

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 26<sup>th</sup> October, 2011

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.763*

#### LEVEL OF GIRL-CHILD ENROLMENT IN MARSABIT/ISIOLO COUNTIES

**Mr. Bahari** asked the Minister for Education:-

(a) the level of the girl-child enrolment and transition rate in Marsabit and Isiolo counties at all levels; and

(b) what Government schemes exist to encourage and promote girl-child education in the two counties.

**Mr. Deputy Speaker:** The Minister for Education is not in yet. We will come back to it. Next Question, Mr. Chepkitony.

*Question No.1178*

#### INTEGRATION OF ECD IN PRIMARY SCHOOLS MANAGEMENT

**Mr. Deputy Speaker:** Mr. Lucas Chepkitony! He is not in yet. Next Question!

*Question No.897*

#### CREATION OF “UNIVERSITY INFRASTRUCTURE BOND”

**Mr. Odhiambo** asked the Minister for Higher Education, Science and Technology:-

(a) whether the Government has plans to create a policy on “University Infrastructure Bond” to raise finances to promote research and development in local universities; and

(b) how the Government is structuring the programme, considering that the achievement of “Vision 2030” requires emphasis on research and development in institutions of higher learning.

**Mr. Deputy Speaker:** Is the Minister for Higher Education, Science and Technology present? He is not present. Next Question!

Question No.967

MANDATE OF FILM CLASSIFICATION BOARD

**Mr. Deputy Speaker:** Hon. Odhiambo-Mabona is not in yet. Next Question!

*Question No.1154*

LIST AND STATUS OF ENNDA PROJECTS

**Mr. Deputy Speaker:** Is Mr. M'Mithiaru present? He is not in yet. Next Question!

*Question No.1070*

BENEFICIARIES OF "CASH TRANSFER TO OLDER PERSONS" PROGRAMME

**Mr. Kabogo** asked the Minister for Gender, Children and Social Development if he could provide a list of all the current beneficiaries of the "Cash Transfer to Older Persons" programme in Juja Constituency and state how often the funds are disbursed to them.

**Mr. Deputy Speaker:** Is the Minister for Gender, Children and Social Development present? He is not yet here.

*Question No.1088*

GAZETTEMENT OF LOCATIONS AND SUB-LOCATIONS IN MUTITU/NZAMBANI DISTRICTS

**Mr. Kabogo**, on behalf of **Mr. K. Kilonzo**, asked the Minister of State for Provincial Administration and Internal Security:-

- (a) if he is aware that the newly created locations and sub-locations within Mutito and Nzambani districts are not gazetted; and,
- (b) when they will be gazetted.

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

(a) No, I am not aware. The Ministry has not created any locations or sub-locations within Mutito and Nzambani districts in the last two years.

(b) The Ministry does not gazette creation of locations and sub-locations.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, could the Assistant Minister confirm to the House whether Mutito is a new district and whether it has new divisions? If it does, then it is automatic that it has new locations!

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, it is true that there are divisions. They have proposed several divisions and a number of locations and sub-locations. The numbers were excessive. We referred the matter to the District Commissioner. The leaders sort of rationalized the numbers. They held a meeting and we have now received the recommendations for the creation of those locations and sub-locations which we are considering.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, just like this district, very many new districts have made the same application for the creation of new divisions, locations and sub-locations. Could the Assistant Minister use this opportunity to explain to the House the procedure and criteria they use to ensure that those applications go through and the time lines within which *wananchi* should expect this decision to be made?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, the procedure is that the leaders meet the Provincial Administration. We restrict the number of divisions based on the land mass, population and community of interest. We recommend that for every new district we should not create more than three divisions. For every new division, we do not create more than four locations unless circumstances about the population density arise. With regard to timeframe, the work is massive and we should be able to give you the results within a period of six months or less.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that it takes six months when many districts, including Kakamega South which was created over four years ago, have made those proposals and yet, no decision has been taken on the requests which were done in accordance with the specifications that he has mentioned - population size and location? That was done at the grassroots but, four years later, no decision has been made. Is he in order to mislead the House that it only takes six months?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I do not have details about Kakamega. So, I am not able, at this moment, to explain the reasons for the delays. I do not know whether there have been disagreements at the district level. But I could find out and give a detailed brief on the cause of those delays. There may be disagreements and other reasons that have caused the delay.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, given the dictates of the new Constitution requiring public participation in the process of making decisions that affect the public, could the Assistant Minister tell us the leaders who are supposed to meet? In his answer, he talked about leaders meeting and making recommendations. Could he tell us who the leaders are and how they are selected?

**Mr. Lesrima:** They are selected at the district level in consultation with elected leaders, Members of Parliament, councillors, opinion leaders, religious leaders, peace committees and anybody who holds any position in society. It is usually a public forum. We are not very strict on the inclusion of leaders. We even include civil society and other people.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, while I appreciate the response given by the Assistant Minister, could he inform the House what plans the Ministry has put in place to make sure that the newly created administrative units have assistant chiefs and chiefs to enhance service delivery to *wananchi*?

**Mr. Deputy Speaker:** Are you sure that is in line with the Question? Is that not a slightly different question?

**Mr. Mbau:** Mr. Deputy Speaker, Sir, the question that is begging a clear-cut answer from the Assistant Minister is derived from the principles of why Kenyans wanted a devolved system of governance. It was so that services could be taken closer to the people more expediently and efficiently. Could he tell this House how much time is taken from the time the public makes recommendations for creation of new administrative units to the time they receive the expected administrators? That is the question that Dr. Khalwale had put across. For example, in Murang'a South District, which is equivalent to my constituency, we made recommendations - as the Minister requires - last year. But up to today, three locations and some sub-locations that were created have never received what they anticipated. I beg the Assistant Minister to clearly tell us how long *wananchi* should wait to receive the answer.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, earlier on, I said that it should not take more than six months. I also said that there are occasions where there may be disagreements on the ground. There are also cases where excessive requests are put for creation of locations and sub-locations, which are likely to burden the payroll. Therefore, we refer them back to the leaders. So, that shuffling forward and backwards tends to take time. I am not able to give you an answer for Murang'a South. There are 280 districts and I do not have the answers now. In this particular case, we are handling the matter. The last time the leaders met to finalize the list was last month. They held a leaders meeting on 7<sup>th</sup> September, 2011. I notice in the minutes that they forwarded Mr. K. Kilonzo was not there. So, he may not be aware that the recommendations are now on my table and action is going to be taken.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, indeed, you have heard the Assistant Minister say that he has no answers to some of the questions. Could I ask him to kindly be specific on the criteria that is used so that, if it is population, it should so many people within a location? If it is a question of geographical size, what area determines to be given a location? That will prevent the people from going to their offices to lobby. As you know, during the KANU days, people were given districts on the basis of how they were "KANU *mama* or KANU *baba*". Could he come to the House with a definite criterion of how locations are created?

**Mr. Deputy Speaker:** Mr. Minister, could you answer that? It is a very relevant question.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I did answer the question, except that I did not mention the population. It is 50,000 people for different parts of the country. There are some constituencies that are larger than provinces. I also did mention that we should not have more than three divisions in a district, except in places where the population is very high.

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

**Mr. Lesrima:** You are not giving me time to answer.

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

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, the Assistant Minister is contradicting himself. He is saying that the 3,000 is the number, and then he goes ahead and puts conditions that they cannot be three in a district. If a district has 20,000 people, then the criteria of 3,000 will follow. Could we ask the Assistant Minister, through you, to go back and come with a proper answer, so that he can satisfy this Question? In any event,

he has accepted that in Mr. K. Kilonzo's Constituency, they are there but he has not gazetted them. When will he gazette them?

**Mr. Deputy Speaker:** Mr. Lesrima, do you wish to go back and bring a comprehensive answer?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, that would be a different statement. I have answered Mr. K. Kilonzo's Question. I have no problem. I can come back with a comprehensive criteria and the status in the country. That is because there are many outstanding applications for divisions.

**Mr. Deputy Speaker:** The Questioner says that there is a criterion that cuts across.

**Mr. Lesrima:** It cannot cut across.

**Mr. Deputy Speaker:** Order, Mr. Lesrima! It cuts across in the sense that it sees the diversity in the country like population, land mass and so on. Would you want to bring a comprehensive answer to that?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I will bring it. But it is very unlikely that the criteria will cut across. That is because there are some cases where you have community interest, communication and land mass. In pastoral areas like where you come from, we cannot apply the same criteria as Central Province.

**Mr. Deputy Speaker:** If it will vary on the basis that you are putting, I think we are talking the same language. The criteria will vary because of the differences and the diversity that you are talking about.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, please, do not punish me for being seen like I am going back. I am just emphasizing a very important point; namely that today, all the 210 constituencies are districts. So, this is a matter that affects all Members of Parliament. If you just leave him to get away with the fact that he will bring a Statement without deferring the Question, we will lack point of entry. I beg that you defer the Question. Further to the criteria, he should come and table here a full list of all the new districts, the number of divisions that they have awarded, the number of locations and the number of sub-locations plus their names, so that we demand that he gazettes them.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, unfortunately, because of Mr. K. Kilonzo's absence, his Question has now been modified to something different. I have no problem bringing the comprehensive list of constituencies. For example, Mr. K. Kilonzo's constituency has two districts. So, I can bring the criteria for the whole country and everything else on Thursday, next week.

**Mr. Deputy Speaker:** Fair enough! Indeed, much as the Question only dealt with one specific constituency, nonetheless, interest is there for Members of Parliament to know what they qualify for in form of locations, sub-locations with all the variations in terms of sparsely populated areas, densely populated areas and the rest.

So, the Chair directs that this Question be listed on the Order Paper on Wednesday morning, next week.

Next Question, Dr. Nuh.

*Question No.1247*

ILLEGAL MINING OF GYPSUM IN BURA CONSTITUENCY

**Dr. Nuh** asked the Minister for Environment and Mineral Resources :-

(a) whether he could confirm that all the companies undertaking Gypsum mining in Bura Constituency are contravening mining laws,

(b) whether he could also confirm that all the communities in Bura were to be involved and consulted when allowing the companies to resume operations, and if so, why the companies were allowed to resume operations without such consultations; and,

(c) how many companies have now been cleared to resume mining and whether he could table the letters ordering the stoppage of mining activities by the companies as well as the letters lifting the ban.

**Mr. Deputy Speaker:** Is the Minister for Environment and Mineral Resources not here?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, I would request the Chair to revisit this Question on the second round.

**Mr. Deputy Speaker:** Fair enough! We will go back to this Question again on the second round.

**Mr. Kabogo:** On a point of order, Mr. Deputy Speaker, Sir. I do not want to be seen to be a nuisance to the House, but when hon. Members are called for their Questions and they are absent, Questions are dropped. However, when the Ministers are called and they are not in, they simply get away with it. Could we get the indulgence of the Chair to make sure that Ministers that are not here are punished accordingly?

**Mr. Deputy Speaker:** The Chair has not dropped any Question this morning. The Chair will give a second opportunity to both hon. Members as well as the Ministers to ask and answer Questions.

Next Question!

*Question No.1249*

IRREGULAR CONSTRUCTION OF DRAINAGE  
IN KEUMBU TOWN

**Dr. Monda** asked the Minister for Roads:-

(a) why there was no provision for sufficient access culverts and why the drainage was directed into feeder roads during the construction of Gesusu-Keumbu-Mogonga Road,

(b) why the drainage system in Keumbu Town was constructed without access culverts to business premises and built to such depths and width that pose risks to the residents of the town; and,

(c) what measures he is taking to address the situation above and whether he could consider constructing an access service road in Keumbu Market.

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

(a) Access culverts have been provided for the public and private institutions, public access roads and major private accesses. However, due to the large number of land sub-division along the road project, sharing of access culverts has been provided where the land terrain allows.

(b) In Keumbu Town, shops have encroached on the road reserve leaving no room to construct a wide and shallow drainage with enough capacity to carry storm water and still allow access to the shops. The distance from the shops to the road shoulders leaves no space for shallow drifts to be constructed for access culverts which require deep drains.

(c) My Ministry, through the Kenya Rural Roads Authority, has issued instructions for extra works to be done, including providing a cover drain and bollard for a 200 metre section of Keumbu Township at a cost of Kshs7.5 million.

**Dr. Monda:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the answer given, but in part “b” of my Question, I have indicated that the drainage in Keumbu Town is built to such depths and widths. There is no shop that was built on a road. Whenever there is such an occurrence, the Ministry normally pulls down such structures. It is so deep that the inhabitants of this town are unable even to access the shops. We are asking why it was not done to a narrow width, with an addition of some cover, so that the people who live around that market are able to move freely without the risk of getting injured. Could he explain why they opened it so wide and deep without covering, thereby endangering the population in Keumbu Market?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, in part “b” of my answer, I have indicated that shops have encroached on the road reserves leaving no room to construct the drainage. In part “c”, I have said that through the Kenya Roads Authority, we have issued instructions for extra works to be done to provide a cover drain on Keumbu Township at a cost of Kshs7.5 million. This will address the issues raised by the hon. Member.

**Dr. Monda:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to insist that the shops in Keumbu Market are built leaving no road reserve yet we know about road construction, that if there are structures put up on a road reserve, they are normally pulled down? This is not the case in Keumbu.

The Assistant Minister has already done the drainage. We are saying the drainage has not been done in the right way. We do not want to endanger the inhabitants of the market. Is he in order to mix the two issues?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I have indicated that according to our records, the shops have encroached on the road reserve. Although they have encroached, we did not find the need to demolish the shops because we had sufficient space. However, even when the road ends at the six metre mark, we expect that you do not start building your shop right there because we will still need an area where we can drain the water. However, we are doing whatever we can within the circumstances. We appreciate the role that the shopping centre is playing in the lives of the people there. So, we will do the remedial work as I have already indicated.

**Mr. Ngugi:** Mr. Deputy Speaker, Sir, the issue of lack of culverts and poor drainage is a countrywide problem. It is not only found in Nyaribari Chache. For example, in Kinangop the road from Engineer to Kirima and from Kirima to Dinda is now impassable because there is no drainage on that road. The water has cut the road into

half. I have always wondered whether the Ministry has any policy on construction or maintenance of roads. Why do they not provide enough culverts, so that water does not have to cut roads into half? When will the Assistant Minister address this problem, especially in Kinangop?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, it is the Ministry's policy to ensure that any access road to a shop or a home, the Ministry has to give consent. You will find that when you do a major road, after every five metres you have an access road; somebody wants to get into their house. This obviously will make the construction of such roads impossible. Instead, for planning purposes, we should have one major service lane that will be able to serve the entire population living on one side of the road instead of having access roads at every point.

