Mr. Deputy Speaker, Sir, in the Statement I would want the Minister to clarify the person who actually inserted or caused the insertion of the words “national security” in the Draft Constitution.

Mr. Deputy Speaker, Sir, secondly, I would want the Minister to clarify the person or persons who caused the blocking of the publication of the Report of the Interim Independent Boundaries Review Commission that was led by Mr. Ligale on the review of boundaries.

Mr. Deputy Speaker, Sir, thirdly, I would want the Minister to clarify the person or persons who are responsible for the delay in the publication of The Independent Electoral and Boundaries Commission Act and the subsequent variation of the publication date from 5th to 18th July, 2011.

Mr. Deputy Speaker, Sir, in the Statement, could the Minister also clarify what steps and disciplinary measures are being taken against the responsible officers for these errors of commission and omission and indicate what permanent solutions he is contemplating to ensure that the Government Printer serves its intended functions accurately and piously from now henceforth?

Dr. Khalwale: Mr. Deputy Speaker, Sir, just before the Minister responds, the Minister should also come with a draft Bill to suggest a possible law which can operationalize the office of the Government Printer, so that the Government Printer is aware that he is operating within a particular statute.

Mr. Deputy Speaker: That is a radical inclusion into it. It is a matter on its own and you better address it on its own.

Hon. Minister, can you give an undertaking?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I am aware that the matter has already been discussed within the Constitution Implementation Oversight Committee but, nonetheless, the Minister will come and respond to the Member’s requests by Thursday next week.

Mr. Deputy Speaker: Thursday next week; it is so directed!

Hon. Members, because of certain technicalities, we shall not be able to proceed with Order No.8. There was a typographical error in the printing of this Order Paper today. What now is listed as Order No.10 should have been Order No.9.

Under the circumstances, now we proceed on to Order No.10. This is essentially in line also with the Standing Order that gives the Speaker the authority or powers to do the kind of changes that I have done.

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME

THAT, notwithstanding the provisions of Standing Order 20(2), this House resolves that the sitting time of the House today, Thursday, 28th July 2011 be extended until conclusion of Business appearing on the Order Paper.

(Procedural Motion deferred)

APPOINTMENT OF MEMBERS TO COMMITTEES

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No. 159, the following Members be appointed to serve in the Select Committees---

Mr. Deputy Speaker: Order! Order! Hon. Deputy Leader of the Government Business, I will interrupt you.

In addition to that also, because of certain technicalities, we shall not be able to proceed on with Order No.11, which is the Committee of Supply. So, after the disposition of Order No.10, we will go to Order No.9.

COMMITTEE OF SUPPLY (1ST ALLOTTED DAY)

MOTION

THAT MR. SPEAKER DO NOW LEAVE THE CHAIR

- (i) Vote 31 - Ministry of Education
- (ii) Vote 10 - Ministry of Agriculture

(Committee of Supply deferred)

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Since the Deputy Leader of Government Business is here and you have deferred Order No.10, there is something which catches my eye---

Mr. Deputy Speaker: Order! I have not deferred Order No.10; I have deferred Order No.11, the Committee of Supply.

Dr. Khalwale: I am sorry, Mr. Deputy Speaker, Sir. We heard "Order No.10."

Mr. Deputy Speaker: No! It is Order Nos.8 and 11 that are deferred. Order Nos.9 and 10 are reversed!

Proceed, Deputy Leader of Government Business!

PROCEDURAL MOTION

APPOINTMENT OF MEMBERS TO HOUSE COMMITTEES

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No. 159, the following Members be appointed to serve in the Select Committees stated here below:-

(i) House Business Committee

Hon. Boni Khalwale, M.P.

Hon. Amos Kimunya, M.P.

(ii) Public Accounts Committee

Hon. Boni Khalwale, M.P.

(iii) Local Authorities and Funds Accounts

Hon. Jamleck Irungu Kamau, M.P. (to replace Hon. Manson Nyamweya)

Hon. Joseph Gitari (to replace Hon. Simon Mbugua)

(iv) Committee on Implementation

Hon. Joseph Gitari (to replace Hon. Jamleck Irungu Kamau)

(v) Constituencies Development Fund Committee

(Appointed Pursuant to Section 27(1) of the CDF Act No. 10 of 2003)

1. Hon. Ekwee Ethuro, M.P.
2. Hon. (Dr.) Nuh Nassir, M.P.
3. Hon. Francis T. Nyammo, M.P.
4. Hon. John D. Pesa, M.P.
5. Hon. Nkoidila ole Lankas, M.P.
6. Hon. (Eng.) Nicolas Gumbo, M.P.
7. Hon. Justus M. Kizito, M.P.
8. Hon. Alfred Sambu, M.P.
9. Hon. Martha Karua, M.P.
10. Hon. Manson Nyamweya, M.P.
11. Hon. Charles Kilonzo, M.P.

Mr. Deputy Speaker, Sir, I just wanted to mention that there have been extensive consultations between the Whips of these committees, and these names were subsequently brought to the House Business Committee (HBC), which approved them. It also received sentiments that had been expressed by Members, including, for example, the issue of the Constituencies Development Fund (CDF) Committee. The question was whether it conforms to the principle of gender equity as is required. We really debated this matter and went through the practicability of whether we actually have enough lady Members of Parliament to distribute around the committees. The reality of the matter, as we were given yesterday, was, for example, for one of the nominating parties, there were only two ladies who would fit into this committee, but they are already overstretched. Indeed, one of them was in the meeting yesterday and supported that matter in terms of availability, because she is already overstretched in terms of rendering service in this House; she is even in the very important Speaker's Panel.

We were then left in a situation to feel fine, much as we would all want to satisfy the gender requirement. Until we have a critical mass of lady hon. Members in the House to distribute around, it will be very unfair to have the under ten ladies who are not in Government taking positions in the 21 committees of Parliament; it will mean one lady serving in about four committees.

However, I just wanted to highlight that matter. Indeed we deliberated on that matter; it is a reality that much as the HBC would have wanted--- The Whips themselves agonized over the matter but the practicality was not possible. We should also note that the CDF Act only says that only elected Members can be nominated to this committee. This means that we have nominated lady Members but they cannot be appointed because of the limitation in the Act. I just wanted to highlight that fact because we really agonized over it; until we have a critical mass of lady Members, it will be very difficult for us to actually observe one-third gender rule in the appointment to committees.

Mr. Deputy Speaker, Sir, again, the replacements have been reworked to make sure that as many people as possible---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. The hon. Minister has just said that the nominated Members of Parliament cannot be in this committee.

Could he cite the provisions of the law which prohibit nominated Members of Parliament from being members of this committee?

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Since the Minister has cited the CDF Act, there is a small point of law about that Act which is disturbing me; maybe the Minister could tell us whether they satisfied themselves about the same. There is a proviso that once appointed, members of the CDF committee should serve for three years. You will recall that the last time this committee was constituted was on 17th June, 2009. The small point of law I am arguing is that if they were constituted on 17th June, 2009, it means their tenure will expire on 17th June, 2012. How come we are now in the process of reconstituting it when its term has not expired?

