

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 30th March, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTION BY PRIVATE NOTICE

EXTENSION OF EXAMINATIONS REGISTRATION DEADLINE

Mr. Ochieng: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that many eligible candidates for the 2011 national examinations have not obtained birth certificates?

(b) Could the Minister extend the registration deadline by three more months (i.e. up to the end of June 2011) to allow all the eligible candidates to acquire the document and register for the examinations?

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

(a) Yes, I am aware that some of the eligible candidates for the 2011 examinations have not obtained birth certificates.

(b) The Ministry cannot extend the period for submission of birth certificates at this moment because it will cause delays in the preparation of 2011 Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Education (KCSE) national examinations.

Nevertheless, the Ministry has provided enough time for more than two years since this policy was announced in 2009 and enforced in 2010. There is, therefore, no good reason for the failure of head teachers, parents, and candidates to obtain birth certificates in preparation for 2011 examinations. We have also reminded the parents and candidates in various forums and through the media to obtain birth certificates. We are also closely monitoring the situation to address any challenges.

All this notwithstanding, any eligible candidates who are not able to get their birth certificates for registration by 31st March, 2011 have been given up to 31st May, 2011 to submit the document. This directive has already been communicated to the District Education Officers (DEOs) and head teachers.

Mr. Ochieng: Mr. Speaker, Sir, failure by parents to obtain birth certificates for their children is not their own making. On several occasions, the Ministry responsible for the issuance of these certificates have run short of materials. That is why parents were not able to obtain these documents in good time. Last year, I remember the Minister for

Education extended the registration deadline to 30th June, 2010. Why can the Assistant Minister not do the same this time round so that every eligible candidate can register?

Prof. Olweny: Mr. Speaker, Sir, I said that the candidates are not denied registration. They should go ahead and register but provide the documents by 31st May, 2011.

Mr. Koech: Mr. Speaker, Sir, while I appreciate the extension to 31st May, 2011, the Assistant Minister must be aware, because he is also a parent, that most parents have been coming at the District Commissioner's offices for registration. There are long queues there and parents have been sleeping in those compounds. The problem has been with the Ministry in charge of registration. While we appreciate the need for students having birth certificates, could the Assistant Minister consider working closely with the Ministry of State for Immigration and Registration of Persons to ensure that every child is registered within the time frame?

Prof. Olweny: Mr. Speaker, Sir, my Ministry and that of State for Immigration and Registration of Persons have discussed this matter. It has been agreed that the matter ought to be handled properly and facilitated so that Kenyans do not have unnecessary problems in getting this necessary document which they are entitled to.

Mr. Kigen: Mr. Speaker, Sir, pupils and parents continue to go to the old district headquarters to get the birth certificates. What is the Ministry of Education, in conjunction with the Ministry of State for Immigration and Registration of Persons, doing to ensure that the new districts also have their own registration personnel to provide this service to the pupils who require birth certificates?

Prof. Olweny: Mr. Speaker, Sir, the issue of personnel for registration does not belong to my Ministry. However, as I have indicated, we have liaised with the relevant Ministry to ensure that this process is done smoothly. Unfortunately, it is the numbers which is causing the problems. Also, when the parents are given a break, they sit back. They do not go to push for these documents. They only rush to obtain the birth certificates when they are required for registration of the candidates.

Mrs. Noor: Mr. Speaker, Sir, I appreciate the extension by the Assistant Minister. He knows that during this current drought, the pastoralist communities are seriously affected because they have to look for basic needs for their families and livestock. They are, therefore, not able to acquire birth certificates. A huge number of candidates are unable to enroll for national examinations. What is the Ministry doing in considering the children from pastoralist communities, especially at this time when the drought is really affecting them?

Prof. Olweny: Mr. Speaker, Sir, that is a special case which I think can be given consideration. The Ministry will look into that issue.

Mr. Njuguna: Mr. Speaker, Sir, I recall the Minister of State for Immigration and Registration of Persons indicating here that head teachers will be given the responsibility of issuing birth certificates and particularly when enrolling the Standard One kids. Could the Assistant Minister indicate when this operation will start now that parents are facing agony and anguish when they go to collect the birth certificates?

Prof. Olweny: Mr. Speaker, Sir, until the Minister of State for Immigration and Registration of Persons allows head teachers to be registrars, they cannot do that job. This is because that job belongs to the other Ministry.

Mr. Sambu: Mr. Speaker, Sir, if the Ministry continues to register students without birth certificates and come 31st May, 2011, they will still have not got the certificates. Will the Ministry deregister them?

Prof. Olweny: Mr. Speaker, Sir, that will be handled that time when we shall have taken stock of the information that we have about our candidates.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Are you satisfied that this Assistant Minister is being candid when he said that when another Ministry does this and that, that is when they will be able to do so and yet there is a real crisis regarding registration? I was in this House when the Minister of State for Immigration and Registration of Persons undertook to ensure that principals, headmasters and headmistresses are appointed agents for purposes of registration so that we can avoid this perennial problem of parents lining up and not getting birth certificates for their children. Is it in order for the Assistant Minister to say, "Our hands are tied," when we are referring to one and the same Government?

Mr. Speaker: You have done very well, Member for Imenti Central, but I am afraid that I find that point of order, at the point at which it has been raised, not valid because it is not related in any manner whatsoever to the question asked by the Member for Webuye and the answer given by the Assistant Minister.

Mr. Ochieng: Mr. Speaker, Sir, according to the answer given by the Assistant Minister, the deadline for registration is actually tomorrow and yet so many candidates have not obtained these certificates. The deadline for submitting birth certificates is on 31st May, 2011. Could the Assistant Minister consider once more – I am pleading with him – to extend the registration to 31st May, 2011 if he cannot extend it to 30th June, 2011?

Prof. Olweny: Mr. Speaker, Sir, I assure hon. Members that no candidate will be turned away from the registration of examinations.

ORAL ANSWERS TO QUESTIONS

Question No.730

BLOCKING OF ACCESS TO LAKE VICTORIA BEACHES BY NYANZA GOLF CLUB

Mr. Olago asked the Minister for Lands:-

(a) if he is aware that Nyanza Golf Club has blocked the public from accessing the beaches of Lake Victoria, thereby denying the residents of Kanyamony and Kanyamedha water and creating a state of tension and insecurity between the club and local residents; and,

(b) what measures he will take to address the above-mentioned matter.

The Minister for Lands (Mr. Orenge): Mr. Speaker, Sir, I beg to reply.

(a) No section of the Nyanza Golf Club is blocking the public from accessing the beaches of Lake Victoria as there is neither a road, access, nor a reservation for a road passing through Nyanza Golf Club land to Lake Victoria. I am not aware of a state of tension and insecurity between the club and local residents.

(b) In the circumstances, I will not take any action.

However, for the sake of record and completeness and to satisfy my learned friend, I have brought with me maps showing how and when the area of the Nyanza Golf Club was planned way back in 1958. I beg to lay these maps on the Table.

(Mr. Orengo laid the maps on the Table)

They may be useful to the extent of the land of the Nyanza Golf Club. The maps show that the entire land, including the region bordering Lake Victoria was given to Nyanza Golf Club. In fact, the road that they now follow towards the airport, which is called Harambee Road – there is no sign post – at that time was called Mandan Road. Instead of Lake Victoria, you will find the word “Kavirondo”. So, these are very old maps. I want him to look at it. Indeed, if these people had access before, then these maps would not have been planned in the way they were planned. If you look at it in 1958, it was called “Kavirondo Gulf”.

An hon. Member: We cannot see from where you are!

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I am laying the map on the Table, including the Title Deed given in 1958.

(Mr. Orengo laid the document on the Table)

Mr. Olago: Mr. Speaker, Sir, the issue of Nyanza Golf Club restricting members of the public from accessing the lake is unlike what the Minister is saying a cause of serious tension in Kisumu. I need to peruse the documents which have been laid on the Table carefully. I need to go down history and see what they mean, and what relevance they have to the question I have in hand. Under the circumstances, I humbly request that I be allowed to scrutinize these documents, so that I can interrogate the Minister properly next week.

Mr. Speaker: Very well. I agree, more so given the background of the Minister; he seems to acknowledge that you are his learned friend. So, you have been taken by surprise, so to speak.

Minister, I think you will agree.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I agree but I think he should declare his interest that he is a member of the club and a Member for the area. Therefore, he is weighed down by these competing interests.

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

Mr. Speaker: The Minister has asked you to declare your interest. So, you need not rise on a point of order, just declare your interest!

Mr. Olago: Mr. Speaker, Sir, I do state here that I am a member of Nyanza Golf Club, but I wish to state that I have told the membership that as far as this is concerned, I will not go with the club. I will go with the people.

Mr. Speaker: Very well.

The Question is deferred until Thursday next week.

(Question deferred)

Next Question by the Member for Gatundu North!

Question No.783

ANNUAL REVENUE COLLECTION BY NCWS

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

(a) what the annual revenue collection of the Nairobi Water and Sewerage Company is, and how much, out of this, the corporation has budgeted to spend as social responsibility towards development of infrastructure in Gatundu North, particularly the maintenance of the Gatukuyu-Ng'ethu Road, considering that the water used in Nairobi is treated at Ng'ethu Water Works;

(b) why the excess water from Ng'ethu Water Treatment Works is diverted back to Chania River while neighbouring households lack water, and what plans are in place to ensure that the situation is reversed; and,

(c) what measures she has taken to ensure that sufficient water is conserved and stored during the rainy season for use during the dry season in Gatundu North Constituency.

Mr. Speaker: Member for Gatundu North, please, resume your seat! The Minister for Water and Irrigation seems to have a problem with knowing whether or not you are the Member for Gatundu North.

The Minister for Water and Irrigation (Mrs. Ngilu): No! No!

Mr. Speaker, Sir, I know the hon. Member for sure. In fact, the problem I have is that I wonder whether he has received a copy of the answer.

Mr. Waibara: I have not.

Mr. Speaker: Do you have an extra copy?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I signed this on Monday and I do not have an extra copy.

Mr. Speaker: Let us just see if Mr. Waibara is comfortable to do without a written answer.

Please, resume your seat and let us get his indication.

(Mrs. Ngilu resumed her seat)

Mr. Waibara: Mr. Speaker, Sir, first of all, I would like to be given a chance to look at the answer.

Mr. Speaker: Very well! Minister, what you could then do is to table your answer, so that the Member can look at it for the next ten minutes. If he will be comfortable after ten minutes, we will come back to the Question and you can answer it.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I am comfortable with part of this answer, but I am not comfortable with part of it. This is because out of the Kshs3.5 billion that the Nairobi Water and Sewerage Company (NWSC) collects, we are just saying we set aside about Kshs2 million for corporate social responsibility. So I think this cannot be right. I wonder whether then I can answer him together, so that I know why this is the case.

Mr. Speaker: You will be able to answer tomorrow?

The Minister for Water and Irrigation (Mrs. Ngilu): Yes, I will be able to answer tomorrow.

Mr. Speaker: Then resume your seat!

Member for Gatundu North, will you be happy to deal with this tomorrow?

Mr. Waibara: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well. Minister, this Question then will appear on the Order Paper tomorrow afternoon. Please, ensure that whatever answer you have gets to the Member.

(Question deferred)

Next Question by Member for Kieni!

Question No.737

CRITERIA FOR ALLOCATION OF FUNDS FOR ROAD
MAINTENANCE IN CONSTITUENCIES

Mr. Warugongo asked the Minister for Roads what criteria the Ministry uses to allocate funds for road maintenance to constituencies.

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

The allocation of Road Maintenance Funds to the constituencies is governed by the Kenya Roads Board Act, 1999, Section 6(2) (d) as amended through the Kenya Finance Act, 2009, Section 74 (a) and (b) which reads as follows:-

“(a) 22 per cent which shall be deposited into a special account to be called the Constituency Roads Fund Account to be maintained by every constituency of the monies from the Fund allocated equally to all constituencies in the country to be administered by the Kenya Rural Roads Authority.

(b) 10 per cent of the monies from the funds is allocated for the maintenance or development of link roads between constituencies and to serve as Government counterpart funds on funding works on rural roads to be administered by the Kenya Rural Roads Authority, and that the said percentum shall be equally distributed to the constituencies where the Kenya Rural Roads Authority has the mandate.”

Mr. Warugongo: Mr. Speaker, Sir, let me thank the Assistant Minister for coming up with that answer. However, I would like to point out that giving the constituencies equal amounts of money seems not to be fair. This is because Kieni is 1,556 square kilometres and is part of the Nyeri County. That means the rest of the constituencies in the same county make up only 1,345 square kilometres. I am talking about Tetu, Mukurweini, Othaya, Nyeri Town and Mathira constituencies. Now, if ---

Mr. Speaker: Order, Member for Kieni! It should not be very difficult for you to put all that information in a question, and then just finish with it. Try and move in that direction.

Mr. Warugongo: Mr. Speaker, Sir, is there fairness in giving small constituencies the same amount of money as the very large ones? You can compare Lamu East Constituency and North Horr Constituency!

Mr. Speaker: Excellent! That is actually very good.

Proceed, Mr. Assistant Minister!

Mr. Kinyanjui: Mr. Speaker, Sir, if the question by the hon. Member is whether it is fair, and the answer is, it is not fair. I wish to remind the hon. Member that in the year 2009, Members of the CDF Committee actually proposed changes. My Ministry thought it was not the best way to go as a country, because we have certain constituencies like Westlands, for example, whose about 95 per cent roads are tarmacked and are in good state. They, however, will get exactly the same amount as a constituency in Samburu, North Eastern or any other part of the country. Therefore, I want to agree with the hon. Member and remind him that, indeed, if you check the HANSARD for the deliberations we had on the day we passed the amendment, our reservations as a Ministry were noted but, the hon. Members carried the day. Thank you.

Mr. Letimalo: Mr. Speaker, Sir, what consideration does the Assistant Minister give to areas that have difficult terrains and are inaccessible? Can they be given priority when it comes to allocation for maintenance?