In areas where the members of the public have connected their roads to the main road without permission from the Ministry, we are going to take action, but in situations where we have allowed, we are going to maintain the drainage as is the case of Dinda and the roads in that area.

**Dr. Monda:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the provision of Kshs7.5 million to do the access road into Keumbu Town. Could he tell the House when this work will start and when it is scheduled for completion?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the road is made up of several sections. We have the Gesusu-Nyabisabo Road, D208, which is a total of 13 kilometres. It is currently open to traffic. The second section is Keumbu-Nyabisabo-Igare Road, E207, which is approximately ten kilometres. The earthworks are complete on the whole section and other works including improving access roads to five market centres along this road, namely, Gesusu, Kiamokama, Nyabisabo, Mogonga and Keumbu are on course.

The third section is Igare-Mogonga Road, E1048. The road is approximately 11 kilometres long and only seven kilometers of the earthworks are outstanding. The roads are to be constructed to bitumen standard and the major works to be executed comprise mainly the following: Site clearance and earthworks, construction of drainage structures, construction of cement and line improvement, gravelling pavement layers on carriageway and shoulders, climbing of MC 30 cut back bitumen and installation of the old furniture.

The additional works that we have given will be completed before March, 2012. The original completion date for this project was 24<sup>th</sup> September, 2010, but due to extension of works, we have had to extend the period for the contractor to finish. The initial sum was Kshs1.8 billion which has since shot up to Kshs2.6 billion.

*Question No.763*

LEVEL OF GIRL-CHILD ENROLMENT IN  
MARSABIT/ISIOLO COUNTIES

**Mr. Bahari** asked the Minister for Education:-

(a) the level of the girl-child enrolment and transition rate in Marsabit and Isiolo counties at all levels; and,

(b) what Government schemes exist to encourage and promote girl-child education in the two counties.



**The Assistant Minister for Education** (Prof. Olweny): Mr. Deputy Speaker, Sir, may I apologize to the House for coming late. I was held up at the Ministry offices trying to sort out some of these issues.

**Mr. Deputy Speaker:** You may proceed.

**The Assistant Minister for Education** (Prof. Olweny): Mr. Deputy Speaker, Sir, as you all know, this Question was answered some time back, but because of supplementary questions that came up on the Floor, additional information was needed as follows:-

(a) List of low cost boarding schools established.

(b) The list of schools that have benefitted from various funds like the infrastructure funds, the bursaries given to the girls, the total amounts and the total number of girls who have benefitted.

(c) Teachers' situation, establishment, teachers on duty and the shortage.

(d) People from the counties who have been trained as teachers and the number that has been hired and the number of the early childhood development (ECD) teachers and who pays them.

I will answer as follows:-

(i) With regard to the number of low cost boarding schools, we have 60 of them, namely, 30 in Isiolo and 30 in Marsabit.

(ii) The schools that have benefitted from the various funds are as follows:- With regard to infrastructure funding, there are 22 primary schools in Marsabit County that are on the regular infrastructure programme while in Isiolo County, there are six schools which are benefitting from one of the disbursement programmes, which list I will table here. We have 28 local boarding schools in Marsabit County, and nine in Isiolo County, which are funded under this programme and are also in this list.

With regard to the Free Primary Education Programme, (FPEP) public primary schools have benefitted from FPEP since its inception. For instance, 103 primary schools in Marsabit County have received both Account I and Account II of the last tranche of 2010/2011 FPE in May and in Isiolo, 84 primary schools have received their money.

(iii) With regard to the Government of Kenya and OPEC funding, 11 schools in Marsabit County have received a total of Kshs32,870,000 up to 2010/2011 while five schools in Isiolo have received Kshs14,000,380. This is also in the list which I will table.

(iv) With regard to the modern primary school funding, eight primary schools in Marsabit County and four schools in Isiolo County have received Kshs3.5 million each under this programme.

(v) Under the tree planting programme, 56 schools in Marsabit County and 40 schools in Isiolo County received Kshs60,000 each for tree planting projects. This is also in the list.

(vi) With regard to secondary schools under the infrastructure funding, Marsabit County has received a total of Kshs3.734 million for three schools under this project, while in Isiolo County, six schools have been funded with the same amount. Under the laboratory equipment funds, seven schools in Marsabit County obtained laboratory equipment funds to the tune of Kshs148,460 each in the Financial Year 2010/2011 while five schools in Isiolo County benefited from the same amount as per the attached list.

Under the ASAL grants, in the Financial Year 2010/2011, four schools in Marsabit County received Kshs133, 300 each while three schools in Isiolo County got the same amount.

Under the Free Day Secondary Education Programme, secondary schools in Marsabit and Isiolo counties have been receiving these funds since the inception of the programme in 2008. For instance, Marsabit County received a total of Kshs33,925, 069 while Isiolo received a total of Kshs18,038,622 in the Financial Year 2010/2011. Under the Centres of Excellence Programme, each of the constituencies in the counties received Kshs30 million. The Marsabit County's four constituencies got a total of Kshs120 million which funded four secondary schools while Isiolo's two constituencies received Kshs60 million, which funded two secondary schools.

The constituency bursaries given to the girls in the two counties in the financial years 2009/2010 and 2010/2011 were as shown in the list which I think the Member has. I really do not need to read it.

**Mr. Deputy Speaker:** Table it!

**The Assistant Minister for Education** (Prof. Olweny): Mr. Deputy Speaker, Sir, the answer has been given to Parliament.

**Mr. Deputy Speaker:** Can you briefly conclude the answer?

**The Assistant Minister for Education** (Prof. Olweny): Mr. Deputy Speaker, Sir, there are 174 trained and 48 untrained Early Childhood Development (ECD) teachers in Marsabit County, while Isiolo has 286 trained and 111 untrained ECD teachers. Those hired in the ECD centres attached to the public primary schools are paid by the parents and the local community, while those in privately- owned centres are paid by their employers. I also have a list of the staffing positions which is attached to the answer which has been given to Parliament and also to the Member of Parliament.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. To start with, I did not get the answer that the Assistant Minister is referring to. This is voluminous, but I have not seen it up to now. I wish to interrogate that answer along the lines of the Question that I have asked, which is about girl-child enrolment. From what I hear and what the Assistant Minister has given, there is nothing that the Ministry has done since it was born in northern Kenya, particularly in upper eastern. Would I, therefore, be in order to ask to be given more time to interrogate that document, so as to do justice to this Question?

**Mr. Deputy Speaker:** Fair enough. The Chair is satisfied with the concerns of the hon. Questioner. This is a very voluminous answer and the Chair directs that you furnish the Questioner with the answer, preferably today, and that the Question be listed on the Order Paper next week on Wednesday morning, so that he can adequately and effectively interrogate the answer.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question by Mr. Lucas Chepkitony.

*Question 1178*

INTEGRATION OF ECD IN PRIMARY

## SCHOOLS MANAGEMENT

**Mr. Deputy Speaker:** Is Mr. Chepkitony here? Is he out of the country on parliamentary business? His Question is dropped.

*(Question dropped)*

**Mr. Deputy Speaker:** Next Question by Mr. Odhiambo.

*Question No.897*

### CREATION OF “UNIVERSITY INFRASTRUCTURE BOND”

**Mr. Odhiambo** asked the Minister for Higher Education, Science and Technology:-

(a) whether the Government has plans to create a policy on “University Infrastructure Bond” to raise finances to promote research and development in local universities; and,

(b) how the Government is structuring the programme, considering that the achievement of “Vision 2030” requires emphasis on research and development in institutions of higher learning.

**Mr. Deputy Speaker:** Where is the Minister for Education, Science and Technology?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speakers, Sir, I request that you defer this Question to Tuesday next week since the Minister is not here. In the meantime, I am going to check where she is. I sincerely apologise on her behalf.

**Mr. Deputy Speaker:** The Chair directs that this Question be listed on the Order Paper next week on Tuesday.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question by Mrs. Millie Odhiambo-Mabona.

*Question No.967*

### MANDATE OF FILM CLASSIFICATION BOARD

**Mr. Imanyara**, on behalf of **Mrs. Odhiambo-Mabona**, asked the Minister for Information and Communications:-

(a) whether the mandate of the Film Classification Board includes classification of videos shown in video cafes; and,

(b) how the Ministry protects children from harmful content of videos, especially in rural areas, where there is apparently no control/regulations.

**The Assistant Minister for Information and Communications** (Mr. Khaniri):  
Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, the mandate of the Kenya Film Classification Board is to classify all films in the country, including those shown in the video cafes.

(b) The Kenya Film Classification Board protects children from viewing harmful video content through examining and rating films according to age of the audience. The Films and Stage Plays Act, Cap.222, also requires the Board to rate all films meant for public exhibition. For example, to protect children, adults only films are rated 18 years and above. However, currently, the Board does not have adequate staff to monitor video cafes and showrooms around the country. To address this problem, the Ministry is in the process of recruiting more staff for the Board and will subsequently post them at the country level. This will enable the Board to intensify monitoring of contents of the films exhibited in the video cafes and showrooms. With full capacity, the Board will be able to ensure that all unrated films are prohibited from being exhibited in public places.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for trying his best to answer this Question, could he inform the House the number that he is seeking to recruit, the money set aside for this recruitment and whether he has any system, or capacity, to prosecute the offenders that he is referring to?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, as stated in part “b” of my answer, we need to recruit officers to man our county offices that we intend to open. We intend to have offices in every county and deploy officers to the counties. We requested for Kshs17 million for the recruitment of personnel at various levels at the censorship board. Therefore, we are waiting for the allocation from the Treasury to be able to carry out recruitment of these officers.

**Mr. Kioni:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer, but even as the Ministry awaits the funds that they have requested from the Treasury so that they can recruit staff for the counties, the Ministry certainly has officers who are already working within the Board. Could he inform this House what achievements those officers who are already in employment have made in terms of any prosecution? My question is informed by the fact that even when he will have recruited officers in all the counties, the prosecution will not be done by the Ministry. It will be done by the office of the Director of Public Prosecutions. The culprits will have been reported to him by police officers. What have the existing officers achieved today? Do they have even one case that we can take home?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, indeed, the hon. Member is correct that my Ministry, or the Board, has no prosecution powers; in case we come across any culprit, we hand him over to the office of the Director of Public Prosecution to do the prosecution. As to how many cases we have prosecuted so far, I am afraid that I may not have the full details here, but if the hon. Member puts a Question on this, I will be able to establish the number of cases that we have prosecuted so far.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, this issue does not concern only video cafes. It is even related to the mainstream television viewing and presentation on televisions, where every time, and even now, you find them showing films which are immoral. I think it is because of too much commercialization and bad competition. Could the Assistant Minister inform the House what the Ministry is doing through the

Communications Commission of Kenya (CCK) and the Censorship Board to ensure that this is controlled?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, I have clearly indicated in the answer that I gave what the Ministry, through the Board, is doing to ensure that the kind of programmes that hon. Chanzu is alluding to are not shown in our video cafes and television channels.

That is, indeed, the mandate of the Kenya Film Censorship Board that was established two years ago. Therefore, as I said, we are trying the best we can, but we have a limitation in the number of staff to do the monitoring. In due course, once we recruit the required number of staff, I want to assure the hon. Member, House and country at large, that we will be able to carry out our mandate effectively.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is dodging the question by hon. Chanzu. Could he tell us what he is going to do in respect of Mexican and Nigerian films that are shown on our televisions almost on a 24 hour basis? Could he direct that those films can only be shown after they have received approval from his Board?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, I do not know how many times I am going to give this assurance. I have said that all the films that are broadcast on our televisions are rated. The film is clearly labeled. There are also guidelines as to what times those particular kinds of films can be broadcast. Therefore, I want to assure the hon. Member and the House that we are on course.

**Ms. Chepchumba:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading this House. Is he in order to say that the films that are shown on our televisions are not causing harm to the Kenyan children and youth? This is a serious Question and he should come up with a clear answer to satisfy us that all is well.

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, I appreciate the concern of the honourable gracious lady and the House. I am a parent too. I am bringing up young children and it is also my concern. I have clearly stated that the mandate of the Board is to watch those films and rate them. Thereafter, we classify which films are good for adult viewing and which ones are not good for children viewing and so forth. Once they do that, they rate the films. There are clear guidelines by the Communications Commission of Kenya (CCK) to broadcasting houses and television stations as to when they can show “adults only” movies. If there is any station that shows films or movies that are rated “adults only” during the day, that is a violation of the laid down rules and they ought to be prosecuted. That is the law.

**Mr. Deputy Speaker:** Who is supposed to prosecute them? Who is supposed to enforce the law?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, I stated clearly that my Ministry has no prosecution powers. Ours is to report them to the Director of Public Prosecutions for onward prosecution.

**Mr. Kabogo:** On a point of order, Mr. Deputy Speaker, Sir. The last bit of that Question was not answered and the Assistant Minister is dodging it. The issue of what he is going to do now--- Even if you give him a chance to go to the lounge and watch Citizen Television, the programme is running now. He is not telling the country what he is going to do now. It is not about the future, but now.

**Mr. Deputy Speaker:** Mr. Assistant Minister, the Director of Public Prosecutions and all the other prosecutorial duties fall under the arms of the Government and you come from the same Government. So, clearly, you have to give a definitive answer on how you intend to enforce your own regulations.

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, may I give the assurance to this honourable House and the country at large that I am going to instruct the Kenya Film Censorship Board to be more vigilant. If there are the kind of cases that hon. Kabogo is referring to, I want to give the assurance that action will be taken.

**Mr. Koech:** Mr. Deputy Speaker, Sir, this is a very serious matter. Part “b” of the Question is asking the Assistant Minister what he is doing, especially in the small markets in the rural areas where videos are being shown. The Assistant Minister has talked about shortage of staff. How often does your staff go round market places to check what is going on and, if they do, how many have been arrested?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, I get the impression that the hon. Member has just walked in. That is because he has posed two questions that I have already answered.

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. I was here from the word “go”. The excuse that the Assistant Minister gave is shortage of staff. He said that he has asked for Kshs17 million to employ extra staff so that they are able to do the job. He did not indicate how often his officers visit market places in the rural areas and, if they do so, how many have been arrested. Is he in order to avoid answering the question?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, as I stated earlier, we have no sufficient establishment to enable us visit the video cafes that the hon. Member is referring to. I have said that we are now in the process of recruiting. We have been allocated some money and, once we have recruited the officers, we will go round the video cafes to ensure that films that are shown meet the required standards.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, clearly, even if the Assistant Minister was to employ another 1,000 staff, it will not solve this problem because the flaw lies in the classification. The question relates to the classification of films that are shown, including in video cafes, to protect children. The Kenya Film Classification Board comprises of less than ten members. It is the one that is not doing its work. Could the Assistant Minister tell us what criteria the Board uses to classify those films, so that we do not see those films showing in public channels, roadside cafes and street corners? What is the policy guideline that enables those pornographic videos to be shown all over the country on 24 hour basis?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, first, I want to disagree with my good friend, hon. Imanyara, that even if we recruit more staff at the county level, we will not be able to solve this problem. I want to state categorically that the staff that we are going to recruit will not be classifying or censoring the movies. They will be monitoring to ensure that cafes are showing movies that have been classified by the Board.