I have a communiqué here from the office of the Legal Counsel of Parliament who has given his legal opinion about this little point of law. Last week I took the trouble to give a copy of this opinion to the Chief Whip, hon. Muthama. Did you use this legal opinion in the HBC, and if you did, what did you decide. I table it.

(Dr. Khalwale laid the document on the Table)

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. It is true that there is such a letter, but hon. Khalwale did not read it extensively. It says that: "They serve for three years unless the House in its wisdom---." So, the House has discretion. So, what is being sought here is for the House to agree. So, is it in order that the letter is read in part and not in full?

(Laughter)

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I want to add to what hon. Khalwale has said; I want to provide the evidence in the HANSARD. On the 17th June, 2009 when the Chief Whip was moving the Motion these were the verbatim words he used:

"That pursuant to the provisions of Standing Order No.159, the following members of select committees be approved."

The select committee of the CDF was the membership that was approved on that date. I wish to table it.

(Dr. Nuh laid the document on the Table)

Mr. Deputy Speaker, Sir, the CDF Act is very clear on the term which the members of this committee are supposed to serve; if I may read subsection (2) of Section 27. It says that:-

"In determining the membership of the CDF committee, the National Assembly shall ensure proportionate representation of the parliamentary political parties, provided that the term of office of members of the committee shall be three years renewable, or upon the appointment of a new committee in the manner provided for in this Act."

Mr. Deputy Speaker, Sir, the Act says that the members will serve for three years, and the three years have not expired after the commencement of the Standing Orders. So, the purported appointment of a new committee for CDF is not in tandem

with the Standing Orders and the CDF Act. I wish that you rule that it is against the Act and the Standing Orders.

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. I have listened to hon. Kimunya as he sought to explain how pained the Chief Whips were when trying to fit women into committees; he was speaking about women being overstretched. I am aware of certain men in this House who sit in more than five committees. I have never heard that they are overstretched.

With all due respect to Mr. Kimunya and the HBC, I really feel that we will not allow a committee as important as the CDF Committee to go without the one-third women representation. Let it be clear that it is not the intention of nominated Members to insist to sit in this committee. In fact, we would like elected women Members of Parliament to sit in a committee that will decide on the CDF, because they are elected. So, we are asking you to rule that the committee that is being formed is unconstitutional, and its formation must respect the one-third rule.

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

Mr. Deputy Speaker: Hon. Shebesh, you want to the information?

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I do not mind the information.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I agree entirely with hon. Shebesh that we need more women in this list, but I thought we had some conversation somewhere and it was agreed generally that hon. Karua is equal to about three men. Therefore, I can easily recommend her.

(Laughter)

Mrs. Noor: On a point of order, Mr. Deputy Speaker, Sir. While I appreciate that hon. Karua is equal to ten men, I would like to say that women in this House are capable. We have women who can multi-task. We have several elected women Members of Parliament, and not only the nominated women Members of Parliament. We are proposing who can sit in that committee. We do not want to be cheated that one lady is equal to many men, and that, that is our representation.

Mr. Oyongo Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. I have read the names here. My name has been replaced. I have read Standing Order No.169 and it does not talk about replacement of Members.

Secondly, I am not talking because of myself. I represent the people of South Mugirango who elected me. I am a Member of Parliament. I have been given this chance to serve this Committee. I want your guidance, why my name was removed and for what reason and by who. I am not asking for any favour from any person. As I said, I am a Member of this august House, could the Minister who has moved this Motion explain why my name has being replaced and whether it is according to the Standing Orders of this National Assembly?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I think we have jumped the gun. The Motion has not even been seconded and the Mover has not concluded. I think we need to follow procedure. Let the Mover conclude. It is seconded, proposed and then we debate. If there are amendments, we will take them on board.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. We cannot debate a Motion which we think is unprocedural in the first place.

What we are questioning is the legality of even this Motion being on the Order Paper. Besides, hon. Shebesh is talking about the issue of one-third representation.

This cannot only apply to the CDF Committee. There are several Committees in this House where women want one-third, but we are unable to get. For example, the Public Accounts Committee, hon. Karua who is equal to 20 men is the only one who sits in this Committee. She has been equal to the task.

(Laughter)

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. My name has been used severally and I thank all those who think well of me. However, the Constitution is very precise, one-third. So, irrespective of the capacities of the Members serving, both men and women, there has to be not more than two-thirds of either gender. So, shall we pay attention to this provision, which is superior to our Standing Orders? It is also superior to any other law.

Mr. Pesa: On a point of order, Mr. Deputy Speaker, Sir. With due respect to the former speaker, if we are talking about one-third at this stage, then somebody soon will call upon this Parliament to be dissolved because we do not have enough women in this House today.

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. I think it is important for my colleagues to understand that the reason for the issue of one-third is now constitutional as we promulgated a new Constitution. When we were making the other Committees, we did not have this new Constitution. We now have a new Constitution which we swore not to violate. When we go for election under this new Constitution, one-third rule will be followed.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. The issue of one-third is a serious matter. I do empathise with our lady Members of Parliament. However, let us call a spade a spade; that in this Parliament, we have 27 Committees against less than 15 lady hon. Members who are not Ministers. So, why we really would wish to have the one-third rule being taken care of is not practical. Is it in order for them to really claim one-third when they are not available?

Mr. Deputy Speaker: The Chair would not want to be drawn at this stage into the one-third or lack of it. There is a more fundamental issue here on the legality of the Motion we are debating here. The Standing Order is very clear. It says on nominations of members of select Committees “unless otherwise provided by any written law”.

(Dr. Nuh stood up in this place)

Hon. Dr. Nuh, you will have to find a way to be able to tame yourself. The Chair appreciates the fact that you are the youngest Member of Parliament here, but nonetheless, could you, please, hold your horse.

It says:-

“Unless otherwise provided by any written law or the Standing Orders, the House Business Committee shall in consultation with Parliamentary Parties nominate for approval by the House members who shall serve on any select Committee.”

There is also the CDF Act itself which is still in force in the absence of any other Act. Section 27 on establishment of Constituency Fund Committee says:-

“The National Assembly shall in accordance with the Standing Orders establish a select Committee to be known as the Constituency Fund Committee

consisting of a Chairman and not more than ten other Members of Parliament who are not Ministers or Assistant Ministers of Government”

“(2) in determining the membership of the Constituencies Fund Committee, the National Assembly shall ensure proportionate representation of the parliamentary political parties, provided that the term of office of the Members of the Committee shall be three years, renewable or upon the appointment of a new Committee in a manner provided for in this Act, whichever comes earlier.”

The Chair would want to acquaint himself with exactly what happened. If, indeed, it is true that this Committee was appointed in 2009, then the three years have not expired. Was it 2008 or 2009?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, the information we have is that the Committee was appointed in 2008 and then with the new Standing Orders coming into force, all the Committees were then transited within the framework of the new Standing Orders. But the CDF Committee was appointed in accordance with the Act. So, the tenure runs from 2008, according to the law, because the law is the one that---

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir. I have the HANSARD for 17th June, 2009.

Mr. Deputy Speaker: Could you table it?

Mr. Lessonet: Yes. I can table it.