Mr. Kinyanjui: Mr. Speaker, Sir, again I go to the amendment as passed in the year 2009; it completely ties the hands of the Minister, or the Ministry for that matter. We cannot vary this. Previously, we had the option of deciding based on the degree of difficulty or the challenges that you may have in your own constituency. As it stands right now, there is very little we can do outside the law, unless this particular Act is changed to accommodate the differences or disparities in sizes of particular constituencies.

Mr. Warugongo: Mr. Speaker, Sir, I do not have another question but I would like to urge this House to in future amend this law so that the smaller constituents will get what is actually fit for them and the bigger constituencies get a bigger share considering the number of roads in such a constituency.

Mr. Speaker: Member for Kieni, that is a very good proposal. I think you should try and take ownership of it. It will bring you the pride of place as having sponsored the amendment.

Mr. Warugongo: Thank you very much.

Mr. Speaker: Very well! Next Question by Member for Kiharu!

Question No.810

DISAPPEARANCE/DEATHS
OF JOHN KAMURI AND PETER IRUNGU

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

(a) whether he is aware of the disappearance and subsequent deaths of two brothers; John Kamuri and Peter Irungu, in Kahuro District on 28th December, 2010, and that the two were handed over to policemen by the

crew of a matatu, motor vehicle registration number KBK 334J, at Ruiru and, if so, if he could provide the names of the driver and conductor;

(b) if he could also provide the identities of the police officers contacted by the matatu crew to pick up the brothers at Ruiru; and,

(c) who are responsible for the deaths and when he will charge them with the offence.

Mr. Speaker, Sir, unfortunately I do not have the written reply from the Ministry.

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

Mr. Speaker, Sir, I had supplied the answer and I can see the Clerks-at-the-Table trying to give it out now.

Mr. Speaker: Member for Kiharu, we will proceed in this manner; let the Assistant Minister give the answer, try and follow as you read it. If you are not comfortable that you are ready to interrogate it, then we will defer it.

Mr. Mwangi: That is okay Mr. Speaker, Sir.

Mr. Speaker: Proceed, Minister!

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

(a) On 29th December 2010, the chief of Gitongora Location in Ruiru, Mr. Joseph Ndwiga, reported to OCS Ruiru that there were two unidentified dead male persons lying along Ruiru-Ruai bypass Road at Mitikenda area within his location. Immediately on receipt of the report, police officers led by area DCIO, Chief Inspector Pius Gitari and Ruiru Deputy OCS, Inspector Mark Lampus, visited the scene which they immediately secured and called the scene of crime officers who processed the scene before the bodies were removed to the City mortuary, Nairobi.

Mr. Speaker, Sir, during initial investigations at the scene, an identity card No.27486559 bearing the names of Peter Irungu Nganga from Murang'a District, Kahuru Division, Muguri Location and Family Bank ATM card were found on one of the dead bodies. The other body did not have any identification papers. Also found on the dead body was an empty wallet. None of the dead bodies had any money on themselves.

During the investigations at the scene, the following peculiarities were noted: Both bodies had bullet like wounds on their ears, two spent cartridges of caliber 9 millimeters were recovered at the scene next to the dead bodies. Both deceased persons were wearing safari boots which had red soil mud while the scene had black cotton soil. Both bodies had no other physical injuries and there were no signs of struggle or disturbance at the scene. All these were clear signs that the deceased were murdered elsewhere and dumped at that particular scene.

Mr. Speaker, Sir, during investigations, circulation of the diseased person was done through police network and on 31st December 2010, a Mrs. Pauline Wanjiru Nganga and one Thomas Gicere Mwangi identified the two bodies at the City mortuary as those of her son and cousin respectively. Thomas Gicere Mwangi while recording his statement claimed that he had been informed by one Kenneth Waitwika Irungu on 28th December 2010 that he had boarded a minibus Christined Forward Travellers, registration No.KBK 334J at Kahuro accompanied by the two deceased brothers en route to Nairobi. He further alleged that on the way, the two brothers picked a fight with the conductor, Mr. Julius Irungu Ngugi, over change of Kshs50 leaving the three with physical injuries. The same

Kenneth Waitwika Irungu alleged that the bus stopped near Clayworks and the two brothers were forcefully moved to a saloon car which was followed by two others. The registration numbers were not, however, taken.

The police later traced the minibus and the driver in Kayole Estate. The minibus and the driver were escorted to Ruiru Police Station where the driver, Simon Chege Wanderi, was placed in cells to help with investigations and the motor vehicle was also detained. In his statement to the police, the driver stated that on 28th December 2010, he decided to catch on the Christmas season and did one trip to Murang'a returning to Nairobi the same day in the afternoon. He further alleged that he did not stop anywhere near Clayworks.

The statement of the driver was corroborated by that of the conductor; Julius Irungu Ngugi alias Maina, who presented himself to the police. The driver was, however, released for lack of evidence to link him to the murder.

Mr. Speaker, Sir, Kenneth Waitwika Irungu, who is also a cousin to the deceased person, was summoned to CID, Ruiru. In his statement, he alleged that he had boarded the same bus with the deceased from Kahuro to Nairobi. He made the same allegations of a fight as he had made to Thomas Gicere Mwangi. He also claimed that he was a teacher by profession at Emole Primary School, although he could neither remember his TSC number nor the address of the school. He claimed it was located in Garissa County although in actual fact, the school is located in Mandera County. Further, during investigations, the deceased persons had no other physical injuries as claimed by the cousin. The conductor as well did not have any injuries as claimed.

(b) I cannot provide the identities of any police officers allegedly contacted by the matatu crew as such evidence linking police to the matatu crew has not been presented yet.

(c) A Ruiru Inquest File No.47/2010 was opened and the matter is under investigation by officers from CID Headquarters, Nairobi. Appropriate action will be taken once investigations are complete.

Mr. Speaker: The Member for Kiharu, are you able to proceed?

Mr. Mwangi: Mr. Speaker, Sir, the answer is so lengthy and I have had no time to look at it. What is surprising in the answer is that the witness who gave this information---

Mr. Speaker: Order, Member for Kiharu! All I want you to do at this stage is to indicate whether or not you are able to proceed to interrogate that answer. If you cannot, I will give you time.

Mr. Mwangi: Mr. Speaker, Sir, I need some time. The answer is so lengthy.

Mr. Speaker: Will you be able to proceed tomorrow afternoon?

Mr. Mwangi: Yes, I would.

Mr. Speaker: Assistant Minister, tomorrow afternoon at 2.30 p.m.!

Mr. Ojode: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! Hon. Members, that then brings us to the end of Question Time.

Next Order!

MINISTERIAL STATEMENTS

Mr. Speaker: We will first take the Statement by the Minister for Lands which we directed would be delivered today.

GOVERNMENT POLICY ON REVOCATION OF TITLE DEEDS

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, this Statement is in response to a request made by the hon. Member for Limuru in regard to the Government policy on revocation of title deeds.

Over the years, especially between 1990 and 2002, a lot of land earmarked for public utility purposes was irregularly allocated and titles issued to private developers. These allocations were done with or without the concurrence of the public entities in whose hands these public lands were entrusted, thereby compromising operations of these public institutions. The allocation and subsequent issuance of title deeds to individuals on public utility land was irregular and continues to be irregular if undertaken in the manner that I have indicated. Indeed, it undermines the public trust doctrine which rests on the principle that certain resources like riparian reserves, waterfronts, forests, catchment areas, land reserve for public hospitals, roads, educational and other public amenities belong to the public as a whole. It would be unjust to make them subject to any form of private ownership.

Mr. Speaker, Sir, under the Government Lands Act, the Government can only allocate an alienated Government land. Reserve for public use is already alienated for such use and cannot be available for a second alienation. Any such alienation is illegal. The people who broke the law in such allocation should not complain when the land they were irregularly allocated is returned back to the Government. Initiatives such as the Presidential Commission of Inquiry into the Illegal and Irregular Allocation of Public Land, the Kenya Anti-Corruption Commission and the Public Investments Committee have all recommended revocation of irregularly acquired titles as a remedy in the recovery process. The preservation of these parcels of land as public utility overrides any private gains. Irregular or illegal allocation of public land has denied the public the land that was meant for public purposes. This includes land meant for road reserves, car parks, railway reserves, fish landing ways, flight panels, schools and colleges, playgrounds, hospitals and dispensaries, religious institutions, river banks, open space, riparian space, buffer zones, recreation parks, sites for Government offices, forests and in the recent past, even cemeteries and graveyards.

Mr. Speaker, Sir, the Government will be looking into allocations dating back to 1963 when Kenya attained Independence. The Government will only revoke titles that were irregularly or illegally allocated. Titles with multiple transactions will not be exempted from the exercise of revocation as there was no legitimate or local interest to be conferred to the allottees. Multiple transactions cannot legitimize an irregularity. Individuals and companies who bought land without the knowledge of the illegality of the title can seek redress through the judicial system for the recovery of their investments. The primary aim of the Government is to recover and protect the interest of the public by revoking irregularly allocated land.

Mr. Speaker, Sir, with the emergence of the new Constitution and the National Land Policy, the Ministry has continued with the process of revocation of titles for illegally acquired land. The revocation is undertaken through a legally informed process. The titles for land which are lawfully acquired are not protected by the Constitution within the meaning of Article 40(6) which *inter alia* provides that rights under this Article do not extend to any property that has been found to have been unlawfully acquired. Article 40 guarantees sanctity of titles but deny any form of private ownership to land that is illegally acquired in order to safeguard public interest. The public through the Government owns lands which are categorized as public land. The rights of the public cannot be subordinate or secondary to purported interest in public land which is acquired unlawfully or fraudulently. In effect, what the Constitution does is that the interest of the Kenyan people in public land or land acquired by the State has similar if not superior or overriding protection against unlawful or fraudulent acquisition of such land.

Mr. Speaker, Sir, the Ministry is consulting with other Government agencies and Ministries to ensure that the due process is followed in the revocation procedures. The consequential legislation contemplated in the Constitution will create a more elaborate procedure and framework to deal with all aspects of land tenure or interested land under the auspices of the National Land Commission and the established courts or other mechanisms for the determination disputes involving land.

Thank you.

Mr. Speaker: Are there hon. Members interested in this? We will begin with the Member for Limuru.

Mr. Mwathi: Mr. Speaker, Sir, I thank the Minister for the comprehensive Statement in regard to irregularly or illegally allocated land. However, I have two clarifications to seek.

Mr. Speaker, Sir, one---

Mr. Speaker: Order, Member for Limuru! We do not make clarifications!

Mr. Mwathi: Mr. Speaker, Sir, I stand guided. I want to seek some clarification.

Mr. Speaker, Sir, first, where we have found that land through some entities or institutions which accepted that the land must be subdivided through the request from the Government because then, there existed a Government and these titles were issued by the Government. These institutions were in concurrence probably because the land was idle--- If in such a situation a title has been issued by the very Government and it has changed hands so many times to the extent that probably one of the owners or title holder has taken collateral with the same title, how will the Government compensate or address the issue because the loss is directly to the person who finally bought it and not the one who grabbed it?

Mr. Speaker, Sir, secondly, how will the Ministry determine or assist the public to determine which parcels of land not to deal with because they are either resolving the blocs that were irregularly or illegally allocated as at now because transactions are still going on? Hon. Mwathi might want to buy land now and he does not know--- How are you going to help the public? Are you going to have a register indicating the kind of land that should not be transacted upon?

Mr. Speaker: Very well! The rest of you are allowed only one request per hon. Member.

Mr. Imanyara: Mr. Speaker, Sir, I wish to commend and congratulate the Minister for the very decisive steps he is taking towards addressing this problem of land grabbing. Now that the Minister has agreed that this land was grabbed, irregularly or unlawfully taken, what steps is he taking against those responsible for that? Could he assure this House that the people who initiated this process of grabbing are brought to justice, because it is the culture of impunity that we have been trying to bring to a halt in this country? Unless steps are taken to bring to account those responsible, particularly those who signed with that famous “green pen”, we will only be serving half public interest and not full public interest.

Mr. Twaha: Mr. Speaker, Sir, recently, we were told that the new Chief Justice should be a foreigner and the investigators should be from the Scotland Yard. It is interesting that the Minister now says that he will only investigate up to 1963, meaning that the colonial title deeds were perfect. Is it because maybe there is no Briton standing for elections next year? The Minister says that if land has been alienated for public utility, then it cannot be alienated again. Is it possible for the Government to declare a place a public utility retroactively after it has already been alienated for private use?

Mr. Langat: Mr. Speaker, Sir, this is a very sensitive matter. The statement given by the Minister is actually inciting. He says that he will nullify all title deeds. What is he telling Kenyans?

Mr. Speaker: Order, Member for Ainamoi! Be careful. This is a very sensitive area as you have rightly observed. I have not heard the Minister say that he will nullify all title deeds. So correct that position before you proceed.

Mr. Langat: Mr. Speaker, Sir, the Minister said he will take action on some of the title deeds.

Mr. Speaker: That is fine.

Mr. Langat: Mr. Speaker, Sir, most of these title deeds the Minister says are irregular were issued by his own staff in the Ministry. Could he tell us why he allowed the transactions to go on? Later on, he comes here and says they are irregular.

Mr. Jamleck Irungu Kamau: Mr. Speaker, Sir, the Ndung’u Report contained several pieces of land which were illegally and irregularly allocated. One of this was the land where the Kisumu Molasses Plant sits on. Could he tell this House the legality and irregularity of the allocation of that land by the Government? What he is doing to do to repossess it as well?

Mr. Speaker: Member for Chepalungu! That is the last one in this round. If there is still a lot of interest, Mr. Minister, we will have five more minutes.

Proceed!

Mr. Ruto: Mr. Speaker, Sir, I would like to ask the Minister to further clarify the meaning of Article 40(6), which he quoted that says “land that has been found to have been allocated irregularly.” I might not have got the wordings exactly, that he may then repossess such land.