**Mr. Kioni:** On a point of order, Mr. Deputy Speaker, Sir. The wrong things that are being shown to our pupils are a concern for us as a nation. While the Assistant Minister has made an effort to answer this Question, I think he is still dodging the real issue. If there is a law that was enacted by this House – I do not know how many years back – what the Assistant Minister is expected to tell us is how it is being implemented. It is not the staff who are going to be employed that are going to implement the law. We

have implementing agencies! What have they been doing? If that does not come out from the Assistant Minister, recruiting even 100 per cent more staff will not help this nation. Could he tell us what part of the law has been implemented to date? Do they even know whether there is any law that exists?

**Mr. Deputy Speaker:** Is there a law in place, Mr. Khaniri?

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

**Mr. Deputy Speaker:** What is the point of order?

**Dr. Nuh:** Mr. Deputy Speaker, Sir, is the Assistant Minister in order to evade the question asked by Mr. Imanyara? He is hiding behind the county recruitment. But Mr. Imanyara is asking about videos and films which are shown on public channels like KTN, NTV, Citizen, K24, KBC - mention them. So, do you need officers at the county level to monitor what is shown on KTN, NTV, K24 or KISS TV?

**Mr. Deputy Speaker:** Is there a law in place?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, of course, there is a law contained in the Statutes Law (Miscellaneous Amendment) Act of 2009.

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

**Mr. Deputy Speaker:** What is it Mr. Imanyara?

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. The Statutes Law (Miscellaneous Amendment) Act cannot be the law. That is an omnibus piece of legislation that allows this House to make modifications and amendments to very many laws. Could he refer to the law? Could he be specific?

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

**Mr. Deputy Speaker:** Can you allow the Assistant Minister to respond to the points of order raised by Messrs. Imanyara and Kioni, which are both very valid? Mr. Khaniri, if there is no law in place, can you give an undertaking to the House that you will proceed and get the right law? That is because what you have mentioned - the Statutes (Miscellaneous Amendment) Act - as Mr. Imanyara has put it - is an omnibus law. Do you have an Act - a substantive law?

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, we have an Act - the Communications of Kenya (Amendment) Act - that contains all this. Therefore, there is a legal framework for us to operate on. As pertains to the issue that was raised by Dr. Nuh, I want to state that it is not that those films are banned. I am saying that they are classified. There are specific times that classified films are supposed to be shown. Therefore, you cannot accuse the media houses for broadcasting those films because they are not banned. The only crime in that would be broadcasting them at the wrong time.

**Eng. Gumbo:** On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is trying to miss a very important point here. We know that the films are classified and they can only be shown at certain times. But what hon. Members are up against is: Even if you go to Citizen TV now, they are showing very prurient movies which are not fit for the family and people at home. Even KISS TV and all of them are doing it. That is the point we are asking the Assistant Minister to clarify. What action is he taking? They are showing them even now; public broadcasters!

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

**Mr. Deputy Speaker:** Let us take an additional point of order and then the Assistant Minister can respond.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that certain films are not banned? Is that the reason why they are being sold on the streets? There are pornographic videos being sold on the streets, and the Assistant Minister is telling us that they are actually not banned.

**Mr. Kioni:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has given us the Act that is in play, when he is dealing with the issues of licensing of movies or films. But the answer that he gave us talks about Films and Stage Plays Act, Cap.222. Given the fact that he is labouring with answers to questions that have been raised by various hon. Members, would I be in order to ask that this Question be deferred, so that he can come up with answers that will give us the criteria of banning and rating? That way, we can also help him in propagating it in the constituencies?

*(Applause)*

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, as far as the issues that were raised by the Questioner, Mrs. Odhiambo-Mabona, are concerned, I want to believe that I have answered the Question. However, I see the concerns that hon. Members have expressed with regard to this issue. I believe it is a serious issue. Could I undertake - other than the undertaking I had given earlier that we are going to instruct the Film Censorship Board to be more vigilant – that I will look into all the issues raised and come up with a comprehensive Ministerial Statement in two weeks’ time. That is with your permission.

*(Applause)*

*(Dr. Eseli stood up in his place)*

**Mr. Deputy Speaker:** Are you on a point of order, Dr. Eseli or you want to ask a question? Mr. Khaniri, do you wish to answer this comprehensively in the form of a Question or in form of a Ministerial Statement.

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, it is a Question and I have answered it.

**Mr. Deputy Speaker:** It is a Question and the only thing the Chair can do right now--- Nobody has sought a Ministerial Statement from the Minister---

*(Loud consultations)*

Order! Indeed, the Question itself has not been adequately answered to the satisfaction of hon. Members and Kenyans. That is because part “b” of the Question asks: “How does the Ministry protect children from harmful content or videos especially in rural areas where there is apparently no control or regulation?” That has not been taken care of. The answer given by the Assistant Minister on the Films Censorship Board is that it censors and classifies. It is not an enforcement body in the sense that it does not go out there to make sure that the operators in that industry conform to the law. So, the Chair is satisfied of the same and directs that this Question be listed on the Order Paper in two



weeks' time. That will be on Wednesday morning and the Assistant Minister will come with a comprehensive answer to the same.

*(Applause)*

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, I apologize for coming late to ask my Question.

*Question No.1154*

LIST AND STATUS OF ENNDA PROJECTS

**Mr. M'Mithiaru** asked the Minister for Regional Development Authorities:-

(a) whether he could provide a list of the projects funded using the Kshs.2.3 billion allocated for projects under Ewaso Ng'iro North Development Authority (ENNDA) in the 2010/2011 Financial Year, the districts where the projects are located as well as the cost of each project; and,

(b) the status (in terms of completion) of each of the projects.

**The Assistant Minister for Regional Development Authorities** (Mr. ole Metito): Mr. Deputy Speaker, Sir, I beg the indulgence of the House. I have consulted with the hon. Member that the Question is so detailed and I would like to be given one more week to get the correct facts and answer it in this House, maybe, on Wednesday next week.

**Mr. Deputy Speaker:** Fair enough! The Chair then---

**Mr. M'Mithiaru:** On a point of order, Mr. Deputy Speaker, Sir. Yes, the Assistant Minister has consulted me. But ENNDA is one of the six authorities in the country---

**Mr. Deputy Speaker:** Order! The issue is when the Question is going to be asked. We cannot go into the contents of the Question and the answer now. Are you comfortable with next week; the Question being deferred for one week?

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, I am comfortable. But the Assistant Minister should bring a comprehensive answer taking into account the Kshs2.3 billion for that Authority.

**Mr. Deputy Speaker:** Order! The Question itself is very comprehensive and the Assistant Minister is under obligation to answer the Question. So, the Chair directs that this Question be listed on the Order Paper on Wednesday next week.

*(Question deferred)*

**Mr. Kabogo:** Mr. Speaker, Sir, I am asking this Question for the second time.

*Question No.1070*

BENEFICIARIES OF “CASH TRANSFER TO  
OLDER PERSONS” PROGRAMME

**Mr. Kabogo** asked the Minister for Gender, Children and Social Development whether she could provide a list of all the current beneficiaries of the “Cash Transfer to Older Persons” Programme in Juja Constituency and state how often the funds are disbursed to them.

**The Minister for Gender, Children Affairs and Social Development** (Dr. Shaban): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Juja Constituency has a total of 650 beneficiaries of the Cash Transfer Programme to Older Persons whose list I hereby table.

*(Dr. Shaban laid the document on the Table)*

(b) The Cash Transfer to Older Persons is disbursed through the Postal Corporation of Kenya to the beneficiaries every two months.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, I thank the Minister for the answer and indeed, she gave me a list earlier. Having looked at the list, Juja Constituency has three districts and this programme seems to concentrate on only one district. Would I be in order to ask the Minister to help the House in understanding the criteria used by the Ministry to identify the elderly persons? For example, in Githurai and Ruiru divisions which are in Ruiru District, women and men who are very old always line up in my office wanting to know why they are discriminated against. As you know, discrimination goes against the Constitution of this country. What criteria is the Ministry using to identify which elderly people to include in this programme?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, the legibility criteria which is used is on households with an older person of 65 years and above. This should be extremely poor households that are not enrolled in any other regular cash transfer programme. The identified older person must not be receiving any kind of pension.

I just want to state that because of the limitations of the funds that we were being allocated by the Treasury, it was difficult for us to cover more than what we covered. This year, the scaling up will be lessened by the fact that Parliament passed a decision that the cash transfer should go up from Kshs1,500 to Kshs2,000. What we have been given brings down the amount of money that we should have scaled up. We have only been allocated Kshs1 billion and it is difficult to say that we will cover the whole country.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, the criteria given by the Minister could apply but in a given constituency, there could be about 200,000 or 300,000 people who meet such criteria. What Hon. Kabogo was asking; despite most of these elderly persons meeting the criteria, what other criteria do they use to ensure that some are taken on board while some have to wait, and who does that?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, there are other factors that we look at. This is whether the grandparents are taking care of orphaned children. All those factors are put into consideration. I also want to point out that in the larger Thika District, 650

beneficiaries are from Juja while 100 are from Gatanga. So, you can see that even in that situation, they were given more.

**Mr. Kioni:** Mr. Deputy Speaker, Sir, any form of discrimination is not allowed under our Constitution. This programme has made it very difficult for some of us to represent our elderly within our constituencies. We are in constituencies that also have people who are old.

Could the Minister inform this House what immediate steps the Government is taking to ensure that discrimination of older people even in Ndaragwa Constituency does not continue? Why is it that you picked older people in Juja and left out the ones in Ndaragwa or any other constituency for that matter?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, I appreciate that there is need for the Government to allocate enough funds. However, we have over 1.8 million persons in this age bracket. Since they are 1.8 million, even if we were to pay 1 million people - right now we are covering only 33,000 households in the whole country – at the rate that Parliament has asked, that would mean Kshs24 billion per year. When people were making considerations here on how to reallocate funds, whereas we had suggested that some money goes towards the cash transfer for the older persons for us to scale up, Parliament itself vetoed it.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, given that this is a national programme provided for in the Constitution, could the Minister confirm that, indeed, she has a national programme for implementation and, if so, when will older persons from Webuye benefit from it?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, I wish it were possible for me to cover up to 1 million persons. That way, we would be sure that all the people aged 65 and above who are not receiving pension are in this cash transfer. However, it is not possible as long as we are not given funds from the Treasury. I just want to say, recently, from the Budget, Parliament reallocated Kshs845 million which was meant for another programme. We wanted to put it on the Older Persons Cash Transfer Programme, but Parliament gave it to the Disaster Management. So, really, there is nothing much I can do.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, considering that this money is clearly not sufficient and the effect of the procedures now being adopted amount to discriminatory practice, could the Minister consider channeling all this money to the Mau Mau war veterans who all constitute 65 years of age and above, and who are known to have been forgotten by this Government? They would benefit from these funds. The Mau Mau veterans are all over 65 and are well known.

**Dr. Shaban:** Mr. Deputy Speaker, Sir, this is a pilot project and we have tried as much as possible to cover most of the country. We are in 44 districts. Whereas I appreciate and empathize with the issue of the Mau Mau war veterans, I would like to point out that they are not the only ones who are 65 years and above and suffering because they are not accessing this money. The other Kenyans also deserve it just as much. I think this is a very good programme. Please, let us not kill it. The only thing I am asking my colleagues here is to help us to make sure that we have more funds allocated towards this programme.

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to keep on saying that this is a pilot project? This programme has been on pilot for very

long. They should get the necessary data to roll it out countrywide and, in any case, what criteria did they use because when you look at the poverty indices in the country, you will see that they are not covering where most poor people are.

Is it in order to continue with a pilot project that is causing discrimination in the country? Have you not got results from the pilot?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, I still insist that it is a pilot project until the social protection policy and the law are in place, in addition to the Treasury giving us enough funds. Again, I am also relying on my colleagues here. As we talk, I remember even at the point when we were discussing whether it should be scaled up to Kshs2,000, I stood here and tried to plead with my colleagues but nobody wanted to listen. So, out of this money, Kshs220 million will go towards the scaling up to Kshs2,000. We will then remain with about Kshs250 million which we will scale up to other areas.

**Mr. James Maina Kamau:** Thank you, Mr. Deputy Speaker, Sir. This programme is causing a lot of stress, especially to people living in a place like Kandara. When they learn that a neighbouring district like Thika is getting this money, we really feel bad. If they cannot do anything about this problem, I would like to ask the Government to scrap it because we are at a loss to explain to our people why my neighbour is getting it and we do not get it. Just the other day, I was almost heckled during a Mau Mau function in my area when I tried to explain to them that it was a pilot project; they did not understand that language of a pilot project! Again, something which is in the piloting phase cannot be in that stage forever. Even a child does not kneel and crawl on its hands and legs forever; it comes to a time when a child stands up and walks.

Mr. Deputy Speaker, Sir, let the Government tell us exactly what is happening and if they cannot do anything about this programme, let them discard it altogether.

**Mr. Deputy Speaker:** I think the Minister has been asked that question, more or less along the same line, a number of times. But for the benefit of the hon. Member, reply to it.

**Dr. Shaban:** Mr. Deputy Speaker, Sir, even in my own constituency, I face the same problems, because it is only one location which is covered. So, I face the same problems. We have not covered the whole country.

Mr. Deputy Speaker, Sir, I do appreciate what hon. Members are saying, but let me just plead again. We have to work together to make sure that these funds are increased. The bill for the payment of , at least one million old persons will come to Kshs24 billion in a year. So, please, let us work together so that, at least, we get a fraction of that money.

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

**Mr. Deputy Speaker:** Minister, you keep on pleading with the hon. Members to work with you. Hon. Members, the work of the Back Bench is to hold the Government accountable. It is the Government that allocates money; it is not hon. Members of Parliament who do so, and you are the Government.

**Hon. Members:** Correct!

*(Applause)*

So, this is an effort you are supposed to make with your Cabinet colleagues and your own Minister at the Treasury.

*(Dr. Khalwale stood up in his place)*

Yes, Dr. Khalwale, what is your point of order?