(Mr. Lessonet laid the document on the Table)

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, the discussion of 2009 was the Whip proposing all the Committees to proceed. The CDF Committee had been appointed in accordance with the CDF Act in 2008 for a term of three years. So, an appointment in 2009 would in any case have meant that they only served one year, which is against---

Mr. Lessonet: Mr. Deputy Speaker, Sir, I have tabled the HANSARD.

Mr. Deputy Speaker: Order! Could you allow the Chair to make a ruling on this?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, that is our understanding. We have taken advice on this and that is how we have come up with these Members.

Mr. Deputy Speaker: Order! In any case, the Standing Order is very express. It says:- “Unless provided by any written law”. So, if the CDF Act was in force, the CDF Act prevails. Because the CDF Act prevailed, the Chair directs that the Motion is in order.

Even if Parliament at that time purported to have reconstituted the Committee, that in itself was illegal. Parliament cannot engage in an illegality. I direct that this Motion is in order.

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir. I totally agree with your ruling. If you read Section 27(2) which you have correctly read, it says at the end: “Shall serve for three years unless another Committee is appointed whichever comes earlier.” We were appointed in 2009 and, therefore, it came earlier. Our term started afresh.

Mr. Deputy Speaker, Sir, if you read Section 27(2), you will definitely review your ruling.

Mr. Deputy Speaker: I think you are negating the very basis of your argument.

Mr. Lessonet: Mr. Deputy Speaker, Sir, I beg that you read Section 27(2).

Mr. Deputy Speaker: Can you listen to the Chair because the Chair has heard you? Are you saying that whereas the Committee was in place for three years, another Committee was constituted in 2009? Is that your position?

Mr. Lessonet: Mr. Deputy Speaker, Sir, what I am saying is that Section 27(2) says:

“Provided that the term of office of Members of the Committee shall be three years renewable or upon the appointment of a new Committee in a manner provided for in this Act whichever comes earlier.”

Therefore, our term which started in 2008 came to an end in 2009 in accordance with the Act.

Mr. Deputy Speaker: Mr. Lessonet, when you say, “---shall be for three years renewable or appointment of a new Committee in a manner provided for in this Act whichever comes earlier,” why do you not now cite the provisions of the Act itself that you feel was the basis and authority on which you were appointed at that time? Where in the Act is that stated? What are the subsequent or consequential provisions of the Act?

Mr. Lessonet: Mr. Deputy Speaker, Sir, I want to beg you that as you read Section 27(2), you read it together with the letter we tabled from the Principal Legal Officer of Parliament. I am not a lawyer, but there is a legal interpretation with you. Read it too. It will help you to make an informed and appropriate ruling.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, it is important that we continue with debate on the Motion.

Mr. Deputy Speaker: Order, hon. Members! The Chair is convinced that the Motion is in order.

Mr. Oyongo Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. Probably you have lost this because you are concentrating on the issue of the CDF. However, I want you to look at the Local Authority and Funds Accounts Committee (LAFAC). The debate is not proper in the House. That is the point I am raising and I ask the Chair to give guidance. According to Standing Order No.159, is the replacement of names appearing under the LAFAC in order?

Mr. Deputy Speaker: Mr. Oyongo Nyamweya, the provisions of Standing Order No.159 state: “---the House Business Committee shall, in consultation with parliamentary parties, nominate, for approval by the House, Members who shall serve on any select committee.”

What is your position? Are you convinced that the consultations---

Mr. Oyongo Nyamweya: Mr. Deputy Speaker, Sir, I have been a Member of this Committee, but I have now been removed. That is the position. This Standing Order does not talk about removal of Members of Parliament, but it talks about nominating hon. Members for approval to be Members of select committees. However, it does not talk about removing Members from those committees. My term has not expired.

Mr. Deputy Speaker: Order, Mr. Oyongo Nyamweya! The Chair appreciates the fact that you are a new Member of this House. For purposes of the Standing Orders of this House, you are not a Member of a parliamentary political party. If you read the Standing Orders, you will find that a parliamentary political party means a party or a coalition of parties consisting of not less than 5 percent of the membership

of the National Assembly. Under the previous Standing Orders, it used to be, at least, 30 Members. But nonetheless, if you are contesting why you have been removed without consultation with your party, the Chair is enforcing the rules of the House that are prepared by this House itself. The Standing Orders are a creature of this House. In accordance with the Standing Orders, you are a caucus and not a parliamentary party.

Proceed, Mr. Kimunya!

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir, for the guidance and ruling. So that we make progress, I want to ask this House to remember that we have passed the CDF money. The CDF Committee has not met for a long time now. There is a lot of much money waiting out there to be utilized. This may well be the last year of the CDF operations. If we continue delaying the appointment of this Committee, we are jeopardizing the good work that the CDF committees are doing out there. So, time is of essence and I urge this House, without much ado, to approve this Motion so that these people can start working. A lot of work has gone on in the consultations.

I beg to move, and request Mr. Githae to second the Motion.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I wish to second the Motion.

These names have come here as a result of very extensive consultations.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I am really a disturbed man. I would not like to be here to contravene the same Standing Orders we have enacted. With due regard to your ruling, you asked Mr. Lessonet to cite the Act that nominated him afresh to the Committee when it says: “--- in the manner provided for in this Act or whichever comes earlier.”

Mr. Deputy Speaker, Sir, Section 27(1) of that same Act states: “The National Assembly shall in accordance with its Standing Orders---” Because we promulgated the Standing Orders, it was realized that all the Committees be reconstituted afresh. When the Chief Whip moved the Motion that day, he did not make it explicit that because of the Act that governs the CDF that the CDF Committee will continue with its work. He only said that he is providing the list of nominees for approval. That seemed to us to be automatic re-appointment because of the realization that we were having new Standing Orders in place. In essence, the CDF Committee was duly reappointed on 27th June, 2009. So, it will be unrealistic for us to come and reconstitute afresh a committee whose mandate and term has not expired. I have a problem with this.

Mr. Deputy Speaker: You have a problem because you do not understand.

(Laughter)

You probably need to sit next to your friend, Mr. Abdikadir, to educate you on that. What you have to understand is the precedence in terms of authority. The Constitution comes first; the laws come second and the Standing Orders come third. If there is a contradiction between a Standing Order and a provision of the law, then the Standing Order is void. It is stated in Standing Order No.159, “--- unless provided for by a written law.”, and the written law is here!

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I have been listening quite attentively to the raging debate and I would like to shed light. The written law also provides, “according to the Standing Orders”. So, the Standing Orders submit to the written law and the written law submits to the Standing Orders.

The question for your determination is whether the three-year membership has elapsed and when that duration began. I wish to submit to you that all the Committees of the House were formed when we came to the House in 2008. This House, in its wisdom, decided to review its Standing Orders, and in 2009, re-appointed all Committees afresh, including the oversight Committees, that is, the Public Accounts Committee and Public Investments Committee which serve for three years. The entire membership of most of those committees started afresh on 17th June, 2009 and got the new mandate and lease under the new Standing Orders.

Section 27 (1) of the CDF Act says: “According to the Standing Orders.”