Mr. Speaker, Sir, I would like to know his own understanding of the word “found”, and whether the finding referred to in that Article means, there would be a due process of law. If that due process of law is required, does that give him unfettered powers to actually do the finding himself? The courts of law which are understood under the due process, must participate in this finding. Otherwise, we will then be giving powers of impunity to him.

Mr. Speaker: Order, Member for Chepalungu! You have actually done fairly well. Let the Minister give the response.

Mr. Minister, if you do that in the next five minutes, then we will take another one or two more clarifications. If you take longer than five minutes, then I am afraid that will be the end of it.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I am sorry that I may not give that assurance, but I will try.

Mr. Speaker: Proceed!

The Minister for Lands (Mr. Orengo): First of all, Mr. Speaker, Sir, I want Member of Parliament to have an understanding that the general framework of the Government Land Act which is found in many other legislations. For example, if you look at the Kenya Railways Act, Kenya Airports and Authority Act. The basis of legal framework is that if any institution is given public land, including private individuals, if you have nothing to do with it, and in particular, if you are given for any specific purpose, the law would require you to return back to the public. I can cite sections of the law, for example, a lot of land belonging to Kenya Railways was being sold right, left and centre. I agreed with the Minister for Transport that if he read the Government Lands Act together with the Kenya Railways Act, you will find provisions that once a public institution or an individual is given a public land for a specific purpose, you cannot then decide to say that: I will now want to subdivide it to give to other persons. That will take care of what the hon. Member for Limuru raised. For example, in Vet Lab, the administration there decided that they can write letters of no objection that so-and-so, you can have two acres, so-and-so you have three acres, and yet land was given to that institution for a specific purpose, and then they begin to sell it. On that basis, you cannot build the kind of institutions that we want to build.

On the transactions that follow an illegal act, we cannot claim any legitimate right, if the original transaction was illegal---

Mr. Twaha: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead the House, because whenever somebody purchases a property, you do a search in his Ministry's offices? We would find out that so and so is capable of selling so and so property. Implicit in that search is indemnity by the Government to the person who trusts it to go ahead with the transaction.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, you can conduct a search. For example, what happens is that somebody goes and manufactures a title deed and introduces it in the system. In fact, this is the problem that we have with double transactions, double titles or triple title. There can only be one title that is legitimate. You cannot have three title deeds over the same property.

There are circumstances, where somebody has had an original and he goes and does a search and that search is either inconclusive, or he finds that some illegal transaction has taken place. Somebody who has manufactured a title deed can actually go and do a search, and find out that, indeed, that land is available for that particular transaction. Many people are being conned on negligence basis.

Let me give a practical example. There is a family that came to the Lands Office and bought land after they had done a search. The owner of that land was a company known as Biva Properties Limited, if my memory serves me right. Somebody had gone to the Companies Registry and replaced that particular file with another file, with a new list

of Directors. So, when the mother came to the Ministry of Lands, since we do not keep a list of directors, when the search was done, it was found to be legitimate according to the records. However, those records were not accurate. This family spent over Kshs140 million after doing a search within my Ministry. Now a search alone cannot confirm or authenticate that a title deed which has been fraudulently acquired is actually a proper title deed. That is why, even under the Registration of Titles Act, there are provisions about how you treat titles that have been fraudulently acquired, or if there is an error on the face of that title deed. Therefore, you must always obey the legal principle to the effect that caveat emptor, buyer has to be aware. You have to go the extra mile to make sure that whatever you are buying is not based on fraudulent title.

The other thing that Members of Parliament need to understand is that under the Registration of Titles Act, the Ministry of Lands does not keep original title deeds. The title deeds that are kept by the Ministry of Lands are, in fact, photocopies of the titles. The legitimate owner of the land keeps the original. I do not want to defend the Ministry. However, there is a lot of fraud that has been taking place in the Ministry, which we are trying to deal with by computerizing and updating our information systems, so that what you are holding is consistent with the records the Ministry of Lands is keeping but always remember that the legal principle, caveat emptor, be aware.

Mr. Speaker, Sir, I can give an example of a case that took place here in Kenya where a gentleman was seeking damages for a contract of the Duty Free---

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Is the Minister in order to take us round and round? We want straight answers to the questions we have raised instead of stories. We know that he will run short of time. He is mismanaging the Ministry the same way he is mismanaging the CDF of Ugenya Constituency.

Mr. Speaker: Member for Chepalungu, that is not a fair point of order!

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, it is not a fair point of order. I can allow him to have his day in Parliament, but that will not change the facts that I am putting before you. More importantly, I am trying to say that when you do a land transaction, please, be careful and carry out due diligence because somebody may give you legal currency, but what he is actually giving you may not be legal currency. So, you have to be conscious of that.

Hon. Imanyara asked about the steps that are being taken. A lot of the revocations that we are doing, we are not just doing them randomly. They are cases which have been investigated by the KACC. In fact, they regularly are sending lists of properties that they have investigated and asking us to revoke or take some action like placing a caveat against the titles. But if a criminal act was committed, then it is upon the KACC, the police or the Attorney-General's chambers to deal with the matter. All the time, we are working in consonance, particularly with the KACC, to make sure that if there is a criminal act, then they can take the necessary steps. But from our part, if we find that, indeed, land was unlawfully acquired, then we take the necessary action as contemplated under the Constitution.

Hon. Twaha has brought up a very interesting case. You find that a lot of public land that was available up to 1963 was not interfered with. This is the great amazement that I have that up to 1963, you will never find that a public institution has given out a health centre like the health centre at Highridge. But after Independence, the Agricultural Development Corporation (ADC) farms, prisons land and in Kitale a whole public

hospital was given to private individuals. A lot of times, this is given without giving the full value for it.

The second issue that I want to react to in relation to what hon. Twaha has said is that when carrying out this exercise, we do not just look at the Government Lands Act. For example, the Water Act has got certain limitations about what you can acquire or not acquire over water masses or water sources. The National Environment Management and the Survey Acts have very clear provisions. I know that the hon. Member has a problem in Lamu, which is being addressed, but he knows why we exactly took that particular action.

The Member for Ainamoi says that these transactions are carried out by my officers working in my Ministry. Well, I have to say that the fact that a document has been in the hands of a member of staff in my Ministry does not legitimize that legal instrument. It is just like saying that if I sign your cheque and if the signature is similar to yours, that can be a legitimate cheque. It must be done properly. They must follow the procedure that is required. A Land Registrar has a responsibility which he or she must carry out in accordance with the law.

As far as the Kisumu Molasses Plant is concerned, there is a case in court in which the current director of the KACC was acting for the Kisumu Molasses. The facts are that the Kenya Government had a business transaction between the proprietors of the Kisumu Molasses Factory and the Treasury. Those documents are available for anybody to inspect. So, the question of illegal acquisition does not arise, whatsoever. But if you can show and give me reasons to believe that, that is so, I would take the necessary steps and I do not fear anybody in carrying out my responsibilities. I think that deals with all the questions.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I asked the Minister to give us the interpretation of Article 40(6), which he purports allows him to find land irregularly acquired. Is it really him or the due process of the law?

Mr. Speaker: I thought the Minister dealt with that!

Mr. Ruto: He did not talk about the due process and that particular article.

Mr. Speaker: Order, Member for Chepalungu! Minister, I thought you dealt with that as I heard you.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I dealt with it, but probably he wanted me to mention his name.

Mr. Speaker: You may want to repeat it.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, under the Bill of Rights, there is a process under which if you feel aggrieved; or if any of your rights have been violated, you can take certain steps in order to enforce your rights. But Article 40(6) is very clear. It is not talking about a court of law. Article 10 of the Constitution requires every public officer, including the Minister for Lands, who is making policy decisions or taking any action, to comply with the Constitution. If I find that a public land has been unlawfully acquired, then the Constitution allows me to take those steps. If you do not agree with me, then there is a process under the Constitution through which you can take steps to challenge or interrogate the decisions of any public officer. But the constitutional objective of that article is to also protect public land. You cannot just be interested in protecting land which has been grabbed by citing Article 40, yet the public right is not

defended or protected where there has been a gross violation on the part of the sovereign people of Kenya by those who are in the habit of grabbing public land.

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. My point is order is in regard to the second clarification, which the Minister did not attempt to address. With your indulgence, the clarification was that there is a great amount of fear that you are dealing with land whose title you do not know whether it is going to be revoked tomorrow. The Ministry is busy collecting stamp duty fees and allowing those transactions to go on and cancelling the titles the next day. What system has the Minister put in place to ensure that the public is advised not to deal with certain parcels of land, which are in his list of revocation?

Mr. Speaker: Hon. Minister, yes, that is legitimate. You did not quite deal with that.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I quite agree, but that is because there is limited time. One of the things that may be an indicator as to whether we are losing revenue or not or people are afraid is whether revenue collection in the Ministry has gone down. In fact, it has gone up. Even in this financial year, it continues to go up. The second thing which has happened particularly for banks, they are now reading the conditions of these leases. For example, there are people who know where there is vacant public land and apply for it. They get allocations and the first thing they do is to look for somebody to sell it to and yet the conditions of the lease states specifically that if you are given public land, you must use it for that particular purpose. If it is for building, for example, business premises, you must do it. You cannot mortgage or sell it. So, what we have found out even with the banks, they are now reading very carefully the conditions of lease. I think the public is very much aware that buying public land as a second buyer is an extremely risky business and they are all the time watching out and finding out clearly what is the status of that land.

Mr. Speaker, Sir, we had better be serious about this if we want to be legally advised and so on and be making public land cheaply available for investors. I want to give an example. There is an instance where public land near the NSSF Building was given to individuals. The first thing they did with it was to borrow Kshs200 million on it, which accrued an interest of Kshs600 million. Ten years down the line, the same individuals were negotiating with the Government to buy the same land from them for Kshs1.5 billion. Surely, if we are going to deal with public land in those kinds of circumstances, then we will never be able to have land available for investors in Kenya. We have done a lot of public education on---

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

Mr. Speaker: What is it, Member for Limuru? I want us to get level headed on this matter.

Mr. Mwathi: Mr. Speaker, Sir, with your indulgence, I understand and fully concur with the Minister with regard to institutions which hold land as collateral. However, I am speaking about individuals. The Minister should protect private as well as public interest. There are individuals who are now transacting in land which is meant for revocation. How is he going to advise those who want to purchase land? I want to put it in simple terms. If I want to buy land tomorrow, how can I ensure, through his Ministry, that I do not get into such illegality?

Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, we have now advised all our land registries that if one wants to carry out a transaction relating to public land, they have to get authority at the level of the Minister, so that somebody is accountable. If it is land belonging to the Kenya Railways Corporation, for example, the Minister for Transport has to give his consent. If it is land belonging to any local authority, the Minister for Local Government has to give his consent. So, this only applies to public land. If it is private land, you can do anything you want with it. However, we cannot have people dealing with public land without a framework that protects the interests of the public.

If I may add, the same Member for Limuru brought a Question here, seeking revocation of public land which had been grabbed in Limuru. When I did it, he thanked me. So, I do not know what he is fighting over. He was broadcasting how well I had done. If he now wants me to give it back to the grabbers, I can do so but doing so would not be right.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! I will take the last point of order from the Member for Chepalungu and that will be it.

Member for Chepalungu, what is it that you are unhappy about?

Mr. Ruto: Mr. Speaker, Sir, I am still referring to Article 40 of the Constitution, which, first of all, talks about the protection of rights to property. Article 40(6) reads:-

“The rights under this Article do not extend to any property that has been found to have been unlawfully acquired.”

Mr. Speaker, Sir, my question is simple. Who is it---?

Mr. Speaker: Mr. Ruto, is your question “what” or “is”, because the Minister has already responded?

Mr. Ruto: Mr. Speaker, Sir, the bit that has not been responded to, or which is not clear, is whether his findings---

Mr. Speaker: You then say so. Do not introduce a new request.

Mr. Ruto: Mr. Speaker, Sir, I am not introducing anything new. I asked the Minister to tell us who should find it unlawfully acquired. Is it the Executive? Is it Parliament or the law courts? Is it the Judiciary or the Minister who should find it unlawfully acquired, under Article 40(6)? I would like it clearly stated.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, the answer is fairly simple. If you give out land belonging to you to a tenant, or you let out a house; if the tenant does not pay rent, you can take possession of the property. If the tenant raises no objection, the matter ends there.

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

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I accept the information.

Mr. Speaker: Proceed, Member for Gichugu.

Ms. Karua: Mr. Speaker, Sir, I just want to remind the Minister that in law, you can only pass on as good a title as you have. So, if your title is fraudulent, or it is illegally acquired, what you pass on to the next person is absolutely nothing. That is the

supposition supported by Article 40(6) of the Constitution. So, if the Minister exercises his power to revoke a title, whoever feels aggrieved may move to the court.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, this Constitution makes it very easy how to approach any court, including the superior courts, when one feels that one's right has been violated. Hon. Members should remember that all the time, we are talking about public land. We do not interfere when it comes to private land. You can deal with it whichever way you want. However, if we find that you have given out a title to somebody for the precincts of Parliament without justification, we will intervene and repossess it.

Mr. Twaha: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead the House? He first conceded that some titles emanating from his Ministry were fraudulent. Could he acknowledge that there is the danger that also revocations emanating from his Ministry could be ill advised or ill motivated or fraudulent?

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, that is why Kenyans are given access to the High Court. Even the High Court, being a superior court, can make a mistake. There is the right of appeal, but those who are guilty are always afraid of going to court. I am prepared to go to court and if a court makes a decision, as a constitutional lawyer, I know that I am bound by the court's decision. However, many of the decisions I have made have not been challenged in court at all.

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister for Lands to move the responsibility from the Ministry to members of the public? He is actually implying that it is up to the members of the public to look out for fraudulently acquired titles. What is the purpose of the Ministry? What is the purpose of the searches? What is the purpose of the titles? They are the Ministry's responsibility. So, he cannot move that responsibility to members of the public. Is it in order for him to move that responsibility to the citizens of Kenya?