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to give the public the impression that we are the problem, because we are not working with her when she knows that this is a constitutional matter, and my junior colleague-- Yes, she was my junior colleague at the School of Medicine.

Mr. Deputy Speaker, Sir, she knows very well that it is a constitutional matter. Indeed, Section 57 (d) of the Constitution provides for what she is trying to roll out. Can she tell the House when she is going to bring to this House a Bill that is going to give effect to Section 57 (d) of the Constitution? I am afraid that the Minister might be deliberately refusing to bring this Bill so that they continue spending the money in the manner they are spending it, so that the money meets the same fate as the *Kazi kwa Vijana* funds.

*(Applause)*

**Dr. Shaaban:** Mr. Deputy Speaker, Sir, I am so disappointed with Dr. Khalwale that I want to remind him that I am also his senior here.

*(Laughter)*

Mr. Deputy Speaker, Sir, why am I talking about my colleagues in this Parliament? In this Budget, there was Kshs845 million that was re-allocated from my Ministry to the Ministry of State for Special Programmes by the Budget Committee of this House. What else can I say?

Thank you, Mr. Deputy Speaker, Sir.

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

**Mr. Deputy Speaker:** Order, Dr. Khalwale! The hon. Member for Lari.

**Mr. Njuguna:** Thank you, Mr. Deputy Speaker---

*(Dr. Khalwale stood up in his place)*

**Mr. Deputy Speaker:** What is your point of order, Dr. Khalwale?

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir, I merely requested that the Minister indicates to this House when she is going to bring the Bill that is going to give effect to Section 57 (d) of the Constitution, which they are trying to play around with, so that they embezzle and misappropriate the money that is available.

**Mr. Deputy Speaker:** Order! Order!

*(Mr. Elmi Mohamed stood up in his place)*

Order! A Minister cannot rise on a point of order, unless--- What is your point of order?

**Dr. Nuh:** He is one of the older persons!

(Laughter)

**Mr. Deputy Speaker:** Order! What is your point of order, Mr. Elmi?

**The Minister of State for Development of Northern Kenya and other Arid Lands** (Mr. I.E. Mohamed): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to impute improper motive on an hon. Member of this House?

**Mr. Deputy Speaker:** He is out of order, indeed!

Proceed, Minister!

**Dr. Shaaban:** Mr. Deputy Speaker, Sir, I just want to state here that, if, one, Dr. Khalwale, has a problem with the Prime Minister, please, let him not rub it on me.

Thank you, Mr. Deputy Speaker, Sir.

(Several hon. Members stood up in their places)

**Mr. Deputy Speaker:** Yes, what is your point of order, Mr. Imanyara?

**Mr. Imanyara:** On a point order, Mr. Deputy Speaker, Sir. I heard the Minister say that she is not able to do anything because the House Budget Committee's recommendation reduced the amount she had sought. Is she in order to say that when we know that the Treasury rejected the recommendations of the House Budget Committee and, in fact, reversed the decision of the Budget Committee? Is she in order?

**Mr. Deputy Speaker:** Hon. Minister, I think that the one thing that needs to come out very well, and which is the question that was posed by Dr. Khalwale, is the operationalization of Section 57 (d) of the Constitution, which *inter alia* says:

“The State shall take measures to ensure the rights of older persons—

(d) to receive reasonable care and assistance from their family and the State.”

When will you have the law in place to operationalize this, so that the authorities which will be allocating the money will be mandated by law – an Act of Parliament – to do the needful?

Proceed, Minister!

**Dr. Shaaban:** Mr. Deputy Speaker, Sir, the social development policy and the Bill have had a problem because there are some stakeholders, for example the National Social Security Fund (NSSF) and the Ministry of Labour, who are not in agreement that we should complete this. So, we are in the process of deciding on whether we should leave the NSSF and the Ministry of Labour out of it, so that we can bring here the required Bill and policy as soon as possible.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. The implementation of the Constitution, as you have so rightly put, is a matter that is required of the Government; it is not a department; it is not the Ministry. When will the Minister, in consultation---

**Dr. Khalwale:** This one!

**Mr. Deputy Speaker:** Order, Dr. Khalwale! Dr. Khalwale, it is not “this one;” it is the hon. Minister! The House is going to be accorded the dignity it deserves!

Proceed, hon. Imanyara!

**Mr. Imanyara:** Thank you, Mr. Deputy Speaker, Sir. I am asking when the Minister will, in consultation with the relevant constitutional organs, implement the process of giving effect to Article 57. It has absolutely nothing to do with the various stakeholders that she is referring to.

**Dr. Shaaban:** Mr. Deputy Speaker, Sir, the policy and the Bill have already undergone that stage of meeting all the stakeholders, including the public. But the problem which is there is that people are arguing over certain things. I cannot give you the details now because there is already a committee which is working on whether we should move on, because we have actually covered people who are not working. The NSSF covers those people who are employed; so, we wanted to separate the two, so that we can bring it here as soon as possible, and be able to implement that part of the Constitution.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** That is fair enough. The last supplementary question on the same, hon. Kabogo.

**Mr. Kabogo:** Thank you, Mr. Deputy Speaker, Sir.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Matters of the Constitution cannot just be joked around with.

Mr. Deputy Speaker, Sir, the Minister is telling us that the only reason why this Bill has not been brought before the House is because of consultations that she is talking about, yet the Minister ought to know that to give effect to the new Constitution, you have an Attorney-General; he is expected to consult with the Constitutional Implementation Committee (CIC) and the Law Reform Commission; this has nothing to do with those consultations you are talking about. When are you going to give us the law?

**Mr. Deputy Speaker:** Order! Order, Dr. Khalwale! The Minister has been categorical and she has given you an answer; it is not the only body; this is not in a vacuum! There is the NSSF and the issue of the implementation of the Constitution. So, there are relevant discussions and consultations that are going on between different institutions to see how issues can be consolidated or separated. She has given a very firm undertaking; she has said that it is going to be done as soon as possible.

Can you ask the last question, hon. Kabogo?

**Mr. Njuguna:** On a point of order, Mr. Deputy Speaker, Sir. I asked the Minister a supplementary question.

**Mr. Deputy Speaker:** Indeed, I remember hon. Member for Lari. Proceed.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, currently, the elderly people are getting an allowance of Kshs2,000. In my observation, this is very inadequate. What plans has the Minister put in place to have a review of this allocation?

**Mr. Deputy Speaker:** Minister, I think you have already stated it very well. But state it again for the second time.

**Dr. Shaban:** Mr. Deputy Speaker, Sir, let me state it for the Member for Lari.

First of all, we are not giving them an allowance of Kshs2,000, but Kshs1,500. However, we have plans to scale it up to Kshs2,000 once we get funds from Treasury. Last financial year, we were allocated Kshs400 million. I hope in the next financial year, we will be allocated more because we are scaling up what we used to give them.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, it is a sad day, where the House seems to sanction breaching of the Constitution in terms of discrimination. We are sitting here, allowing the Minister to continue discriminating against the elderly people in this country---

**Mr. Deputy Speaker:** Order, hon. Kabogo. Ask a supplementary question. Do not impute improper motive on the hon. Minister. She is not discriminate---

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, I was building onto my question. Now that this programme will continue giving money selectively to elderly persons in this country--- She talks of the Ministry of Finance as if it is an institution that is out of Kenya. We know the very able Deputy Prime Minister and Finance Minister sits in this House. Could she undertake to consult him to be able to bring in a request to enhance the funds, so that this discrimination can stop?

Mr. Deputy Speaker, Sir, finally, she talked about bringing a Bill here to be enacted into law. The Constitution envisaged this law being brought to Parliament within 18 months. It is now one year. Could she tell us when this Bill will be brought before this House? Is it in the next one month, a fortnight or 90 days? When will this Bill be brought to this House, so that the elderly persons in this country can equally enjoy this allowance? When? *Lini, kwa Lugha ya Kiswahili?*

**Dr. Shaban:** Mr. Deputy Speaker, Sir, whereas I do appreciate that we have a very robust Bill of Rights in our new Constitution, not everything can be done overnight. I understand the frustrations expressed by the hon. Member.

Despite all that, I also want to point out here that many elderly persons in Juja Constituency are covered under this programme. However, there are many others who would like to be covered under this programme in his constituency. I would like to say that once we scale it up, most of that money will be given to elderly persons in Upper Eastern and northern Kenya. Those are the areas with the highest poverty indices and have been marginalised for a long time. So, I do not want to give my colleagues high hopes that every elderly person in their constituencies will be covered under this programme.

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

**Mr. Deputy Speaker:** Order! Order! We have been on this Question for a long time.

**Mr. Kabogo:** On a point of order, Mr. Deputy Speaker, Sir. You have heard the Minister refer to Juja like it is being favoured. Juja Constituency, for her information, is the second most populace constituency in the Republic of Kenya. I think it is second to Embakasi Constituency. It is not a favour. It is their right. Is she in order to insinuate that Juja is being favoured?

**Mr. Deputy Speaker:** Order! Order, hon. Kabogo! You are out of order! There are 210 constituencies in Kenya. However, only a few of them benefit from this programme. So, it was clearly favoured.

Hon. Members. Question No.1247 is deferred to Thursday, next week. The hon. Minister Michuki is out of the country. The hon. Assistant Minister is bereaved and certainly not in a state of mind to answer the Question. He lost his mother. So, the Question is deferred to Thursday, 3<sup>rd</sup> November, 2011.



**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. While I console with hon. Murgor and I want to say sorry for the loss, and the absence of hon. Michuki, but I thought this Ministry has an extra Assistant Minister. I filed this Question two months ago before Parliament went on recess.

So, with your kind indulgence, I would seek that the Question be answered.

**Mr. Deputy Speaker:** The Chair is in possession of communication from the Ministry. Indeed, given the fact that we are in a state of condolence now, and the other Minister is out of the country, the matter rests there. The Question is deferred to 3<sup>rd</sup> November. Indeed, the Assistant Minister has heard that and I am sure the Ministry will give it all the importance it deserves to make sure it is answered on that day.

*Question No. 1247*

ILLEGAL MINING OF GYPSUM IN BURA CONSTITUENCY

*(Question deferred)*

Next Order!

## STATEMENTS

## POINTS OF ORDER

STATEMENT BY SOMALIA TFG PRESIDENT ON KENYAN  
OPERATION AGAINST *AL SHABAAB*

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. I seek a Ministerial Statement from the Minister of State for Defence regarding statements attributed to the President of the Republic of Somalia, the Transitional Federal Government (TFG), where that President is on record as having contradicted a statement given to this House and this country, that the war effort in Somalia, where men and women are risking their lives to protect the lives and sovereignty of this country, does not have the authorization of the TFG.

Mr. Deputy Speaker, Sir, if that is the case and our troops are in Somalia, would he issue a Statement telling us why our troops are in Somalia without the authority of the Somalia Government. If they intend to be in that country without the authority of the Somalia Government, then it should be with the full provisions of the Constitution of the Republic of Kenya, requiring the approval of this House to send our troops to war.

**Mr. Deputy Speaker:** Order, Imanyara! The matter was actually raised yesterday and a direction was given by the Chair on the same. I presume that you seek your clarifications at the appropriate time.

Next Order!

STATE OF KENYANS HELD IN LEBANON

**Mr. Kabogo:** On a point of order, Mr. Deputy Speaker, Sir. Over four weeks ago, I requested a Ministerial Statement from the Minister for Foreign Affairs regarding the

two Kenyan citizens who were held against their will in Lebanon. I remember that last week when I asked for that Ministerial Statement, the Chair ruled that the Minister would bring it today. Mr. Kimunya then requested that because of this issue of Somalia, they be given two weeks, which is today. Would I be in order to request that, that Statement be given as promised today? If not, probably, this afternoon?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, I will try to call the Minister to have this statement issued today in the afternoon. Let me undertake to prevail upon the Minister to come.

**Mr. Deputy Speaker:** Fair enough! It is so directed!

#### STATUS OF PUMWANI MATERNITY HOSPITAL

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, before we went on recess I tabled documents here in connection with Pumwani Maternity Hospital on the request of the Deputy Prime Minister and Minister for Local Government. He had indicated that he needed one week to study them and respond to the issues that we had raised. I request that the Chair makes a ruling about the same.

**Mr. Deputy Speaker:** That was a Ministerial Statement sought from the Deputy Prime Minister and Minister for Local Government.

Government side, what do you have to say?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, we were expecting the Deputy Prime Minister but it looks like he is not around. Let me undertake to ask him to come with the Statement in the afternoon because he will be here giving a Statement on behalf of the Prime Minister. I will, definitely, call him to come with the Statement.

**Mrs. Chepchumba:** On a point of order, Mr. Deputy Speaker, Sir. I had also requested a Ministerial Statement from the Ministry of State for Provincial Administration and Internal Security. The Minister is here and he was to give the Statement today.

**Mr. Deputy Speaker:** The Statement was on what? What was the subject matter?

**Mrs. Chepchumba:** Mr. Deputy Speaker, Sir, the Ministerial Statement was on the killing of one of my constituents.

**Mr. Deputy Speaker:** The Chair recalls that.

#### MINISTERIAL STATEMENT

##### REASONS FOR THE FATAL SHOOTING OF MR. RUTO

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, I remember we deferred it to today.

Mr. Deputy Speaker, Sir, I beg to give a Statement which was sought by the Member for Eldoret South Constituency who was requesting for the reasons for the fatal

shooting of Mr. Ruto. She sought clarification on; the circumstances under which Koech Ruto was brutally killed on 15<sup>th</sup> of September; that the deceased was shot dead by a police officer while aboard a *boda boda* motor cycle; what the police have done to arrest and charge in court the killer police officer; what the Ministry is doing to compensate the late Ruto and what the police are doing to contain the rampant cases of insecurity that have gripped Eldoret Town and its environs in the past months.

Mr. Deputy Speaker, Sir, I wish to state as follows: On 15<sup>th</sup> September, three regular police officers from Lessos Police Station were on patrol duties within Lessos Market at about 9.00 a.m., when a motor bike rider who was ferrying two pillion passengers approached. They stopped the motor cyclist but he did not stop and instead sped off. This prompted one of the officers, Philip Isinga Omondi, to open fire on the speeding motor cycle with the intent of flattening the tyres. Accidentally, the bullet got one of the pillion passengers namely Wilson Kipkoech Ruto who died instantly.

Mr. Deputy Speaker, Sir, on the same day of the incident, the police constable Philip Isinga Omondi who was involved in the shooting was arrested and taken to Eldoret High Court and charged with the murder of the late Wilson Kipkoech Ruto vide Lessos Police No.CR.774/73/211 and Court File No.60/2011. The case is scheduled for hearing on 20<sup>th</sup> December 2011.