So, the argument before you, Mr. Deputy Speaker, Sir, is that the membership of the CDF Committee acquired its life from 2009. Simple arithmetic will determine that the three years are yet to elapse.

I submit my case.

Mr. Deputy Speaker: Your simple arithmetic is apparently not so simple to you!

(Laughter)

(Several hon. Members stood up in their places)

Order! Hon. Members, you must have your Standing Order No.220 with you. The law refers to the Standing Orders: “as provided in the Standing Orders” and the Standing Orders also refers to the law: “as provided in law.” Where there is a contradiction between the two or where there is a conflict between the two, the law takes precedence. That is a simple thing!

Proceed, hon. Githae!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Deputy Speaker, Sir. I was just saying, and I will not take long, that these names have been arrived at after extensive consultations between political parties. We must agree that any hon. Member of Parliament duly elected in this House is capable of serving or competent to serve in any committee and can serve on any committee. Therefore, you should not feel offended if you are removed from this Committee to another and vice-versa, because the person replacing you is also competent.

The law gives a general guideline and the Standing Orders give specifics and the mode of election. That is exactly what the CDF Act is. We need the CDF Committee now so that they can start following the money.

With those few words, I beg to second the Motion.

(Question proposed)

Hon. Members: Put the Question!

Mrs. Shebesh: Mr. Deputy Speaker, Sir, again, I will ask for your ruling. We are not doing this rightly. This country has been taken to a crisis because of this issue when the Chief Justice, the Deputy Chief Justice and the Director of Public Prosecutions were being appointed. We are now awaiting a Supreme Court ruling on the same and we will ask humbly that this House also makes a ruling. We cannot be the ones violating the Constitution when we are the people who are supposed to be implementing it.

Mr. Deputy Speaker, Sir, I still ask that you rule whether these committees being set now during the new dispensation we are in, are in tandem with the new Constitution that says that two-thirds of a gender should not be represented in any appointment or elective body in this country.

Mr. Deputy Speaker, Sir, I seek your ruling.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I want to add my voice that the Constitution is very categorical that in any appointive and elective position, we must observe the two-thirds principle. Therefore, if we are not able to obey that principle, we should not hold other institutions in the country accountable to constitutional implementation. We should not be seen nor be heard to raise issues of that nature when others violate them if we, ourselves, cannot respect those rules. The challenge is that the women are not only available but as a matter of fact, we had consulted and forwarded proposals for women who are competent and can serve in these Committees. If that principle and the implementation of the Constitution must be taken seriously, then we must lead from the front and not from the back.

Mrs. Noor: Mr. Deputy Speaker, Sir, I also add my voice and humbly request that you give directions on this because it is very important and serious. The women of this country are watching this debate and it is very serious. This is a constitutional matter, and a constitutional matter is something that is binding. The Constitution is the supreme law of this country, and it is important that Parliament, as the body that is responsible for making the law, should respect it.

Mr. Deputy Speaker, Sir, we need your direction because this is a serious matter. The women of Kenya will look upon the directive that you will give.

Thank you.

Mr. James Maina Kamau: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance because it is a long time since you gave me a chance to speak in this House. I think you will have a very tall order today. I sympathize with you because our lady friends and colleagues want to be put in these Committees. But unfortunately, unless you are prepared to perform a miracle, they are not there. So, what will you do? We support them all the time.

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

Mr. Deputy Speaker: Order! What is your point of order, Dr. Laboso?

Dr. Laboso: On a point of Order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that the ladies are not there? I think we are very conspicuous and he can see us. Is he in order? Could he apologise to the ladies who are here?

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

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, let me clarify that. I did not say that our colleagues are not there. They are there, but the numbers are not there.

Thank you, Mr. Deputy Speaker, Sir.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that the numbers are not there? In any event, even if you look at the performance of this Parliament, the ones who excel even in attending committee meetings--- Put us even in hundred committees and we will attend because women are committed. When you give us work, we are committed. So, let us be the

ones who complain but do not complain on our behalf. Is the hon. Member in order to say that?

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

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I do not want to be informed.

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you on a point of order?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Yes, Mr. Deputy Speaker, Sir.

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): While I appreciate the arguments being given by our lady colleagues, the Committee of Experts, in their wisdom, foresaw this problem and they solved it. They solved it by not giving a specific time period upon which all elected and appointed bodies must have the gender issue.

In fact, it says that Parliament will legislate measures that will give effect to the one-third rule. So, we are in order and we should proceed.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I rise to support this Motion.

We can appreciate we have taken into consideration the sentiments expressed by those who are challenging the gender representation. The sentiments that have also been aired by some of us are not that we do not want hon. ladies to be in this Committee. I think we need to be realistic and accept that we are gradually moving to a system where we will not even just have a third of representation, but probably 50 per cent or even more of lady representation.

As Mr. Githae pointed out, and I rarely agree with him, but the Constitution is very clear that Parliament shall legislate to ensure that the gender parity is realized. Given that---

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. I know exactly what my good friend, Mr. Mbadi, is trying to do. However, we should not forget that the Chair needs to give us direction before we can allow this debate to go on. You have not given direction on the one-third rule. I am again humbly asking you to give this ruling.

Mr. Mbadi: Mr. Deputy Speaker, Sir, I was contributing because I heard you making a ruling. I think now I need to conclude. We need to debate.

There are very serious issues to be discussed. We have the names of panelists to be vetted.

Mr. Deputy Speaker: Order! Hon. Members, the Chair is one person who does not need to be convinced on the need for us always to have gender parity and to make sure that all genders are represented as provided for in the Constitution.

In the wisdom of the Committee of Experts and because we are not operating in a vacuum, the legislation has been dispensed with the need for the one-third gender to be implemented in Parliament. You realize we have got 27 committees. There are about 23 committees that are functional and work full time. If we had to have that gender parity in each one of them, then every lady who is a Back Bencher would be serving in more than 10 committees.

Hon. Members: That is okay!

Mr. Deputy Speaker: Order! It is not okay. It is not medically, humanly possible for an hon. Member and human being to serve in 10 committees and deliver.

So, proceed, Mr. Mbadi!

Mr. Mbadi: Mr. Deputy Speaker, Sir, actually I was just saying that I also understand that Mr. Oyongo Nyamweya seriously complained about his name being removed from a committee. We need to move forward. We have the Report of the Constitutional Implementation Oversight Committee. We need to dispense of that. We have Bills coming next week; at least four of them. We need to dispense of those critical Bills. We have the Budget to discuss. We are not through with the Budget. This House has a lot of workload. Let us dispense of this business. Let us dispose of it and we move forward to other equally important business.

Mr. Deputy Speaker: Yes, Mrs. Odhiambo-Mabona!

An hon. Member: She has contributed.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I did not contribute. I rose on a point of order.