Mr. Speaker: Hon. Nyamweya, I am afraid that as at the point where you have raised that matter, it is out of order. If you were here timeously, maybe, you would have caught the Speaker's eye to make your request, but you are doing so belatedly. So, the timing is wrong. I am afraid, for those reasons, I will rule you out of order.

Minister, maybe, you will want to consider this: In other jurisdictions, what they have done so as to address all concerns by the public, where they are dealing with public land; is that they have established a one-stop station or section in the relevant Ministry for persons who want to transact in public land, and they get authentic information from that one section. Maybe, you will consider doing this in your Ministry.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, we are, in fact, building that platform. We have got people working on it. In fact, the land information system should be available now to anybody visiting the Land Registry. In fact, now systems exist where you can not only get information about the particulars of the title deeds, but also know all the relevant information about the owner. If it is a company, you know the names of the directors. We are trying to build those platforms, so that there will be only one stop section for that purpose.

I am glad that under the new Constitution, we are going to have only about 25 Departments, which will collapse some of the Ministries. Sometimes we want to abide by the provisions of the Water Act, the Survey Act, and the National Environment Management Act; and it forces somebody to move from one Ministry to another. Even

from within the Ministry of Lands, one is forced to move to the Survey Department, the Directorate of Physical Planning Department and, finally, to the Commissioner of Lands. With the platform we are working on, we may be able to do all that by going to a single point. You may even do a transaction from your office without involving these many players. That is the way we are trying to go, if funds are made available.

Mr. Speaker: Very well. Hon. Members, that matter now must rest there. We will not take any further Statements, except that, we will allow the Assistant Minister of State for Provincial Administration and Internal Security to table documents to support a claim for *sub judice*.

SEIZURE OF NARCOTIC DRUGS IN MOMBASA

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, yesterday you are aware that Mr. F.T. Nyammo sought for a Ministerial Statement which I declined to give because the matter is in court.

Mr. Speaker, Sir, you challenged me to prove that there is such a matter in court. I wish to table the charge sheet for Ali Mohammed Bafkin, Khan Mohammed Aida, Abdul Baseet, Jesmani Ali, Yusuf Hassan Ibrahim, Hassan Hassan Ibrahim and Omondi Joash Hesbon.

They are charged as follows that on 24th March, 2011 at Shanzu area in Kisauni District, within Mombasa County, they jointly trafficked narcotic drugs by storing 102 kilogrammes of heroin with a market value of Kshs204 million in motor vehicle registration numbers KBL 606T Nissan Saloon and KAQ 493P Toyota Rav 4 in contravention of the Act.

I wish to table the same.

(Mr. Ojode laid the document on the Table)

Mr. Speaker, Sir, I would also want to make a correction that there is a perception that we had 196 kilogrammes of heroin. Some satchets were found in the bundles with two kilogrammes. Some of the later bundles which were opened contained 1 kilogramme and 1 and a half kilogrammes.

So, a total of 98 satchets were collected and that gives us a total of 102 kilogrammes of heroin and not 196 kilogrammes as was perceived. This is because they simply multiplied two kilogrammes times 98 which was giving us 196 kilogrammes. I wanted to correct that impression.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. I will look at the documents now.

POINTS OF ORDER

DISBURSEMENT OF FUNDS FOR PHYSICALLY/ MENTALLY CHALLENGED PERSONS

Mr. Ruto: Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Gender, Children and Social Development regarding the demonstrations by the physically and mentally handicapped that is going on in Nairobi today.

In the Statement, I would like the Minister to, one, clarify the disbursement formula used to disburse the Kshs200 million budgeted during 2009/2010 Financial Year, for the physically and mentally challenged. She should outline how many groups or individuals have benefitted from the fund.

Secondly, the Minister should clarify how the Ministry plans to disburse the Kshs200 million budgeted in the Financial Year 2010/2011.

Mr. Speaker: Is the Minister for Gender, Children and Social Development not here?

Could the Deputy Prime Minister and Minister for Finance hold brief for the Minister? When will this Statement come before the House, particularly given that it relates to the disabled?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, can I relay the message to the Minister and can it be delivered on Tuesday, next week?

Mr. Speaker: Very well, it is so directed.

DISAPPEARANCE OF MR. DANIEL
KIPLAGAT SAMBU IN UGANDA

Mr. Imanyara: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for East African Community regarding the whereabouts of Daniel Kiplagat Sambu who won the marathon race two months ago in Uganda and, subsequently, disappeared in the hands of the security forces. I would like to know whether she can tell us what happened to Mr. Sambu after winning the marathon in Uganda.

Mr. Lagat: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Point of information to who?

Mr. Lagat: To Mr. Imanyara.

Mr. Speaker: Mr. Imanyara, do you want information?

Mr. Imanyara: Yes, Mr. Speaker, Sir.

Mr. Speaker: Proceed.

Mr. Lagat: Mr. Speaker, Sir, I would like to inform Mr. Imanyara that the said athlete comes from my constituency and he is back.

(Applause)

Mr. Speaker: Very well. Hon. Member for Imenti Central, your request is spent.

Mr. Imanyara: Mr. Speaker, Sir, I do appreciate the information supplied by Mr. Lagat. However, I think we are entitled to know the circumstances under which he came back.

Mr. Speaker: Order, Member for Imenti Central. I think you will have to paraphrase the request. So, that will be for another day. For the moment, I cannot give any directions on that.

Hon. Members, with respect to the claims for *sub judice* on the matter relating to drugs as per the request made by the Member for Tetu, I have looked at these documents and I am satisfied that the matter is *sub judice*. Therefore, transacting any business in the House will prejudice a fair hearing and trial. So, this business will not be transacted in the House until after this case is heard and determined.

Hon. Members, that brings us to the end of Order No.7. We now move on to Order No.8.

BILL

First Reading

THE LIMITED LIABILITY PARTNERSHIP BILL

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

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir. May I seek your direction?

Mr. Speaker: What is it, Mr. Nyamweya, although I can guess where you want to go?

Mr. G. Nyamweya: Mr. Speaker, Sir, I note that Orders No.8, 9 and 10 somehow will wind up in the Departmental Committee on Justice and Legal Affairs. As no doubt you are aware, that Committee is not functional. Many of the Bills that His Excellency the President enumerated the other day will also be heading towards that Committee.

I am a Member of that Committee. Under these circumstances, I think it is my duty and responsibility to Kenya to say that if there is a delay in the implementation of the Constitution, it will not be because of those hon. Members of that Committee. Seven out of 11 Members of the Committee, as per the Standing Orders, served the Clerk of the National Assembly with a petition stating that we have no confidence in our chairman.

Mr. Speaker, Sir, we have not been able, quite amazingly to be able to simply have a meeting to resolve that particular issue. Would I be in order to seek your guidance in the national interest, that one way or the other, that issue be resolved for Parliament to be able to process these Bills and for the country to implement the Constitution? I think it is fair that the country does know that all this is because of one individual who is holding this country hostage.

Mr. Speaker, Sir, I seek your guidance on that.

Mr. Speaker: Order, Mr. Nyamweya! You have made your point save for this: That is not the manner in which you move this House to resolve a matter that is the subject of a dispute in a Committee. We will be giving you directions away from the House on how you should proceed. I hope that is clear. You have heard me. Have you not?

Mr. G. Nyamweya: Mr. Speaker, Sir, I was just seeking your directions. I was not moving any Motion.

Mr. Speaker: Order! You are seeking my directions and I have given you those directions on how we will deal with that matter. Let us proceed! Order No.9!

BILLS

First Readings

THE INSOLVENCY BILL
THE COMPANIES BILL

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

COMMITTEE OF SUPPLY

(Order for the Committee read)

MOTION

APPROVAL OF SUPPLEMENTARY ESTIMATES

(RECURRENT AND DEVELOPMENT 2010/2011)

Mr. Speaker: Order, hon. Members. Please note that taking into account where we are at in terms of time, we will proceed with business until five minutes to seven. Hon. Members, I want to draw your attention to page 3 of the Order Paper pertaining to the Notice. On the face of it, the date when that resolution by the House was made is wrongly captured. So, you substitute 14th March, 2010 with 2nd March, 2010.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I beg to move:-

(i) THAT, a sum not exceeding Kshs27,466,736,720 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2011, in respect of Supplementary Estimates of 2010/2011 Financial Year (Recurrent) having regard to the proposed reduction of Kshs6,956,804,940 therein appearing.

(ii) THAT, a sum not exceeding Kshs8,590,461,320 be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2011, in respect of Supplementary Estimates of 2010/2011 Financial Year (Development) having regard to the proposed reduction of Kshs22,604,981,358 therein appearing.

His Excellency, The President has given his consent to this Motion.

The Budget of the Financial Year 2010/2011 that I presented to this House in June 2010 was formulated within a fiscal framework aimed at achieving and sustaining macro-economic stability in line with Vision 2030 and our strategy of unemployment and poverty reduction. The assumptions underpinning the fiscal framework included an average economic growth rate of 4.9 per cent for the Financial Year 2010/2011, a single digit inflation rate of 5 per cent, sustained enhanced performance of exports and domestic demand and sustained political stability. This was anchored on an expected global

economic recovery supported by extraordinary policy especially with regard to economic stimulus.

Mr. Speaker, Sir, the Budget for the Financial Year 2010/2011 that I presented to this House amounted to approximately Kshs998.8 billion and comprised of the following:-

Kshs675.6 billion for Recurrent Expenditure, Kshs321.2 billion for Development Expenditure and Kshs2 billion as provision for the Civil Contingency Fund. The Recurrent Expenditure included Kshs487.9 billion for ministerial discretionary expenditure and Kshs187.7 billion for payments under the Consolidated Fund Services. The Development Expenditure comprised of Kshs178.1 billion in respect of domestically financed expenditure and Kshs143.1 billion for foreign finance expenditures.

Following the approval by this House of the Budget for the Financial Year 2010/2011, the Government embarked on the implementation of various programmes for which resources were appropriated. Whereas, indeed, I have tried to adhere to the fiscal programme presented to this House, the implementation of the Budget has faced numerous challenges which have disrupted the original assumptions that formulated the basis of the Budget. Key amongst those challenges included the rise in food and oil prices, political turmoil in the Middle East and North Africa, drought, security issues and implementation of the Constitution. This has resulted in revenue shortfalls and request for additional funding from the Treasury by line Ministries, thus, necessitating the review of the macro-economic framework that guided the formulation of the Budget of the 2010/2011 Financial Year.

Regarding the request for additional funding, the Treasury received requests amounting to more than Kshs120 billion from line Ministries to fund various additional programmes. However, due to the constraints in realizing more revenue receipts and the need to maintain a stable macro-economic framework, there was need for us to rationalize these requests to Kshs44.8 billion to cater for critical interventions that could not be postponed. The above expenditures have been financed using the existing Civil Contingency Fund of Kshs2 billion, budget reserves of Kshs2 billion, drought contingency of Kshs2.1 billion and rationalizing - that is scaling down expenditures of slow moving projects not likely to commence within the remaining period of the financial year. The final gap of Kshs20 billion was closed by raising additional borrowing from Kshs105 billion to Kshs125 billion.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, some of the critical interventions that have been considered for funding under the 2010/2011 Supplementary Estimates include, amongst other things, drought emergency intervention of Kshs5billion, enhanced security operations of Kshs5.1 billion, constitutional awareness, Referendum, promulgation and constitutional implementation activities of Kshs4.4 billion, subsidized fertilizer and seeds, Kshs4.2 billion, additional funds requests for IDPs of Kshs1.8 billion, salary obligations - that is Civil Service commuter allowance of Kshs2 billion - upgrading of P1

teachers of Kshs1.4 billion and salary adjustments for police, prisons and uniformed staff of Kshs5.1 billion.

Mr. Temporary Deputy Speaker, Sir, hon. Members may recall that the Government allocated Kshs22 billion in the financial year 2009/2010 to cater for the Economic Stimulus Package (ESP) programmes in the constituencies. Due to delays initially experienced in the implementation of these projects, an amount of Kshs6.3 billion was not fully utilized at the close of the last financial year. While presenting the financial year 2010/2011 budget estimates, I did indeed assure hon. Members that the Government will make a provision for the balance in the Supplementary Budget to facilitate the completion of these projects. As a result, I have made a provision of Kshs5.5 billion to cater for the ongoing ESP Phase 1 projects that were not taken into account in this financial year.

Mr. Temporary Deputy Speaker, Sir, the Motion therefore before this House seeks the approval of net supplementary appropriation of Kshs20,509,931,780 for Recurrent Expenditure and a net reduction of Kshs14,014,520,038 for Development Expenditure. I wish to assure hon. Members that in finalizing the Supplementary Estimates, we have been guided by economy and efficiency and the prudent utilization of the limited resources at our disposal. The funds allocated to the Ministries, departments and agencies will be utilized efficiently to achieve the intended purpose and to provide services as approved by this House.

Mr. Temporary Deputy Speaker, Sir, finally, I sincerely thank hon. Members for their continued support on matters of public financial management and their contributions will be taken positively and incorporated in subsequent budgets.

With these few remarks, I beg to move.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion with the full understanding that these supplementary estimates are very critical in the final roadmap towards the next financial year. Some of the areas that have been factored in these supplementary estimates are critical and particularly the Economic Stimulus Package (ESP) programmes that have been fairly popular with the electorate and mwanachi throughout the country. Due to the shortage of funds in this region, I am quite happy to note that the Deputy Prime Minister and Minister for Finance has now made provision for Kshs5.5 billion to be able to support the ESP programmes that are already in progress. Those of us who are in the line Ministries handling some of these documents and portfolios were a little bit dismayed that the degree of progress, particularly the requisitioning of additional funding has been slow in some regions in this country. Therefore, with the release of these funds, our hope is that this will be speeded up particularly the centres of excellence and the model schools that also fall within the bracket here so that we are able to have a solid ground to request for additional funds from Treasury. Without that happening, I see an uphill task in convincing Treasury to once again roll over this amount of money towards the completion of these projects.