As regards compensation, the family of the late Ruto cannot be compensated at the moment until the case before court is heard and finalized. Further, due to the upsurge in cases of insecurity in Eldoret, the police have put the following measures in place:-

On 30<sup>th</sup> August 2011, a joint meeting of all uniformed officers from the Uasin Gishu County was held to discuss the modalities to counter incidences of insecurity in Eldoret Town and its environs. Several resolutions were reached at and are being implemented.

On 14<sup>th</sup> September, the District Security Intelligence Committee (DSIC) members held a meeting with all locational chiefs with the aim of reviewing and strengthening community policing committees within the county.

On 5<sup>th</sup> October, again, the fourth wave of Rapid Results Initiative (RRI) was launched in the county with the focus being put on improvement of security, amongst other areas.

Mr. Deputy Speaker, Sir, as a result of the above, the following results have been achieved:-

(i)Carjacking incidences have drastically reduced and a number of suspects have been taken to court.

(ii) An assortment of stolen goods has been recovered and suspects arraigned in court.

(iii)Five robbers have been gunned down by the police within a span of five months.

(iv)Five assorted firearms have been recovered from the suspects within the same period.

(v)Similarly day and night, foot and mobile patrols by both regular and administration police have been intensified within Eldoret Township and its environs to curb insecurity.

Thank you.

**Mrs. Chepchumba:** Mr. Deputy Speaker, Sir, I appreciate the answer given by the Assistant Minister. However, could he confirm that the deceased was a victim of police anger given that the rider of the bike refused to part with a bribe that the officers were demanding? While speeding off, the officers pulled the trigger killing Mr. Ruto who was a passenger.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, that is why we have charged this fellow with murder.

I want to say here that police officers who are going for bribes anywhere in the country are risking their jobs. Already, we have dismissed two police officers from my constituency, Ndhiwa; Chief Inspector Charles Ngahu Mwangi No.231956 who was an OCS in Ndhiwa. He was stopping *boda boda* people to take bribes. We have also dismissed Sergeant Nazua Rogers Lwembe, No.62489 who was stopping *boda boda* people for bribes. We have also dismissed an Administration Police officer from Naivasha who was carelessly handling a gun. Therefore, there are so many more who are going to be dismissed. We are fed up with transferring police officers from one place to another. That is the trend we are going to take; dismissal on the spot will be the thing.

**Mr. Deputy Speaker:** Next order!

## BILL

### *First Reading*

#### THE CONSUMER PROTECTION BILL

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

**Mr. Deputy Speaker:** Next order!

## MOTIONS

#### ADOPTION OF REPORT ON DISMISSAL OF WORKERS AT THIKA MUNICIPAL COUNCIL

**Mrs. Noor:** Mr. Deputy Speaker, Sir, I beg to move the following Motion.

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on Ordinary Question No.626 on the dismissal of 250 workers of Thika Municipal Council laid on the Table of the House on Thursday 16<sup>th</sup> June, 2011.

Mr. Deputy Speaker, Sir, the Speaker referred the Ordinary Question No.626 by Mr. William Kabogo, Member for Juja Constituency, on the unlawful dismissal of 250 Thika Municipal Council workers to the relevant departmental committee on Tuesday, 1<sup>st</sup> February 2011, after the Deputy Prime Minister and Minister for Local Government gave an unsatisfactory answer to the House when the Question was deferred twice.

The House requested the Speaker to refer the Question to the relevant departmental committee. The Departmental Committee on Local Authorities, after

deliberations, resolved that the Question was about a labour matter, and that the Departmental Committee on Labour and Social Welfare was well placed to thoroughly look into the Question.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, the Question reads as follows:-

“The Member of Juja Constituency, Mr. William Kabogo, asked the Deputy Prime Minister and Minister for Local Government whether he is aware that Thika Municipal Council unlawfully terminated the services of 250 workers in November 2008, all of whom had worked over five years; why several orders from the Thika Labour Officer to reinstate the employees have been ignored and whether he could also explain why the council advertised the vacant positions on 11<sup>th</sup> November and immediately filled them with persons related to the council officials.”

Mr. Temporary Deputy Speaker, the Committee resolved to hold meetings and hearings to receive evidence and submissions in respect of the implementation of the foregoing.

The Committee held meetings in Parliament Buildings with representatives of the dismissed workers on 15<sup>th</sup> March, 2011; the Municipal Council of Thika on 16<sup>th</sup> and 29<sup>th</sup> March, 2011; the Minister for Labour on 16<sup>th</sup> and 29<sup>th</sup> March, 2011; the Permanent Secretary (PS), Ministry of Local Government on 4<sup>th</sup> April, 2011, and the Deputy Prime Minister and Minister for Local Government on 10<sup>th</sup> May, 2011.

Mr. Temporary Deputy Speaker, Sir, the Minister for Labour appeared before the Committee on 16<sup>th</sup> March, 2011 and the Assistant Minister for Labour appeared on 29<sup>th</sup> March, 2011. They informed the Committee that it is true that 250 former employees of Thika Municipal Council reported to the District Labour Officer, Thika, that their services were terminated on 5<sup>th</sup> November, 2008, and that the officers received the workers and interviewed them on the reasons as to why their services were terminated. The officers analysed their verbal submissions and established that the employees were being paid at the end of each month, and not daily. It was, therefore, established that the contract was on a monthly basis, and not contract as alleged by the Council.

The Employment Act, 2007 says that a person whose engagement provides for his payment at the end of each day and who is not engaged for a long period or a number of continuous working days, which amounts to an equivalent of not less than one month, or performs work which cannot be reasonably expected to be completed within a period or number of working days amounting to the equivalent of three months or more, the contract process will be deemed to be one where the wages are paid on a monthly basis.

Mr. Temporary Deputy Speaker, Sir, therefore, in accordance with the provisions of the Employment Act, 2007, the District Labour Officer formed the opinion that the 250 employees were actually monthly paid employees, and not casual workers as alleged by the Council. A demand notice was written by the District Labour Officer to Thika Municipal Council to pay, but the Council ignored the notice. A charge sheet was also

prepared for the purpose of prosecuting the Council for the recovery of the terminal benefits on behalf of the affected employees.

However, the workers have not gone back to the District Labour Officer, Thika, to pursue the same. In the absence of the former workers who were the claimants, the labour officers could not refer the matter to court. However, there was a prosecution file with the necessary charge, which was filed in the Industrial Court of Kenya under Case No.L57 of 2011 on 28<sup>th</sup> day of March, 2001 against the Town Clerk of Thika Municipal Council, and the matter came before Court No.4 of the Industrial Court for mention on the 7<sup>th</sup> day of April, 2011.

Mr. Temporary Deputy Speaker, Sir, we also got a submission from Thika Municipal Council, who confirmed that the 250 employees were casuals. They also told us that the people who were dismissed were working in the Engineering, the Social Services, and the Public Health and Environmental departments. The Engineering Department is in charge of unclogging the drainage system. The Social Services Department is in charge of clearing the streets and the Public Health Department collects garbage.

They confirmed that the dismissed persons were also paying National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF) and all sorts of statutory deductions. That was the submission given to us by the Town Clerk of Thika Municipal Council. He also confirmed that in the same month, they advertised for positions after they laid off 250 workers, and that they employed 52 people. However, the area Member of Parliament confirmed that those were relatives of the Council officials.

Mr. Temporary Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Local Government also confirmed that in all local Government authorities across the country, you will find relatives of council officials working in those councils. The Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Local Government appeared before the Committee on 12<sup>th</sup> April, 2011 and informed the Committee that 250 workers were clarified as casual workers throughout their employment. Some of them worked for as long as 14 years but they were still casual workers.

The Deputy Prime Minister and Minister for Local Government sent auditors to Thika Municipal Council to ascertain the issue of the 250 workers. The auditors found that the workers were employed on ward-basis. However, the audit could not get any record on dismissal of the employees. The audit did not get the Master-Payrolls but he got payrolls.

Mr. Temporary Deputy Speaker, Sir, the PS and the Minister dealing with the case of illegal employment at the municipalities and councils are not allowed to pay anyone without approval from the Deputy Prime Minister and Minister for Local Government. That is what he said. The PS informed us that the same situation obtained across all councils, and that they have been acting irregularly and contravening the labour laws. Therefore, the local authorities sector has very serious issues and hence the need to have a policy on the same.

For a long time, the main body that carries out local authorities audit were inspectors, under Cap.2, Sub-Section 16 of the Local Authorities Act. The Council Inspector continues to audit the councils. Local authority employees are not civil servants and, therefore, any financial obligation goes to the council. It cannot go to the Exchequer.

The PS offered to look into the matter of paying the workers their dues and offered to consult the Attorney-General on the actions that should be taken against the Clerk to Thika Municipal Council.

Mr. Temporary Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Local Government appeared before the Committee on 10<sup>th</sup> May, 2011 and informed the Committee that the Ministry had a major concern to resolve around issues of casual employees in the local authorities. Many cases had been reported from across the country, and it emerged that councils have been employing workers without adhering to the provisions of the Employment Act. Many people have been engaged without formal appointment letters.

There are cases where councils were said to have been engaged with their own relatives and supporters at the ward level and forced the clerks to put them on payrolls. Many such cases have emerged. This has been going on for a long time but it was only highlighted through the audit that was carried out by the auditor. The Deputy Prime Minister and Minister for Local Government had cases where husbands, wives, brothers, sisters, sons and daughters of councillors and senior officers are all working in the councils. Out of the audit, cases emerged where junior staff served as casual workers for as long as 10 years. The issue came from the audit. The Deputy Prime Minister and Minister for Local Government also told us that they would take the following remedial actions.

A circular letter had been sent to all councils requiring them to adhere to employment laws. Where staff have been engaged for a long period, the councils have been asked to see how best to formalize their employment. Audit and inspection officers who visit councils will start paying special attention to issues of staffing. In the case of Thika Municipal Council, a decision was taken to have all those who have been engaged for a long time to be paid their dues. The matter has been discussed with the Town Council and it has already instructed its lawyers to apply for payment of the money. The following were the observations of the Committee:

The workers were employees of Thika Municipal Council as is evidenced by some letters written by the Council confirming that particular people are employees of Thika Municipal Council. The Town Clerk told us that they were not employed officially and they had no letters. However, after we investigated the matter, we found out that those who appeared before the Committee had letters of engagement from the Council.

The workers were paid on a monthly basis as evidenced by the Municipal Council of Thika payment Voucher Nos.245 of 2008, 277 of 2004, 459 of 2005. There were payrolls and payment vouchers which were shown. They are attached on the Report.

The employees were also paying NSSF and NHIF contributions as evidenced by the Provisional Members Statement Account and the deductions started as early as 2008.

The employees did not qualify to be called “casuals” according to Section 18 of the Employment Act, 2007. The former and current Thika Municipal Council failed to comply with Section 36 of the Employment Act, 2007, as read together with Section 88(1) of the same Act by failing to grant a notice of termination to the employees and failing to pay them one month *in lieu* of notice amounting to Kshs1,860,642. The former and current Town Clerks of Thika Municipal Council failed to comply with the requirements of Section 2001 of the Employment Act read together with Section 88(1) of the same Act by failing to grant leave---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Could there be a Section 2000?

**Mrs. Noor:** No, Section 88(1). I am sorry, Mr. Temporary Deputy Speaker Sir. The Council failed to grant leave and payment amounting to Kshs3,395,236.50.

The former and current Town Clerks of Thika Municipal Council failed to comply with the requirement of Section 35(5) of the Employment Act, 2007 as read together with Section 88(1) of the same Act by failing to pay for the years the employees worked amounting to Kshs3,395,236.50.

The Thika Municipal Council ignored the summons to appear before the Ministry of Local Government to try and resolve the issue of the 250 works. They refused to go to the Labour Offices. Further investigations needed to be carried out to establish the claim of nepotism across all the councils. We got information from Nyeri Town Council where 1,000 workers were unlawfully dismissed. We found out from other councils that we interacted with that the employees were relatives, friends, and supporters of the councilors. Flouting of the Employment Act is widespread in almost all the councils countrywide.

The Ministry of Labour is understaffed and has only 96 labour officers to ensure that labour laws are adhered to fully in the whole country.

The Committee observed that flouting of the employment law is also widespread not only in the councils, but also in the tea zones, export processing zones, hotel industry, sisal industry and salt mining industry as the Committee was told by the Minister for Labour.

Mr. Temporary Deputy Speaker, Sir, the Committee recommends that:

The former and the current Town Clerks of Thika Municipal Council be charged in the Industrial Court for contravening the Employment Act, 2007 Sections 36, 28(1)(a) and 35(5) and 88(1).

Two, the Thika Municipal Council should provide Kshs9,250,104.50 as terminal benefits of the 250 employees to the legal officers for onward transmission to the workers pending Industrial Court judgement.

Three, the Council should ensure that the Employment Act, 2007 is adhered to at all times.

Four, the Minister for Local Government should ensure that strict and tight measures are put in place to stop the flouting of the Employment Act, 2007, in all councils.

Further investigations need to be done to establish the complaint of nepotism across all the councils.

The Minister for Labour should take immediate action on all complaints on flouting of the employment laws in places such as the tea zones, export processing zones, the hotel industry, the sisal industry and the salt mining industry.

Mr. Temporary Deputy Speaker, Sir, I wish to express my appreciation to all the Committee Members who sacrificed their time to attend all the meetings that were held. The Committee is also grateful to the Speaker of the National Assembly and the Office of the Clerk for facilitating the Committee meetings.

The Departmental Committee on Labour and Social Welfare is mandated to consider the following issues: Labour issues; trade union related issues; national manpower policy and development; promotion of staff and employment in micro and



small enterprise; the National Social Security Fund (NSSF); national productive centre; gender, children and social development; planning; mainstreaming; women enterprise development fund; co-ordination of voluntary services; social welfare for vulnerable groups; community development programmes; institutions of children care and development; culture and national heritage; disaster management policies and programmes; co-ordination of resettlement and mitigation of programmes for Internally Displaced Persons (IDPs); youth affairs and sports, among others.

The following are the Members of the Committee:-

Hon. Sophia Abdi Noor, myself, the Chairperson;

Hon. Lenny Kivuti, the Vice-Chairperson;

Hon. Elijah Lagat, Member;

Hon. Joseph Magwanga, Member;

Hon. Alfred Odhiambo, Member;

Hon. Clement Waibara, Member;

Hon. Adan Keynan, Member;

Hon. Gideon Konchella, Member;

Hon. James Kiptanui, Member;

Hon. Pollyins Ochieng, Member; and,

Hon. Charles Keter, Member.