Mr. Deputy Speaker, Sir, now, I want to formally rise to oppose this Motion. I want to oppose because with utmost respect to your ruling, I believe that the list is totally unconstitutional. *Aluta continua* for us, as women. The war will not end and we will not let it go at this point. We have fought the issue of gender equality. We have got this far with the principle and some numbers. We knew that the men would not take it lying down, but we, as women, will also take it standing. We are able to take 10 or 20 committees and serve diligently. None of us have complained. Some of us are already in so many committees. If you look at our attendance of the committees, we are doing well. The men who are only given one committee, many of them are actually flowering those committees. They do not attend. So, we perform excellently in the committees that we are put in, even when we are given leadership positions. So, we are the ones who should have complained. We are not complaining. This is an unconstitutional. We are setting a wrong precedence in this House. We do not expect, therefore, to hold other institutions in this country accountable if ourselves we cannot set a good standard.

It is a sad moment for us. We are not deterred, but we will continue fighting.

I oppose.

Mr. Deputy Speaker: The Chair appreciates very much the work and the quality of debate of female Members in this Parliament. Mrs. Odhiambo-Mabona, Mrs. Noor, Mrs. Shebesh, Dr. Laboso, all of them included. However, it is just not humanly possible for 9 or 10 Members to serve in 27 committees and deliver. This means that each one of you will be required in 13 committees.

Not only that, the Committee of Experts, in their own wisdom, and Parliament, in its own wisdom, did notice that and in the transitional clause, Parliament has been given that provision. Otherwise, if we are going to go for the one-third rule, then you can say Parliament is unconstitutionally constituted because it does not have one-third. It is in that light that we must move. Politics is the art of possible.

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Mr. Deputy Speaker, Sir, in your ruling, you are talking of all committees. This is the only Committee that will change before the end of this Parliament. So, really, it is not all. It is only one we are talking about.

Mr. Deputy Speaker: Unless, of course, in your own solidarity and patriotism and in line with the solidarity of your own gender, the current hon. Members who are in the Government can resign from the Government and become Back Benchers. In which case, the problem will be resolved, not in its entirety, but somehow.

The Assistant Minister for Environment and Mineral Resources (Prof. Kamar): Mr. Deputy Speaker, Sir, what we are saying is that the committees that are being held by some of the hon. Members, including those which are being held by Dr. Laboso, House Business Committee, there is also the CIOC where we can go in. There are very many formulas that can be used to ensure that this House obeys what we had passed.

Mr. Mwachugu: On a point of order, Mr. Deputy Speaker. Is the Assistant Minister in order to mislead this House that Dr. Laboso is available when last night in the House Business Committee she categorically stated that she is not in a position to take up the position?

Dr. Laboso: On a point of order. We are here consulting. After serious consultation, I have agreed with my sisters that I am up to the task. I can serve in five or six committees, and I am available.

Mr. Deputy Speaker: Order! Indeed, democracy dictates the right of the majority to have their way and the right of the minority to be heard. So, hon. Lady Members will be heard as much as they would like to be heard.

Mr. Koech: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Procedural Motion. I want to start on this note: With regard to the House Business Committee, I fully support the two Members who have been presented. With regard to the Public Accounts Committee, I also fully support the two Members. However, on the Local Authority and Funds Accounts Committee, the Standing Orders are very clear that, once you become a member of the Committee, you are supposed to serve the full term, unless you resign in writing. You have heard the sentiments from hon. Manson Oyongo Nyamweya. He was not consulted and neither did he resign through a letter. What precedence are we setting if we are going to remove an hon. Member from a committee contrary to the Standing Orders? I am not sure whether hon. Jamleck Irungu Kamau was consulted. I do not know whether he has written a letter to Parliament to the effect that he wants to be removed from that Committee. All I am saying is that we need to follow the Standing Orders and the law.

Mr. Deputy Speaker: Which Standing Order are you citing?

Mr. Koech: Mr. Deputy Speaker, Sir, I have said the Standing Orders. I did not say Standing Order. The Standing Orders are very clear that Departmental Committees last for five years. However, due to the new Standing Orders, we were dissolved in 2009 and reconstituted. The Public Accounts Committee members serve for three years, but the Departmental Committees run for the entire period. That is very clear in the Standing Orders. On the Constituencies Development Fund Committee, you have heard the sentiments from hon. Members. We need to set clear precedent on the way forward. In 2009, all committees were reconstituted. Some of the Committees got new Members. We went further to conduct elections to elect the Chairmen and the Vice-Chairmen. That was done in 2009. Those are my serious concerns. As a House, let us not allow an illegality. Please, interpret the law properly so that we stand guided as a House. I am afraid of the precedent that we are setting where we go against the Standing Orders.

Mr. Jamleck Irungu Kamau: On a point of information, Mr. Deputy Speaker.

Mr. Deputy Speaker: Whom do you want to inform?

Mr. Jamleck Irungu Kamau: I would like to inform hon. Koech.

Mr. Deputy Speaker: Mr. Koech, would you like to be informed by hon. Jamleck Irungu Kamau?

Mr. Koech: Yes.

Mr. Jamleck Irungu Kamau: Mr. Deputy Speaker, Sir, he asked whether I was consulted and I would like to say that, yes, I was consulted by my Whip. However, I do not know whether hon. Manson Oyongo Nyamweya was consulted by his Whip. I do not know who his Whip is.

An hon. Member: He has no Whip!

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. Whereas I do not support the removal of Mr. Manson Oyongo Nyamweya without consultation, the hon. Member referred to the Local Authority and Funds Accounts Committee as a departmental committee. As far as I am concerned, that is not a departmental committee.

Mr. Deputy Speaker: It is a Select Committee of the Local Authority.

Mrs. Noor: Mr. Deputy Speaker, Sir, I would like to oppose the Motion. In opposing the Motion, I would like to say that the CDF Committee is unconstitutional. The new Constitution that we gave ourselves, Article 27(8) clearly states that in addition to measures contemplated in Clause 6, the State shall take legislative and other measures to implement the principle that no more than one-third of elective or appointed bodies shall be of the same sex. There are also other measures.

Then Article 81 says that not more than two-thirds of members of elected public bodies shall be of the same gender. During the formation of the Commissions that we have constituted previously, we have appreciated and accepted that. What is the difference? As Prof. Kamar told us, this is the first committee of the House that we are putting in place. If we cannot appreciate the Committee---

Mr. Abdikadir: On a point of information, Mr. Deputy Speaker, Sir. This is not the first committee. The CIOC was the first and it met the gender rule.

Mrs. Noor: Thank you, Mr. Chairman. I know that we did that. I could not remember that. This is the second committee that we are trying to put in place, but we are not appreciating the supreme law of this country. The Constitution repeats itself three or four times on the issue of one-third principle. Some people have argued that this is progressive. Article 81 says that we must have, during elections, an independent body that will manage the elections. Is that also being progressive? If it is progressive, then let us not have a body which is independent and which will manage our elections.

An hon. Member: That is progressive, indeed!

Mrs. Noor: Yes. We will put that body in place on 19th. We are very serious. The women of Kenya are sad today because we are trying to put in place a committee that is not constitutional. I rest my case but we will fight as the women of this country so that we get our rights. We will not rest. I totally oppose the Motion because it is unconstitutional.

Mr. Deputy Speaker: Hon. Members, we will have to dispose of this Motion, in the sense that it is---

(Question put and agreed to)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. I will invite your ruling. When we said Ayes and they said their Noes, a precedent was set in this Parliament yesterday that it is not about numbers but how loud you shout.

