

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 26th May, 2011

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Abstracts of Accounts of the Town Council of Lwanda for the 15 years ended 30th June, 2003 and the Certificate thereon by the Controller and Auditor-General.

Financial Statements of the County Council of Nandi for the year ended 30th June, 2009 and the Certificate thereon by the Controller and Auditor-General.

Financial Statements of the County Council of Makueni for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Financial Statements of the Town Council of Mariakani for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Abstracts of the Accounts of the Town Council of Mandera for the year ended 30th June, 2007 and the Certificate thereon by the Controller and Auditor-General.

Financial Statements of the Town Council of Kwale for the year ended 30th June, 2009 and the Certificate thereon by the Controller and Auditor-General.

Financial Statements of the County Council of Taita Taveta for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Abstracts of the Accounts of the Municipal Council of Kericho for the two years ended 30th June, 2003 and the Certificate thereon by the Controller and Auditor-General.

Abstracts of the Accounts of the Town Council of Kericho for the year ended 30th June, 2004 and the Certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and
Communications (Mr. Khaniri) on behalf of the Deputy
Prime Minister and Minister for Local Government)*

QUESTIONS BY PRIVATE NOTICE

OCCUPATION OF KENYAN ISLANDS
BY UGANDA SECURITY FORCES

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that Ugandan security forces still occupy Migingo Island in Lake Victoria despite an agreement between the Governments of Kenya and Uganda, and that the Uganda Government has continued with expansionist policy on Kenyan soil and waters by illegally taking occupation of Ugingo, another Kenyan island next to Migingo?

(b) Why has the Government failed to reclaim Migingo Island even after Parliament passed a Motion urging the Government to use all means possible to reclaim the island on 27th May, 2009?

(c) Could the Minister explain, giving timelines, the steps the Government will take to reclaim Migingo Island and any other Kenyan island occupied by foreign forces?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Mbadi, we have communication from the Ministry that both the Minister and the Assistant Minister are on official business outside the country.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, you realize that this is a Question by Private Notice. This Question came before this House more than two weeks ago. The Minister wrote a letter requesting that this matter be deferred until today. Now, if this Question is, again, deferred because the Minister and the Assistant Minister are away, then we will not have done justice to my Question. This is an urgent Question. For a Question to be classified as a Question by Private Notice, it must be urgent in nature. Certainly, from the reading of this Question, it is urgent. So, I really do not know why the Government is taking this Question lightly by not addressing it. If the Minister and his Assistant Minister will not be available, why could the Government not delegate this matter to another Minister, so that this Question is disposed of?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Mbadi, I agree with you entirely and I recall that this Question was actually deferred. It is up to the Government side to come up with a solution. Who is acting for the Leader of Government Business? Is there any explanation? Even if the Ministers are away, it is still the Government's decision and any other Minister should be able to answer the Question.

The Minister for Public Works (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, we appreciate the urgency of this Question and the fact that it touches on national security. We will liaise with the relevant Ministry to ensure that this Question is answered even if the relevant Minister is not present.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I just want to state a point that I did not raise in my earlier point of order. At that time, the Minister even indicated that he needed time to consult with other Ministers. I expected that even if the Minister for Foreign Affairs is not present, then one of the other two Ministers could have answered the Question. However, meanwhile, if the Minister for Public Works is really and truly representing the Government side, could a corrective measure be taken? Could he guarantee this House that my people are not going to be harassed in Migingo and that they will use other means outside Parliament to make sure that the makeshift structures that the Ugandans are putting up on Ugingo Island are removed immediately? You really do not need the Floor to do so. It is out of frustration that I brought this matter here. Could he, having stood on behalf of the Government side, guarantee me the security of my people?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mbadi! We have heard you. Ordinarily, I would not have entertained that. However, given that this is a Question by Private Notice and it was actually postponed previously, and also given the gravity of the problem, I think those are legitimate concerns that the Government may consider to address even before you formally ask the Question.

I, therefore, rule that because of the nature of the Question it should be answered on Tuesday afternoon whether the responsible Ministers are present or not. Let the Leader of Government Business undertake that responsibility.

The Minister for Public Works (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, we will certainly do so. I want to assure the hon. Member that we appreciate the significance of this particular Question and it not only concerns the people living in this island, but Kenyans as a whole. We will deal with this Question on Tuesday, next week as directed by the Chair.

(Question deferred)

ILLEGAL PARKING CHARGES AT SALGAA
SHOPPING CENTRE

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware of the new parking charges levied by the Nakuru County Council on motor vehicles transiting at Salgaa shopping centre?

(b) What specific services have been/or are being offered to justify the collection of money from the public by the Council?

(c) What legal action will the Minister take against the officer(s) charging the fees and could the Minister stop further charges until services that justify the collection from the public by the Council are rendered?

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

(a) Yes, I am aware of the new parking charges levied by the County Council of Nakuru on motor vehicles transiting at Salgaa Shopping Centre.

(b) The County Council of Nakuru offers continuous services of refuse/garbage collection and maintenance of drainage works at Salgaa Shopping Centre. The Council also strives to keep in order and harmonious operation the activities within the shopping centre. In addition, the Council has for the last four years undertaken the following projects within the Boror Ward which covers Salgaa Shopping Centre:-

- (i) Provision of three acres of land for the setting up of each fresh produce market;
- (ii) Matwiku-Mawalembo Water Project for Kshs1 million;
- (iii) Boror Secondary School classroom for Kshs2.04 million;
- (iv) Matwiku Secondary School for Kshs200,000;
- (v) Sumeek Dispensary for Kshs100,000;
- (vi) Chepseon Nursery School for Kshs311,000;
- (vii) Bursary to needy students for Kshs380,000.

(c) No action will be taken against the Council officials for carrying out lawful duties. Councils are mandated by law, Cap.265 Section 148 to levy fees and charges from the public. I, therefore, cannot stop the Council from collecting the levies.

Mr. Temporary Deputy Speaker, Sir, I want to draw the attention of the hon. Member to the fact that the County Council of Nakuru followed all the legal procedures in levying new charges at Salgaa Shopping Centre which include:-

(i) The fees and charges which were approved by Finance Committee and adopted by the full Council.

(ii) Approval of the fees and charges by the Deputy Prime Minister and Minister for Local Government.

(iii) Notification of the public by the Council through local adverts and electronic media of the intention by the Council to charge the fees.

(iv) Gazettement of the parking fees vide Kenya Gazette Notice Supplement No.59, Notice No.7282 of 8th August, 2008.

Finally, no formal complaints were submitted for consideration.

Thank you.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister says that this fees being charged on the vehicles parked along the Northern Corridor Road is a legal charge. This is not a service that has been provided within Salgaa. There is no parking in the entire Salgaa place. These people park along the road and this is the only source of market for the shop owners there. The moment they started charging, those people left and many shops have now closed down, thus, depriving all those people a source of livelihood. The Assistant Minister needs to confirm to this House that vehicles along the roadside are supposed to be charged rates because there is no parking. It is not like in Nakuru Town or Njoro.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Kigen! It is Question Time! Ask your question!

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, why is the council charging fees on vehicles that are being parked along the road, which have been the source of income to the shop owners, to the extent that they have closed down now? This is because the motorists have run away!

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, as you can see from the answer, all due process was followed. First, there was a council meeting. Secondly, there was consultation with the stakeholders. Thirdly, there was notification before we approved. Therefore, the due process was followed and there were no complaints that had been raised until now.

Mr. Kigen: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to refer to minutes authorizing them to charge parking fees, where Salgaa does not feature? Could he table the minutes which show that Salgaa is actually captured?

The Temporary Deputy Speaker (Mr. Ethuro): But the Assistant Minister did not talk only about the council. He talked about the various measures the Ministry has taken.

Mr. Nguyai: Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me. I talked about a number of issues. Obviously, there is a legal notice which I will refer to and I will bring it to the attention of hon. Member in due course.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, it is not the issue of dogmatically following the procedure but the issue is rendering services. Is the Assistant Minister aware that most councils follow that dogmatic procedure of charging levies in areas where they do not render any services? For example, they charge levies in market centres where they do not render any sanitary facilities. They also charge *boda boda* riders and yet the councils do not maintain those roads. Those roads are done by the Constituency Roads Committees. What has the Minister done to ensure that the dogmatic following of procedure is also attended by actual provision of services before those levies are introduced?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, yesterday, I did give a number of measures that we are trying to undertake. First, we have ensured that none of the councils will receive the Local Authorities Transfer Fund (LATF) until they have paid all their debts. It is after that that they will become viable councils that have the financial capacity to render services. I think it is an ongoing process. We have worked a lot on the Kenya Municipal Reform Programme and over and above that, we are also looking for the indulgence of the House as we move on to become counties to ensure that we have more viable local authorities that work.

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, is it only at Salgaa where the council charges fee or does it also charge the same in other centres within the Municipal Council of Nakuru?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, it is not only in Salgaa that we have passed gazette notices to charge fees. There are other places, but I will not be very specific. However, Nakuru is extremely large and I am sure that within the various local centres there are other fees that are charged. For example, if you went to Subukia, Molo, Rongai and other places, you will find that there are charges that are being levied according to the council.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, Mr. Kigen!

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has stated that they have provided garbage collection services and network drainage system in Salgaa. Such facilities are not there and every other time it rains the area is flooded. Could he confirm or deny that these services are there? This is because they are not there.

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, those services have been rendered, but they are continuous in terms of cleaning and maintaining the drainage works. I will get the Provincial Local Government Officer to give me an itemization of exactly what will be done in the coming financial year.

Mr. Kigen: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is not true that they have started offering these services in that place. Could the Assistant Minister confirm to this House that he needs to personally visit and confirm to this House that the services are not there and, therefore, he will provide them? As at now, there are no services and he should not charge those people.

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, I do have supplementary information here that shows we will use close to Kshs900,000 to construct a modern toilet and clear the drainage facilities over there.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, since you agree that the services do not exist but you will construct a toilet, the hon. Member was asking if you could go and inspect, so that you verify for yourself.

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, it will be my pleasure to visit Salgaa Market sometime next week. We will agree with the hon. Member and I am sure he will be happy with the visit. We will be able to resolve these issues.

IRREGULAR TRANSFER OF ALFRED OCHIEL BY TSC

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

(a) Why did the Teachers Service Commission (TSC) transfer Mr. Alfred Ochiel (TSC No. 351827), the Principal of Thurdibuoro Secondary School, in the middle of the year?

(b) Could the Minister rescind the transfer until further notice?

(c) When will the Ministry stop the practice of arbitrary transfer of heads of well performing and established schools in the middle of the year?

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

(a) The Teachers Service Commission (TSC) transfers headteachers during the months of April, August and December, when the schools are closed. Mr. Alfred Ochiel, TSC No. 351827, the Principal of Thurdibuoro Secondary School in Nyakach District was transferred to Onjiko Secondary School as the headteacher with effect from 26th April, 2011.

(b) The transfer of Alfred Ochiel cannot be rescinded for the following reasons. He had been in Thurdibuoro for 17 years and risen through the ranks to the headship while in the same school. The TSC had identified him as a competent and performing head, hence the need to move him to a bigger and more challenging school in order to tap his potential. The transfer is also aimed at breaking the monotony of being in one station for too long. The transfer will also allow him to gain experience in a more challenging situation, which is necessary for career progression.

(c) The transfer of headteachers is done as a result of a felt need for change in the respective institutions. Consequently, the Commission will continue transferring heads of institutions in order to address emerging issues in school administration, help teachers advance in their careers and provide a conducive learning environment for students.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, this is one of the schools in my area which has been performing extremely well because of this principal who was transferred abruptly. He was transferred on 18th May and not on 21st of April as explained by the Assistant Minister.

This is a school which has always recorded a mean grade of 8.6 or 8.9 throughout the four years he was the principal there. He was then removed abruptly in the middle of the year. Could the Assistant Minister tell us whether they have proper policy which addresses the transfer of teachers, principals or head teachers who are performing well, in well-established schools? Do they have a proper policy for those transfers?

The Temporary Deputy Speaker (Mr. Manyara): I thought the Assistant Minister answered that.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I think that is covered in what I said. There is a policy in transferring teachers. I think my explanation covered those matters.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that a lot of transfers of heads of schools in the middle of the term do disrupt the learning activities of that school? What will he do to ensure that these transfers do not occur in the middle of the year and, therefore, disrupt the schools functions?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, we do not transfer teachers in the middle of any term unless there is something serious---

Mr. Ochieng: On a point of order, Mr. Temporary Deputy Speaker, Sir. Why is the Assistant Minister denying that this teacher was not transferred in the middle of the term and yet, his letter just came in on the 18th of May when the term had already started? Is he in order to mislead the House?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the letter to the teacher was written on 21st April, and the teacher was informed accordingly. The teacher instead delayed to go and pick the letter. At the end of it, when he went to pick the letter, he had a quarrel with the PDE. Our letter was written in good time. He did other things which we do not need to get involved into and we have told the hon. Member.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, the principal who is now there is also a performer. Could the Assistant Minister guarantee that the same principal will also not be transferred in the same manner?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, Thurdibuoro Secondary School is one of our good schools. That is why we took Mr. Kauko to that school, who is also a very good performer and manager of schools. He will stay there to help run that school.