I wish to conclude by thanking everybody for the support that was given to this Committee, particularly to investigate this question which is, not only relevant to Thika Municipal Council, but also to many other councils which have suffered the same problem.

I beg to move that this House adopts the Report of the Committee.

Thank you.

**Mr. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, I stand to second the Chairperson of the Committee. I wish to make a few observations on what she has said. The first one is that Thika Municipal Council claimed that those workers were laid off as a result of redundancy. But further investigations revealed that, after laying them off, some other workers were employed. Those who were employed were not as many as those who were sacked. They were about 60 people. When we investigated further, we also found out that some of those who were employed had similar qualifications and experience as those who had been sacked. The only reason that justified the action of employing new people was because they had sacked the 250 people and employed their supporters and relatives. Another observation was that the workers who were sacked had families. They were responsible people. They were paying school fees and taking care of their families. They were actually dismissed without being given any terminal benefits. So, it was rather inhuman because those people are Kenyans. They have the right to access education, food and shelter for their children and themselves. The only way they could do that was through the employment in the municipal council. So, it was unfair. Besides that, there is also a problem of unemployment in this country. So, sacking the 250 workers is making the situation even worse. We should be creating jobs for our people instead of sacking them and causing unemployment and suffering.

The other observation was that the Clerk to the Thika Municipal Council was not ready or willing to provide the payroll. I think he was unwilling to do so in bad faith. We suspected that he had some malicious intentions. We wanted to know what those workers

were earning. As my Chairperson has said, according to the Employment Act, the workers were not casuals. They had already been classified as workers and not casuals. So, they deserve to be compensated. If there are other hon. Members interested, they can contribute.

With those few remarks, I second.

**The Temporary Deputy Speaker** (Mr. Imanyara): I now propose the Question but before I do so, Mr. M. Kilonzo, will you be standing in for the Government in this?

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

*(Question proposed)*

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to make a contribution. Let me start by thanking the Committee and, particularly the Chair who led the Committee to develop this Report. I should also extend my appreciation to the Committee Members who really co-operated with the leadership of the Committee to deliver this Report.

Mr. Temporary Deputy Speaker, Sir, we note from the deliberations in the Report that the services of 250 workers were arbitrarily terminated by the authorities at Thika Municipal Council. It is clear and almost evident that the lives of families were destroyed. Family upkeep was also shuttered. Workers who had bank facilities were also affected and education for their children was also badly affected. This is a scenario that should not be allowed to happen anywhere in this country. The future of those families was jeopardized. The children were left in agony. If that scenario is allowed to continue, it may destabilize all the authorities and even affect the stability of the families and the nation as a whole. Social stability is very important and it must be maintained at all costs. Thika Municipality was not really compliant. We note from the Report that, at one time, it was requested by the Deputy Prime Minister and Minister for Local Government to address some of the issues that were raised by workers but the leadership was not compliant. We also clearly note that the municipal council authorities were not truthful or honest. At one instance, they had denied the fact that those workers had been on permanent terms. But the workers were able to produce appointment letters to the Committee. That is very bad dishonesty on the part of the Council that is expected to execute fairness and justice to its workers. Therefore, it is important that deterrent action must be taken on the leadership of that municipality to deter such cases from happening in other local authorities.

Mr. Temporary Deputy Speaker, Sir, appointment letters are documents that guarantee the welfare of workers. They produce them in banks and other societies to guarantee them some loan facilities. Therefore, full compliance must be given. The welfare of workers is crucial because without workers in our local authorities and Government departments, there will be no progress. Therefore, it is important for the Ministry of Labour to increase the number of inspectors because the number is very inadequate. It has about 96 officers. So, to comprehensively address the affairs of workers, that number must be increased. To date, Thika Municipality owes the sacked workers close to Kshs9.5 million. Those workers have already rendered services and they are now languishing in poverty. Therefore, it is important that immediate action be taken

to address the concerns of the workers. Those workers must be paid their dues so that their children can go back to school, those with land issues can resolve them and those with illnesses can buy drugs for their treatment.

The Employment Act has not been implemented. It has literally been ignored and that is a major concern to all the local authorities in the country. There must be constant inspections to make sure that workers are treated as human beings. In this particular case, terminating 250 workers is destroying families in a very strange manner. We also note that employment in local authorities is conducted along tribal inclinations. A father, a son, a daughter, a brother and a sister are involved. That should not be allowed to happen. We need to make sure that employment in this country is done on merit. That has not been done in Thika Municipal Council. All other municipalities must make sure that employment is done on merit. It should not be done on tribal considerations. Family connections must not be introduced in employment.

Finally, I agree with my colleagues that the recommendations contained in this Report be immediately implemented, so that those people get back their jobs and continue earning their salaries. Short of that, they will not be happy.

With those few remarks, I fully support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kabogo, the Chair has received and approved your proposed amendment. So, you may move it as you make your presentation.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, first and foremost, let me take this opportunity to thank the Committee chaired by Mrs. Noor for a job well done.

This matter came to the House pursuant to a Question that I raised in the House on 29<sup>th</sup> November, 2010. The Question was not satisfactorily answered by the Minister. So, the matter was referred to the Committee.

As I support, I would like to move an amendment to the Motion which, as you said, was approved by the Speaker on the 19<sup>th</sup> of this month.

Mr. Temporary Deputy Speaker, Sir, I beg to move that the Motion be amended by inserting the following words immediately after the figure 2011. The words are:-

“subject to insertion of the words “being the principal amount plus accrued interest up to the date of payment as between Kshs9,250,104.50 and the word “terminal” on the recommendations of:-

Bullet 4.0.0.II on page 15 of the Report.”

Mr. Temporary Deputy Speaker, Sir, the effect of that amendment would be to pay these employees what has been recommended by the Committee. If these amounts are owed to the employees, they ought to have been paid at that point in time. If these monies are being paid today, it means that money that was owed to the employees at that point in time is being paid today. It is only fair that these monies be paid with interest up to the time that it would have been paid.

Mr. James Maina Kamau will be seconding this amendment.

**Mr. James Maina Kamau:** Mr. Speaker, Sir, I beg to second the amendment.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, also, it is important to note that the Committee, in its deliberations, did find it actually possible that most or all councils in the Republic of Kenya are employing casual workers for as long as 14 years. They still refer to them as casual workers. You will see this has been going on for many years. Many workers whose services were terminated lost their jobs because they were

casual labourers in spite of working for many years. They lost their families because if one was a breadwinner in a family and your services are terminated in that nature, then you go home and you have nothing to give to your family. This means that you have lost your family. If you are the provider of the family and you are a man, your wife might even disappear because you are not providing.

Mr. Temporary Deputy Speaker, Sir, many children of these families dropped out of school because the employment of their parents was terminated. So, they have suffered over these years. It is important that they be paid.

The Chair has referred to a matter that was brought to court under Case No. L57 of 2011. It is important to note that this case was taken to court long after I had asked the Question. So, it is because of the Question in Parliament that these people were taken to court---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kabogo, when you did say that Mr. Kamau was seconding your amendment, he stood up and nodded. It is assumed that that was sufficient secondment. So, you can propose and then we continue, so that we can save you time.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, that is so. I was just following your guidance that I can move the amendment, but I can call upon him to second the amendment and then I move on.

**Mr. James Maina Kamau:** In seconding this amendment, I would like to say that---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. James Maina Kamau, I thought you were nodding in order to encourage Mr. Kabogo to continue. If you are speaking as though he has ended his contribution, then I will have to ask him to continue. But you can just nod, so that he finishes his contribution.

**Mr. James Maina Kamau:** I beg to second.

*(Question, that the words to be inserted be inserted, proposed)*

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, the Chair did make reference to a case in court. I was saying that that case was taken to court pursuant to the Question that was already in the House. So, the Ministry was taking action on a matter that had already been brought to the House.

I have perused the court file and I have seen that they have recorded intention to settle the matter out of court. So, it is my request that it is expedited, so that this case is not used as a way of blocking the payments that the Committee has recommended. This is because, once the matter is in court, they will say that they cannot pay on a matter that is in court. So, the case should not work as an inhibitor on the part of the Government to implement the recommendations by the Committee. I would like to table those notes that we found in the court file.

*(Mr. Kabogo laid the documents on the Table)*

Mr. Temporary Deputy Speaker, Sir, it would have been important to know from the Committee on a matter that they have raised on bullet 2006 on page 12 where they are saying there were consultations between the Attorney-General and the Permanent

Secretary, Ministry of Local Government in as far as what would happen to the Town Clerks is concerned. So, it will be important for the Committee to follow up with the Attorney-General and find out what was the outcome of those deliberations.

Mr. Temporary Deputy Speaker, Sir, from the evidence given by the Minister of Local Government on bullet 2007 on page 12, it is clear that councils have been employing people without following the Employment Act requirements. This is a serious matter and cannot be overemphasized.

This is retrogressive. It is against the spirit of the new Constitution and the Government must put a stop to these actions where people are employed because they are related to councilors and Town Clerks. They are dismissed when new Town Clerks and councilors come in. This should come to a stop.

Finally, it will be important for the Committee to state the timeline within which these recommendations should be implemented. With the new Constitution, the Director of Public Prosecutions (DPP) - and the Minister for Justice, National Cohesion and Constitutional Affairs can confirm this – is able now to act on recommendations of the House. So, if this Motion does pass, which I have no doubt it will, then it will be important for the Minister to make an undertaking to the House that the DPP will move swiftly to take action on the recommendations of the Committee, so that those that have breached the laws will be brought to book.

With those few remarks, I beg to support.

**Mr. Muthama:** Bw. Naibu Spika wa Muda, ninakushukuru kwa nafasi hii. Ninaanza kwa kuunga Hoja hii mkono pamoja na mabadiliko ambayo yamependekezwa.

Ninasimama kwa masikitiko makubwa sana nikisema kwamba sisi kama taifa, tuliumia wakati wa Ukoloni. Tuliteswa kabisa. Na ni kwa sababu ya dhuluma kama hizi ndiposa wananchi wakaamua kwamba ni lazima wamng’oe mkoloni ili haki zao zilindwe. Baada ya mababu wetu kupigania nchi hii ili ubaguzi wa haki za Wakenya usimamishwe, inaonekana kwamba tunaishi katika himaya ya kikoloni kupitia watu wetu ambao wanastahili kulinda na kuzingatia maslahi ya Wakenya.

Ukiangalia mambo ambayo yametajwa katika Ripoti hii ambayo imeletwa na Kamati ya Bunge, utaona kwamba sheria kuhusu wafanyikazi katika taifa letu la Kenya imo kwenye kitabu tu na haijaweza kudhihirishwa kulinda haki za Wakenya.

Ukiangalia, utapata kuna mwananchi wa taifa hili ambaye amezaliwa na mzee na mama wa taifa hili. Juu yake, kuna mtu ambaye amesomeshwa na taifa hili, na yuko kwenye madaraka na anastahili kulinda haki ya yule Mkenya. Lakini utasikia kwamba mtu huyo amefanya kazi miaka 14 na bado rekodi za uajiri wake zinaonyesha kwamba yeye ni mfanyikazi wa kibarua. Ukiteremka, utapata kuna miaka mingine 10, saba, tatu na kadhalika.

Bw. Naibu Spika wa Muda, mateso bila chuki yanaenezwa kwa mwananchi wa taifa hili ambaye anachagua Wabunge kama sisi. Kuna sheria za kikazi na kuna Serikali ambayo inafaa kulinda ambayo iko na Rais na Makamu wa Rais, lakini mtu huyo anaachishwa kazi. Mbunge wa sehemu hiyo anatatizika na kuleta Hoja kama hii ilhali kuna sheria ambayo inafaa kulinda haki ya Mkenya huyu kabla jambo hili halijafika hapa. Ripoti imesema kwamba hata huenda pesa hizi hazitalipwa kwa haraka kwa sababu kutakuwa na visingizio eti mambo haya yako mbele ya korti na ni lazima korti itoe uamuzi huku yule mwananchi wa kawaida ambaye amechagua Serikali na kuiweka kwenye madaraka anateseka.

Hakuna haki, ukweli na usawa katika mambo ambayo yanatendeka katika nchi yetu. Pesa ambazo watu 250 wanaitisha hapa ni Kshs9.5 milioni. Kwa uwazi na udhahiri, wale wezi hodari katika taifa letu ambao wanaiba pesa kidogo, wanaiba Kshs10 milioni. Hapa, tunauliza Kshs9.5 milioni kwa wananchi 250. Leo, tuna uhakika na uwazi kwamba wezi wale wa katikati ni wale ambao wanatoroka na Kshs5 milioni halafu wale wa juu hawajulikani. Wakenya hawa wanadai haki yao ilhali yule Karani wa Mji ambaye amelimishwa na taifa hili na kuwekwa kwenye madaraka, mshahara wake hauchelewi.

Bw. Naibu Spika wa Muda, sijui kama tumepata Uhuru au tunataka kurudi kupigania Uhuru. Kama mwananchi wa kawaida hana haki ya kutumikiwa, basi Uhuru uko kwa walio juu. Mabepari wako wakubwa lakini mtu wa chini hana haki ya kujitetea.

Hawa wananchi wa Juja ni chanzo tu cha matatizo yanayowakumba Wakenya. Ukienda kwa kila mji, utaona kwamba wananchi wanaajiriwa kwa kazi ya kibarua. Hata kampuni za kibinafsi zimepenya katika Wizara na kuwajiri watu wao kusimamia dhuluma kwa Wakenya. Mwananchi wa kawaida akienda kudai haki yake kwa shirika la kibinafsi, anaambiwa aende ofisi ya wafanyikazi. Akienda ofisi ya wafanyikazi, anakuta yule mtu ambaye amewekwa huko anapata mshahara na anarudia kwa mlango na hawezi kupata haki yake. Ukiingia katika kila sehemu ya uakilishi Bunge, utaona kuwa wananchi wako na matatizo hayo.

Bw. Naibu Spika wa Muda, hawa wananchi wanastahili kulipwa haki yao na Waziri ambaye atajibu mambo haya kwa niaba ya Serikali yuko hapa. Hatutategemea kuambiwa kwamba haya matatizo yamesikizwa na yataangaliwa. Tunaweza kuambiwa kuwa hawa wananchi watalipwa pesa hizi. Kama Bunge hili haliwezi kutoa kauli mwananchi alipwe pesa zake, basi, tunataka Bunge lingine ambalo litatengeneza sheria na kutoa maamuzi ambayo yatatimizwa. Mimi sitakubali kukaa kwenye Bunge ambalo linatoa maamuzi ambayo hayatimizwi.