The Noes shouted louder and so we have it. Could you, please, give us a ruling on that?

Mr. Deputy Speaker: Order! Order! That is determined by just one person, and that is the Chair. In the wisdom – or lack of it – of the Chair, when the he says the “Ayes” have it or the “Noes” have it, not less than 20 of those hon. Members who feel aggrieved, in line with the Standing Orders of the House, must stand up and force a division. So, even if you admit that you shouted very loudly, you did not stand up to demand a division.

(Loud consultations)

Order! Order, hon. Members!

Hon. Members, due to the nature of the business pending before the Constituencies Development Fund (CDF) Committee, which all of us are aware of, and in order for the Committee to function, drawing my authority from Standing Order No.163, I direct that the (CDF) Committee meets tomorrow, at 10.00 a.m.

Next Order!

MOTION

ADOPTION OF REPORT OF CIOC ON NOMINEES TO SELECTION PANEL OF IEBC

Mr. Abdikadir: Mr. Deputy Speaker, Sir, as the Chairman of a very large Committee that has met the gender equity rule, I am happy to move the following Motion:-

THAT, this House adopts the Report of the Constitutional Implementation Oversight Committee on the approval of nominees to the Selection Panel of the Independent Electoral and Boundaries Commission laid on the Table of the House on Wednesday, July 27, 2011.

Mr. Deputy Speaker, Sir, the history of elections in this country is replete with mismanagement, mishaps and misfortunes. The mishap that befell this country in late 2007 resulted directly from mismanagement of the elections as a result of a poor election manager and poorly conducted elections. It also resulted from our mistrust of the judicial system and the misconduct of members of the political class.

As a result of what we learned from the elections misfortune, this country set up the Kriegler Commission, whose Report was adopted by this House. This then led us to overhauling our election management process. Under Article 88 of the Constitution, the Independent Electoral and Boundaries Commission (IEBC) is to be established.

On 31st May, 2011, this House passed The Independent Electoral and Boundaries Commission Bill, which was assented to by His Excellency the President on 5th July, 2011. The First Schedule of that Act, Section 1, states as follows:-

“Within 14 days of the commencement of this Act, the President shall, in consultation with the Prime Minister, and with the approval of the National Assembly, appoint a Selection Panel of two persons being one man and one woman nominated by the President, two persons being one man and one woman nominated by the Prime Minister, one person nominated by the Judicial Service Commission, one person

nominated by the Kenya Anti-Corruption Advisory Board, one person nominated by the Association of Professional Societies of East Africa, with the respective bodies nominating under paragraphs (c), (d) and (e) for purposes of making their nominations, each to propose and submit two names of nominees being one man and one woman to the Clerk of the National Assembly.”

Mr. Deputy Speaker, Sir, if we wanted to know the efforts being made to ensure that we have met the gender issue, this Act, which was passed by this House, is probably one of the best examples that this Parliament takes seriously the issue of gender equity and equality.

[Mr. Deputy Speaker left the Chair]

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

This Act was published on 18th July, 2011, by the Government Printer, and on 20th July, 2011, the Speaker, by Communication, sent names from the President, the Prime Minister and those other institutions to the CIOC. We have realised that the Act carried a date of 5th July as the commencement date, and we were not sure when the Act was published. So, the Committee summoned the Government Printer to confirm the commencement date. If we were to go by date of 5th July, the time would have lapsed on the day we held the meeting.

Madam Temporary Deputy Speaker, the Government Printer, indeed, confirmed that the publication date was 18th July, 2011. We requested that between the Government Printer and the Attorney-General, they carry a correction by way of Kenya Gazette Supplement through a corrigenda, which they did on 22nd July, 2011, and confirmed the date of commencement as 18th July, 2011.

The names were then brought to the Committee, and the Committee went ahead to vet the individuals who were sent to the Committee. The names that were sent to us were as follows:

(i) Nominations made by His Excellency the President: Prof. Mariam Wanjiku Mutugi and Amb. Mwanyengela Ngali.

(ii) Nominations made by The Rt. Hon. Prime Minister: Dr. Ekuru Aukot and Miss Rozaah Akinyi Buyu.

(iii) Nominations made by the Judicial Service Commission: Hon. Justice Isaac Lenaola and Miss Emily Ominde.

(iv) Nominations made by the Kenya Anti-Corruption Advisory Board: Miss Irene Cheptoo Keino and Mr. Charles Kariuki Wambugu.

(v) Nominations made by the Association of Professional Societies in East Africa: Dr. William Okelo Ogara and Miss Sofi Njeru Muturi.

Madam Temporary Deputy Speaker, these names came before the Committee and we were supposed to vet them for suitability and to be approved by the House. We interacted with these ladies and gentlemen but noted the requirements of the Constitution for gender, ethnic and regional balance. For gender, indeed, the Act took care of that because each of the nominating bodies was required to pick one man and one woman. The President was required to pick one man and one woman. The Prime Minister was required to pick one man and one woman. The Judicial Service Commission, the Advisory Board of the Kenya Anti-Corruption and the Association of Professional Societies of East Africa, each picked one man and one woman.

On the issue of regional balance, taking into account the old provinces, the Committee was unhappy with regional balance by the individual nominees who were sent to us. If we were to look at them in line with their perceived origins – indeed, we asked them where they came from – it would seem that the Eastern, North Eastern and the Western provinces were not represented in the list. I say “perceived” because of what I said earlier with regard to the input into this matter.

Madam Temporary Deputy Speaker, the Committee was able to come to the conclusion that the seven individuals finally picked were substantially able to represent the face of the country, and that in the interest of moving forward, and knowing that none of the Commissions will take care of everybody in one go, it is better, in the circumstances, to approve the list.

As far as gender is concerned, the seven people we nominated were four women and three men. We believe that with that, the gender equity issue is addressed. But we concluded, as a Committee, that henceforth, this particular Act needs to be amended, so that the nominating bodies can speak to each other and co-ordinate their nominations before they come to the House, so that the balancing, in terms of the regions, can be achieved before the nominations come to the House.

With respect to individual nominees, I will move fast in the interest of time. With respect to Prof. Wanjiku Mutugi, she did impress the Committee very well in terms of her clarity and conceptualization of issues. She is a holder of a PhD in Genetics and Molecular Biology. She was born on 20th November 1959. She holds a Masters of Business Administration from the Jomo Kenyatta University of Agriculture and Technology (JKUAT), a Master of Science Degree in Genetics from the University of Nairobi, a Bachelors Degree in Biology from Philippines Union College, Manila. She is currently an Associate Professor at JKUAT. We noted that she did vie for a parliamentary seat against the gentleman right across the aisle in Ndia Constituency in 2007 and later served as the Deputy Secretary-General of the Democratic Party between 2007 and 2008.

She, however, confirmed categorically to the Committee when she was asked whether she would run for an elective post in the next elections; she was very clear that she would not and that in her opinion that would not be a problem. She told us that she had traffic offences in so far as a query on whether she had ever been taken to court was concerned. She also had a civil case between Karen Motormart and herself. This was Civil Case No.2914 of 2006. The Committee found the nominee eminently qualified and proposed her strongly for approval by this House.