We have been hard hit by drought and water shortages, particularly in arid and semi-arid areas. It is my expectation that when these funds are finally released to the respective account holders, that they will be able to put them to use. One of the areas where we are suffering greatly is making services accessible to those who are mostly affected, maybe the Internally Displaced Persons (IDPs). I think that is an area that we

cannot continue ignoring. Therefore, these funds, when released, should be able to be applied to relieve the pain and difficulties that the IDPs experience. Also, this will do the same to mobile nomadic communities that experience a great deal of difficulties. I will be visiting North Eastern Province tomorrow and I know this will be one of the areas that they will be raising; why the resources are not flown to the respective expected areas of activity mainly in schools in nutrition provision, water provision and in basic services that are required by Kenyans to be able to move this nation forward.

Mr. Temporary Deputy Speaker, Sir, having said that, it is my expectation and I plead with the Deputy Prime and Minister for Finance, that this release of Kshs5.5 billion under the ESP is itself a sweetener and I hope, without having to gag him at this stage, that there will be a stimulus for an additional funding when the new budget finally comes. This is because it is one area which has been able to reduce the gap between the “haves” and the “have nots” in terms of development within the regions of Kenya.

With those few remarks, I beg to support and second.

(Question proposed)

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your guidance particularly on the notice that is guiding this debate. On the notice, it is indicated that: “The House resolved on the 2nd March, 2010---”. I have had the benefit to look at the HANSARD and I saw that resolution. However, the circumstances under which that resolution was made, I think was in the heat of the debate on the constitutional review where the proposal was made by hon. Jakoyo Midiwo and seconded by hon. Machage and without debate, it was adopted.

Mr. Temporary Deputy Speaker, Sir, however, be that as it may, I want to refer you to the Fiscal Management Act, Section 11 which says:

“Without prejudice to the generalities of Section 10 in the preparation of final estimates of revenue and expenditure referred to in Sub-section 9, the Minister shall take into consideration the comments and recommendations of the relevant committee as submitted to the National Assembly under Section 10(2)”.

Mr. Temporary Deputy Speaker, Sir, I want to further refer you to Article 221 of the new Constitution, Sub-section 4 which says:

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

Mr. Temporary Deputy Speaker, Sir, the thrust of it all is that you are aware that this House has a Budget Committee today. In all respect, I believe that the Budget Committee is the relevant Committee. Also being aware of the fact that we are still in the Fourth Session where this resolution is binding, I see a situation where this responsibility will continue to be misplaced in the wrong committee. I think it is imperative that this is corrected so that the relevant Committee can take responsibility for the decisions made as far as the Budget is concerned.

Mr. Temporary Deputy Speaker, Sir, I seek your guidance.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ogindo, you have correctly pointed out that this was a resolution of the House properly proposed, seconded and adopted. It would have been appropriate and convenient for you to raise those issues

at that point before the passage of that resolution. As it is now, it is a resolution of the House that we have not rescinded and, therefore, we shall proceed as pointed out in the Standing Orders.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the Motion but with some reservations. I will start with the good part. It is true that we need to pass the Supplementary Estimates so that the people we represent can get services. I am happy to note that there is Kshs5 billion being reallocated for drought but it is sad that even after this House, on a Motion of Adjournment, called on the Government to speed up its intervention in drought stricken areas, the Government has dilly-dallied until livestock and human beings have died because of this situation. The intervention is coming a little bit too late and the interventions that are there are not well organized. Livestock farmers should have been relieved of their agony by their livestock being purchased at the point where they had not withered and started dying. We should not have lost people because the Government already knew and forecast, through the Prime Minister's Statement, that there would be drought and, therefore, they should have been well prepared. It is my hope that the Kshs5 billion will be put to good use. There will be a better and organized intervention to alleviate the suffering and ensure that we do not lose more human beings or livestock during this period.

Mr. Temporary Deputy Speaker, Sir, on the issue of subsidized fertilizer, this is something commendable. We just hope that the Ministry concerned will keep on improving its distribution methods and also its procurement method. Let the subsidized fertilizers and seeds not be cash cows for a few. Let them be a relief for a majority of Kenyans. I want to say for the first time that those seeds have reached Gichugu, Kirinyaga East District and we appreciate that. Fertilizers have reached us in the past but not seeds. This is the first time. We are also happy that the money for teachers' salary, that is, for the upgrading of their job groups and so on which had been delayed has been factored in the Supplementary Estimates. This is an area that has caused us agony. Many teachers have been approaching us to raise the matter in the House and I am very happy that it has been catered for at last.

Mr. Temporary Deputy Speaker, Sir, salary adjustments for the police and the Administration Police is again well called for. I would even urge that in the forthcoming Budget, more money be provided to accelerate police reforms so that we can have a better and organized police force. However, lately, we have seen a lot of disturbance where junior officers or police officers are killing each other. I think we need to look at the root cause of that and the answer will lie in the reforms. So, we call for accelerated reforms.

I note that a further Kshs5 billion has been allocated for security, making a total of Kshs10 billion because the one for salaries is Kshs5.1 billion. What is this enhanced security? This is where we are getting the Government abusing and misusing public funds. We are aware that in by-elections and especially the last one in Kirinyaga, Government machinery was used to campaign for PNU. Is this the enhanced security you are talking about? Is it the public rallies to rally support for the Ocampo six? What is this enhanced security? We need security and we are prepared to vote monies for security, but not money to be misused and abused by the big boys. Kenya has more people than the Ocampo six. I have said and I will say it here again. It is okay for the families and friends of the Ocampo six to sympathize with them but when as elected leaders we give all the

attention only to the six, ignore the plight of Internally Displaced People (IDPs), ignore the plight of drought stricken Kenyans, ignore medical services because people are dying for lack of access to medicine and ignore the plight of Kenyans--- It means this is a Government of the rich by the rich and for the rich. This is a big boys club; never mind the ages of those big boys because they vary. I think we have deviated from democracy.

It so happens that a majority of the Ocampo six are well to do people who can cater for their own issues. So that I am not told that I am rejoicing over other people's plight, I just want to remind you that I stood before this House pleading that the local tribunal be accepted. At that time, what was the answer? The answer was: "Don't be vague, go to The Hague".

(Applause)

The Hague has come. Take The Hague quietly and let Kenya move on. It is impunity to try to rally around refusal to submit to jurisdiction. Sovereignty is not about individuals but it is about a nation. If a sovereign nation fails in the responsibility of setting up a judicial mechanism, and if that sovereign nation through its Parliament, the Executive, the Cabinet and all okays that if we fail to form the Tribunal, let Ocampo take up the matter, why are we quivering now? We signed off to Ocampo. We should be blaming ourselves as a Parliament. We should also blame ourselves as the Executive. I happened to have been in the Cabinet and we passed that Bill but when it came to Parliament it was fought by the same Members. Both Principals signed a commitment to the public that if they do not rally their supporters to pass the local tribunal within 60 days, then Ocampo should take over the matter. How come we have such short memories and we now start blaming others? Where did you vote on that day?

(Applause)

Where did your friends who sympathize with you now vote? I am saying that every Kenyan whether a friend or not deserves justice. We have Kenyans renditioned to Uganda illegally. I have not heard of any legal defence fund for them and we are waiting to be given answers in this House. We have suspects of criminal cases in their thousands languishing in our prisons and we have not even started a national legal aid fund to help them, but for the rich, we now can start talking about fund-raising. This is abuse of power. It is impunity and I want to caution that we should not use a penny on that illegal venture. Let everybody do their own business and stand for themselves. If they need fund-raising, they should call their relatives and friends to fund-raise for them which is the usual thing that happens in this country.

Mr. Temporary Deputy Speaker, Sir, on the Economic Stimulus Programme, it is sad that Kshs5.8 billion had been withdrawn and now it has been returned. I want to suggest to the Deputy Prime Minister and Minister for Finance that instead of withdrawing the Economic Stimulus Programme money even where it has not been spent on time, can we not have a mechanism of rolling it over to the next financial year? I am very glad to say that in Kirinyaga East, all the projects under the Economic Stimulus Programme are somewhere towards 95 per cent complete. So, we will be among the first ones completing and waiting to be equipped. We hope that now that the money is

available, we will move quickly to equip them so that people can access the goodness of these projects. I will not be as optimistic as my brother-in-law, Prof. Ongeru that people are already benefitting because they are not benefitting yet since the projects are not complete. We are hopeful that we will benefit. However, I want to stand here and declare that the two primary schools that were being upgraded under this programme in my constituency are complete. So, it may be true that, at least, some benefits have begun to trickle down. Indeed, this is a very worthy project that should go on, and for which we commend the Ministry and the Government.

Mr. Temporary Deputy Speaker, Sir, other than those reservations it is necessary that we pass this money with the caution that the Government must follow the law, follow the Constitution, be guided by public good and not by the whims of a club of the rich, or a club of powerful and influenced peddlers.

With those very many remarks, I beg to support subject to those reservations.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, in supporting this Motion I have a few comments that I would like to make.

One is that the amount of the Budget that goes to the Development Expenditure and the amount that goes to Recurrent Expenditure, as reflected in the Approved Estimates, is in the ratio of 60 per cent to 40 per cent, which is good. What is happening in the Supplementary Estimates is that the ratio is being tilted against development. This is because the Recurrent Expenditure is going up and the Development Expenditure is going down at the same time. This brings the ratio of Recurrent Expenditure to about 62.5 per cent and Development Expenditure to 37.5 per cent. Therefore, what this means is that the measures that the Government is taking are actually working against growth. You do not get growth from Recurrent Expenditure; you get growth from Development Expenditure. If all the cuts are actually affecting the development budget, then you are eroding the potential for economic growth in the country.

Mr. Temporary Deputy Speaker, Sir, when you look at the areas that have been affected, the biggest cuts have gone to the Ministry of Finance, which has a big cut of Kshs8.16 billion. It is followed by the Ministry of Roads, with a cut of Kshs5.8 billion, and then the Ministry of Environment and Mineral Resources, which is a very critical Ministry and has a cut of Kshs1.86 billion. Next is the Ministry of Information and Communications with a cut of about slightly over one billion shillings. When you look at all these, I think we have a problem. We have implementation challenges which the Government must address. We need roads so badly in this country. A lot of work is going on and we like it. What we see going around is commendable work. However, if we see money being returned or money being reduced, yet the road network in the rural areas is in deplorable condition, then we are worried. We ask whether the Government really has its priorities right?

We see that the Minister very recently implemented a project called “Funding for Small and Medium Enterprises”, which I thought was a wonderful idea; he actually allocated it Kshs3.8 billion, but a few months down the road the amount is slashed to Kshs1 billion. The question I asked was, was it a well thought out programme? Was it properly structured? In fact, this is exactly the repeat of the Economic Stimulus Programme (ESP). We had money allocated; the structures were never put in place; then implementation challenges cropped up and at that stage we had to deal with them. Then the stimulus programme began to be implemented very much later. That is why we are in

the situation in which we are. So, I would like to recommend to the Minister that a thing like the Small and Medium Enterprise Funding Scheme should be thought out well in advance. It should involve many stakeholders, so that by the time you are putting together your Budget all the structures are already in place, rather than thinking of the concept, the structures are not there, the money is put in the Budget then later on implementation challenges make it difficult for you to implement it.

I think other than that, these are the usual Supplementary Estimates, the unexpected things that happen, and you have to put money here and there, or you find that it is not going to be possible to spend a certain amount of money. This is all part of the planning process. I think you should involve us more. This time we have not been engaged with you as much as we have done in the last Supplementary Estimates. Maybe some of these things we could have brought them out and corrective action could have been taken.

I beg to support.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, let me at the very outset register my total support for this Motion, which is essentially to provide extra resources over and above those that we had passed.

I should also at the same time prefix my remarks by really commending the Minister and the Treasury for the very sound micro-economic management of the economy of this country. It is now very clear that the economy has been growing very steadily. As a matter of fact by the end of last year this economy was able to register slightly more than five per cent growth. I think the precise figure would be in the order of 5.4 per cent. This is not a very easy achievement, especially when one considers the challenges that have arisen in quite a number of economies. Even developed countries are going through a very major problem. A number of them have had to default on their commitments; others have been bailed out. We are not there. We are not a totally developed country, but we are able to meet our obligations and this economy is going to grow. There is no doubt at all that hope is now bigger than, indeed, we can move ahead.

Mr. Temporary Deputy Speaker, Sir, the finances that have been set out here clearly--- Much of it will go into the implementation of our Constitution, which was promulgated in August last year. Resources are required. Several commissions have to be set up, and it is important that we move speedily because the people are waiting to see the results of the new Constitution. This cannot be done without the passage of the necessary implementation legislation. I am very happy that this money has been set aside.

We also know that indeed there has been drought and several parts of this country have been affected. Again, these Supplementary Estimates also target that.

On the areas of security, I think it behooves me to inform the House, given my position as the Minister of State for Provincial Administration and Internal Security, that there are several security challenges that are facing us in this country. We have seen the explosion of grenades here in Nairobi. We have also seen our police officers being killed in explosions of grenades. We have also seen that some of these grenades come from across the border.

Mr. Temporary Deputy Speaker, Sir, last year the Treasury did factor in resources for the Government to address the security challenges emanating from the neighbouring country of Somalia. At that particular time, the situation was not as bad as it is today.

Currently, I am sure hon. Members are aware that there is infighting taking place in Somalia between the Transitional Federal Government (TFG) troops and the *Al Shabaab*. What we are seeing as a result of that is several refugees on a daily basis who are crossing the border to come to this country. We cannot be able to tell without checking very carefully whether these ones that are coming are genuine refugees or not. It may be very well that they are *Al Qaida* elements, because *Al Shabaab* and *Al Qaida* work together. In Somalia, there are also foreign fighters. This is the kind of situation we are dealing with. It has, therefore, become necessary that we must enhance patrols on the border between Kenya and Somalia.