UNLAWFUL CONSTRUCTION OF POLICE
HOUSES ON LR. NO.209/14582

(Mr. Imanyara) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Why is the Ministry proceeding with the construction of police houses on LR. No.209/14582 which is almost complete, in contravention of an injunction issued vide High Court Case No.673/2008, Joseph Mburu & Others Vs The Commissioner of Police & Others?

(b) When will the Government compensate the owners of the land for the unlawful acquisition?

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, it has been brought to my attention that the Minister who was meant to respond to this Question is bereaved. Secondly, this is a matter awaiting a ruling by the Speaker on the issue of *sub judice*. So, I do not know whether you are in a position to give that ruling? The Speaker did indicate that he will make a ruling on this issue.

The Temporary Deputy Speaker (Mr. Ethuro): Your observations are definitely correct. If you can bear with those two considerations, then we can defer the Question to next week on Wednesday afternoon.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, Wednesday is a public holiday. Could we defer it to Thursday?

The Temporary Deputy Speaker (Mr. Ethuro): The Question is deferred to Thursday, next week.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.919

NON-PAYMENT OF TERMINAL DUES TO FORMER EMPLOYEES OF NYAYO TEA ZONES

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Nyammo is not here. We will come to that Question later. Let us move on to the next Question.

Question No.931

DISMISSAL OF JENNIFER KIMANI

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

(a) whether he is aware of the dismissal of Mrs. Jennifer Kimani, the CEO of NACADA on 25th October, 2010 and, if so, what are the circumstances that led to the dismissal,

(b) whether he is also aware that the NACADA Board passed a resolution recommending that Mrs. Kimani be offered the position of National Co-ordinator and Chief Executive Officer of NACADA Authority on 25th February, 2010, and, if so, why NACADA advertised the job on 2nd March, 2011; and,

(c) whether the Government could consider deploying her appropriately within the Civil Service, considering that Mrs. Kimani (P/F No.2006086525) was deployed as the National Co-ordinator from the Civil Service.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, as I stand here, I do not have a copy of the answer to the Question.

The Temporary Deputy Speaker (Mr. Ethuro): Let us hear from the Minister.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, the matter the hon. Member is raising is currently active in court and, therefore, I consider it *sub judice*. I wish to table information to that effect.

(Mr. Lesrima laid the documents on the Table)

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, unless we have proof that the proceedings are active, Standing Order No.8 allows the Question to be asked if the proceedings are not on.

The Temporary Deputy Speaker (Mr. Ethuro): That is what we are trying to determine; whether it is active, or otherwise.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, we would have to get good proof from the Assistant Minister that the proceedings are active and Standing Order No.8, paragraph 5 allows the Chair to make a decision and decide whether we can proceed with the Question.

The Temporary Deputy Speaker (Mr. Ethuro): It does. The Standing Order allows, but I have a court order here which is addressed to the Registrar Industrial Court. It is properly signed and dated 19th May. It states as follows:-

“It is hereby ordered that the application be heard inter-parties on 3rd June, 2011.”

That will be on Friday, next week. So, the matter is before court appropriately. Let us just wait for the proceedings and then you can bring your Question to the House after the case has been determined.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, I did not hear you. How do we proceed from here on? I have not received any document.

The Temporary Deputy Speaker (Mr. Ethuro): The issue before the Chair was whether the court case is active. The Chair has determined that, indeed, it is active. So, you should allow the court case to proceed. Then if you still need to bring the matter to the House after it has been determined, you can do so. That is the ruling of the Chair. This copy is already tabled. It can be availed to you.

Next Question, Mr. Washiali!

Question No.899

FATE OF CAPITAL LEVY PAID TO MOCO BY CANE FARMERS

Mr. Washiali asked the Minister for Agriculture:-

(a) whether he could explain the whereabouts of the Kshs6 per tonne capital levy paid by cane farmers to Mumias Out growers Company Ltd. (MOCO) for a total of 21 years,

(b) how much was collected during this period; and,

(c) when the sugar farmers will benefit from the accruals.

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, it has been brought to the attention of the Kenya Sugar Board that this matter is in court. We cannot continue to deal with this matter because it will be prejudicial to the court process. I would like to table the court proceedings.

(Mr. Mbiuki laid the document on the Table)

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, maybe I would request that the Chair looks at the matter before the court because I have been made to understand that the Question was actually addressing the issue of sugar cane farmers against MOCO

who were the recipients of this money. The Kenya Sugar Board (KSB) was not part of this Question, neither was the Ministry.

When I asked this Question, the Ministry referred it to MOCO. MOCO have given me an answer to that Question. In their answer, they have not talked of any court order. So, I am seeking your ruling on whether this matter will go on or not.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, when this matter appeared before the House, did you raise the issue of the court order?

The Assistant Minister for Agriculture (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, the matter came up yesterday. Unfortunately, we could not be able to proceed. But later on, we were informed that the matter is in court. It is a question of arbitration. When MOCO and Mumias Sugar Company (MSC) were in the process of arbitration, the latter went to court and received some court orders restraining the process to go on.

Mr. Washiali: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is very interesting that the Assistant Minister is changing positions---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Washiali! You have not been granted your point of order. But you may proceed!

Mr. Washiali: Thank you, Mr. Temporary Deputy Speaker, Sir. I apologize for standing without your permission. I have an answer from the Assistant Minister. The Question is asking about Kshs3.7 billion that belongs to farmers. I am surprised that Mumias is getting involved in the answers. Even from the Ministry, the Permanent Secretary had already ordered the---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Washiali! The Assistant Minister is not refusing to answer you. That is why you have an answer. But he is saying that he is prohibited by the court and so, he cannot proceed. Therefore, under the circumstances, and since we have received this communication, I will defer your question to Tuesday. You can look at this and the information that you have and the Chair can make a determination.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, much obliged.

(Question deferred)

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by Dr. Nuh!

Question No.400

STAFF ESTABLISHMENT AT BURA/HOLA
IRRIGATION SCHEMES

Dr. Nuh asked the Minister for Water and Irrigation:-

(a) whether she could provide a list of staff establishment at Bura and Hola irrigation schemes, indicating their respective details, departments, terms of service and dates of employment; and,

(b) whether she could also provide the details of all workers who have retired from the schemes in the last 5 years and indicate whether or not they have been paid their respective retirement benefits.

The Temporary Deputy Speaker (Mr. Ethuro): Is the Minister for Water and Irrigation not here? We will come back to that Question. Next Question by Mr. Bahari.

Question No.763

LEVEL OF GIRL-CHILD ENROLMENT IN
MARSABIT/ISIOLO COUNTIES

The Temporary Deputy Speaker (Mr. Ethuro): Is Mr. Bahari not here? I know the Member is away on an official trip. So, the Question will be deferred until when he returns.

(Question deferred)

Next Question by Dr. Munyaka!

Question No.872

NUMBER OF ACCIDENTS AT MLOLONGO
TRADING CENTRE

Dr. Munyaka asked the Minister for Transport:-

(a) whether he could state the number of road accidents which have occurred at Mlolongo Trading Centre from 2010 to date, indicating the number of injuries and fatalities; and,

(b) whether he could urgently prohibit the dangerous parking of lorries by the roadside at the centre, which is the major cause of accidents due to obstruction to motorists and pedestrians.

The Assistant Minister for Transport (Mr. Ogari): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The total number of accidents which have occurred at Mlolongo Trading Centre from 2010 to date - that is up to the end of March - is as follows:-

Total number of accidents is 28, fatal accidents – 10, serious injuries – 13 and slight injuries – 5, bringing the total to 28.

(b) The Traffic Act, Cap.403, Section 72 prohibits parking of vehicles by the roadside. Traffic police are expected to ensure all motorists adhere to the traffic rules with no exception. My Ministry is, however, consulting the Ministry of Roads to find a permanent solution to the problem. In addition, Mavoko County Council is also in the process of identifying land for construction of a parking area.

Dr. Munyaka: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer. However, I want to confirm that the 28 accidents per year could be under-stated. That is because I am a frequent user of that road towards my constituency, Machakos, and I have witnessed more than five accidents, personally. However, I understand that 28 accidents are very many in a year. Could the Assistant Minister inform the House what urgent steps he is going to take to minimize the number of accidents and loss of lives?

Mr. Ogari: Mr. Temporary Deputy Speaker, Sir, we are aware of the causes of accidents on that particular spot. We are addressing the main causes. We are trying to find a solution to move the trucks that wait to be diverted to the weighbridge. Then, there are trucks and lorries that wait to get police escort to their destinations. There is also an error in the design of the road. The weighbridge is on the opposite side of the road. So, it causes the trucks to interfere with other vehicles. Those are the problems that we have identified and, as I reported, we are holding consultations with the Ministry of Roads and the Mavoko County Council to get a parking area away from the main highway and, at the same time, place the weighbridge there.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, the cause of accidents is overspeeding and, at one time, we had the Michuki rules. Those rules curbed the occurrence of accidents and reduced the number of injuries in the country. Could the Assistant Minister inform the House what the Ministry is doing to revive the Michuki rules and ensure that the number of accidents on our roads goes down, including the road between Mai Mahiu-Narok-Kisii and Trans Mara where he comes from?

Mr. Ogari: Mr. Temporary Deputy Speaker, Sir, although it is a different question, all the same--- At that particular spot, we do not have a problem of overspeeding. It is mainly because of obstruction. But I wish to inform Dr. Monda that the so-called Michuki rules are still in force. We are reminding the police all the time. They are the ones who do the implementation. They are supposed to make sure that Government regulations are adhered to. I know they are trying their best and all we can request them is to ensure that everybody obeys the rules without exception.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, the Ministry of Roads has done a lot of work in Mlolongo. It has constructed several roads. But the weighbridge that they have put there is on the right hand side and yet, the trailers that actually carry the heavy goods are from Mombasa to Nairobi and not from Nairobi to Mombasa. Could the Assistant Minister inform the House what he is doing to ensure that, that weighbridge is taken to the left hand side, so that those accidents are stopped and interference on the road is also minimized?

Mr. Ogari: Mr. Temporary Deputy Speaker, Sir, it is good that the Member has stated it is the Ministry of Roads. In my answer, I have actually acknowledged that one of the major causes of the accidents is the weighbridge on the wrong side of the road. As the Ministry of Transport, we are charged with that responsibility. We are working to make sure that, at least, as a temporary measure, before we find the land for parking, that weighbridge must be transferred. We do not want to condone accidents and I am sure the Ministry of Roads is of the same view. So, that is the temporary measure we are trying to work on at the moment.

Dr. Munyaka: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has actually stated in his answer that the Traffic Act, Cap.403, Section 52 prohibits parking of vehicles by the roadside, and that the traffic police are expected to ensure that all motorists adhere to traffic rules without exception. Is he then admitting that the Government is unable to enforce its own laws? What particular action would you advise me to take as a Back-Bencher to handle a situation where the Government is unable to enforce its own laws?

Mr. Ogari: Mr. Temporary Deputy Speaker, Sir, the law is very clear and is supposed to be obeyed by all road users. The police are the implementing arm of these

rules and regulations or the Act itself. So, in liaison with the police, we are making sure the law is followed. We also know that we have some shortcomings because of the speed. We have only one weighbridge and the vehicles have increased in numbers. We know that they are breaking the law by parking there and we are requesting the police to make sure that they implement the law to the letter.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by hon. Member for Juja! If he is not ready, then it will come for the second round.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kabogo! Everybody has an Order Paper and should know what is next.

Hon. Member for Makueni!

Question No.941

SETTLEMENT OF ORIGINAL MEMBERS
OF NGUU SETTLEMENT SCHEME

Mr. Kiilu asked the Minister for Lands:-

(a) whether he could provide to the House a progress report on the settlement of original members of Nguu Settlement Scheme in Makueni, stating how many original members have not been settled to date; and,

(b) to inform the House the number of squatters in the scheme and what measures have been put in place to resettle them.

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Nguu Ranch Co-operative Society has a total of 1,600 members. Of those, 905 have been settled while 695 were left out during the allocation while 220 of them did not have membership documents as required in the verification exercise and, therefore, did not qualify for settlement. The remaining 475 members have been slotted alternative plots from the recommended sub-divisions at an agreed share of 5 acres each.

(b) There are about 941 squatters in Nguu Settlement Scheme. This is inclusive of 66 squatters from Simba and 75 squatters displaced by Manoni Dam Construction. The Government will resettle genuine squatters subject to availability of funds and suitable land.

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, while I appreciate the answer that the Assistant Minister has given, you will appreciate that the allottees were given this land in 1994 and from then to date, it is about 20 years. I would like the Assistant Minister to tell us how many plots were created out of this ranch and if they are more than 1,600, why did the Ministry not give priority to the original members of that scheme when settling other Kenyans?

Mr. Bifwoli: Mr. Temporary Deputy Speaker, Sir, I want to agree that there were 3,800 plots that were identified in the scheme but out of that, each member of the co-operative was to be given 10 acres. On the same farm, there were squatters who were allocated five acres. Since there were more squatters than we could accommodate, there is a balance of squatters and we are looking for land elsewhere.

The Temporary Deputy Speaker (Mr. Ethuro): Last Question, Mr. Kiilu!

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is acknowledging that there were more squatters in that farm than members. I would have naturally expected that the Assistant Minister would have considered the owners of the land before squatters. By the way, what is he going to do to ensure that those members who got land have access to their land which is now being occupied by squatters?