Madam Temporary Deputy Speaker, with respect to the nomination of Amb. Mwanyangela Ngali, he is a citizen born in 1947. He holds a Bachelor of Commerce (Marketing) Degree from the University of Nairobi. He is a career civil servant and a diplomat having served in several diplomatic missions. He has worked as a Board member in various Government parastatals. I will take the responsibility of the Committee for the error on page nine of the Report with respect to part 18(iv) indicating that he was never charged in court. That is an error. It goes to our poor report writing as a Parliament which this Committee I Chair deliberated on last time. Indeed, he was charged with a minor traffic offence and fined Kshs2,000. He was the chairperson of NARC-K Party, Wundanyi Branch. Previously he was a member of KANU, DP, NARC and PNU. Indeed, this gentleman and the lady and one of the other ladies we will talk about have had active political careers.

The Committee deliberated as to the viability of having members of the selection panel who have taken part in politics or were active in politics. The

Committee came to the conclusion that, indeed, that was the way the Act was designed. The reason why the President and the Prime Minister were given the duty to nominate nominees was that they would have that--- In any event, the President and the Prime Minister and Members of this House who are working on these matters, are all politicians. We thought that, as long as they uphold the integrity issues, that should not be a bar. The law indeed does not bar the members of the selection panel from having had a political career or from having to stand for office in the next general elections. However, the law bars the commissioners in the Independent Boundaries and Electoral Commission (IBEC) from holding political office or from having held a political office in the previous five years.

Madam Temporary Deputy Speaker, with respect to Rozaah Akinyi Buyu, she is a Kenyan born in 1962. You have the report and, therefore, I will be fast. The only issue to bring out is that, Ms. Buyu was a member of the ODM and also a member of the Interim Independent Boundaries Review Commission (IIBRC). There were a few Members who wanted to bring out the fact that they, individually, were not happy with the work output of the IIBRC and might have felt that a member of that Commission probably was not appropriate. However, as the Report says later, the Committee felt that our discussions were not a case concerning the IIBRC. We were looking at this particular lady for her suitability. The work load of the IIBRC might not necessarily have been only hers and that she should not be held responsible for the entire outlook of that Commission. The same applies to Irene Cheptoo Keino, Justice Isaac Lenaola and Ms. Sophie Njeri Muturi.

Those then were the seven nominees that we are proposing for approval; Sophie Njeri Muturi, Irene Cheptoo Keino, Isaac Lenaola, Rozaah Akinyi Buyu, Ekuru Aukot, Amb. Mwanyangela Ngali and Prof. Marion Wanjiku Mutungi.

You will recall that Dr. Aukot was the Executive at the Constitutional Implementation Committee (CIO) and in our opinion, eminently qualified. Those seven individuals; four great ladies and three gentlemen, are all exceptionally qualified in the opinion of the Committee to handle these matters.

Madam Temporary Deputy Speaker, we then looked at some of the issues that the House has to grapple with. I know we are running out of time and will move fast. One of the issues is that when you have people who have been approved by this House within one session when they come up for approval in another appointment, how do we deal with them? We hope the House can come back to us on that matter.

Madam Temporary Deputy Speaker, in the interest of time, I will propose that the Report be adopted and these seven eminent individuals be approved for appointment to the Selection Panel as established under the Independent Electoral and Boundaries Commission Act.

I beg to move.

I will be seconded by my Vice-Chairperson.

The Minister for Transport (Mr. Kimunya): Gender-sensitive!

Mrs. Odhiambo-Mabona: Thank you. I am glad that you are noting that I am gender sensitive and so is my Chair.

Madam Temporary Deputy Speaker, as I second, I want to state that it is indeed important that we pass the team because we need to move with speed and start the election process in good time so that we do not have a repeat of 2007. This country needs stability.

I will be very brief. When these individuals undertake their work, they should remember to put this country first and not ethnicity. I have heard a lot of people talk

about corruption as being the biggest malady in this country. I beg to differ; I think our biggest problem in this country is ethnicity. Until we deal with it, we will never move as a country. We need to look at people for their competences and we need to include people. So long as you always have a culture of exclusion, then we will always be at war with each other. Sometimes when we say things jokingly in this House, I think we even need to move away from those jokes. Sometimes they are not very nice.

Madam Temporary Deputy Speaker, since the Chairman has spoken to the expertise, I will not go into it. I just want to re-emphasize what we have said. The CIOC is constitutional compliant on gender issues and on regional issues. This is what I am talking about; equity in inclusion. Whenever we start thinking that every group that is excluded always feels marginalized, that is usually the greatest source of conflict. The conflict will be by age, gender and region.

As women, whenever we talk, we look like we complain too much. This is because we are few. However, for those who come from North Eastern, I hear them complain all the time. The same feeling they have for exclusion is the same feeling the women of this country have.

Madam Temporary Deputy Speaker, it is very unfortunate when a woman works hard and reaches the level that Ms. Martha Karua has reached, we hear them calling her an honorary man. I am told before I came in, male Members were saying that Martha is equal to ten men. Therefore, if she is put in that Committee, she is equivalent to ten men and you do not need to add anybody. If that is the case, then I would urge that in future if we stand and I do not agree with the Speaker's ruling; and we are two of us, if mine is not ten like Martha's because I have not had the same years in Parliament, then put it at five. Let mine be equivalent to five men, Rachel is five and Martha's ten. Those are 20 Members.

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Madam Temporary Deputy Speaker.

Mrs. Odhiambo-Mabona: The hon. Member has just walked in, what is out of order?

The Assistant Minister, Ministry of Livestock Development (Mr. Duale): On a point of order, Madam Temporary Deputy Speaker. The moment I cross the Bar, it does not matter what time I entered, but regarding this debate of one lady being equivalent to ten men, we need to be told the features that qualify them to be equal to ten men.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, mercifully, I did not start it, but I would want to say that hon. Karua, the other women and I have actually been suggesting that we are going to request the Speaker to call a special session for certain monologues whose names I am not going to air here. This is because it is time that the hon. Members actually sat and discussed those features.

The Assistant Minister for Livestock Development (Mr. Duale): Physical!

Mrs. Odhiambo-Mabona: Yes, physical, as you say, hon. Duale! You have told me off but I will repeat. We will discuss those physical features and that is why I will invite you for those monologues. They are held every year and we will discuss them, so that we demystify those features which you think make me different from you. They do not! I have my intellect. Let us think from the neck upwards and not the neck downwards, because there is no mystery.

Madam Temporary Deputy Speaker, I will not be intimidated as I always say, because I am a woman of competence and style. When some of us speak with

confidence, like I do, then you call us combative. What you want us to do is to be meek and then you praise us and take all positions. There are things I stand for and one of them is my faith. I want to repeat the same thing I say with my faith on women's rights and human rights. For this course, I will stand. For this course, I live and for this course, I will die. I will not be intimidated! I will fight for women's rights until I die.

Madam Temporary Deputy Speaker, with those few remarks, I beg to second.

(Question proposed)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Madam Temporary Deputy Speaker, I rise to support this Motion and commend the Constitution Implementation Oversight Committee (CIOC) for a job well done.