Nimekaa hapa kutoka asubuhi ili nizungumze kuhusu jambo hili na wananchi taifa nzima wanisikie. Kwa hivyo, ningependa kuona matokeo. Hatutakubali mambo haya kamwe. Kama ni kulipwa, walipwe na wale wengine ambao wanadai, vile vile, walipwe. Waziri wa Kazi na Mawaziri wengine ambao wanahusika wajue kwamba viti ambavyo wanakalia si vya maridadi tu. Sio viti vya bendera, gari na ofisi tu, ila mwananchi wa Kenya anataka kupata huduma kutoka kwa Wizara hizo. Moja ya utumishi huu ni kuondoa dhuluma.

Bw. Naibu Spika wa Muda, Ripoti hii inaendelea kusema kwamba Karani wa Mji apelekwe kortini na kushtakiwa. Ikiwa mtu ambaye amesoma na anaelewa sheria anangojea Kamati ya Bunge kumkaba koo na kumwambia ni lazima aende kortini kwa sababu amefanya dhambi, basi sijui tutaenda wapi. Ni lazima watu hawa wajue kwamba kazi yao si kupata mshahara tu. Ni lazima watumikie taifa hili na waimudu nchi ili iweze kutoa watoto ambao wanaelewa sheria zaidi ili wanapopata madaraka, waweze kutumikia taifa hili vizuri.

Kuna kisingizio kwamba watu ambao wameajiriwa ni jamii ya mtu mmoja. Hao watu wakiajiriwa, walikuwa na kazi zingine halafu wakapewa kazi zingine au ni wale Wakenya ambao wanaambiwa: “Wewe, hauna kazi, ingia kazi”. Itakuaje kama mtu ambaye yuko ofisini, nyuma yake hawezi kufanya kazi na mtu ambaye hawana ukoo naye, ili asihusishwe na dhana kuwa amejiri watu wake? Walioajiriwa hawawezi kufutwa kwa kisingizio kwamba wao wanahusiano na wakubwa ambao wanawaongoza. Hao ni Wakenya na wanafaa kupewa kazi. Uchunguzi hapa umefanywa na umeonyesha

kwamba sheria za wafanyikazi hazikufuatwa. Ni jukumu la Waziri kuona kwamba mambo hayo yamefanyika.

Ninamshukuru mhe. Kabogo kwa kuleta Hoja hii Bungeni ili iwe kielelezo katika miji mingine na siyo tu katika Wizara ya Serikali za Mitaa lakini kwa taifa nzima.

Kwa hayo machache, ninaunga mkono. Ninaishukuru Kamati iliyoandika Ripoti hii.

**Mr. Namwamba:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to contribute to this very important Motion. Let me say from the outset that I support this Motion and in doing so, I really want to applaud the Departmental Committee on Labour and Social Relations.

Finally, this House is starting to respond to issues that are of direct relevance to the people of this country. I have been chairing a Select Committee of this House on the cost of living. This Committee has had the opportunity to go virtually across the length and breadth of this country and interact with the people of this country all over the place. Among the people that this committee has had the opportunity to interact with are the workers of this country. I can say - this House can confirm this when the report that I tabled in this House yesterday is finally debated - that the Kenyan worker is truly and honestly abandoned in this country and left to the whims of employers – whether that employer is the Government or a local authority as in this case, or employers in the private sector.

Mr. Temporary Deputy Speaker, Sir, a country that does not take care of its workers really does not have a foundation for a take-off. For a country like ours, that is talking about Vision 2030; we want to be a medium-sized industrialized country in the next 19 or so years; there is no way we will get there if we do not take care of the toiling and moiling workers of this country. If we continue to treat them the way we are doing, perhaps we should revise Vision 2030 to become Vision 3020, because the people who will power this country to realize Vision 2030 are the workers of this country. We are talking of about 250 employees of Thika Municipal Council, who are demanding a paltry Kshs9.5 million. I did some quick arithmetic while sitting here and that is a paltry Kshs38,000 per person. This is a matter that is really basic natural justice, which demands that justice be done in this matter. This House should adopt this report today. However, we should go beyond merely adopting this report.

Mr. Temporary Deputy Speaker, Sir, this House has a very worrying trend where we adopt very good reports, but they are simply not implemented. Therefore, I want to challenge the Government. I am very happy that the Government Responder to this report is my learned senior, the very respected and venerated Minister for Justice, National Cohesion and Constitutional Affairs. I hope that he will move quickly to give a Government commitment that this report is going to be implemented fully and expeditiously. I also challenge the Committee on Implementation of this House that when we adopt reports of this nature, we do not do that for pleasure. We do not do that because we do not have other business to transact. We adopt because it is our business to sit in this House and transact matters of national importance and respond to the cries of our people. Our people are all the people of Kenya from Loitokitok to Wajir and from Budalang'i to Kinango. Those are our people. Therefore, when we pass this report, we want to see this Committee coming back to this House in the shortest time possible to

confirm to this House that, indeed, this report has been implemented and the 250 Kenyans have actually received the Kshs9.5 million they are expecting from this council.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by challenging the Government on the overall employment policy and legislation in this country. We are not taking good care of the Kenyan worker. Our employment laws and policies are lopsided. They are not in the best interest of the Kenyan worker, and I want to challenge the Minister for Justice, National Cohesion and Constitutional Affairs that as we implement the Constitution, let us take this opportunity to revise the employment laws and policies of this country, so that we can take better care of our workers. Kenyan workers working in certain sectors like those who serve in private security firms, flower farms--- I am at the risk of sounding like a racist, which I am not; those who work in firms owned by Kenyan Asians have myriad complaints about the conditions in which they work. If this House does not rise and respond to the issues affecting the Kenyan worker, I believe that we will not be living up to the mandate and responsibility we bear as Hammurabi the law giver, as the legislators and as a House that is supposed to take care of the best interests of the people.

Therefore, I support this Motion fully and I want to repeat that we want to see this report implemented speedily and fully.

**Mr. Magwanga:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I am a member of this Committee and we sat down and received submissions from a number of departments and Ministries. It is really worrying in this country that 250 employees were fired and another 50 employees employed at the same time. I want to say that I concur with the chairperson who moved the Motion. I want to take this opportunity to thank her very much for chairing this Committee and deliberating over these issues up to the time when we came up with the recommendations. The recommendations which are in this Report are very good, and they aim at serving the people of this country. We want every person of this country to be treated fairly. This is what the Departmental Committee on Labour and Social Welfare means.

Mr. Temporary Deputy Speaker, Sir, I want to say that the Office of the Deputy Prime Minister and Ministry of Local Government appeared before us and made their presentation. We realized that these employees worked for five to ten years and at the end of the day, they were not paid, which is actually very unfair to the citizens of this country. I want to say that most of these local authorities have problems. They hire and fire employees at will, which is very wrong. They do not observe the labour laws of this country. If you look at it keenly, this has to do with corruption in the local authorities. The councillors would wish to employ their brothers, sisters and wives to work in these councils. This is not the justice which our forefathers fought for. I would encourage this House to adopt this Report, so that some action can be taken against these local authorities, particularly the Thika Municipal Clerk who was working at that time and the current one. We tried to summon him to appear before us and he refused to appear before us to make a presentation. This showed how crude some of our employees are, which is not good for this country.

Mr. Temporary Deputy Speaker, Sir, you will find that in most cases, the National Social Security Fund (NSSF) normally says that there is some amount of money whose source they do not know. In this case, the Clerk to the Thika Municipal Council remitted



some deductions to the NSSF. At the end of the day, we will not know the people who had contributed this money.

If those monies were deducted, there must have been some people from whom those monies originated. If the monies originated from those 250 workers and reached National Social Security Fund (NSSF), they will be put in a suspense account. That will, definitely, encourage corruption and nobody will know where to place it. There will be no accountability.

Mr. Temporary Deputy Speaker, Sir, you will realize that the amount that is allocated to the local authorities is almost equivalent to the amount allocated to the Constituencies Development Fund (CDF). But when you go to the ground, you will never see any project done by local authorities. That must be investigated to find out where those monies are spent.

Mr. Temporary Deputy Speaker, Sir, as the Committee on Labour and Social Welfare, we went through the various reports which were actually presented to us. We realized that Thika Municipality has no records at all to show that those employees were employed. How can employees be in a firm or a local authority for all those years and yet, there are no records to show that? I even asked the auditor: "How come you are an auditor and you do not know that those employees worked in that firm for all those years? Where were the employees getting their wages from?" The labour laws state very clearly that when a worker works for more than six months, he or she is supposed to be confirmed as a permanent employee. How can employees work for up to seven years without being confirmed as permanent employees of Thika Municipality? That amounts to an irregularity and it must be investigated. I would wish to call upon the Office of the Deputy Prime Minister and Ministry of Local Government to streamline the management of our local authorities in order to safeguard the interests of the people of this country.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by saying that there should be a system under which our local authorities should actually operate; where they can be checked and audited properly to establish how they carry out their duties. If that is not done, I am afraid that this country will not achieve Vision 2030 which we have been preaching every now and then.

Mr. Temporary Deputy Speaker, Sir, it is worrying that---

**The Temporary Deputy Speaker** (Mr. Imanyara): I thought you said that you were concluding.

**Mr. Magwanga:** Mr. Temporary Deputy Speaker, Sir, thank you for reminding me. I am just about to conclude.

Mr. Temporary Deputy Speaker, Sir, it is worrying to note that in local authorities, a casual worker is engaged today and is fired after, maybe, another election. That just shows how corrupt some of our chief officers and councillors are. I would actually call upon the Office of the Deputy Prime Minister and Ministry of Local Government to investigate those matters not only in Thika Municipality, but even in all other local authorities.

Mr. Temporary Deputy Speaker, Sir, I support the Report and encourage Members of this noble House to adopt it.

**The Temporary Deputy Speaker** (Mr. Imanyara): Before I call upon the Minister to respond, I want to say that hon. James Maina Kamau, who is supposed to move the Motion under Order No.10, is not going to be available the whole of next week

because of court matters. He has requested this House to indulge him the opportunity to present his Motion. So, for that purpose, I propose to call the Mover to respond at about 12.10 p.m., so that we can give Mr. James Maina Kamau an opportunity to move his Motion, in view of the fact that he is not going to be available next week. So, after the Minister, I will ask Ms. Karua and then the Mover. Mr. Mutula Kilonzo. All right? He has given the chance to Ms. Karua.

**Ms. Karua:** Thank you, Mr. Temporary Deputy Speaker, Sir. Thank you my learned senior for giving way. I rise in support of this Motion and without having to repeat what my colleagues have said - and which I endorse - I want to say that this is the story of every local authority in Kenya. Every local authority and by extension, the Government, are the main people who flout our labour laws. Many people are called casuals and work for local authorities for years on end. When they are classified as casuals, they go without a lot of amenities from medical, leave and all the others. We have very good labour laws which we passed in 2007. One of the things forbidden by our Employment Act is discrimination in employment. When you employ somebody as a casual and he or she goes beyond three months, you are discriminating because every other person comes in as a casual and is confirmed after three months. I think that the Committee on Labour and Social Welfare should be encouraged to get the Minister for Labour to commit himself. He should have an audit of all local authorities to ensure that the oppressed Kenyans who have been made to work as casuals for years on end are paid their dues. But the first example must be set by the Thika Municipal Council. Ultimately, it is the taxpayer who will foot these Bills because we know that our local authorities cannot afford it. It is time the Deputy Prime Minister and Minister for Local Government sat down with the local authorities and took corrective measures in matters of employment to ensure that those who work for local authorities are protected in order to give good service.

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

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Mr. Temporary Deputy Speaker, Sir, I thank you for this very unique opportunity to respond to this historic Motion. It is historic and I want to thank the Committee because unknown to the country, Article 41 of the Constitution has now made the right to fair labour practices a constitutional and human right. I notice that many people still think that this is a matter that should be restricted either to the Ministry of Labour or Minister of Local Government.

I want to suggest to the Committee that when something like this happens again, my Ministry should be called upon to respond because Article 41 – with your permission – reads: “That every person has a right to fair labour relations.” There is nothing more unfair than to put somebody---

**The Temporary Deputy Speaker (Mr. Imanyara):** It is practices and not relations!

**The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo):** Yes. Thank you, Mr. Temporary Deputy Speaker, Sir. It reads: “Every person has a right to fair labour practices.” There is nothing worse than putting somebody on a payroll and, first of all, you do not give him a letter of appointment. There is nothing worse than that. There is nothing that can contradict this Constitution more tremendously than to put somebody on a so-called payroll for five years and you pay him monthly.

There is nothing that can be as unfair as when the Minister for Local Government raises the issue, you terminate their services callously without paying them anything they are entitled to. Therefore, I want to salute the Kenyan people for giving themselves this provision - Article 41. It was not controversial! In fact, it was not one of the contested issues when the Constitution was being debated.

You will also notice in Article 41(2) it says that: "Every worker – the word has changed from "person" to "worker" – has the right to fair remuneration." Strictly speaking, it is a violation of the human rights of a Kenyan person if you terminate their services casually, unfairly and you do not pay them their benefits. I want to salute my colleague, the Minister for Labour. I also notice that the Deputy Prime Minister and Minister for Local Government attended the proceedings of this Committee and took the same position that I am taking this afternoon.

Allow me also to mention for the benefit of this country's history that the opportunity for accepting this Report by the Government is also an opportunity to acknowledge Article 162 of the Constitution. Article 162 at page 102 mandated Parliament to establish courts with the status of the High Court to hear and determine disputes relating to: (a) Employment and labour relations. So, even the recommendations of the Committee will be adjusted to reflect the reality which is that this House, in its wisdom, has already enacted this particular law. This court is already in existence! The law came into force on 30<sup>th</sup> August, 2011. The Chief Justice has already appointed a team of judges to preside over this. Therefore, the challenge for the country is to realize that workers should not be treated as casually as this local authority attempted to do.

Mr. Temporary Deputy Speaker, Sir, in thanking the Committee for bringing forth this Report at this time; in thanking the hon. Member who raised the Question, I would like to say that the Government will have to respect the human rights of those Kenyan citizens and ensure that the recommendations that the Committee has made are complied with. I might also suggest that, although the court is, indeed, independent, this is a matter that the new judges presiding over the employment and labour relations should start with as they are breaking ground to show the country that human rights as contained in the Bill of Rights are respected.

I would also like to say that although the Director of Public Prosecutions is an independent office, nevertheless, this recommendation and Report will be forwarded to his Office for his consideration, so that he can take the necessary action in view of what appears to have been said by the Ministry of Local Government when they appeared before the Committee, to say that the matter has been taken to court. I cannot speak with certainty as to the form in which it has taken because it says at page 13(v): "The matter has been discussed with the Town Clerk and the Council has already instructed its lawyers to apply for the settlement of the matter out of court."