Mr. Bifwoli: Mr. Temporary Deputy Speaker, Sir, as you know very well, when you are settling the owners and on the same land there are squatters who have been on the same land for years, you cannot chase away human beings who are landless just to settle people who have money.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We will now go to the second round of Questions and I hope everybody will be attentive this time round.

Question No.919

NON-PAYMENT OF TERMINAL DUES TO FORMER
EMPLOYEES OF NYAYO TEA ZONES

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

(a) whether he is aware that employees who worked for the Nyayo Tea Zone in Tetu Division in 1990 - 1996, among them Ms Ruth Muthoni (ID No. 9353450), Mr. David Karimi (ID No. 1425374) and Ms Sarah W. Nderitu (ID No. 5544960) were not paid their salaries, terminal dues and other benefits;

(b) whether he could confirm that the Ministry of Agriculture recommended to the Ministry of State for Provincial Administration and Internal Security to pay the former employees in 2005; and,

(c) what measures the Government has taken to ensure that the persons are paid their dues.

Mr. Temporary Deputy Speaker, Sir, I apologize for coming. I would like to ask Question No.919 on the Order Paper.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Nyammo! Are you apologizing for coming to the House?

Mr. Nyammo: I have apologized for coming late. How can I apologize for being here?

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

(a) I am not aware that the said workers were not paid their dues.

(b) I can confirm that the matter of payments for workers of Nyayo Tea Zone was the business of the Ministry of Agriculture under the Nyayo Tea Zone Board.

There is no correspondence confirming that the Ministry of Agriculture recommended to the Ministry of State for Provincial Administration and Internal Security to pay employees or casuals in 2005.

(c) Regarding the measures the Government has taken, this Question should be directed to the Ministry of Agriculture. My Ministry is not aware about the non-payment of casuals.

Mr. Nyammo: Mr. Temporary Deputy Speaker, Sir, I think this is an unfair answer and very unsatisfactory. First and foremost, when the Ministry realized that it was not under their docket, why was it not directed to the right Ministry?

The Temporary Deputy Speaker (Mr. Ethuro): That is correct.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, that is what we should have done. We can do so but we can still work together with the Ministry of Agriculture because this was a department under the Provincial Administration until 2002 when it became a fully-fledged parastatal. So, I assumed that the assets and liabilities were taken over by the Ministry of Agriculture through the Nyayo Tea Zones.

The Temporary Deputy Speaker (Mr. Ethuro): So, are you undertaking that you will direct it to the relevant Ministry or are you working together and you will still be responsible?

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, in the spirit of collective responsibility, we are willing to work together to reconcile the records because this was 21 years ago and the records were being kept by District Commissioners (DCs) and Provincial Commissioners (PCs).

The Temporary Deputy Speaker (Mr. Ethuro): I understand that part. We just want to take it forward. As you reconcile, who will be responsible for the Question; is it you or the Ministry of Agriculture?

Mr. Lesrima: Either of us can do it. We can work together.

The Temporary Deputy Speaker (Mr. Ethuro): Let us defer the Question then for another two weeks.

Mr. Lesrima: Yes, let it be for two weeks because of the old records. It would be difficult to deal with reconciliations and to check whether people were indeed, paid. But I must thank Mr. Nyammo because he brought me a dossier containing the names of the casuals which we did not have in our DC's offices.

Mr. Nyammo: Mr. Temporary Deputy Speaker, Sir, I agree to the timetable, but would he bear in mind that these are people who have not had their dues all those years? Those people have families, they suffer from sickness and had to borrow or sell whatever little they had to sustain themselves. So, even as he comes with the answer, could he indicate how soon they would be paid?

The Temporary Deputy Speaker (Mr. Ethuro): Assistant Minister, I am sure you have heard the pleas from the hon. Member. Between 1996 and 1990, was a long period. Do what is possible within your powers to ensure payment, if some payments are due.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, I will pursue this matter vigorously.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by the Member for Juja.

Question No.701

NON-COMPLETION OF JUJA FARM-GIKUMARI BRIDGE

Mr. Kabogo asked the Minister for Roads:-

(a) why the construction of Juja Farm/Gikumari Bridge, which was allocated Kshs16,000,000 over two years ago has not been completed to date; and,

(b) when the said works will be completed.

Mr. Temporary Deputy Speaker, Sir, I apologize. When you called the Question the first time, I was in the Chamber but due to the loud consultations, I could not hear you; I apologise for not hearing.

Secondly, this Question was put in, in December last year and approved in January, I think, on the 7th. It is coming to the Floor of the House now, six months later. I am not sure what it is that an hon. Member is supposed to do to fast track Questions; it is coming up six months after it was asked.

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

(a) The construction of the Gikumari Bridge on Road UPR3, that is at the Junction of A2 of Ruiru/Gikumari and Juja Farm, off Road E1535, connecting Juja and Munyu was constructed at a cost Kshs20 million. That was disbursed as follows: in the financial year 2008/2009, we allocated Kshs15 million; in the following year, 2009/2010, we allocated a further Kshs5 million. That is a total of Kshs20 million.

The followings works were left as outstanding; the approach roads, the guard rails, the protection works, installation of relief culverts, backfilling of abutments of the approaches to the bridge, and gravel wearing coats to the approach roads.

Mr. Temporary Deputy Speaker, Sir, all those works were packaged into a contract that has already been awarded and is already on course.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is reading a different answer from what he has given me. I do not know what I am supposed to do; do I with deal with this one or the one he has just read? He is talking of certain works. I want to give the answer I have been given by the House.

Nevertheless, as I said earlier, this Question was filed in January and now the works are going on. The only thing I would like to ask the Assistant Minister is whether he is satisfied with the quality of works going on for all that money. I wish to give him some photos for him to see whether Kshs26 million can be used to do what has been done.

Mr. Kinyanjui: Mr. Temporary Deputy Speaker, Sir, as I have indicated, the works are ongoing and we have not been able to certify the bridge work as complete. Once we are able to certify that, we will make the payments. Therefore, the monies allocated have not actually been spent.

As for the photos that the hon. Member is volunteering to give--- I cannot certify whether they are of the same bridge and when they were taken; I will not be able to incorporate them in my answer.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is wrong to give the wrong impression of an hon. Member; that, I can lie by bringing wrong photos here. Is the Assistant Minister in order to do that? Can he withdraw?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Assistant Minister, I do not know what you have to say. However, on the face of it, he did not doubt you. He just

said that he is incapacitated, as the Assistant Minister, because he does not know the bridge. He needs to take the photos to the technical people to confirm that they are of the same bridge.

Mr. Kinyanjui: Mr. Temporary Deputy Speaker, Sir, I have indicated that before any amounts are paid, we will certify that the works are done as per the contract. Therefore, I think the concerns by the hon. Member that that money may have been spent are, indeed, not justified.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! There is a point of order by the hon. Member, that you suspect---

Mr. Kinyanjui: Mr. Temporary Deputy Speaker, Sir, I do not suspect that the photos may be wrong. I have only indicated that if we want to know the current state of the road, we will ask for a certificate from our qualified engineers, who will be able to certify the state of works, and then payment can be done. I have no reason whatsoever, to doubt the photos.

The Temporary Deputy Speaker (Mr. Ethuro): Also, there was query about which answer is to be used. What you gave the hon. Member and the answer you read to the House are two different answers. Our Standing Orders are very clear; that, you are responsible for the accuracy of the information you provide.

Mr. Kinyanjui: Mr. Temporary Deputy Speaker, Sir, the answer that I have given the hon. Member is, if I may read it verbatim:

(b) The construction of the Juja/Gikumari Bridge has not been completed because the funds that had been allocated were not adequate to cover all the works.

I have said that and I went on further to state which works were not completed.

(c) The outstanding works which include the approach roads, guard rails and the protection works will be carried out within this financial year.

Mr. Temporary Deputy Speaker, Sir, I have said as much.

The Temporary Deputy Speaker (Mr. Ethuro): I also want to confirm that, that is the answer that was submitted to the Speaker.

(Mr. Kabogo stood up in his place)

Order, Member for Juja! This was your answer! It is the same answer that the Assistant Minister has read!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I was just saying that, that is not what he read! He, probably, read it the other way round! It does not matter, though.

The Temporary Deputy Speaker (Mr. Ethuro): Let us proceed!

About your query, Mr. Kabogo, on why your Question No.701, which you filed six months ago, delayed to come to the Floor of the House, the Clerks-at-the-Table explain that you have been quite a prolific Parliamentarian, in terms of asking Questions. Many a times, they were deferred also; the way we ballot the Question is that every hon. Member is entitled to one Question in a day. That could be one reason why it delayed. However, your concern has been taken and Questions will be put on the Order Paper immediately.

There is one last Question by the hon. Dr. Nuh.

Order! Last question, Mr. Kabogo!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I am satisfied with the answer given by the Assistant Minister.

The Temporary Deputy Speaker (Mr. Ethuro): That was the assumption of the Chair.

Let us go to the next Question by Dr. Nuh.

Question No.400

STAFF ESTABLISHMENT AT BURA/HOLA IRRIGATION SCHEMES

Dr. Nuh asked the Minister for Water and Irrigation:-

(a) whether she could provide a list of staff establishment at Bura and Hola irrigation schemes, indicating their respective details, departments, terms of service and dates of employment; and,

(b) whether she could also provide the details of all workers who have retired from the scheme in the last five years, and indicate whether or not they have been paid their respective retirement benefits.

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

(a) I have provided a list; the hon. Member has a list of the establishment of members of staff at Bura and Hola irrigation schemes, indicating their respective details, departments, terms of service and date of employment.

(b) In the last five years, no member of staff has retired from the scheme.

This is the same House that I gave an answer about four weeks ago. I was not personally satisfied because we did not have as many women as I would have liked to have in the scheme. I am happy to report to the House that since then, we have been able to hire from that region five women, and we have a good balance.

The names are: Ms. Zainabu Mohammed, Ms. Hamido Mohammed, Ms. Habiba Said Kimbia, Ms. Kuzo Mariam Alsaahilil and Ms. Kuresha Abdi Bule. These are the few women we have put in the scheme and are working.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I would want to thank the Minister for the consideration, although this should have happened long ago. They should have realized that the Constitution is very clear as to gender parity within Government employment and Government circles. I would want to thank them for their action of taking in the ladies. However, I had also raised a concern that there was a list of about 17 people I tabled in this House. They have been employees of this institution for the last close to 10 years. The answer we have been getting from the NIB is that they are on casual basis. I do not know how people can serve on casual basis. I do not know how someone can serve on casual basis for ten years. This is not captured within the names that the Minister has given me. So, I would like to ask her whether these 17 people who have been working with the NIB for the last 17 years are, indeed, employees of the NIB or whether they are not considered as employees.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I believe what the hon. Member has said is partly true because when you take people on casual or temporary basis, sometimes they work for a month and then they go to do other things; when they come

again, they are rehired. Therefore, they are not on permanent basis and it can go on for years. They can only be taken in when there are vacancies.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I am just concerned and maybe, the Minister can explain this. I am concerned about someone serving for ten years. What is the Government policy in terms of temporary appointments? Is it procedural for one to serve for ten years on temporary appointment?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, in fact, I can almost say that it is a policy of Government now, to get people to serve on a contract term which is not permanent and pensionable. This is not only in Government but also companies in the private sector are hiring people on hourly basis; you do so much work for me and I pay you, so that you can not only minimize costs but also ensure that there is maximum efficiency. These are the kind of farms we have in Bura and Hola and sometimes, that is what we have to do.

The Temporary Deputy Speaker (Mr. Ethuro): That Question must have been asked in the context of Bura. The Member was asking whether 17 workers who have served for over ten years are still considered casual. I thought that after three months, especially if the employer seems to appreciate your work and keeps on rehiring you, they should find a way of making you permanent.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I am saying that they could have worked for 15 or 20 years. However, they are on and off. It is not continuous. They might work for a day or two in a week and then they go back home and come back. He could come and see the documents we have in the office.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. I come from the ground and I know those people very well. Whereas the Minister says that those people have been working on and off, this is the scenario; someone is picked to work for three or four months, then they are terminated the same day and rehired the next day. They then end up serving even for four months on those terms and this has been like that for the past ten years. This is abuse of the labour laws. If this is not a scheme to keep people in perpetual temporary basis in NIB, then what is it? Someone has been serving for three months consecutively, then he is retired for one day and then picked on the next day to serve for another three months for ten years and the Minister says that this is on temporary basis. I seek your guidance.

The Temporary Deputy Speaker (Mr. Ethuro): Madam Minister that is a valid point.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, first and foremost, let me set the record straight. Bura and Hola Irrigation Schemes and, indeed, all irrigation schemes had died. In other words, they were not there until 2008 when we resuscitated them. So, there cannot be anybody who has worked there for ten or 15 years and he knows it. It is only the other day that we started the Bura Irrigation Scheme. In fact, to be precise, it was in August 2008, when we re-launched the Hola and Bura irrigation schemes. So, they were not there 15 years ago. That is the position and he knows it.