Mr. Temporary Deputy Speaker, Sir, those who come from Mandera will tell you that when this fighting began and there was that exchange between the TFG troops and the *Al Shabaab* troops, a number of these *Al Shabaab* and others attempted to cross the border. In the process of fighting, there was some collateral damage which affected some of our people in Mandera. It therefore became very necessary that we had to boost the number of our own military troops. We had also to boost the number of police; both regular and administration and ensure that these troops or security personnel have mobility so that they are able to quickly respond to any danger. This money has gone to ensure our own security along that border. It is not a short border; the border between Kenya and Somalia runs slightly more than 800 kilometers and all these people were trying to infiltrate into this country. So you do require means of quick transport. You do require all sorts of sophisticated gadgets to be able to detect guns and all other kinds of weapons. We have had to do this because we cannot take things for granted when we find that our own border is being threatened by people who have got no respect for human lives.

It is our responsibility to do everything it takes to protect our own people. We had to use resources expeditiously and properly. That is being done and can be accounted for. But at the same time, we cannot refuse to use resources and yet our people are dying. All the investments that have been made here would have been destroyed. We also know that if the *Al Shabaab* and others had the opportunity, they are also targeting a number of our strategic installations in many other places. I do not want to go too far because it is not my intention to frighten Kenyans. Therefore, an increase of surveillance and intelligence gathering must also be boosted. Therefore, this particular factor of enhanced security is precisely supposed to safeguard the security of this country and even much more important, the integrity of our boundary with Somalia.

Mr. Temporary Deputy Speaker, Sir, I am also quite happy that resources that were important to augment the salary increase of the police have also been put in place. This is in accordance with the police reforms that are taking place now. We are committed to making sure that the major reforms will be entrenched in the police so that we are able to have a police that is able to work with the people; a police that is efficient and properly trained. I do not want to report here that we have gone a very long way in the police reforms. For example, two days ago, we were able to launch the new curriculum of the police because you would not be able at all to change the mind, character and culture of the police unless you introduce an appropriate curriculum. That is what we are going to do and that is the way to move.

Let me also inform hon. Members that to demonstrate that we are really serious on the police reforms, already there are four Bills which we have prepared which have

been presented to the stakeholders. They have been validated and they have also been submitted to the Constitution Implementation Commission (CIC), so that from there, they can be brought here. These Bills are first and foremost to ensure that we do have a new Police Service Commission. Policemen and policewomen will not just be ordinary civil servants.

I beg to support this Motion.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, with a very heavy heart, I want to oppose this Motion.

First of all, I wish for a time in this Parliament when we will have no submission of Supplementary Estimates because of our planning system. We have made it a habit year in, year out, because of poor planning and poor management, to come and change the budgets that we passed in June just because we are not sticking to the timelines.

I know we have shortages and shortfalls of Budget, but one thing I would want to say is that, we would like to have a time when the Minister for Finance would come to this Parliament and say: “We have realized extra revenues and we would want to allocate these monies to other development projects in this country”.

Mr. Temporary Deputy Speaker, Sir, the issues of drought and other emerging issues were things which were well known within this Government even before the Supplementary Estimates were thought of. The Prime Minister himself stood in this House and anticipated that because of the weather focus by Meteorological Department, there would be drought. Why would we have to wait until March for us to be told that we need to allocate some extra Kshs5.5 billion towards drought? One pertinent issue is that, if the recommendations and resolutions by this House are to be taken seriously, then we would think of a reason why we should come and discuss budget issues and motions that are brought by the Ministry of Finance.

Mr. Temporary Deputy Speaker, Sir, there is Kshs5.1 billion accruing for the Constituencies Development Fund (CDF) since 2006/2007, 2007/2008, 2008/2009, 2009/2010 and even 2010/2011. I know the Deputy Prime Minister and Minister for Finance says that he has allocated some extra Kshs5.4 billion towards ESP. There are monies owed to CDF; commitments that were made by this Government, commitments which are in raw form because the CDF is not supposed to be anything less than 2.5 per cent of the revenue. Monies have been kept in Treasury for the last many years. As a committee, we went extra lengths discussing with Treasury the way for them to release this money and they promised that come March, in the Supplementary Estimates, all monies that are due for CDF, the Kshs5.1 billion, would be released.

Besides, we moved a Motion in this House and passed a resolution that the Supplementary Estimates must contain – because it is in law – the Kshs5.1 billion accrued for CDF but there is nothing. There is only Kshs177 million which the Ministry of Finance thinks is due to CDF. They want this House to easily pass the Motions they bring without taking its recommendations seriously. I wish the Deputy Prime Minister and Minister for Finance withdraws this Motion and goes to draw a Motion that is in line with the Motions and resolutions that we passed in this House, including submitting the Kshs1.5 billion for the CDF.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to differ with my colleagues and oppose this Motion.

The Minister of State for Public Service (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion as much as the former speaker had a valid point; that what is owed to CDF should have been taken into account.

Mr. Temporary Deputy Speaker, Sir, I think the Minister has really tried. I am aware of the pressures that the Treasury has got in trying to allocate the resources. The adjustments of about Kshs30 billion in this particular Supplementary Estimates are really fairly minimal considered with what I used to see in past Supplementary Estimates. So, the financial management is a lot improved in the Treasury as of now. I am particularly happy with the attention that Treasury is giving to human resource issues, particularly the payments of commuter allowances, payments to the police and additional payments to the teachers. As much as what we have been requesting is much higher than these figures, the Treasury is giving due regard to human resource capacity building, training and motivation and due care to all the employees in Government.

Mr. Temporary Deputy Speaker, Sir, much of the reduction of Kshs30 million is actually in the Development Expenditure. You will find that a lot has been taken out of projects that could not be implemented simply because we did not have capacity on the ground for effective project management. Even with the well allocated resources for Economic Stimulus Programme, capacity was not available in terms of human resource training and development at the constituencies and in the different districts to be able to absorb these funds effectively and efficiently. So, what is allocated really is what was unlikely to be used for development purposes in the remaining period of this financial year. As much as we can argue that the reduction of Development Expenditure is going to slow the growth, I think the solution is in enhancing capacity development, so that we absorb all the development funds from Treasury and elsewhere and apply them efficiently.

Mr. Temporary Deputy Speaker, Sir, I have had very bad experience with a number of contractors. Work is disbursed but in so many districts we do not have competent contractors to use the funds effectively on the ground. We continue to lose a lot of money in leakages, particularly in procurement at the grassroots level in the district treasuries and constituencies. The faster we can implement e-Government and e-procurement the better so that we can save more than 40 per cent of what we are spending on common purchases. These are the funds that can be re-allocated for development purposes. In the scenario as it exists now, the Treasury has really done its best and the adjustments are minimal and it deserves our support.

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

Mrs. Noor: Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion.

Mr. Temporary Deputy Speaker, Sir, planning is a very important tool for one to realize a timely input and output for achievement and value for our resources. I have gone to some countries to learn best practices. The countries that I have gone to, to see their budget making process, do their budgets factoring in all issues for the whole year. There are some countries which do not even have supplementary budgets. This is because they bring on board all people who understand the budget and budget making. As a result, they foresee what the country requires. They do not have any supplementary budgets because they do proper budgeting.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister, more so, on the Economic Stimulus Package. This was a very noble programme. For the first time

in the history of this country, I have seen resources being shared very fairly and justly in the whole country. We want to congratulate and thank the Minister for doing that.

Mr. Temporary Deputy Speaker, Sir, I want also to thank the Minister for factoring in money for drought alleviation. The amount of Kshs5 billion, to me, is just too little given the kind of drought and problems that are out there. Again, this Kshs5 billion is coming too late, when many people have been affected and are suffering in the pastoralist community.

Mr. Temporary Deputy Speaker, Sir, I want to commend the Minister for looking into the issue of human resource capacity building, particularly our teachers and the police force. I have been to police camps and seen the kind of houses they live in. I have also seen the conditions they work under while protecting our lives and property. It is mindful of the Minister to really care for the police this time round. Also, the teachers of this country have cried for many years. Having been a teacher, I have gone to the streets for many years demanding for salary increments. Today, I am the happiest person because the issues of teachers, who are the human resource builders of this country, have been addressed.

Mr. Temporary Deputy Speaker, Sir, the only issue that I feel is very genuine in the Supplementary Budget is the implementation of the Constitution. That is the most genuine element of our Budget. Since we are in the reform process and in a transitional period, we need to congratulate the Minister for allocating money that is meant for the implementation of the Constitution, which includes putting up commissions, laws and reform mechanisms.

Mr. Temporary Deputy Speaker, Sir, in conclusion, there are some funds that have been in our Budget, particularly those meant for cash transfers for our senior citizens, orphans and vulnerable children of our country and the disabled persons. These funds have only reached 44 districts. They do not cover the whole country. The Minister for Finance can be taken to court by the rest of the districts that this money has not reached. That element can be violation of the Bill of Rights. It amounts to discrimination. So, in the Budget for 2011/2012 we would like to see additional funds to the Youth Enterprise Development Fund, Women Enterprise Development Fund and cash transfers for the elderly, vulnerable children and disabled persons. This is crucial and important. We would like to see those funds reach the whole country and not concentrated to only 44 districts. I am in a Committee that oversees a Ministry that undertakes this very noble project. I have gone to Ganze which is one of the constituencies where the poverty index is very low and the people who live there are very poor. The Government transfers Kshs1,500 to the senior citizens. When they saw us they celebrated our coming and told us that Kshs1,500 was good money. They also told us that if the Government could reach vulnerable people like them then it would be a wonderful and noble project. If Kshs1,500 can make an old man in Ganze very happy, then we have a responsibility as a House and Treasury to enhance this programme so that it can reach every vulnerable person in this country.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support this Motion.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, with a heavy heart, I also join hon. Dr. Nuh in opposing this Motion.

Mr. Temporary Deputy Speaker, Sir, I have three reasons, which if corrected then I will support this Motion. I will request the Deputy Prime Minister and Minister for Finance to withdraw this Motion. He should make the following three corrections, and then I will be very comfortable in supporting this Motion.

One, the laws of this country must be respected. We have said this and repeated it severally. The CDF Act is still and remains valid as law of this country. The CDF Act has been violated by the Ministry of Finance without any good reason. The Ministry promised that, at least, half of the withheld Kshs5.1 billion would be factored in the Supplementary Budget. Why is that not put in the Budget? Where he has got money for the enhanced security, which we need, is not captured here? We should also get money for development in the rural areas. Where he got Kshs1 billion for the National Security Intelligence Service (NSIS) is not even explained.

Mr. Temporary Deputy Speaker, Sir, the adjustment I would want the Minister to do before I support this Motion is on the item dealing with shuttle diplomacy. I am opposed to shuttle diplomacy. It is ridiculous for me to be present in a House that will approve the money which the Vice-President and Minister for Home Affairs spent in shuttle diplomacy. If you look at the provisions for the Office of the Vice-President and Ministry of Home Affairs, travelling has been increased by Kshs200 million. It has been increased from Kshs60 million to Kshs260 million. That is purely, shuttle diplomacy. How can I say I am not supporting it, but come to this House to approve a Budget with that money? I say, no to this Motion, Mr. Minister. I cannot support this. I will walk out here to mobilise my colleagues to see if we can shoot down this Supplementary Budget. The Minister should listen to some of us who want you to make these adjustments. Please, the money you have spent on shuttle diplomacy, do not call us to prove it. Look for other sources, where you can find it. I am not going to append my signature to that.

Lastly, you are giving the NSIS additional Kshs900 million, close to Kshs1 billion for what? Explain! You are telling us it is for general administration and planning, what is this general administration and planning with NSIS? This is where the Government puts money, which does things that we do not know--

Mr. Chachu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to engage the Minister in discussing the national security interest of this country? In any country in the world, what the NSIS does is in the interest of the national security. It is not something for public discussion. So, is it in order?

The Temporary Deputy Speaker (Mr. Imanyara): In fact, there is nothing out of order. That is why it is on the Order Paper.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, the hon. Member should realize that I am not discussing the operations of the NSIS. What I am asking is why there is that big increase. If the Minister cannot explain it here, publicly, he can still choose to explain it to the Committee of the House in camera.

I am not talking about the operations of the NSIS. I do not understand why in midstream he can increase the Budget for NSIS by Kshs1 billion, unless this money is meant for something that the Government wants to hide from this country. This money is unnecessary. I would caution Members of Parliament that we need to be very careful when we are passing Budgets. Let us not just pretend that some Ministries cannot be probed. That it is important to hide. We cannot hide public funds. We have to explain them.

Mr. Kioni: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for this Member to continue urging that the Vote of the NSIS has not been discussed? I sit in the Departmental Committee of Defence and Foreign Relations, and we had engaged the Director of the NSIS----

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! I have listened to the Member very carefully. He has not said it was not discussed. It is about the increment of the Kshs900 million, which is contained in the Supplementary Estimates.

You are out of order. Continue, Mr. Mbadi!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I will urge the Government to always be careful when they are making provisions. There is something that is very important. You know, when the Minister presented his Budget, he is on record telling this House that there would be austerity measures that he would introduce to ensure that they cut down on certain costs of hospitality, training, foreign and domestic travel. However, if you look across all Ministries, you will realize that foreign travel, domestic travel and training have all gone up. Was the statement that the Minister gave to this House just a public relations exercise, or it was a statement that was well thought out?

Mr. Temporary Deputy Speaker, Sir, there is also something that I wanted the Minister to explain. Under the Ministry of Finance, you will realize that this country is investing in African Re-insurance Corporation, additional funds; Kshs159 million. I know that sometimes it is a legal requirement, but why should we prioritise that now? Can you explain to this House why we have to invest in equity participation in foreign financial institution?

Finally, the absorption rates of capital expenditure are very low. I want to ask the Ministry and more particularly the Treasury, do we have a department in that Ministry that is tracking down the reporting system by Ministries and Government agencies? The main reason why donors, probably, are not giving us money is because they realized that the absorption rate is only 31.5 per cent, yet the absorption of the Government of Kenya funds is at 82 per cent. The reporting system by Ministries and Government agencies is deficient. Why is this so? If Ministries and Government agencies have no capacity, could the Ministry of Finance take it as a priority to set up a department in that Ministry to specifically track down the expenditure on donor funds.