The country must understand that we cannot violate the rights of citizens and then just go and settle the matter in court. Human rights are human rights and we want a big flag showing that there is respect. A settlement where you merely appear to be glossing over the fact that you have violated the Constitution is not acceptable and it must be accompanied by sufficient sanctions, whether criminal or otherwise, to make sure that it will not be repeated.

Mr. Temporary Deputy Speaker, Sir, I have no evidence towards what my predecessor, hon. Martha Karua, has said, that all local authorities are violating this.

However, since all these local authorities will be under the Devolution Chapter of the new Constitution, I am calling upon all those Members inside this Chamber, like hon. Kabogo, who want to be Governors, Senators and so on, to know that their work is cut out for them to make sure that they go back there, campaign and if they win, they have a responsibility to treat labour relations, not traditionally but as issues of human rights.

With those far too many remarks, I beg to support and assure the House that the report will be accepted and implemented.

**The Temporary Deputy Speaker** (Mr. Imanyara): Minister, you are telling this House that should the House adopt this Report, it need not go to the Committee on Implementation and that it can go directly to the prosecution process; it can go directly to the Director of Public Prosecutions?

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): That is exactly what I am saying.

Mr. Temporary Deputy Speaker, Sir, I do not think that by the country creating Article 157 for a Director of Public Prosecutions was in idleness. I think it was intended.

**The Temporary Deputy Speaker** (Mr. Imanyara): I just wanted that clarification in view of the issue raised.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): It should go directly to the DPP! Thank you.

**The Temporary Deputy Speaker** (Mr. Imanyara): Chair of the Committee, would you like to respond?

**Mrs. Noor**: Mr. Temporary Deputy Speaker, Sir, I would like to take this chance to sincerely thank all hon. Members who contributed to this Motion. I want to thank hon. William Kabogo for raising the Question. I would also like to thank the Minister who has just spoken. He has reminded us that we have a new Constitution, this is a new country and we must look at issues in a very transparent manner as we deal with them.

When the Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Local Government appeared before the Committee, he informed us about the misuse of public funds. He told us that money which was allocated to Thika Municipal Council under the *Kazi Kwa Vijana* Programme was misused by the Council in paying the NSSF and NHIF. This is money that was meant to empower the youth of this country. This was discovered when the Permanent Secretary ordered an audit of all funds that were sent from his Ministry to the Thika Municipal Council.

On the issue of the pending court case that I have informed this House, this case came much later after hon. Kabogo brought the issue on board and when the Committee was carrying out its investigations. As the Minister told us, we will deal with that pending issue as we were advised by the expert; *Waziri*.

Mr. Temporary Deputy Speaker, Sir, I would like to request the House that should we adopt this Report, it should be implemented to the letter and the spirit. There are many reports that pass through this House and yet they are pending implementation. Many of them have not been implemented. This is one report that touches on lives of individuals. When one of the witnesses came before us, he was moved to tears. He told us that his children dropped out of school because he could not pay school fees and surely, he had nothing. So, this is a case study that we would like to see being implemented immediately so that this House can be seen to be working in the interest of innocent Kenyans who have worked for more than 14 years serving the interests of this country.

With those few remarks, I beg to move.

*(Question put and agreed to)*

#### FREE TREATMENT OF CANCER PATIENTS IN KENYA

**Mr. James Maina Kamau:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, aware that, according to the Ministry of Public Health and Sanitation, an estimated 18,000 Kenyans die annually due to various cancers and a further 82,000 new cases are reported every year; further aware that most cancer cases are treatable when diagnosed early and advanced technology and facilities used; concerned that Kenya has no national policy on cancer, cancer control law and national cancer strategy; noting that being diagnosed with cancer for majority of Kenyans is equivalent to receiving a death sentence owing to the scarcity of facilities for proper treatment and the prohibitive costs involved, this House resolves that the Government makes cancer treatment free for all Kenyans citizens.

Mr. Temporary Deputy Speaker, Sir, I would like to thank you for giving me this chance. The reason why I decided to bring this Motion is because of the many fundraising events that I have been asked to preside over for a period of two months for people who are suffering from cancer.

Mr. Temporary Deputy Speaker, Sir, we know that cancer is treatable, and also that cancer is very expensive to treat. I am asking the Government of Kenya to see what it can do for its citizens, because of all these fundraising events we are called upon to preside over; a lot of money is raised but it is not enough. Once you hear that a family is struck by cancer, it is like a one-way ticket to the grave, and this is real.

Mr. Temporary Deputy Speaker, Sir, considering that we have HIV/AIDS and the Government decided to declare it a national disaster, most Kenyans we see walking in the streets with HIV/AIDS would have died a long time ago; but because the Government intervened, that is why we have people who are able to live longer than they would have lived had it not been for the Government intervention.

Mr. Temporary Deputy Speaker, Sir, most Kenyans are poor. If you go to a place like where I come from, even being able to get bus fare to go to the hospital – which is actually Kenyatta National Hospital – is a problem! That is why I am asking this Government, if it is serious, to give cancer treatment to all Kenyans free of charge.

Mr. Temporary Deputy Speaker, Sir, we have the Government of Tanzania, whose economy is not as strong as Kenya's economy, and they have managed to establish a centre specifically for cancer. I do not see why we should not do this. Our own Minister for Medical Services, who, himself, is a cancer survivor, admitted that we have about 28,500 new cases of cancer diagnosed every year, and a whopping 22,000 people die annually from cancer. Sixty per cent of these people who are dying are just 25 years old. Something should be done to save our people.

Mr. Temporary Deputy Speaker, Sir, most people suffering from cancer tend to look for treatment elsewhere. They either go to India or to some other places. Those

people who are moneyed go to places like the United States. But our poor Kenyans are not able to get to the facilities in those countries. That is why I am saying that if the Government is serious – we know we can afford it; it is doable – it should be able to make sure that people are accorded treatment here in the country, and most cancer patients will survive. We lack this national policy. If we had a national policy, we would have come up with the ideas and be able to make our people live longer than they do.

Mr. Temporary Deputy Speaker, Sir, there is something else that the Government has failed to do. The Government has failed to acquire modern equipment. This is very important, so that we are able to diagnose cancer at an early stage. This is an area where the Government should actually invest a lot of money in.

Mr. Temporary Deputy Speaker, Sir, you also notice that we do not have doctors trained in this area. You know that the doctors that we have are not even enough. You note that we have about one doctor to about 12 million Kenyans, which is just a joke! This is an area where the Government needs to invest, so that our people can live longer and comfortably.

Mr. Temporary Deputy Speaker, Sir, the Government also needs to introduce more research stations for cancer. You will realize that with a research station we are able to detect this disease early. Putting up research stations requires money. That is why we urge the Government to come in, so that they can assist in putting up research stations like we have in other countries.

Mr. Temporary Deputy Speaker, Sir, in most developed countries, cancer treatment is free. You only need to go to the nearest clinic and book an appointment. Once the appointment is given, you will definitely have to be treated without fail. This is something that, 45 years after Independence, we can do.

Mr. Temporary Deputy Speaker, Sir, I do not want us to go without passing this Motion. We need to have cancer centres in every district, so that our people living in the rural areas can access these facilities. If this is established at the district level, most Kenyans will be able to go to hospitals and they will be treated.

Mr. Temporary Deputy Speaker, Sir, with those many remarks, I would like to ask my friend hon.---

**The Temporary Deputy Speaker** (Mr. Imanyara): You move and then ask for secondment!

**Mr. James Maina Kamau:** Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to move and ask my friend, the Member for Lari, to second the Motion.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, thank you for this opportunity to very briefly contribute to this very historic Motion. This is a motion on the health of our people. It is a very timely Motion because it will benefit many Kenyans. Kenyans have been suffering from this disease since Independence in 1963.

We recall that the founding father of this nation, the late Jomo Kenyatta, had a clarion call on fighting three major enemies of this country; disease, ignorance and hunger. We have not been able to fight disease to the best of our ability. Cancer has been a killer disease. All efforts and means must be taken into consideration to fight this disease. Our new constitution guarantees the Kenyan people the right to good health. Therefore, it is important that to make this nation productive, the Kenyan people must be healthy. Those advanced nations such as Israel and USA have invested quite heavily in

this sector. Here in Kenya, *Harambees* have been conducted to raise funds to take our people to those countries for treatment. We have seen that these *Harambees* are not able to meet the expectations and Kenyans have continued to die. We have young and old people suffering in the rural areas. It is also important to note that we have got very qualified Kenyans working outside this country. These are qualified and experienced Kenyans whose experience and knowledge must be utilized to serve the Kenyan people. Therefore, it is important that Kenyatta National Hospital and Moi Teaching and Referring Hospital, Eldoret, be equipped and expanded. To expand these facilities, the Government must have the goodwill to do so.

It is also important to note that cancer has continued to destroy families. The number of cancer victims in this country is increasing day by day. To show commitment and dedication and to wage a war and make sure that this country continues to advance in its social responsibility, there must be cancer facilities or branches in all the 47 counties.

Mr. Temporary Deputy Speaker, Sir, it is the best moment for this country to realize that objective. A lot of money has been misused through corrupt deals and impunity. The money has run into billions of shillings. These billions of shillings must now be diverted to cancer treatment. It is now, not then. We therefore urge the Government to support this sector.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Namwamba:** Mr. Temporary Deputy Speaker, Sir, I want to start by applauding the Member for Kandara for bringing this matter to the attention of this House.

Today, the face of cancer in this country is a little ten year old girl called Rose Nasimiyu. The other day I was watching TV in my living room and this girl came onto my screen. She was being interviewed by one of our TV stations. I was moved to tears listening to the story of this little girl. Her spirit, her determination but above all the message was so powerful that cancer is no longer a disease confined to any particular age group or any particular social stratum. As a disease, it is now universal.

Mr. Temporary Deputy Speaker, Sir, throughout human history, human beings have had to confront certain health challenges that have been, at the beginning, treated almost as exclusive to certain individuals or certain social strata. You remember there was a time in the world when measles was a major challenge. Others were polio, chicken pox and pneumonia. Today, because of deliberate actions, these diseases have been contained and continue to be contained. Though remaining a challenge, there has been a deliberate effort to make the treatment of those diseases affordable.

Today, cancer claims more lives all over the world than many of these diseases that I have mentioned. Therefore, it is the responsibility of this House and the Government to effectively respond to this health challenge that faces the country today. It is gratifying that none other than the Minister responsible for medical services in this country has had a personal life experience with this. Therefore, I hope that when the Minister gets the opportunity to respond to this Motion, he will not only bring that life experience to bear on this debate but also use that as an opportunity or impetus to indeed give this Motion and its very noble intent, the flight that it deserves.

Therefore, we need to acknowledge that this disease is a reality. It is ravaging large populations all over the country. I visited a patient in a sub-district hospital in my Budalangi Constituency. I watched the young man suffering, in the very last stages of his life, from skin cancer that had ravaged most of his body. Due to his inability to access the very expensive treatment for this disease, he was lying and dying in a sub-district hospital in Budalangi.

Mr. Temporary Deputy Speaker, Sir, therefore, it is not idle for us to debate this matter in this House. This is a matter which is serious. It is a matter which is costing us lives in this country. It is also a cost to our economy to a great extent. Every other day, you hear of Kenyans travelling to South Africa, India, the United States of America (USA) and all sorts of other places to seek this kind of treatment. The Government has been making efforts to bring the treatment of this disease closer to our people by bringing in facilities, especially at Kenyatta National Hospital to enable this country to handle this disease.

However, even with that effort, the treatment remains exorbitant and beyond the reach of the majority of our people within our own borders, unless a patient gets an opportunity to travel out of the country. Therefore, this is a Motion which deserves the full support of this House, the full endorsement of the Government and full implementation.

Mr. Temporary Deputy Speaker, Sir, again, I want to report that we are good at passing excellent Motions in this House, and they are a myriad. The Tenth Parliament has passed a great deal of Motions, but it is disappointing that after such an effort, those Motions are simply not implemented. Therefore, I want to challenge the Government, and the Committee on Implementation that should this Motion pass – I hope that we will pass it – it should receive the immediate and unequivocal implantation by the Government.

I hope that the Minister responsible for medical services will stand firm and ensure that he is personally involved in making cancer treatment affordable for the great majority of our people.

With those remarks, I beg to support the Motion.

**Mr. Twaha:** Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to also support the Motion.

I do not think there is any family in this country which has not been affected in one way or another by this terrible disease. As the Mover of the Motion said, cancer is not a death sentence. If it is diagnosed early enough, and resources are available, it is treatable in most cases. The challenge is upon us to make services available to wananchi.

Mr. Temporary Deputy Speaker, Sir, before we go to curing the disease, we also need to work on preventing it by establishing what causes this disease and educating our people on how to avoid some of the things that cause the disease. For instance, there is the hypothesis that says mobile phones might be causing cancer. Some say that the quality of the air we breathe also plays a role. There are so many vehicles on the road and there is pollution. It might be one of the reasons.

Other people say that one of the causes is the pesticides that we use on our vegetables. You eat salad. You think it is the best thing yet it is sprayed with so much pesticide, which actually poisons you. So, we could avoid some of these things. Also, people need to eat well and do exercises in order to avoid these things.



Mr. Temporary Deputy Speaker, Sir, as the Member for Lari said, the three challenges that we had at Independence were poverty, ignorance and disease. I would like to differ with him on one of his points. The reason as to why we have a high prevalence of cancer is that we have succeeded in preventing and curing other diseases, and people are living longer and reaching the age at which gene mutation gets erratic and causes cancer. A few years ago, people were dying from heart diseases in their 50s. People are now reaching 60 and 70 years, the age bracket at which cancer occurs in most cases.

Much has been said about our having to send money to India with our patients, or sending people to Moshi, South Africa and the United States of America (USA) for treatment. It is quite embarrassing to see our patients travelling abroad to get treated for diseases which, if we were doing the right things, we would be able to treat in our own country. The fact that the Minister himself could not get treatment within the country, and had to travel abroad to get treatment, says something about the inadequacy of our capacity or willingness to provide this service to wananchi.

Mr. Temporary Deputy Speaker, Sir, I hope that has served as a wake-up call. Maybe, something will be coming out of it now that we have started the Africa Cancer Foundation. I hope that he will put this on top of his priorities, so that our people will not have to die unnecessarily. It is really not necessary for people to die from cancer, if it is diagnosed early enough.

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Hon. Twaha, if you will so wish, you will have seven minutes next Wednesday upon resumption of this debate.

Hon. Members, it is now time for interruption of business. Therefore, the House stands adjourned to this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.