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

The Temporary Deputy Speaker (Mr. Ethuro): Order! Dr. Nuh, what the Minister is saying is factual and all of us in this country know it. Unless you are standing on a different point of order not related to the commencement of the Bura and Hola irrigation schemes which began in 2008---

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, it may be true that Bura and Hola irrigation schemes were revived in 2008. You revive something which is partially working. These are some of the casual workers who were still on duty. Even if the Minister was to take it on the face of it from 2008, we are now three years down the line. There is no justification whatsoever, even for three years, to have people on temporary basis.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, let me once again, correct the hon. Member. I know that the hon. Member knows Bura and Hola very well. I have been going there myself. The people who go to work on those farms work for a short while and then they go back to their own farms. That is the position today. If you go to the farms where the Bura and Hola schemes were, you will find that even the houses were broken down. We are now starting afresh. The hon. Member knows that. However, I appreciate that we should not have people working for that long without being put on better terms. But certainly, they will not be permanent and pensionable as the hon. Member requires them to be.

The Temporary Deputy Speaker (Mr. Ethuro): Order! I think hon. Member, you will appreciate that the Minister is getting to where you wanted. Given the fact that this is a Government body, it should not be purporting to play with labour laws for purposes of retaining the same people and limiting the contracts to three months. If they were engaged longer and on more favourable terms, that would make the hon. Member satisfied.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I would be satisfied as long as the rights of Kenyans are not trampled on. Here I am representing them. I would like to tell the Minister that this is not good and they should look into that affair and make sure that something is done to sort out and remedy.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I take note of that.

The Temporary Deputy Speaker (Mr. Ethuro): That brings us to the end of Question Time. Next Order!

My procedure will be to take the requests first and then we move on to the Ministers who are bringing statements.

POINTS OF ORDER

ASSAULT ON WIFE OF NIGERIAN HIGH COMMISSIONER TO KENYA

Mrs. Shebesh: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to request for a Ministerial Statement from the Minister for Foreign Affairs on the diplomatic status of diplomats who commit serious crimes in the country. In particular, I would like the Minister to explain what steps are being taken against the Nigerian High Commissioner who is reported to have assaulted his wife and occasioned grievous bodily harm on her.

The Temporary Deputy Speaker (Mr. Ethuro): Who are you addressing your Ministerial Statement to?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I am addressing it to the Ministry of Foreign Affairs.

The Temporary Deputy Speaker (Mr. Ethuro): They are both not in. Where is the Leader of Government Business?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I am aware that they are away on foreign trips. We will give the statement on Thursday in the afternoon. It is only fair to give them enough time.

The Temporary Deputy Speaker (Mr. Ethuro): You do not need one week to make it enough time. One day can even be enough time. However, hon. Shebesh, grant the Minister that one week since he is holding brief for another Minister.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I will accept to have it on Thursday, although the Minister should understand that there is someone who has been injured. I accept that the Government gives its response on Thursday.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Lesrima wants to confirm some information and not a full statement.

INVASION OF HON. MUSYIMI'S HOME BY ARMED PEOPLE

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, the hon. Mutava Musyimi had risen to request for a Ministerial Statement on his security which we were to deliver today. However, since it involves a number of issues, following further consultation with him, we agreed to issue the statement on Thursday next week.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Musyimi, are you happy with that?

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

The Temporary Deputy Speaker (Mr. Ethuro): Yes, hon. Martha Karua.

INVASION OF KENYA CONSUMERS FEDERATION OFFICES

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security.

On the night of 24th-25th May, 2011, the offices of the Kenya Alliance of Residents Association – located off-Ngong Road – where the Chief Executive Officer, Mr. Mutoro, who is also the Secretary-General of the Kenya Consumers Federation--- These offices were broken into and computers and other vital documents taken away.

I would want the Minister to issue a Ministerial Statement on this incident. In that Statement, I would like him to indicate whether this was political thuggery arising out of Mr. Mutoro's activism on the rising cost of living, especially on his expressed views on the issues. I would further like the Minister to tell the House what he is doing in view of the rising number of such incidents.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, we undertake to issue the Ministerial Statement on Thursday next week. We will launch investigations.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! You are assuming that the Government waits for hon. Members to raise issues in order for it to undertake investigations! I am sure that the case has already been reported to the police. I am satisfied that Tuesday is reasonable time.

Yes, Member for Kirinyaga Central.

NON-ARREST OF POLICE OFFICER MUEMA MUTISYA FOLLOWING
ALLEGED ASSAULT ON HIS ESTRANGED WIFE

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security. I want to know why a suspect in the name of Antony Muema Mutisya has not been arrested for the last six days from the time he was alleged to have set fire on his spouse, Mary Nyakio Mwangi, who comes from my constituency, and her son, Wendo Nduko.

It is alleged that Antony Muema Mutisya, who is a police officer based in Ugenya, Kisumu, had separated from his wife, Mary Nyakio Mwangi, an Administration Police (AP) officer, who is attached to Matiliku AP Line in Makueni District. It is alleged that on 20th May, 2011, at around 4.00 p.m., the said Antony was at Matiliku AP Line, where his wife was staying with her child. He knocked the door and Mary opened the window to see who was knocking the door---

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Gitari, yours should be to ask the Minister to take the necessary action, and not giving the details of what happened.

Mr. Gitari: Mr. Temporary Deputy Speaker, Sir, I would like to ask the Minister whether they will assist because the said Mary is admitted to Kenyatta National Hospital and her son passed on. Burial arrangements are going on, and the family is unable to pay the bills.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I will get in touch with the hon. Member to find out exactly the nature of assistance he requires.

The Temporary Deputy Speaker (Mr. Ethuro): When will you respond to the request for the Ministerial Statement?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): We will issue the Ministerial Statement on Tuesday.

Mr. Mbuvi: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ninaomba Mawaziri, kabla ya kuleta taarifa kutoka kwa Wizara zao, wahakikishe kwamba Wabunge ambao wameitisha taarifa hizo wamo ndani ya Bunge. Ninasema hivi kwa sababu---

The Temporary Deputy Speaker (Mr. Ethuro): Bw. Mbuvi, hilo si jambo la nidhamu! Mbunge akileta jambo Bungeni, ni jukumu la Bunge kulishughulikia jambo hilo, iwe Mbunge aliyelileta jambo hilo yuko Bungeni ama hayuko.

Mr. Mbuvi: Bw. Naibu Spika wa Muda, shida yao ni kwamba ile tarehe wanayoahidi kuleta taarifa hawailiti. Wanaleta taarifa wakati Mbunge ambaye ameiitisha hayuko Bungeni. Kwa mfano, tarehe 12.5.2011 niliitisha taarifa kutoka Afisi ya Naibu wa Waziri Mkuu na Waziri wa Serikali za Mitaa kuhusu vibanda ambavyo vilijengwa na CDF ya Makadara vya akina mama wauzaji mboga, ambao hawajiwezi. Hivyo vibanda vilivunjwa na wezi – maharamia waliokodishwa na City Hall. Taarifa hiyo ililetwa jana kama simo ndani ya Bunge. Waziri aliahidi kuileta taarifa hiyo tarehe 19.5.2011 lakini hakuileta siku hiyo. Kwa hivyo ninaomba taarifa hiyo iletwe tena Bungeni.

The Temporary Deputy Speaker (Mr. Ethuro): Bw. Mbuvi, kama taarifa ililetwa wakati hukuwemo Bungeni, ni bahati mbaya kwako. Taarifa hiyo iko katika

rekodi ya Bunge. Unaweza kuisoma na kuielewa. Kama kuna jambo ambalo hukuridhika nalo, unaruhusa ya kuja kuuliza maswali.

Mr. Mbuvi: Bw. Naibu Spika wa Muda, niko na nakala ya ripoti ya Bunge, ama HANSARD.

The Temporary Deputy Speaker (Mr. Ethurot): Nidhamu, Bw. Mbuvi! Usibishane na Mwenyekiti wa kikao hiki. Kuna shughuli za kutosha mbele ya Bunge. Tetesi zako ni kwamba uliahidiwa kwamba taarifa ingeletwa tarehe fulani lakini ikaletwa siku nyingine. Juu ya suala hilo, nimekubaliana nawe. Inatakiwa taarifa iletwe wakati ambao tumekubaliana katika Bunge. Lakini kuhusu suala la iwapo Mbunge aliyemitisha taarifa ni lazima awe Bungeni au la, hiyo si kazi ya Bunge. Waziri ataleta taarifa ile tarehe tuliyokubaliana.

Yes, Leader of Government Business!

MINISTERIAL STATEMENTS

OUTCOME OF SPEAKER'S *KAMUKUNJI*

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, pursuant to the provisions of Standing Order No.36(4), I would like to take this opportunity to make a Statement with regard to the business for the week commencing Tuesday, 31st May, 2011. But before I read out the Statement, it is important for me to announce the outcome of Mr. Speaker's *Kamukunji* that was held earlier in the day.

We had some very useful consultations and I am happy to say that consultations are still ongoing with regard to setting up of an *ad hoc* Committee that will specifically deal with the matter of the nominees to the very important constitutional offices of the Chief Justice, the Deputy Chief Justice and the Director of Public Prosecutions. Later today, the House Business Committee will have a special sitting to deal with the matter of coming up with the names to the Membership of that *ad hoc* Committee. I feel that it is important for me to mention this because it is not contained expressly in the Statement I am going to read.

Mr. Temporary Deputy Speaker, Sir, next week the House will consider debate on The Insolvency Bill, Bill No.22 of 2010, which is now at the Second Reading stage. Also for consideration are the following Bills, which are currently at the Committee Stage:-

- (i) The Salaries and Remuneration Commission Bill;
- (ii) The Nurses (Amendment) Bill, Bill No.25 of 2011;
- (iii) The Limited Liability Partnership Bill, Bill No.21 of 2010; and,
- (iv) The Prohibition of Female Genital Mutilation Bill, Bill No.24 of 2010.

With regard to Motions, the House will consider Private Members' Motions, the first one being by hon. Jeremiah Kioni, urging the Government to abolish the Kenya Certificate of Primary Education (KCPE) examination and provide for a continuous and uninterrupted education system from Level I to Form Four in order to accord all Kenyan students universal basic education. I stress that, that is the proposed Private Members' Motion.

Mr. Temporary Deputy Speaker, Sir, secondly, there will be a Motion by Mr. Langat, urging the Government to urgently subsidize the prices of all categories of

petroleum fuel, to maintain pump prices at a maximum of Kshs80 per litre by setting up a consumer petroleum fuel subsidy fund through reallocation of funds from various votes of Government Ministries.

Also to be considered are the following Motions: The Motion to adopt the Report of the Departmental Committee on Defence and Foreign Relations on their familiarization visit to Kenya Embassy in Somali laid on the Table of the House on Tuesday, 3rd April, 2011 and the Motion to adopt the Report of the Select Committee on Constituencies Fund Committee on the study tour to the Republic of Singapore from 5th to 13th November, 2009 laid on the Table of this House on Thursday, 5th May, 2011.

Mr. Temporary Deputy Speaker, Sir, appearing today on the Order Paper, and I have had occasion to point out this to you, is Order No.8 which we propose that consideration of this matter; that is, the Committee of the whole House be put off until next week in order to finalise the proposed amendments.

Finally, as I said, the House Business Committee will shortly sit preferably even before the rise of the House or shortly after the rise of the House in order to agree on the way forward with regard to the nominations of the Chief Justice, Deputy Chief Justice and the Director of Public Prosecutions.

Thank, Mr. Temporary Deputy Speaker, Sir.

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. Once again, just like last week, there is no mention about any Bills touching on the implementation of the Constitution. Just this morning, we had a firm commitment from His Excellency the President, during the National Prayer Breakfast that this Government is committed to speedy implementation of the Constitution. Why is it that there are no Bills being published? Why is it that the Vice-President and Minister for Home Affairs is not telling us whether any such Bills will come for debate in this House, so that the House is not perennially blamed for not debating Bills, which this Government is not generating and bringing to the House?

The Temporary Deputy Speaker (Mr. Ethuro): The Leader of Government Business, just allow more. Like any Statement, that would invite some interrogation.

Yes, Ms. Karua!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, you will recall that last week the Speaker directed that the Committee on Implementation and Oversight of the Constitution (CIOOC) looks at the necessary amendments to this Bill. We sat as a Committee and amendments are here. Hon. Members also have their own amendments. Why would the Government want this Bill stood over? What games are being played? Is it that the Government wants to go and play hanky panky with the amendments? We need and deserve an explanation as a House. This is a very dangerous precedent by the Government of letting matters be handled by the Committee and withdrawing when hon. Members are here assembled, able, ready and willing to conclude this very important Bill.

The Temporary Deputy Speaker (Mr. Ethuro): Yes, Mrs. Shebesh! Hon. Members, let us restrict ourselves to one clarification!

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, let me just seek a clarification, because it would be very bad for us to live with a feeling that the Government has ill intentions on the implementation of this Constitution.

Mr. Temporary Deputy Speaker, Sir, excessive and exhaustive consultations have gone on, on this Bill. The CIOC, which I sit in, has looked at it and even hon. Members have their amendments here. Could the Leader of Government Business assure us that it is not the stalemate that we have just created in *kamukunji* and this is going to be used as a deal breaker, because we are politicians and we know how to read signs?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I wanted just to plead with the Government to understand that Kenyans are fatigued and they want the Constitution to be implemented. We are not moving. It is really sad that this Government proposes such kind of measures on these Bills. Can you allow this country to move? Let us finish with these Bills, as Mrs. Shebesh put it. If you look at The Independent Electoral and Boundaries Commission Bill, you will find that it has been extensively debated---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Unless you have a different point, there is no point to state because we all heard.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, the Government does not take this country seriously and this country wants things to flow.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbadi! This is time to seek clarifications and not to argue. We heard the same from Mr. Imanyara, Ms. Karua and Mrs. Shebesh.