With those remarks, I oppose the Motion.

Mr. Njuguna: Thank you Mr. Temporary Deputy Speaker, Sir, for this opportunity to contribute to this Motion. First, I would like to thank the Deputy Prime Minister and Minister for Finance for the manner in which he has moved this Motion. In addition, I wish also to thank His Excellency for giving his consent to this Motion. I would not also forget the Treasury team that has time and again, continued to maintain the inflation trends in our country. This is good spirit, and they should maintain that.

I realized that the plight of primary school teachers will be addressed. Teachers have given notice of a national strike which will paralyze learning in our schools. Therefore, this Supplementary Estimates will address that issue. We also need to improve the quality of teaching in our schools. This is the time that that concern will be addressed.

Mr. Temporary Deputy Speaker, Sir, with regard to drugs, I would like to inform the Ministry concerned that the needy in our society are not able to access drugs in Government hospitals because Kenya Medical Supplies Agency (KEMSA) has been very slow in its procurement process. Therefore, it is important that these funds are released to

the Ministries so that important drugs can be availed to the common people in our society.

Concerning security in our country, we recently noted that there were some clashes in Somalia. I wish to commend the Government for the way it handled that predicament. On the recruitment of police officers and APs we want to indicate that this should be the fairest and most accountable exercise in this country. We have noted that police officers have been shooting one another to death. Counseling services should be improved in the police force. Security in the nation must also be improved. In this House, all the hon. Members of Parliament have been complaining of adequate transport to police officers in our constituencies. This money should be channeled to buying vehicles for the police stations and even for the newly recruited District Commissioners.

Mr. Temporary Deputy Speaker, Sir, our roads are in a pathetic condition. These funds, once released, will improve roads in the rural areas. The road network should not only be improved in Nairobi; there should be a facelift in the constituencies. Concerning the settlement of Internally Displaced Persons (IDPs), the Ministry of Finance, the Ministry of Lands and the Ministry of State for Special Programmes should develop a timeframe within which the issue of IDPs will have been dealt with to finality in this country. In my view, all the IDPs who are suffering must be settled before the next general elections. We noted that when those IDPs tried to demonstrate on the Nairobi-Naivasha Highway, they were harassed and arrested by the police. These are angry people and they should be handled with a human face.

With regard to the ESP programme, this programme was meant to eradicate poverty in our country and create employment for the youth. Therefore, allocating Kshs5.4 billion additional funding to this programme is very important. The free primary and subsidized secondary education should not be impeded as a result of Treasury not releasing enough money. This will enable these programmes continue uninterrupted with the release of these funds. Bursaries for the poor and orphaned will also be enabled for them to continue learning.

Mr. Temporary Deputy Speaker, Sir, we have noted that accommodation in our prisons is horrible and their housing standards should be improved. You also note that the price of fuel has gone up. Kerosene has become un-affordable. You also realize that our people cannot go to the forest because they are protected areas. Therefore, the peasant Kenyan must be facilitated to access kerosene. I believe the Government has the necessary muscle to reduce the price of kerosene so that the common *mwananchi* can be able to enjoy freedom in our country.

Concerning the review of salaries for civil servants, this will go a long way to motivating and even enhancing performance in Government departments.

I, therefore, fully support these Supplementary Estimates.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, with a heavy heart, I rise to oppose this Motion. I want to clarify from the outset that I want to oppose not with a view of rejecting in total the Motion, but with a view of according the Minister an opportunity to withdraw this Motion so that he can take corrective action.

I want to start by commending the Deputy Prime Minister and Minister for Finance for a job well done. This financial year, despite the difficult times, he has navigated well and, indeed, the economy is at its best in the circumstances. Sometimes back representative Members of this House had a discussion with the Minister and he

promised that he would take their sentiments into consideration during this Supplementary Estimates. Today, going through the Estimates, the promise has not been lived up to. It is only fair that the Minister considers honouring his promise. He can easily do this by withdrawing these Estimates and bringing them next week. We will pass them with ease.

Mr. Temporary Deputy Speaker, Sir, having said that, I have certain reservations to make on the Budget as revised. In the revised estimates, some Ministries like the Office of the President and the Ministry of Foreign Affairs are proposing to buy new vehicles. We are just three months away from a new financial year and I do not think this is an emergency.

Secondly, I have noticed that a lot of money has been withdrawn from the Development Expenditure, particularly in the Ministry of Roads. This is highly regrettable when the Department of Kenya National Highways Authority is losing money which we know would have gone a long way in promoting the economy of this country. This money is leaving Development Vote and going into Recurrent Vote. A major beneficiary here is the resettlement of squatters and IDPs. Much as those are noble causes, I wish the Minister could focus on much more productive expenditures as espoused in the Fiscal Management Act.

The Ministry of Lands, for example, has a potential of generating Kshs5 billion annually if only the Treasury facilitates it. I know requests have been made repeatedly that the computerization of the Registry of the Ministry of Lands be undertaken. This is very critical in the face of the fact that with devolution coming, most of these counties are going to depend on the property taxes. The more this capacity is devolved to the county levels, the better prepared this Government is going to be, to actualize devolution.

Mr. Temporary Deputy Speaker, Sir, I also note with concern that the Minister initially allocated Kshs8 billion to the Youth Enterprise Development Fund, and to the Small and Micro-Enterprises Fund. This money has now been re-allocated. With that money, the Minister can fill the gap we are talking about.

I want to conclude by referring the Minister to the Vote of the Department of Defence (DOD). The DOD is a major beneficiary in these Supplementary Estimates. Time and again, this House has been treated to the drama of security. No one has been dramatising the issue of security better than the Minister of State for Provincial Administration and Internal Security, Prof. George Saitoti.

Mr. Temporary Deputy Speaker, Sir, we appreciate the need to have security in this country. However, we must feel secure. In Rangwe Constituency, my greatest challenge is insecurity. People die in my constituency but no arrests are made. I always vote money here to go into security after having been persuaded that security in this country is going to be enhanced but the end result has always been that I never feel secure, together with my constituents.

Today, we are being told that this country is facing an eminent threat from Somalia and, therefore, a whole Kshs3.4 billion has been allocated to the DOD. Looking at the allocation to the DOD, you will see that about Kshs1.9 billion has been allocated to the General Administration Services Sub-Head and about Kshs4.6 billion, to the Armed Forces Services Sub-Vote. My concern in this area is that Kshs1.9 billion was allocated during the substantive Budget and now, out of this amount, a total of Kshs1.1 billion is

being re-allocated. It is inconceivable that, that amount was necessary then but today it is not necessary.

Mr. Temporary Deputy Speaker, Sir, another thing I want to add my voice to is on the expenditure of the National Security Intelligence Service (NSIS). I know how critical the NSIS is to this country, and I appreciate the role they are playing. However, the work of the NSIS has to do with intelligence gathering. The NSIS does not undertake any development projects. Therefore, its recurrent work is foreseeable and is always adequately budgeted for.

Therefore, for them to come here three months to the end of the financial year and request for another Kshs1 billion is ridiculous. I am aware that, today, we are not permitted to inquire into this matter, but common sense demands that money is spent where it gives value to this country.

Therefore, I want to persuade this House that this Motion be withdrawn, so that the Minister can factor in the CDF money that we are requesting, because analysis has shown that 70-80 per cent of the CDF money normally impacts positively on the lives of the people of Kenya. Out of the Central Government expenditure, only thirty per cent impacts to the welfare of Kenyans.

With those remarks, I want to persuade this House to reject this Motion.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I support the Motion with reservations about the CDF money. Treasury owes us some money, under the CDF and we need it.

Having said that, I support the Motion for three main reasons, namely; the funds that the Minister has committed for the ESP, drought mitigation and infrastructure development, and particularly on roads. A sum of Kshs5.5 billion has been included in the Supplementary Estimates for the ESP. This programme is well defined and has been well executed in this country. In one of my districts, I did not have a single secondary school for girls. Now, under ESP, I have a girls secondary school, which this year, admitted the first 30 students.

Mr. Temporary Deputy Speaker, Sir, I did not have a single hospital in the whole constituency. Now, under the ESP programme, the health centre we are building will eventually become the district hospital in North Horr Constituency. This is a major boost for the people of North Horr. For that reason, I cannot fail to support these Supplementary Estimates.

Secondly, for the last 50 years, the people of northern Kenya have never seen a single tarmac road. Construction of the first phase of the Isiolo-Marsabit-Moyale Highway has now been finished. This is a stretch of 134 kilometres, from Isiolo to Merille Bridge. The contractor is on site to start the construction of the stretch between Marsabit and Turbi, which is 95.5 kilometres and, hopefully, funds will be availed soon for the other two phases.

Mr. Temporary Deputy Speaker, Sir, unless funds are made available through such Supplementary Budgets, we cannot expect our Government to implement these major projects. For this, I cannot fail to support this Motion.

Finally, the drought is a major crisis at the moment. Most people have lost their livelihoods. Some have even lost their lives. We have lost millions of sheep, goats, camels and cattle. For this reason, the Government needs to do something. The Government has already done something but it is not enough. A lot needs to be done in

the water sector, provision of food aid, livestock off-take programmes, provision of hay as well as livestock specialists-related interventions.

Mr. Temporary Deputy Speaker, Sir, it is important to note that Kshs5.5 billion has been set aside in these Supplementary Estimates to ensure that those Kenyans who are so vulnerable to the drought are taken care of. This is a very good gesture on the side of the Government. For this, I cannot fail to support this Motion.

I mentioned my reservations from the outset, about the funds for the CDF, amounting to about Kshs5 billion, which have accrued for the last few years. This is money which has been given to the constituencies by the law. We demand this money. I hope that Treasury will consider this and do what is necessary to ensure that we get what was given to us lawfully.

With those few remarks, I beg to support the Motion.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I also wish to support this Motion so long as the CDF is factored in the Supplementary Estimates. At the moment, I will not support it if this is not done, because this is the money which has made a lot of difference in the lives of the people of Kenya. The CDF has made much more difference in the lives of the majority of the people of this country than any other devolved fund from any other Government department or Ministry.

While I commend the Minister for running a very sound micro-management system of our economy, and thus enabling the economy to grow to the current level, I believe that this should be the last time he has brought Supplementary Estimates to the House. In future, he should bring Supplementary Expenditure, based on surplus. What he is simply doing is denying the economy the ability to grow and create jobs for our children. Seventy per cent of Kenya's population is composed of youths. Where are they going to get employment from?

We will only end up with riots every year, leading to destruction of what we are trying to build, simply because we are not providing for the youths of this country. So, every programme that has been given to a particular Ministry to run should have been run properly such that the money provided is used for the purposes it was provided for. When we re-allocate money from a department or Ministry, it means that those who requested for those funds did not know what they were doing. They were simply requesting for the money so that they could have it with them. Ministries that re-allocate money from the accounts that they have should actually be considered in the next financial year.

Mr. Temporary Deputy Speaker, Sir, I am yet to see rehabilitation of forests taking place, in particular I am talking about the Mau Forest. Last time there was a big row between the Prime Minister and the Minister for Finance on who is telling the truth. The people in my constituency and other constituencies in the south of Mau have no water to drink. People are migrating to other places simply because people are playing politics with their lives.

The most crucial thing for that part of Kenya is to rehabilitate the Mau, so that we can have rain. When we have rain everybody is happy in this country. There are no problems and people can hold rallies and do whatever they are doing.

Mr. Temporary Deputy Speaker, Sir, the issue of the Mau Forest is so crucial. Funds must be allocated and in particular the issue of resettlement of the current IDPs and squatters must be looked into. I want the Minister and the Government to understand that trying to buy land in an area that belongs to other people---

The people of Narok and Kajiado have been marginalized since Independence by the colonialist. They continue now to be marginalized even by the current Government. The Government wants to use taxpayers' money to cause insecurity in those places. I would urge the Minister for Finance not to allocate money for procurement of land by the Ministry of Lands in areas where this is likely to bring about insecurity. Otherwise, we are doing nothing. We are going back. People will be killed and they will not live in peace in those areas.

Mr. Temporary Deputy Speaker, Sir, a lot of politics in Kenya today is about the Ocampo Six. I wonder why a country like Kenya which has a problem of health, poverty and so on would spend a lot of money to hold rallies all over the country to incite people. You hear a Minister saying: "If so and so is locked up in The Hague we will strip naked." I would like to see all the Cabinet Ministers coming to strip naked here before they tell the women of Kenya to go and strip because somebody has been locked up.

Mr. Temporary Deputy Speaker, Sir, we must be more serious. This issue of the International Criminal Court (ICC) and security is not about one community. Leaders should not turn themselves into tribal chiefs. That is what they are doing as if nobody else matters in this country. Let them go and answer for whatever crimes they have committed, if they have done any, or come back home, so that we can all develop this country.

Mr. Temporary Deputy Speaker, Sir, on the issue of droughts, we see on television women who have no food. They just lie on the ground waiting to die. It is a shame that we are spending a lot of money dealing with issues that are not related to the development of the society.

Mr. Temporary Deputy Speaker, Sir, our duty under the new Constitution is to ensure that our people have enough food to eat. Whenever they are, they have the right to survive. However, nobody seems to care about these people.

I would have wished to see more allocation going to drought mitigation and buying of livestock for those people who lost them or even restocking them. More funds are needed to feed our people who are dying because of hunger. Surely, that is a moral duty. It is a duty that every government must meet, otherwise, the whole world today knows people in Kenya are dying because of poverty.

Mr. Temporary Deputy Speaker, Sir, we must learn to grow this economy. Every time we talk about Kenya being a very important country for investment, but we are yet to change the laws to try and address this matter. Many investors are relocating to other countries where there are friendly laws which are conducive for investment. Here we are not addressing some of these issues. It is time that Members of this House should really consider ensuring that any development in this country must take priority much more than the case now whereby we are using a lot of money to address a lot of issues.