Madam Temporary Deputy Speaker, I would like to comment on one thing that appears to be in all the Commissions. People seem to have something against somebody who had stood for an election. That should never be a disqualification at all. In other jurisdictions, Members of Parliament are in great demand by the private sector. But in this country, when a Member of Parliament is not elected, that is the end of his or her professional life. That should not be the position. In fact, when Members of Parliament and Ministers are not in this House, they are even more valuable to the private sector. So, I think standing for an election should never be held against any person. Some of the candidates are not serious and get 1,200 or 2,000 votes. You cannot bar them from standing because of this.

Madam Temporary Deputy Speaker, I also support these recommendations because Dr. Marion Mutugi is from my constituency. Even if she had said that she was going to stand in 2012, that, again, should not be a reason to bar somebody.

Madam Temporary Deputy Speaker, with those few remarks, I beg to support.

Ms. Karua: Madam Temporary Deputy Speaker, I rise to support the Motion.

Madam Temporary Deputy Speaker, Sir, the reason the vetting is conducted is so that any doubts that are in our minds are dealt with. There were those who entertained doubts about the fact that those candidates had participated in politics and some had been Members of past Commissions. All this was cleared by the way they expressed themselves; the outlook they presented. I want to agree with the Chair and Vice-Chair that these are eminent men and women, who will be able to select for us a credible Independent Electoral and Boundaries Commission.

Madam Temporary Deputy Speaker, having said that, we bear a responsibility as Members of Parliament. If we want to be respected and find place that we live here, then we ought to conduct ourselves knowing that. Sometimes it is our conduct that is making those colleagues who served in the past not get anywhere. We must know consciously that when we present ourselves here, what we do and say affects many other people. The best ambassador is one's own conduct. I want to support the nomination of these individuals. Tell them that Kenyans are watching them. They must vindicate our faith in them by acting in the best interest of the country and not where they come from, their friends or any other person. In the first place, we selected them because we believed that they will carry the interest of the entire country.

Madam Temporary Deputy Speaker, I beg to support.

The Assistant Minister, Ministry of Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I rise to support this Motion.

Madam Temporary Deputy Speaker, these eminent men and women have a very huge task ahead of them. Days are gone when an individual could sit in his office and appoint 22 commissioners; just like hon. Karua did in 2006.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker. Could hon. Duale substantiate if hon. Karua has ever been an appointing authority of Electoral Commissioners in this country?

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. The last speaker before I spoke was worried that Members of Parliament do not get jobs anywhere. It is conduct like that of the Member for Dujis that discredits Parliament. This forum must be taken seriously. It is not a forum for joking or laughing. If one is not sure of what they are speaking, this is not where you play roadside politics. Is it in order, therefore, for him to bring my name into the debate? I have never been President of this country. This is the time I am seeking to be President. Let him show under what authority or when I appointed commissioners, and whether he knows the circumstances surrounding the appointment of the 22.

The Assistant Minister, Ministry of Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I withdraw but the truth will always bear me out; that in 2006, there was a process in this country and a Minister for Justice and Constitutional Affairs--- A process was done and 22 commissioners were appointed by the “President of the Republic of Kenya, hon. Martha”--- Hon. Mwai Kibaki and not hon. Martha Karua.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Martha Karua, let this matter rest there.

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I support this Motion because of two important reasons--

(Ms. Karua stood up in her place)

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, hon. Karua? Just apologise to hon. Martha Karua.

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. While I appreciate his slip of the tongue and calling me President, which I do not mind, but it will be 2012. But is he in order to qualify his apology? The issue is that he said I appointed. To that extent, the apology must be unequivocal. That is the point I am making.

The Temporary Deputy Speaker (Dr. Laboso): Can you apologize?

The Assistant Minister, Ministry of Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I can only say that I apologize under this circumstance. When it comes to 2012 politics, it is the people of Kenya, including the most enlightened constituency in Northern Kenya, Dujis, to see whether hon. Martha Karua will be elected. It is not this House or hon. Duale.

Madam Temporary Deputy Speaker, I want to support this Motion because of one fundamental reason. A time has come when this House is vetting the individuals who are going to give us credible managers of the next electoral body.

We learnt again when the Minister for Justice, National Cohesion and Constitutional Affairs, the Head of State and the Prime Minister would lock themselves in a room and give us 22 commissioners. This is in the public domain. We know the players and consequences of the 2007 post-election violence. The truth will

be told, more so for those who are aspiring to be president when we reach December this year. So, be ready to be told the truth.

I support.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members!

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the hon. Duale to claim that violence was caused by the appointment of the commissioners when it was caused by politics of deceit? You inflate votes and you claim rigging; it has now been proved that elements on both sides, including, perhaps, himself, engaged in that game.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, let us not go into the debate of the violence of 2007. We want to complete the exercise that we have before us. Hon. Kimunya, can you contribute?

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I just want to support the appointment of this panel of eminent Kenyans. I thank the committee for the work they have done; more importantly I recognize that we have these Kenyans who are offering for themselves not for a five-year or one-year job but for a job of about one month.

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

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

They have been taken through this rigmarole of vetting and everything else. They have been subjected to all this because they want to do this job for Kenya within the next month. I think it is something we need to recognize; that effort is not made every day. I hope that we will all support them, and that together, we will come up with the Commission that will help ground the future of this country in the next Commission that we will be appoint.

With those words, I beg to support.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, one thing I want to say about these eminent Kenyans is that even the ones we dropped, we only dropped them because we could not take more than seven. These were people who really qualified to do this job. My only prayer is that they do not disappoint us. I want to ask them to give this country a service. From their contributions in the interview, or vetting, they are very much are why this country almost went to the dogs. I am sure they will do a splendid job.

I support.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, you will appreciate that today is the deadline for us to finish this matter. I will really appreciate one last contributor for about a minute, and then we call upon the Mover to reply.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I want to congratulate Kenyans who brought the new Constitution into place. It is due to it that we are vetting Kenyans with whom we want to trust with the good job of implementing the Constitution. I want to say that one institution that keeps on letting us down is the Government Printer. It deserves to be reprimanded seriously.

With those remarks, I support.

Mr. Ngugi: Mr. Temporary Deputy Speaker, Sir, I also want to add my voice to the support of this Motion. I know these Kenyans put themselves forward and they were vetted. Reservations were expressed. They were cleared and in the end, we said these were the Kenyans who can do the job.

With that, I support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I also take this opportunity to thank the appointing authority for presenting names of very distinguished personalities.

Secondly, I wish to thank the Committee for executing their mandate well. Kenyans appointed have Kenyans of high integrity and we expect them to serve this country tirelessly.

With those few remarks, I wish them well.

The Temporary Deputy Speaker (Mr. Ethuro): Now since there is no contribution, can the Mover reply.

Mr. Abdikadir: Mr. Temporary Deputy Speaker, Sir, I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, you will recall that the Chair had already deferred the next order. So, since we have exhausted the business as per the Order Paper, it is, therefore, time to adjourn the House.

The House stands adjourned until Tuesday, 2nd August, 2011, at 2.30 p.m.

The House rose at 6.27 p.m.