Mr. Ogindo, it must be different! Seek one clarification.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, we all appreciate the anxiety surrounding this Bill. The House is ready but the only thing that we now see lacking is leadership on the Government side. Could the Leader of Government Business tell us what the problem with the Government leadership is in moving these things forward?

The Temporary Deputy Speaker (Mr. Ethuro): Leader of Government Business, allow the last one from Mr. Midiwo!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I am surprised. The House Business Committee has tried to list this Bill on the Order Paper for a long time. The country is anxious because as you know, these constituencies will have to be established and we are talking about one year before elections. I want to ask the Vice-President and Minister for Home Affairs---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Midiwo! You know the Chair was very courteous to you by virtue of your position. So, seek one clarification. Do not make another statement!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, what is so urgent that was not foreseen on Tuesday when we were in the House Business Committee until the last minute? What is the mischief that is trying to be pulled off here?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I want to assure hon. Members that there is absolutely no mischief. What has happened is that the Minister for Justice, National Cohesion and Constitutional Affairs, who is supposed to move this business, is actively engaged. I had to send him, as a leader, to consult even with the Prime Minister on this very critical thing; the outcome of the *kamukunji*. Mr. Temporary Deputy Speaker, Sir, additional to that, he has also pointed out that some of these amendments need to be rationalized. Absolutely, right on spot on Tuesday, I think this matter will come before the House without fail.

Let me also assure Mr. Imanyara, my learned friend and the Member for Central Imenti, that it is true that the President was very clear this morning with regard to the need to fast-track this Constitution implementation Bills. For instance, he did refer to the Supreme Court Bill, which the Cabinet approved in its last sitting.

I want to assure the hon. Member that all of us are very concerned and this will be fast-tracked. Only yesterday, the House was magnanimous to have approved the publication period to be shortened, so that when the House Business Committee meets on Tuesday--- One of the things I remember the Attorney-General pointing out was that the Judicial Service Commission (JSC) has already---

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was not referring to the past; I was not referring to the history, I am talking about the business of next week. I do not want to be told about what happened last week or this morning. It is about the business of next week. That is what I want the Vice-President and the Minister for Home Affairs to address.

The Temporary Deputy Speaker (Mr. Ethuro): Agreed! Except that Mr. Imanyara you also referred to the business of this week. He can also make reference to that one.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I do not know why my learned friend should look so menacing. He said he wants to be told about what is happening and I need to tell him. Ms. Karua, Member for Gichugu, was with me in the House Business Committee and knows that we approved the shortening of the publication period on the Supreme Court Bill which happened only yesterday.

I want to assure the hon. Member that the slotting will be done at the next sitting. In fact, if it was not for the fact that we want to be able to sort out this matter of the nominations of the Chief Justice and his colleagues, we would be dealing with that this evening. Therefore, we are spot on. This House is very serious in implementation of the new Constitution.

I want to assure the House and the country that this House is doing the best it can to implement the new Constitution without fail and delay.

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I think that is sufficient for now. Some of you sit in the House Business Committee. You can still prosecute that matter there. If there is unfinished business, God willing, we will be here next week. Let us proceed with Statements.

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Ethuro): Are you implying that your points of order were not addressed by the Vice-President?

Hon. Members: Yes!

The Temporary Deputy Speaker (Mr. Ethuro): Okay, let me allow Mr. Ogindo.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, when the Minister for Justice, National Cohesion and Constitutional Affairs was moving this Motion, he sought leave of the House to shorten the maturity of this Bill. It was on the ground that this matter was urgent. Today, we are getting application from the same Government and none other than the Leader of Government Business that we lengthen the period unnecessarily without giving any reason. Are they in order?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir I want to assure the House that this matter will be on the Order Paper on Tuesday.

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Ethuro): Order! The Leader of Government Business gave two clarifications. One, the Minister for Justice, National Cohesion and Constitutional Affairs was handling the matter we mandated them only this afternoon. Two, the amendments are being worked on. Hon. Members, let us be patient. This is the last day of business of Parliament this week and Tuesday will be the first day of business next week.

Let us proceed.

MINISTERIAL STATEMENTS

APPOINTMENT OF MOI TEACHING AND REFERRAL HOSPITAL CEO

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, last week, Mr. Koech, demanded in this House that the Minister for Medical Services makes a Statement in the House with regard to the appointment of the Chief Executive Office of the Moi Teaching and Referral Hospital.

Mr. Temporary Deputy Speaker, Sir, I have already discussed this matter with the Speaker and explained to him that my senior officials in the Ministry; that is the Permanent Secretary, the Director of Medical Services and the Chairman of the Board are all out of the country. As soon as they come back and after consultation with them, I will make this Statement in the House on 7th June, 2010.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Koech, what do you have to say?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I am surprised on what the hon. Minister has indicated to this House that he is not able to deliver this Ministerial Statement today. When I stood to request for this Ministerial Statement, I said it is urgent.

I am aware of so many under-cuttings happening in this country with regard to the issue. I am worried that what he wants to do is to effectively do what he wants to do, so that by that time, everything shall have been overtaken by events.

With your permission, I can table documents that can prove to this House that he does not mean well for Moi Teaching and Referral Hospital where today there is high tension in Eldoret Town. In fact, people wanted to demonstrate yesterday. This is a very serious matter because he has decided to suspend and send away a CEO who has done a lot for Moi Teaching and Referral Hospital, together with the Government of Kenya. In fact, the partners are now contemplating pulling out. Is he in order to request for an extension when I know that what I requested him to table is minutes that recommended the new CEO?

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

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, before I give my guidance, what is your response to Mr. Koech's sentiments?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I said very clearly that my senior officials in the Ministry are not there. They are in a meeting in Geneva. The Chairman of the board is in the USA. Therefore, I cannot bring to this House an incompetent Statement. Therefore, I will wait until they are in the Ministry, so that we deliver to this House a competent Statement.

The Temporary Deputy Speaker (Mr. Ethuro): When will that be, Mr. Minister?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): I have said that I will deliver this Statement in the House on 7th June, 2010.

Mr. Kuttuny: Ninakushuru sana, Bw. Naibu Spika wa Muda, kwa nafasi hii. Ni jambo la kusisitisha sana kuwa Bw. Waziri hayuko tayari kutoa arifa kutoka kwa Wizara yake juu ya jambo hili. Wiki jana aliahidi kutoa arifa katika Bunge hili juu ya jambo hili kwa sababu ni muhimu sana kwetu. Hii ndio hospitali inayotoa huduma za afya kwa watu wengi. Ni aibu kuona huduma inatatizwa na vifo vingi vinatokea katika hospitali hii. Hakuna dawa za kutosha katika hospitali hii. Vitendo vya Waziri vimechangia pakubwa katika upungufu huu wa huduma. Taharuki imetanda katika hospitali hii kwa sababu wafanyakazi wengi tayari wamepokea barua za kuwasimamisha kazi. Je, ni nidhamu kwake kusema tsubiri arifa hii hadi tarehe 7/06/2011 na ilhali alikuwa ametuahidi kutoa hivi leo?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, given the fear that the Member for Mosop has relayed here, that there is a likelihood of the Minister performing the same irregularity that the Member of Parliament is complaining about in between now and the date that he has given, could he then consider giving an undertaking that a status quo will be maintained until that Statement is given, so that he does not use this House to perform an illegality while he blames his officers in the Ministry?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, there are three other fears that I have. One, I need an assurance from the Minister that he will bring down the tension being experienced there between now and the date that he wants to deliver the Statement. I have a document here indicating that workers on contract are actually doing profiling. There is a directive that before the renewal of their contract, they must have a break before the next renewal if their services are still needed.

Secondly, the fear---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Just deal with the issues. You do not have to go into the details.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I have not gone into the details. The fear of the workers at the Moi Teaching and Referral Hospital is that the situation may remain the same. Two, they instructed an audit to be done after I requested for this Ministerial Statement. Could the Minister confirm that he is actually going to suspend that? That is because, to me, that is witch-hunting. Could he confirm that he is going to maintain the status quo and reduce the tension that is there?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Given the mood of the House, you may even wish to bring the Statement forward from 7th. I mean, being in Geneva or America does not matter. You can still get that information within time.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I did not choose that date arbitrarily. The reason why I chose that date is because I want to bring to this House a competent Statement. Secondly, the Government has facilities to make sure that security is maintained in the country. If there

is any tension in Eldoret, the Government is competent to make sure that there is proper peace and security at the hospital and Eldoret as a whole. So, I have no fear whatsoever that---

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

The Temporary Deputy Speaker (Mr. Ethuro): Order! The Minister is responding. The Chair has been very charitable to the Member for Mosop.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, you see, it is not a dialogue between him and me. It is a dialogue in the House. Secondly---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! The Chair had already done its job. Yours is to respond.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, secondly, an institution cannot depend on one person to run. That would mean that, that particular individual, when he was the Chief Executive Officer, did not build that institution. So, I do not believe that when a Chief Executive Officer goes on leave, falls sick or dies Government institutions collapse. So, there are proper institutional mechanisms at Moi Teaching and Referral Hospital to maintain services. I am quite sure that I have adequate information in the Ministry about the missing medicine, people resigning and so on. That information should have reached the Ministry through the proper governmental channels. I will deliver the Statement on 7th of June.

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

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Chepchumba! I think the Minister has heard our concerns. He has explained himself and given a date. Can those things wait for that time?

Ms. Chepchumba: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, would you like to be informed?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I think I am fully informed.

(Laughter)

The Temporary Deputy Speaker (Mr. Ethuro): Let us rest that matter there!

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

The Temporary Deputy Speaker (Mr. Ethuro): What is it hon. Koech? It should be on the date only!

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, my point of order is this: Is the Minister in order to mislead this House that, that particular officer is on leave or sick, when he was actually suspended? Secondly, I would really plead with you, just like my previous colleague, to order the Minister to deliver the Statement when I am here. That is because I am interested. It is my humble view that the Minister puts those things in order and delivers the Statement next week on 2nd and not on 7th June.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Minister, given the technology that we have and the records that are in Eldoret or in the Ministry, they can be organized. I think that request of 2nd is reasonable.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, when I was saying that I was going to deliver the Statement on 7th June, I was not making any "guess-estimates" of any sort. I said quite clearly that I would like to give a competent Statement to this House and after a thorough examination I will give that Statement on 7th June.

The Temporary Deputy Speaker (Mr. Ethuro): Okay, hon. Members! Let us rest the matter there. On 7th of June, we will have a comprehensive properly interrogated Statement. Let us proceed to education. The date is 7th June and there is nothing to confirm.

Mr. Koech: On a point of order, Mr. Temporary Deputy Speaker, Sir, I agree---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Koech, you cannot rise twice on the same point of order about the date. That matter has been disposed of and it shall remain that way. Prof. Ongeru, you have the Floor!

UPGRADING PROVINCIAL SECONDARY SCHOOLS

The Minister for Education (Prof. Ongeru): Thank you, Mr. Temporary Deputy Speaker, Sir. Hon. Benjamin Langat, the Member of Parliament for Ainamoi Constituency sought a Ministerial Statement on the question of the upgrading of 30 secondary schools from provincial to national status and in my Statement, he had specifically requested the following:-

- (i) that I name all the 30 schools that are planned to be upgraded,
- (ii) state the existing policy and/or legal framework for upgrading of schools to national status,
- (iii) indicate the criteria followed in selecting the said 30 schools for upgrading; and,
- (iv) state whether there was any stakeholder consultation and identify the various stakeholders that were consulted, if any, and in particular, who was consulted in selecting Kipsigis Girls High School in Kericho, and where and when the consultation took place.

Mr. Temporary Deputy Speaker, Sir, in response to this question on the establishment of the national schools by the Ministry of Education, I wish, first of all, to state that in establishing national schools in Kenya, we are informed by the following factors:-

- (a) The continuous demand for national school places by the public, parents and the students.
- (b) The increased children sitting the Kenya Certificate of Primary Education (KCPE). For example, in 2010, the candidature of 746,107 was the highest ever as a result of the aegis of free primary education programme initiated by the Government of Kenya in 2003.
- (c) After the 2008 post-election violence, there was need for schools to act as avenues of promoting national unity and social cohesion.
- (d) In January 2011, in one of the functions, the President gave an order that we should make provisions for creating two national schools in each county, totaling to 94 schools in 47 counties.

Mr. Temporary Deputy Speaker, Sir, therefore, the Ministry, in pursuit of that policy framework, intends to upgrade a total of 97 well performing secondary schools to

national status. However, due to financial constraints, the programme will be implemented in phases - 2011/2012, 2012/2013 and 2013/2014. On this particular Financial Year 2010/2011, the Ministry, for a start, identified 30 schools that it proposes - please mark my words, "it proposes" - to upgrade as follows:- Since the list is very lengthy, with the permission of the Chair, I will table it. But the basic principle---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! The issue is of immense public interest, including the Chair. Read out the names of the 30 schools!