Today the police have been allocated a lot of money in the Supplementary Estimates. I support this because unless we have a police force that is able to protect this country, we will not be able to do much. I would like to see the Minister buy them security equipment and other facilities. He should also use some of these funds to retrain our police officers because the nature of warfare has actually changed. We are dealing with people who are well trained in organized crimes, terrorism and so on. We should also motivate them so that they are able to do their work knowing that their families are comfortable.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I wish to support on condition that the Minister will withdraw this Motion and incorporate CDF money.

Mr. Kiuna: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion. I will begin by thanking the Deputy Prime Minister and Minister for Finance for bringing this Motion.

Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion using the following points: First of all, we need to speak as national leaders. We need to know that we were elected in this House to represent Kenyans. Here, we are speaking on behalf of other Kenyans who cannot be in this House.

Mr. Temporary Deputy Speaker, Sir, when it comes to the Ministry of Education we have our children and teachers who are in dire need of funds. With regard to the Ministry of Health, we need to have enough medicines to cater for our sick population. Many of us who visit various hospitals know how deplorable our health facilities are. Patients are sharing beds. It is pathetic. I would urge that we, as leaders, not to just support or oppose the Motion for the sake of it. Let us reason out.

Mr. Temporary Deputy Speaker, Sir, one issue which really irritates me is the issue of IDPs. Many people have been talking about them. Wherever we go we talk about this issue. We have talked about this issue long enough. By now, I thought we should have concluded it. These are Kenyans just like any other Kenyan in this country. They have suffered more than enough. They should be resettled once and for all in any part of this nation. However, some leaders are using the issue of resettlement of IDPs to fight for political supremacy.

There is this issue of resettlement of IDPs of Mau Forest. It has been in the media and people have been talking about it for a long time. I would like the Minister of Lands to tell us why some leaders are opposed to IDPs being settled on land in Mau Narok which was bought by the Government. This is Government land. I do not see why any leader worth his salt should try to prevent the IDPs from settling there. I feel so much mistreated when I see some people from other regions saying that IDPs cannot be resettled in Mau Narok.

Mr. Temporary Deputy Speaker, Sir, I urge that we look at the Ministry of Livestock Development. We had drought the other day and we lost many livestock. That happened and yet, we have a Minister in charge of livestock. The Ministry should be well informed and equipped during the rainy season so that, when the drought comes, it can buy the livestock from the pastoralists. That way, the pastoralists will not incur losses during the drought.

With those few remarks, I beg to support the Motion.

Mr. Magwanga: Mr. Temporary Deputy Speaker, Sir, I rise to oppose this Motion, on the following grounds. A Government that only supports the recurrent costs--- We know very well that proper planning means a well planned Government that can move a country forward. But in this case, supplementary estimates are meant for emergencies. In this case, we know very well that the Government planned. The Ministry came up with a Budget which we passed in June and we approved it. But in the month of March this year, we are being told that we need to fund some activities like security. The Minister of State for Provincial Administration and Internal Security knows very well that the Kenya boundary has been porous for quite some time and they ought to have planned for that. In a case where we see a lot of money going to the recurrent

expenditure, we know that it might not be spent well. On this account, I rise to oppose and say that let more money be allocated to development expenditure.

Mr. Temporary Deputy Speaker, Sir, I also want to oppose this Motion on the ground that a number of farmers have already planted in this country as we are talking. We are being told that some money is meant for subsidized fertilizer. Who is going to benefit from that subsidized fertilizer when a number of farmers have already planted? It is coming too late and farmers who ought to have benefited have already suffered enough in this country. I also want to bring an issue here that the security department got an allocation of over 30 per cent of the resource allocation in this country, whereas the Constituencies Development Fund (CDF) got only 2.5 per cent.

Why should the Minister find it fit to allocate some supplementary estimates to the Ministry of State for Provincial Administration and Internal Security which got a lion's share and deny the CDF allocation which got the least share? I can term that to be very unfair to CDF. The CDF falls under the Ministry of State for Planning, National Development and Vision 2030 and it was given a raw deal. I would urge the Minister to make a provision for the CDF. The Act is very clear about the CDF. The Ministry must act speedily and keep its promise in order for it to be trusted. On that note, I want to urge the Minister to withdraw this Supplementary Budget and factor in the CDF allocation and we will definitely support it. I know very well that we have the plight of teachers and the police of this country at heart. But, kindly, bear in mind our constituencies. We also have problems in our constituencies which should be taken care of by the Treasury. On that note, I wish to oppose these Supplementary Estimates on the condition that the Minister factors in the CDF allocation.

With those few remarks, I beg to oppose.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to echo my support. I stand to support this Motion vehemently. We know that this country is undergoing a very severe drought and part of this money is going to be used for the purchase of the weak livestock so that the pastoralists can also gain from their livestock instead of it dying as is the case now. So, I really do not understand how somebody, in all honesty, can oppose this Motion that is going to enable the Ministry of Livestock Development to purchase the weak and the dying livestock from the farmers. I really cannot get it! However much I have tried, I really cannot understand.

This budget is also going to the Ministry of Agriculture for the purchase of fertilizer. Again, I do not understand how somebody, in all honesty, can oppose this Motion on the Supplementary Estimates, which is going to enable the Ministry of Agriculture to purchase the fertilizer which is already here. Fertilizer may not have been given to farmers in good time but we accept that. But it is more of a distribution problem rather than the actual purchase. For that, we are grateful to the Ministry of Agriculture.

This money is also going to purchase seeds for the farmers. In all honesty, how can somebody oppose the purchase of seeds for farmers? Those are the people we depend on; they need to get those seeds so that they can be able to plant and harvest at the end of the day. Some of the money is going to pay salaries to teachers and policemen who are working so hard to give us protection. I think it would be a slap on the face if we were to refuse to support the payment of the increased salaries to the policemen. We must also commend the Deputy Prime Minister and Minister for Finance for the wonderful job that

he is doing in the Ministry. We will recall that in 2008, our growth went down from 7.1 per cent to 1.7 per cent. We are back on track now, at 7.1 per cent. All this has happened through the efforts of the Deputy Prime Minister and Minister for Finance. Last year, he came up with a very unique concept of economic stimuli and, except for some teething problems here and there in some Ministries, most of them have taken off and they are almost on the verge of completion. So, we must commend him for that very noble gesture that he extended to jumpstart the economy and it has worked. Therefore, we must be grateful to him and commend him. That shows what he can do if he is given more responsibilities by the State. He can do more. Therefore, we need to commend him and encourage him to proceed.

Mr. Temporary Deputy Speaker, Sir, now that I am mentioning the Deputy Prime Minister and Minister for Finance, there is something that has really saddened me. I thought human beings were incapable of that: somebody partying and calling people to go and celebrate because there are some people who are going to The Hague.

Mr. Temporary Deputy Speaker, Sir, this is completely inhuman. I could not believe it when I was told that it was actually happening. Even if you support the Ocampo Six going to The Hague, at least keep quiet if you cannot shed crocodile tears. I think it is really better for somebody to shed crocodile tears instead of celebrating---

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): I hope you are not one of the people who celebrated.

Mr. Konchella: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is part of the incitement we are hearing from the people in the Government. If there is anybody who is celebrating, then he must name them here because it is not only immoral but it is inhuman.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Minister! In any case, you are irrelevant. Please, be relevant to the Motion before the House!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir. Again, what we are saying is that it is important that we support this Motion. Part of the money is also going to help resettle people. However, in principle, and I want to be very clear, we are in one sovereign country. The Constitution allows any person to buy land and settle anywhere in the Republic of Kenya. The Constitution allows you to marry from any part of the country. The Constitution allows you to work in any part of the country. If we say that the Government cannot purchase land in certain areas because the communities in those areas do not like it, are we in the same country or in different countries? In principle, we must support the efforts of the Ministry in resettling the Internally Displaced Persons (IDPs). It is some of the people in this House who were actually inciting their communities – chasing away the surveyors and demonstrating. In principle, the Government should buy that land. Otherwise, if we say that the Government cannot buy land in some areas, then we are not in one country. It is really sad that a hon. Member in this House can say that the Government should not buy that land. When the land was being bought by the *mzungu*, how come there were no demonstrations? When the land was being bought by the *mzungu*, how come the surveyors were not being chased? When the land was owned by the *mzungu*, how come that they owned community land? Has it become community land because the Government has bought the land? These are some of the hard questions

that we must ask and answer. Are we in the same country? Are you entitled to buy land anywhere in the country? Are you or not? These are some of the things we need to say clearly and specifically.

Otherwise, I would like to commend the Deputy Prime Minister and Minister for Finance for a job well done. He has revived the economy. Foreign investment has increased in this country. The only thing which is wrong is our politics which is impacting negatively on our economy.

With those words, I support this Motion.

Prof. Kaloki: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this very important Motion; 2010/2011 Supplementary Estimates. The reason I am particularly persuaded to support this Motion is because these particular estimates contain some areas whereby we are going to benefit, particularly my area, Makueni County and especially my constituency which is Kibwezi. My area, at the moment, is faced by severe drought, whereby my people are going without food. These particular estimates provide a budget for dealing with or supporting the relief food, water, construction of dams and other areas whereby my people will be able to survive through the drought period.

Mr. Temporary Deputy Speaker, Sir, the estimates also contain infrastructure development to be able to support the development of this country and to keep up with Vision 2030. We cannot delay the passage of this particular Motion even for a day; we must pass it today. I am just urging my colleagues to pass this particular Motion today. By doing so, we will be able to get funds to complete the Economic Stimulus Package (ESP) programmes that are going on throughout the country. We will also be able to move very quickly and settle our IDPs.

Mr. Temporary Deputy Speaker, Sir, also, there will be adequate funds in the budget to deal with title deeds and other areas whereby our people will be able to benefit.

With those few remarks, I urge my colleagues to pass this Motion so that the Minister can move forward and continue with the development of the country.

The Temporary Deputy Speaker (Mr. Imanyara): Where is the Minister for Finance? Mr. Minister, are you ready to respond?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Thank you, Mr. Temporary Deputy Speaker, Sir. I was just consulting with my colleagues.

I want to take this opportunity to thank Members of Parliament for the very useful comments that they have made with regard to the Supplementary Estimates. I want to thank them for both the support they have given for the initiatives that we have undertaken in the Supplementary Estimates and also for the concerns that they have raised on issues that they thought should have been given more attention.

Mr. Temporary Deputy Speaker, Sir, in this regard, I want to particularly refer to the issue of the Constituencies Development Fund (CDF) where we have been consulting quite widely with Members of Parliament and indeed, with the CDF committees. There has been the issue of outstanding arrears over a period of years amounting to Kshs1.8 billion. I wish to give this House my personal assurance and also my undertaking that this issue will be redressed once and for all in the upcoming 2011/2012 Financial Year, so that we can put this issue firmly behind us.

Mr. Temporary Deputy Speaker, Sir, on the other issue relating to CDF, I also undertake that we shall continue discussion with the CDF committee to ensure that all

matters pertaining to this issue are finally put to rest so that this noble programme can continue to benefit Kenyans in every part of this country.

Mr. Temporary Deputy Speaker, Sir, a number of other issues, have also been raised with regard to poor implementation. This is an issue, especially with regard to donor funded projects. This is an issue that is of great concern to the Treasury. Discussions have been also ongoing with donors because it is a fact of reporting problems on the part of line Ministries but there are also problems on the part of donor agencies that are lending us this money. However, we have agreed on a framework with our donor partners and all line Ministries to see how this can be streamlined and improve the issue of absorption going forward.

Mr. Temporary Deputy Speaker, Sir, there was an issue with regard to equity participation in international organizations and in particular, with reference to the African Development Bank (ADB). It is important that we, as a country, continue to subscribe to those organizations because ultimately, we have seen over the last few years, with regard to ADB, where disbursements to our development programmes and agenda have continued to increase year in, year out. Therefore, the participation of the Kenyan Government in equity participation in these organizations is indeed quite important.

Mr. Temporary Deputy Speaker, Sir, there was an issue on the reductions and reallocation in the Office of the Deputy Prime Minister and Ministry of Finance. A lot of that has to do with the fact that the contingency fund, the budget reserve and the drought reserve are all domiciled in the Office of the Deputy Prime Minister and Ministry of Finance and once disbursements are made, they tend to affect or reduce the overall allocation to that Ministry.

With regard to issues raised under the Ministry of State for Provincial Administration and Internal Security, I think the National Security Intelligence Service (NSIS) and the security-related issues were well explained by the Minister of State for Provincial Administration and Internal Security. I believe that the relevant committee has the capacity to get the details from the line Ministry as to the disbursements for security-related issues.

Mr. Temporary Deputy Speaker, Sir, equally, a number of issues were raised with regard to poor planning but at the end of the day, we have done our best to ensure that we stick to the Budget that was approved by Parliament. However, there are some circumstances that are well beyond the control of the Ministry or even line Ministries. As I said in my moving notes, some of the factors that have resulted in a reduction in the revenue that we expected to raise are exogenous and are beyond the control of the Government. This is because they are as a result of factors of things happening outside our country and well beyond the control of this nation.

With regard to the poor implementation of various projects, like I said, we have a committee that is working on that. I believe that this situation will ultimately be improved in years to come because our ultimate objective, especially as we move towards programme budgeting is to ensure that the Budget or the appropriations that are made when the Budget is made are strictly adhered to and Ministries abide by that which shall have been approved by Parliament.

Mr. Temporary Deputy Speaker, Sir, that amongst many other issues, some of which we will be dealing with substantively in the upcoming Budget--- I want to assure

hon. Members that their points and comments have been taken on board and will, indeed, be looked into and considered as we move forward.

With those few remarks and especially with regard to the issue that I have mentioned concerning the Constituencies Development Fund (CDF), I ask hon. Members to support the Supplementary Estimates and we continue working together towards improving financial management and allocation of resources in this country.

I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, we have come to the end of today's sitting. Therefore, the House stands adjourned until tomorrow, 31th March, 2011, at 2.30 p.m.

The House rose at 6.00 p.m.