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, in Central Province we have Kagumo High School, Murang'a High School, Nyandarua; Karima Girls and in Nairobi we have Pangani Girls. In Rift Valley, Kajiado County, we have Moi Girls Isinya, Trans-Nzoia County, St. Brigid's Kiminini Girls; in Keiyo Marakwet County we have St. Patrick's Iten; In Nandi County we have Kapsabet Boys; in Kericho we have Kipsigis Girls; in West Pokot County we have Kata Girls; in Eastern Province in Machakos County we have Machakos Boys; in Kitui County we have Muthale Girls; in Embu we have Moi High School Mbiruri; and in Meru we have Meru School. In Makueni County we have Makueni Boys; in Tharaka Nithi we have Chogoria Girls.

In Western Province, Bungoma County we have Lugulu Girls and Friends School Kamusinga. In Kakamega County we have Kakamega High and in Vihiga County we have Bunyore Girls. In Coast Province, Taita Taveta County, we have Kenyatta High School, Mwatate. In Mombasa we have Mama Ngina Girls. In Mwatate, we have Bura Girls. In Kilifi we have Ribe Boys. In Garissa, we have Garissa High School. In Nyanza, Migori County we have Kanga High School. In Siaya, we have Maranda High School. In Kisii we have Nyabururu Girls and Kisii High School. In Homa Bay, we have Asumbi Girls.

The upgrading of provincial schools to national schools was informed by the following policies and legal frameworks:-

(i) Sessional Paper No.1 of 2005 which seeks to promote access to secondary education by increasing the number of national schools.

(ii) The Education Act which gives the Minister the powers to promote and provide quality education to all Kenyans and if you read Section 3(1,2,4(i) those powers are clearly spelt out; how we proceed in creating the national institutions.

(iii) The current Constitution which requires that all Kenyans be given equal opportunities to basic education which is compulsory.

(iv) The various post-independence education commission reports and recommendations.

There is an issue of criteria which has been used to select the 30 national schools in order of priority and it was based on the following criteria:-

1. K.C.S.E performance – consistent good performance of a mean grade of C+ 6.5 and above in the last five years was taken into account.

2. Equity considerations – Geographical distribution: Two schools, one for boys and one for girls per county were selected. Consideration was made to ensure that the schools selected were not in the immediate neighbourhood. Ideally, none of the schools should come from any of the counties with a total of 18 national schools. These are as follows:- Kiambu, Nairobi, Nakuru, Uasin Gishu and Kisumu.

3. Affirmative Action – in exceptional cases, where no school in a county met the set criteria that I have already enumerated above, an affirmative action was used as for boys a mean grade of 6 flat and as for girls a mean grade of 5.5.

4. The infrastructure – Reliable source of water, power and communication network, quality boarding facilities, land for expansion, three or more streams preferably former A level schools and ease of access.

5. Community support – The willingness of the school management and communities and stakeholders to support the idea of the elevation of the school to a national status.

Mr. Temporary Deputy Speaker, Sir, lastly, I wish to inform hon. Members that the process of consultation and identification of schools by stakeholders is still ongoing. Further, I also wish to remind the hon. Members, that on 15th February, 2011, I appeared before the Parliamentary Departmental Committee on Education, Research and Technology and briefed them on my Ministry's strategy, process and criteria to be used in upgrading the provincial schools into national schools. So far, the Ministerial technical team has held several meetings including one consultative meeting with the stakeholders of the proposed phase one schools which was held on 16th May, 2011 at the Kenya Institute of Education (KIE). The stakeholders included the Boards of Governors (BoGs), Parents-Teachers' Association (PTAs), leaders and representatives of faith-based organizations like the Catholic Church, the Presbyterian Church of East Africa, African Inland Church, Friends Church, Church of God, Seventh Day Adventist Church and the Chief Kadhi.

Finally, the process of identifying the schools would still continue and would be inclusive to guarantee stakeholders participation and ownership. Indeed, I want to assure Parliament that no gazettelement would be done until we are fully satisfied that the upgrading of schools is in conformity with the criteria that I have already so far set and proper process must be followed in order to achieve greater acceptance by the community and at large scale in total.

Mr. Temporary Deputy Speaker, Sir, the gazettelement would include the list of schools and the schedule of implementation in a phased out format. It would appear in the current list of 30 that we may not have touched upon all the counties. That is because there was limitation of funds. It was proposed in the Budget that they would be getting only Kshs750 million and we thought it prudent to plough this money in increasing more spaces for form one admissions in view of the experiences that we had last year when we took an affirmative action, by expanding the existing 18 national schools for more spaces.

Therefore, this list is not exhaustive. If anyone raises a serious objection, we have no intention as a Ministry to force any sponsor or any community to accept a national status until such time that we have all agreed that it is the way to go forward. Therefore, we will slot the next one on line until such time that we are able to reach a process which is acceptable to all of us.

The Temporary Deputy Speaker (Mr. Ethuro): Minister, I hope you are taking some serious notes. Hon. Members, because of the immense interest, I would really request that you restrict yourself to one clarification and I am sure they will be covered. I would like to start with the chairman of the Committee on Education, Research and Technology.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for one thing; that as a nation we must ensure that we integrate Kenyans and the best way to do that is through education and ensure that we have as many national schools as possible in this nation so that all children across Kenya can learn from Kenya so that we have nationalists. But I want to seek one clarification from the Minister.

First, I am glad to note that consultations with stakeholders are going on but my concern is why there are pronouncements left and right. Secondly, how much are you going to give for upgrading on average per school? Thirdly, since these schools were built by communities, why can you not consider building new schools by asking counties to provide land then you build with specific work-plans so that everybody can see that it has a national outlook in terms of design, outlook and entry to the school?

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I want to commend the Minister for this bold attempt to increase the number of national schools. I say so because in my maiden speech in this House I criticized the distribution of national schools, I called for an increase of national schools.

Minister, I thank you. However, I have a problem with the list as read out. *Waziri*, you may not know it but one of my proudest heritage is that I went to Cardinal Otunga High School in Kisii. Therefore, in more ways than one I also consider myself to be among the good people of Kisii. I know Nyabururu Girls very well, and I know how it has been performing in the last five years.

Mr. Temporary Deputy Speaker, Sir, Nyabururu Girls and Kisii High are in Kisii County. I know Sengera Girls in Nyamira County has been doing very well. Similarly, Lwak Girls in Siaya County has been doing much better than Nyabururu Girls. What were the criteria used to select Kisii School and Nyabururu Girls which are both in Kisii County and not Lwak or Sengera Girls?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Benjamin Langat, apologies from the Chair. You are the one who requested the Statement and should have got the first chance to seek clarification.

Please, proceed!

Mr. Langat: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for giving a very comprehensive Statement regarding this very important subject. Access to national schools is very important. It is a very good idea what the Government and the Minister are doing. Unfortunately, the Minister is approaching this matter in a very wrong way. When the Minister said that there were stakeholders' consultations in some place in Nairobi, where communities were not represented, yet most of the communities are the ones who built these schools--- I would have expected the Minister to bring the consultations to lower levels, so that we give him ideas on how this matter can be handled. Could the Minister confirm that any further consultations on this matter will be done at the county level, to which all the stakeholders will be called?

Secondly, can the Minister further confirm that the issue of the policy in terms of the quota system will be resolved before we go into the matter of making our schools national?

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, the Minister has cited the relevant Sessional Paper and the Constitution to be able to set up the criteria to be used in proposing schools for elevation to national status. However, what fairness is there when you are not taking schools from every county, and more specifically from ASAL

districts? I can only remember you have talked of Kapenguria. There is no other school in the ASAL districts that has been considered. What is the sense in that?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I have listened carefully to the Minister. I think it is about time that Ministers took a course on what affirmative action means. Affirmative action has not been practised. Selecting schools in places where there have been consistent good grades, and which are easily accessible is not practicing affirmative action. Affirmative action is giving an opportunity to an area where that opportunity currently does not exist, and there is no hope of it existing unless there is a deliberate action. How can the Minister explain why Turkana County has not got any favourable response from this Ministry when we are talking about consistency?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I want to appreciate the Statement by the Minister. I think he is the only Minister with a Permanent Secretary vying in presidential election come next year. I hope the Permanent Secretary has time for these matters in the Ministry.

The net effect of a school being upgraded from provincial to a national school is giving away slots that would have otherwise been available to the locals. The national schools are within an area, but they never get to benefit the locals because they take students from far and wide, and for good reasons. There is something that we need to appreciate. It is important for the Minister to tell us also what the Ministry is doing to compensate the locals who worked very hard to make the schools what they; they are at the point where they have now become attractive at the national level. We have many young people who, from that day onwards, will miss opportunities of joining secondary schools because their slots will have been taken by others from far and wide, or from other parts of the country.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I would like the Minister to clarify to the House why it was difficult for him to just get 47 national schools, so that there is one per county. According to the criteria he has given Kabare Girls in Kirinyaga County, and several other schools within the county, have attained the criteria, with Kabare Girls having over nine points, or whatever points he was talking about and a mean grade of C plus. Why was it not picked? Why were other schools within the county not picked, which all attained the criteria?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, for a very long time Nyanza has not been doing very well. But because of investment, maybe from the CDF, Nyanza schools have come up. I have just heard the Minister talk about making Kanga and Maranda national schools. Maranda made Nyanza for the first time produce the best performance in Kiswahili.

Minister, this is not going to be acceptable to us. Maybe---

Mr. Kioni: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Mr. Mbadi to object to one of the schools from his neighborhood being made a national school, while he and others have been on this Floor asking for more national schools to be created, especially away from central Kenya?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, if he listened I was going to that. I am asking the Minister to nullify this exercise and sit down with stakeholders, so that we can identify which schools to improve. Take the worst performing schools and make them national schools. If you take our schools that perform well like Kanga and Maranda, which admit 80 per cent of our children, only ten per cent of our children will

get access to those schools. This will affect education in our place; we cannot accept it because we have suffered, for a long time, deteriorating academic performance. Please, do not touch Maranda and do not touch Kanga. Look for the worst performing schools.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbadi! You are now becoming repetitive.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, when we passed our Constitution the Government agreed that we would have equitable distribution of resources. Kakamega County has 1.6 million Kenyans, which number is equivalent to that of Nairobi. However, in the distribution of national schools the Minister has given Kakamega County only one national school. That is one school for a population of 1.6 million people. Is this the equity we were asking for? This is because we would have requested---

The Temporary Deputy Speaker (Mr. Ethuro): Order! You have sought your clarification and that is sufficient.

Mr. Ogindo, please, proceed.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I am glad that one of the schools which was upgraded in my constituency is Asumbi Girls. Other than the fact that we have evenly distributed the slots for admission nationally, what will Asumbi gain out of this?

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, we should conclude this. We will have Elijah Langat, Njoroge Baiya and then we conclude with the Chair of the Equal Opportunities Committee.

Mr. Langat: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I have a proposal. Two years ago, this Government gave a budget for building centres of excellence. I am just wondering why the centres of excellence have been left out while other schools have been picked. Why can the Government not take the centres of excellence that we built and develop them into national schools instead of taking schools that were built by---

The Temporary Deputy Speaker (Mr. Ethuro): Order! You have made your point, hon. Langat. I am sure that the Minister has heard you clearly.

Mr. Baiya: Thank you, Mr. Temporary Deputy Speaker, Sir. To expound on the point that the immediate former speaker has raised, my concern is that I do not have any national school in my constituency. However, I am not complaining. What is the key priority as far as this Government is concerned? Is it to expand access to secondary schools by building as many secondary schools as possible or to elevate a few into national school status?

The Minister for Education (Prof. Ongeri): Repeat the question.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, the Minister is asking me to repeat the question.

The Temporary Deputy Speaker (Mr. Ethuro): You can repeat to him while you are seated.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, unfortunately, that means that I will not get the response that I am seeking.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Baiya! Proceed, hon. Affey!

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, I appreciate the sentiments by all my colleagues because they are all intended to enhance equal opportunities in this country. Now, in terms of opportunities for the north, which has suffered greatly as you know, due to lack of sufficient educational institutions over the years, why have you not increased the number of schools in those traditional areas which have suffered due to negligence in education? In the North Eastern Province, you have elevated Garissa High School which we appreciate. However, why did you not consider Wajir and Mandera counties?

The Minister for Education (Prof. Ongeri): Mr. Temporary Deputy Speaker Sir, I want to appreciate the very deep sentiments in the area of education. That is not the way it should be. Hon. Koech asked why we have pronouncements of policies left right and center. There will be no more pronouncements being made left, right and center. Any policy enunciation will come through my desk. I have made it abundantly clear that no haphazard policies will be spelt out on my behalf. The Act of Education is quite clear.

The issue is for the new schools to have a national outlook. Indeed, that is the whole purpose of educational opportunities. We do not want to educate our children who are only confined to a particular ethnic group or geographical location. However, we would like, through the process of acquiring education, that our children also get to know about the diversity of this nation through culture, geography, civic education and the actual classroom education, hence the need to continue maintaining the national schools so that we have the cross cutting fusion which is very important for national cohesion. I will tell you from a position of recent experience that after the post-election violence, when we adopted this policy, it became one of the major issues that brought about the healing process much faster than we would have engaged in any political debates.

Eng. Gumbo said that he had a problem. I can understand; why not his old school, Cardinal Otunga, Sengera and Lwak in that order. I want to appreciate your sentiments about Cardinal Otunga. If you listened to me, when I read out the criteria, you will see that we are looking at somebody's child selecting a school of his choice. Obviously, the first question they would ask is whether the school is a performing school or a non-performer. If it is a performer, your child would choose the school as choice number one or two and go to that school. Therefore, the simplest criteria we wanted to use is the level of consistency in the last five years. Yes, I agree that Cardinal Otunga had very bright students, including you, as an engineer, today. Those were the days. But now, we want them to come a little bit higher. You will also appreciate that the older school which is the mother of all secondary schools in that area is Kisii High School. I think it is only fair when it is considered among sister schools that the older school gets the first opportunity. I would like to combine the question of proximity with---

(Eng. Gumbo stood up in his place)

I think this is where technical officers become myopic in terms of assessing the needs and spread out the benefits to a wider slate rather than converging it to one simple case. I have a similar problem with that but sooner or later, I will correct it. Be assured of that.

Hon. Langat had a very good idea, but he approached the matter in the wrong way. Consultations are done in Nairobi and not in the county.

Eng. Gumbo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Mr. Waziri, I appreciate very highly, your answer and to be honest, I would have loved Cardinal Otunga to be among the schools which have been upgraded. However, that was not my question.

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are on a point of order! Tell us what the Minister is not getting right.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir that is what I am getting to. Criteria number two talks about equity considerations and making sure that schools selected were not in immediate neighbourhood. Nyabururu Girls is in Kisii and Kisii High School are in the same county and less than five kilometers apart. What informed their choice?

The Temporary Deputy Speaker (Mr. Ethuro): That is a valid one.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir that is very clear. If you listened to me, I said that there is one area that the technical officers did not appreciate; the geographical dimension and the distances involved in the schools. I have a personal problem with that kind of a decision although I did not say it.

I have already had discussions with the relevant county Members on this particular matter, because there are other schools which could have equally competed well for that slot. This was meant to be a technical consultative process. The mistake they made was to allow the Press into it. So, what came to the public domain was that a decision had been made. I am now telling you that consultations are still ongoing. If you feel very offended by that decision, we will quite be willing to discuss it further.

The Temporary Deputy Speaker (Mr. Ethuro): Minister, when the hon. Member pointed out that your own suggested criteria were violated--- It was not enough to just come here and say that the technical officers did not do it right. Tell us how you are remedying the situation.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I said that I will take corrective measures after proper consultations are carried out. I will not go the pathway of haphazard choices.

Hon. Langat asked whether the people around Kipsigis Girls Secondary School were consulted. Indeed, yes. The schools Boards of Governors (BoGs), the Parents Teachers Associations (PTAs) and other stakeholders came to Nairobi on that matter. What we must now separate is what we call “a short in the arm” or a stop gap measure we are taking in order to increase the number of places for Form I intake. The position we have is that there is a task force, headed by a very competent Kenyan, namely Prof. Odhiambo, who was able, during the time of the Mackay Commission and the other group, to come up with reforms in the education sector.

This task force is going to every county to gather information. My expectation was that the technical team that put together this stop gap measure approach would link it to the task force, which is preparing the main report, which will form the basis for far reaching reforms – both legal and technical – involving a wide range of areas, including The Education Act, the system of education, curriculum development, *et cetera*. All these factors are now being dealt with by the wider task force, whose interim report I expect to be handed to me in the next two weeks, and the final report in the months of August/September.

Mr. Temporary Deputy Speaker, Sir, that report will have taken into account the establishment of national schools at the county level, retention of national schools as they stand today and the cost of implementing that process. It will be on the basis of that report that I will prepare an informed document which will form the basis of a Sessional Paper and a Cabinet Paper for the Cabinet to answer some of the provoking questions.

Mr. Langat: Mr. Temporary Deputy Speaker, Sir, the Minister has talked about two things. First, he talked about the list of the 30 schools that will be elevated to national school status, but at the same time, he said that there is another task force which will bring another list. Could he inform us whether he is suspending the list of the 30 schools awaiting the report of the task force?

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I am not suspending the list, but I will be consulting. I will marry the information that I have received from the technical input to the task force's information. I am sure that we will get a better hybrid.

An hon. Member asked how the issue of the quota system will be resolved. Indeed, we must look at the quota system. Currently, where there is a national school, the local people are allowed to admit only 5 percent of the Form One places in that school. I do not know what the task force's recommendation will look like, because I have specifically asked them to address the issues of the quota system and affirmative action. So, I do not know what format their report will take when it is finally presented to me. Obviously, it is an important point, which we must deal with, and be very clear on how we will engage the national schools *vis-a-vis* the local interests.

Mr. Temporary Deputy Speaker, Sir, hon. Letimalo asked what fairness is there when ASAL areas are ignored. It may please the hon. Member that one of the things we are addressing through this task force is the very same issue on which I had a very long chat with him – nomadic education. I intend, through this package, to bring in a comprehensive educational programme, in conjunction with the Ministry for the Development of Northern Kenya and Other Arid Lands--- We will address the issue of nomadic education in some of those areas. These are special peculiarities which you cannot put in the group development strategy and policy on education. So, ASAL areas are part of the areas I intend to engage for the future.

Hon. Shebesh said that there is no affirmative action where schools exist. I am glad that hon. Members have raised this matter. We have provided, through the Economic Stimulus Programmes (ESPs), one centre of excellence in every constituency. We have also said that there will be two model primary schools. This has not only been said, but we have also gotten resources flowing to the specific schools where hon. Members participate as committee members. The problem we have is that some of the schools are not complete. Some are 80 percent complete. Some are only 50 percent complete. Some schools in Western Province have done very well. The completion rate ranges between 90 and 95 percent. I want to thank them for that.

Mr. Temporary Deputy Speaker, Sir, we, as a Ministry, together with this House's Departmental Committee on Education, Science and Technology, are trying to persuade the Treasury to release additional resources in the coming Budget, so that the ESPs do not become white elephant projects. We want them completed, so that they can perform the purpose for which they were set, which is to bring a sense of equity and affirmative action in the whole country. That way, Kenyans in every constituency can say: "We have

one centre of excellence we are proud of'. Of course, there will be no limitation on the quota system in those centres of excellence. They will be local centres of excellence. However, we may suggest to you that we do cross-transfers of small percentages amongst counties, so that we can have the equivalent of a mixed product. That way, there can be a hybrid type of education in those centres. Children will be more interested in learning when they know that they are interacting themselves across tribes, boundaries and the centres.

Mr. Temporary Deputy Speaker, Sir, hon. Kioni said that slots which should otherwise be reserved for local pupils will be taken up by pupils from other parts of the country. There is no slot meant for the local pupils which will be taken up. If the locals are supposed to take up 5 percent of the places available in a school, they will still take up the 5 percent. What has been the position is that the 18 national schools that have been in existence have, unfortunately, been in only one regional configuration. Therefore, when you aggregate the 5 percent, the advantage only goes to certain groups of people, and not to the rest of the country.

Therefore, spreading out the national schools to each county brings in that element and the sense of equity as stated in the new Constitution. That is what we are seeking to address.

Mr. Temporary Deputy Speaker, Sir, I have been asked whether we have compensated the counties. Yes, we have compensated you. We have given you money for centres of excellence and model schools. That is fair compensation. There cannot be any compensation beyond that. The only compensation you will get is that you will be part of the nation builders. You will be building Kenyans rather than a particular narrow group of people.

Mr. Temporary Deputy Speaker, Sir, Ms. Karua asked: "Why is it difficult to include Kabare Girls in Kirinyaga?" It is not difficult. We will include it. It is only had 30 slots and as you can see, some people do not want their schools included and I will revisit the list again. There are more than 30 schools which are interested to being national schools. We will discuss with those that will be interested to be national schools and agree with them. We will bring them on board in the first phase. I mentioned earlier on that, that will be done in three phases. You will appreciate that it is not possible to churn out resources to set up 94 national schools in one financial year. It is simply not possible.

Mr. Mbadi said that he does not want Kanga or Maranda to be national schools. So, what does he want? The choice is his, so long as he satisfies my criteria that I have already enumerated. We will discuss with the stakeholders. Since Mr. Mbadi is speaking on behalf of Maranda--- I have just received an invitation to attend an education day in Maranda High School and they are very excited about their new status. They want me to be there. I do not know who the hon. Member is speaking for. The same applies to Kanga High School. The hon. Member whose constituency Kanga High School falls under has already said that he is satisfied with that. So, you can see the divergent views we are getting. I think the best thing is to get the aggregate, consensus or position of the stakeholders and we shall go by the majority stakeholders. We cannot play politics with schools. They will be a stage when a certain decision has to be made.

Mr. Temporary Deputy Speaker, Sir, Mr. Washiali asked about the equitable distribution of resources in accordance with the population. When we look at the population, we do not look at the global population of people but that of students.

Therefore, when setting up those national schools, we will be looking at the number of streams that will accommodate the number of students in that region. By the way, some of his students will be recipients of admissions to other national schools. Therefore, the element of population here does not apply strictly to Western Province as it stands, because he will also be having spread out opportunities to other schools.

Mr. Ogindo asked: “What will Asumbi Girls gain out of this?” The answer is national status, of course. It is good to be in that bracket. Mr. Lagat asked: “Why not take centres of excellence and upgrade them?” I have already said why they should be there.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the Minister is over-simplifying the question. I asked: What will Asumbi gain out of this in terms of having been elevated to a national school? I was expecting something like additional investment in terms of infrastructure, manpower and equipment. Above all, what will these national schools benefit this country in terms of producing nationalists? What has the Minister done about that?

The Minister for Education (Prof. Onger): Mr. Temporary Deputy Speaker, Sir, obviously, I did not give the details. Once you are in the bracket of a national school, then you are given priority in funding, provision of teachers and various investments. Regarding what these schools will be doing to produce nationalists, that hinges on the type of curriculum that we will eventually develop and subjects that we intend to teach our children on how to grow to adulthood. So, there is a lot to be gained apart from the national status. It is not an empty promise.

Mr. Baiya asked: “What is the key priority?” The key priority is to ensure, in conformity with the education for all by 2015, the Millennium Development Goals, that every school going child, first and foremost, is in school. Secondly, we want to ensure that there is retention of that child in the classroom for the business of learning. Thirdly, we want to ensure that there is increased transition rate. When we started in 2003, the transition rate was 46.4 percent but today, it is 72.5 percent. We are ahead of our stipulated transition rate by MDGs of 70 percent by 2011. So, we are ahead by 2.5 percent. So, we are doing very well. We will move to 80, 90 percent and hopefully 100 percent when that time comes.

Mr. Temporary Deputy Speaker, Sir, Mr. Affey asked about opportunities for the north and why we have not increase schools in the counties. We have started with Garissa and we will increase schools in the counties. Again, hon. Members will have an opportunity through the task force report to ventilate their views more and add value to that report so that it becomes an inclusive policy for Kenyans in education.

Mr. Temporary Deputy Speaker, Sir, I thank you for your attention.

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, that Statement has taken almost one hour.

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

The Temporary Deputy Speaker (Mr. Ethuro): Are you seeking another Ministerial Statement? It must be another Ministerial Statement and not to do with Prof. Onger. Eng. Rege, we cannot entertain more on this. The Chair has been more than generous.

Proceed, Mr. Mbadi!

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Last week, you ruled that today you will make a ruling with regard to a Statement which I had sought from the Deputy Prime Minister and Minister for Finance. This Statement needs to be disposed of. I was just wondering what the Chair has to say given the fact that today is Thursday. I was reminding the Chair that, that ruling was due today.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Mbadi, I do recall that undertaking was made by the Chair. I want to believe that given the circumstances we are in today, it is not possible to deliver it. I am trying to give myself adequate notice so that I give a timetable that I know we can realise. It will be on Tuesday next week.

What is it, Eng. Rege?

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, I just want to applaud the Minister. My question is---

COMMUNICATION FROM THE CHAIR

RE-SCHEDULING OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION BILL

The Temporary Deputy Speaker (Mr. Ethuro): Order, Eng. Rege! Please, resume your seat. The Chair pronounced itself very clearly on this matter, that we shall entertain no more points of order towards the Minister for Education. That will remain that way!

Hon. Members, on Order No.8, you will remember the Leader of Government Business, when presenting his Statement on the business for the following week, indicated that the Government has also decided to reschedule this Order to Tuesday, next week.

Mr. Abdikadir: On a point of order, Mr. Temporary Deputy Speaker, Sir. I thought those contributions should have come at this point. However, we, in the Committee, take great exception to the decision by the Speaker. I was hoping you would hear me on this matter.

This is not ordinary Government business. This is part of the constitutional implementation process. You will note that from February up to date, we, as a House, have not passed one Bill concerning implementation. This matter was hurried when it came to the House for debate. The time was shortened.

The House Committee on Justice and Legal Affairs had issues and time was spent while we were waiting for that matter. That is why it had to come through a ruling by the Speaker to the Committee on Implementation. Part of that ruling was a deadline; Monday this week. The Committee went out of its way to meet that deadline.

Part of the business of today is not just a Bill, it is a report of the Committee. To seek to delay this process without consultations or recourse to the Committee, to go ahead and do that, we take serious exception.

Secondly, these matters to do with the Constitution are a little bit different from typical Government business. Indeed, if we were to push for legality, the Minister for Justice, National Cohesion and Constitutional Affairs does not appear anywhere in the implementation process.

So, for him to take those powers, to re-arrange work dealing with the Constitution when we are so much behind schedule in the process of implementation of the Constitution, especially when he makes such pronouncements about delay of this process, is completely unacceptable. It is important that this matter be recorded. If we were to proceed, we are ready. We do not see why we are delaying this matter.

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

The Temporary Deputy Speaker (Mr. Ethuro): What is it, Mr. Mbadi? But I would like to encourage the Deputy Leader of Government Business that it is not enough to rule. These are serious issues being raised before the Floor and you must be prepared to respond to them.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, on the same note, I do appreciate Standing Order No.36(2) which says that business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Mbadi! Which Standing Order are citing?

Mr. Mbadi: I am citing Standing Order No.36(2). It says:-

“Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the House, direct.”

I want to draw your attention to the words “may for the convenience.” The Standing Orders have given the Speaker that power to dispose of the Order differently, but only for the convenience of the House. That convenience of the House can only be determined by asking this House if we accept that the way you want us to dispose of business in the Order Paper is to our convenience. To many of us, it is completely for the inconvenience of this House. If the Speaker will make this ruling, I want to just remind him that it will be for the inconvenience and not for the convenience of this House because we feel inconvenienced.

The Temporary Deputy Speaker (Mr. Ethuro): As I allow Mr. Koech and Ms. Karua a chance to contribute, I would like before I make the ruling that the hon. John Mbadi reads Standing Order No.36(2) and also Standing Order No.38(1).

Proceed, Mr. Koech!

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, in your ruling, there are certain serious concerns in this country. What is in the public domain is that Parliament is not ready to implement the new Constitution. That perception has persisted. What is coming before this House today is very clear and that message has not gone out there that if the Government cannot bring Bills to this House, we cannot debate and interrogate the same in order to pass them. I would wish the Leader of Government Business to clarify and admit that the problem is in the Government as regards the implementation of the new Constitution.

Secondly, we have also been hearing left, right and centre that there are some who have already been branded as anti-reformists. It is like there are those people who wish to make sure that the implementation of the new Constitution is not adhered to. We, as a House, are ready. We are willing and prepared to interrogate and ensure that Kenyans reap the fruits of this new Constitution.

I wish to request for your direction and guidance on that.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, the Committee of Experts when they framed this Constitution were quite aware that a Government can frustrate implementation of the Constitution. Therefore, unlike the normal Bills that come through the Government, a third organ outside the Government and Parliament was created. That is the Commission on the Implementation of the Constitution under Clause 5 of Sixth Schedule. Part of their mandate is to monitor, facilitate and oversee the development of the legislature and administrative procedures required to implement this Constitution, coordinate with the Attorney-General and the Kenya Law Reform Commission in preparing for tabling in Parliament the legislation required to implement this Constitution. Yes, it was tabled by the Minister, but it was not mandatory that he does so. This is not a normal Government business.

Now that we are seized of the Bill, the Committee has done its work. We are here and the Government is represented - I can see on the Front Bench – by three able Ministers. The country is wondering why Parliament is delaying implementation. I urge you to rule that we proceed with the Committee Stage. There is no good reason for delay, especially when the Government requested, and this House graciously accepted to speed up the legislation. I am urging, let us proceed with this matter and kindly, I ask you to order so.

(Mr. Kimunya stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Deputy Leader of Government Business, let us allow two other hon. Members to contribute, so that you can respond before I direct.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, I also wish to add my voice that this matter should really proceed. The Government should not really be allowed to put this business out of the Order Paper. Except for the fact that---

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Baiya, I missed that bit.

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, we should not indulge the Government to actually put off this business of this very important Bill. This is a Bill that is being brought up with a lot of urgency. Even though the Bill was actually brought forth by the Minister, the truth is that even the format of that Bill borrowed a lot from the Committee of Justice and Legal Affairs. So, really it is not essentially a Government business. In any case, we realize from the so many amendments that have been proposed that the Minister is only one of those who have put in so many amendments. So, we can deal with all the others, and possibly I know we will not even finish all of them, but leave for him to deal with it on Tuesday next week.

This is a business already in the Order Paper. If it is the convenience of the House to be in the business of making a decision, we are more than willing to give our indication. We would ask you to also invite us to vote on this matter.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I think it is apparent that the Government was relying on Standing Order No.38. It is now apparent that the Government was relying on the wrong Standing Order. This is now the property of the House. We are under duty to move this process forward. I want to urge you in your ruling to rule in favour of the many Kenyans that are anxiously waiting for the implementation of this Constitution.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I want to, first of all, thank the Committee for the work it has done under very special circumstances, where the matter had to be referred to the Constitution Implementation and Oversight Committee (CIOC) from the Departmental Committee on Justice and Legal Affairs. They undertook their work, did the report afresh and brought the amendments. The Minister has also brought his amendments. Several Members have also brought their amendments. One of the things that came up, and I believe that matter was even discussed extensively in the House Business Committee (HBC), was that a notice of all these amendments was to be given to Members so that they can prepare for debate and participation in the Committee Stage. They were actually published yesterday with the hope that the matter will be disposed of today.

Now, the Minister raised the issue that, first of all, in looking at those amendments by the Committee, himself and several other Members, there will be some issues that are actually criss-crossing and they need to be harmonized. That way, we do not go into the Committee Stage and by just voting or not voting, we end up with a law that is at cross purposes. This is the most important law that we will be passing. So, we asked for time to look at that, discuss with the Attorney-General and come to respond. As a Member proposes an amendment, the Minister needs to be prepared for that. When you say: "Delete sub-section (h)", what is the implication of sub-section (h) on a certain number with any other law? Granted that the Committee has done a meticulous job, the amendments by the Members have not been processed either through the Committee, Minister or Attorney-General. It is very important that we do not take the committee Stage as has happened here in the past. We have actually deleted amendments and end up getting the President to bring the matter back.

Mr. Temporary Deputy Speaker, Sir, so, like I said, there are amendments by the Committee, which has done a splendid job. There are amendments by the Minister. There are so many others by private Members and they have not been harmonized. If you look at them, you will be able to see that some are actually going opposite what the Committee is proposing and some are against. But that is only in one of the issues.

The second issue - and I believe the Vice-President and Minister for Home Affairs explained it - is that the Minister for Justice, National Cohesion and Constitutional Affairs is a major stakeholder on the matter that was in the *kamukunji* in terms of clearing the names of the Chief Justice. He was tasked to go and be part of the team that was going to work out on the way forward, so that we can have the matters that Members wanted cleared as early as possible, so that we can clear those names. Now, he is not here and, much as I would be able to go through this, I would hate to stand here and pretend that I comprehend all the matters and respond on behalf of the Government on all the amendments in the Committee Stage. It is only fair that we give this extra time. We are talking of Tuesday. The matter has already been said that it will come on Tuesday. Much as I would like to take the proposal by hon. Baiya, unfortunately at the Committee Stage, you do not look at amendments by one person, clear them and then go to the next one. It is clause by clause. If the Minister's amendments on Clause 1 are not considered when you are considering Clause 1, you cannot come back later and consider them. So, you cannot do it on a proposer by proposer basis. It has to be done on a clause by clause basis. So, it is not practical to proceed without having everyone on board.

Mr. Temporary Deputy Speaker, Sir, the other thing that I would like to confirm is that the Government is as committed as Parliament in terms of getting all these things moving forward. That is why the matter was scheduled to appear on the Order Paper today. That is why even in the HBC we agreed that the notice of those amendments be given to Members as of yesterday. When you look at all those things, you will appreciate the gravity of the matter. So, it is not an issue of inconvenience. It is for the better of this country. I would rather we have a little more patience and dispose of this matter on Tuesday without having to do this in a rush. It is only a few of us here. All the other Members have left because they knew the business will be stood over. We will end up with people who are here passing this law. Some of the Members who have amendments are not here now. That is because they knew the business was to be stood over from the earlier discussions. So, I would like to urge that we postpone this matter.

Mr. Temporary Deputy Speaker, Sir, you should rule in accordance with the request from the Government and Standing Orders. Members do understand that this is being done for the convenience of everyone. We should ensure that we get this law right the first time, rather than get things that we will bring amendments and counter amendments. We do not want to pass amendments that we will not be able to live with as time progresses. However, I thank the Committee for doing a good job. I know that there was anxiety to actually clear this matter today. I would like to urge that, even with the time that we have, it is not enough to do justice. Let us wait until Tuesday, do a neat job and give Kenyans the Act on their Electoral and Boundaries Commission in the most professional way. That is what this House is really expected to do.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! First, I want to thank the Members who have contributed to this, starting with the hon. Abdikadir, who is the Chair of CIOC, basically, disputing the role of the Government in this business that is on the agenda and, especially, the role of the Minister for Justice, National Cohesion and Constitutional Affairs, whose absence seems to be the major issue why we may not proceed. Hon. Mbadi has raised the issue of Standing Order No36(2), and said that failure to dispose of this business today is causing serious inconvenience to the House. Messrs. Ogindo, Baiya and Ms. Karua also contributed on issues on--- There was anticipation even on the Constitution that the Government might not take this business seriously. That is why it established certain organs like the Commission on the Implementation of the Constitution (CIC), and pronounced the Attorney-General better than any other organization.

Having considered that, I, therefore, feel as the Chair that one, the time to raise the issue about the mandate of Government in this agenda was the time when the Leader of Government Business was actually making the pronouncement itself. That time, the points of order were not on whether it is Government business. It was just that the Government was delaying the business. So, I think we would have addressed that matter at that particular point. It would have been convenient for the Chair then not to have deferred the matter. So, it is the understanding of the Chair so far, until this matter you have actually raised now, and which I believe is very legitimate, that this matter was put under Standing Order No.38(1) in terms of Government agenda. So, the Government has the prerogative--- The words in the Standing Orders are very clear: "Shall dispose the agenda."

Hon. Mbadi, if you also look at what Standing Order 36 allows the Chair to do, it is the sequence. Just read it a bit carefully. It is really the sequence of business. So, if the sequence can be towards the end of the day until next Tuesday, I think the Chair considers that not causing inconvenience to the House.

Finally, to the Government side and to the Deputy Leader of Government Business, the point that is really being made is this: One, this business came to the House with such speed. We even reduced the period of publication and so we got the sense that the Government was serious to prosecute this matter. Even when the House considered that there was a problem in the departmental committee that was to deal with it, it gave the mandate to another Committee. The Committee went ahead and did the work within the stipulated period. It presented a Report before the House. So, it is the expectation of the country that constitutional matters must be expedited immediately. Now, being Thursday and agreeing with some of the statements by the Deputy Leader of Government Business that some Members have already left knowing that this matter will not be there-- Even for the convenience of the Chair, itself, I would have gotten the other panelists to chair. We did not make that arrangement because we knew this matter had been suspended. But I felt it was important for Members and, particularly the Chair, to make these kinds of statements clearly. I hope the Government has heard us and we will work on the promise by the Leader of Government Business that, come Tuesday afternoon next week, this matter will be there before the HBC.

The Chair is sympathetic to the Government position in the sense that even yesterday, the Order Paper had actually notices of amendments and some of us were concerned why the notices were coming when the business itself was not appearing on the Order Paper. I felt that it was just for advance information so that hon. Members will know. At least on that basis, we can assume that there was no bad feeling on the part of the Government. I would also want to urge the Deputy Leader of Government Business and the Members who sit in the House Business Committee that as you proceed to the House Business Committee meeting later today, this is one matter you should also prioritize so that it is known over the weekend that it will appear on Tuesday as promised and that no any other matter including the matter of today will take precedence on this particular matter which has been resolved and there is no controversy.

Next Order!

MOTIONS

ADOPTION OF REPORT ON 123RD ASSEMBLY OF IPU

THAT, this House adopts the Report of the IPU Kenya Delegation to the 123rd Assembly of the Inter-Parliamentary Union (IPU) held in Geneva, Switzerland from 4th – 6th October 2010, laid on the Table of the House on Tuesday 23rd November, 2010.

The Temporary Deputy Speaker (Mr. Ethuro): Is the Leader of Delegation not here? Then the Motion is deferred.

(Motion deferred)

ADOPTION OF REPORT ON STUDY
TOUR TO PARLIAMENTS OF ITALY/SPAIN

THAT, this House adopts the report of the Library Committee on its Study Tour to the Parliaments of Italy and Spain between 7th and 19th November 2010, laid on the Table of the House on Tuesday, 10th May, 2011.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I wish to seek the indulgence of the Chair because the copies of reports are not available to hon. Members and the Committee Members, even those who would have seconded the Motion are already gone because of the business that was preceding this Motion.

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

The Temporary Deputy Speaker (Mr. Ethuro): Let us hear the hon. Member.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir---

Ms. Chepchumba: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have a serious point of order.

The Temporary Deputy Speaker (Mr. Ethuro): Proceed, Mr. Ruteere!

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

The Temporary Deputy Speaker (Mr. Ethuro): Mrs. Simam, you do not insist if the Speaker has disallowed your point of order. You can try again a bit later but you cannot persist. So, you are completely out of order.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I was saying that though I am ready to proceed with the presentation of the Motion, even the hon. Member who would have seconded it is out.

The Temporary Deputy Speaker (Mr. Ethuro): You had already made that point.

Mr. Ruteere: So, I wish to seek your indulgence that we postpone this Motion until another day.

The Temporary Deputy Speaker (Mr. Ethuro): Fine.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, there being no other business, it is now time for us to adjourn the House. The House is, therefore, adjourned until Tuesday, 31st May, 2011 at 2.30 p.m.

The House rose at 5.40 p.m.