

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 17<sup>th</sup> November, 2011

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:

Draft Amendments of the Schedule to the Public Officers Ethics Act, 2003 (No.4 of 2003) pursuant to Section 34(2) of the foregoing Act.

*(By the Minister for Justice, National Cohesion, and  
Constitutional Affairs)*

Sessional Paper No.1 of 2011 on National Children Policy

*(By the Minister for Gender, Children and Social Development)*

### QUESTIONS BY PRIVATE NOTICE

#### DRASTIC INCREASE IN SUGAR PRICES

**Dr. Otichilo:** Mr. Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Why has the retail price of sugar increased drastically, from less than Kshs.120 per kilogramme to over Kshs.250 per kilogramme in the last two months?

(b) What urgent action will the Ministry take to ensure that the commodity retails at a fair and affordable price?

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Speaker, Sir, I beg to reply.

(a) The price of sugar has increased significantly due to reduction in sugar production from an average of 55,974 metric tonnes in January to 26,060 metric tonnes in August. In fact, in September it went down to 22,000 metric tonnes. This was occasioned by shortage of cane; overhaul of premium prices by the European Union (EU) market; and the general global increase in the price of sugar from US\$282.11 to US\$560.9 per tonne currently.

(b) Measures to mitigate sugar supply and price include the following in the short term: Aggressive cane development campaign with facilitation from the Sugar

Development Fund (SDF); putting a halt to the harvesting of immature cane especially in the Nyando sugar zone; invest in the rehabilitation of the parastatal mills to improve sugar recovery parameters, through the facilitation of SDF.

The Kenya Sugar Board is in the process of clearing 51 applicants to bring in sugar immediately they are cleared. In the long term, we intend to establish a strategic sugar reserve; increase adoption of early maturing varieties of cane; increase the synchronization of factory capacity with cane supply through enforcement of cane supply contracts; privatization of the parastatal sugar companies; embracing irrigation technology; comprehensive cost reduction initiatives both at farm and factory levels, and introduction of two new mills in Transmara Mills and Sukari Mills that will start crushing later this month.

**Dr. Otichilo:** Mr. Speaker, Sir, first, I want to thank the Assistant Minister for the answer. However, my concern is that the answer he has given for the short-term measures to address these issues is not satisfactory. I would like to know from the Minister why it took them so long, when the country knows that we have a shortfall in sugar, to allow importers to import sugar. Why are you allowing them now when it is too late?

**Mr. Ndambuki:** Mr. Speaker, Sir, even before people were given licences, but they did not bring anything. Since January to September we only managed to bring in 8,000 metric tonnes from outside. As I said, a lot of sugar is going to the EU.

**Mr. Njuguna:** Mr. Speaker, Sir, could the Assistant Minister inform this House the radical measures the Ministry is taking to cushion sugar consumers who are currently hard hit by the rising cost?

**Mr. Ndambuki:** Mr. Speaker, Sir, honestly, I have no way of compensating those people who have been hard hit by the current prices.

**Mr. Litole:** Mr. Speaker, Sir, looking at the increase in price of sugar from Kshs120 per kilogramme to Kshs250 per kilogramme that is more than 100 per cent. I do not know whether the Government considered paying the cane farmers a 100 per cent increase so that it can correspond. Whether the farmers are few or not, have they been compensated?

**Mr. Ndambuki:** Mr. Speaker, Sir, all the mills are paying an average of Kshs4,300 per tonne of the cane delivered. This is one of the things that has caused the increase in the price of sugar.

**Mr. Bahari:** Mr. Speaker, Sir, the issue of new variety is not new to this Ministry. At what stage is the Ministry in the process of getting the new variety that is going to double production?

**Mr. Ndambuki:** Mr. Speaker, Sir, already, the Ministry through KSB has spent over Kshs570 million on cane development. A lot of the cane that was on the ground during the year 2007/2008 was burnt and destroyed. Also the drought which was in Nyando and the western zone also affected our cane.

**Mr. Shakeel:** Mr. Speaker, Sir, the sugar prices in Kenya are the highest in the world and sugar is a commodity being used by the poor. Could the Assistant Minister tell us what efforts he can make to subsidize or restrict the price of sugar so that the poor can afford the commodity?

**Mr. Ndambuki:** Mr. Speaker, Sir, one, is to privatize the mills. Most of the mills are very old and to produce sugar is costly. Secondly, the mills are now using double the cane compared to previous times. This is because of the immature cane. Lastly, we have

started negotiations with the Treasury to see whether they could give a waiver on the importation of sugar.

**Mr. Wamalwa:** Mr. Speaker, Sir, with integration in East Africa, Kenyans are travelling to Tanzania and Uganda and they are wondering why sugar in Tanzania is just about Kshs120 per kilogramme and in Uganda it is about Kshs150 per kilogramme. In Kenya it is over Kshs200. Could the Assistant Minister explain why in Uganda and Tanzania people are able to take tea with sugar and yet Kenyans are not able to do so?

**Mr. Ndambuki:** Mr. Speaker, Sir, I have explained that. If you look at the statistics, in January we produced about 56 metric tonnes a month. Today we are producing, say, 20,000 metric tonnes a month. These are some of the factors which are causing the price of our sugar to increase. There is also the fuel factor. Once you buy sugar in Mumias, you have to transport it to the towns. This is also affecting the prices.

**Mr. Washiali:** Mr. Speaker, Sir, the current Sugar Act, 2001 dictates that weighbridges must be at the farm gate. Which measures have you put in place to ensure that, that bit of the law is complied with? That will make farmers benefit from the escalating prices.

**Mr. Ndambuki:** Mr. Speaker, Sir, we have a Bill pending in this House. It came once on the Floor, but then it was pended. The Bill consists of all those amendments and what the hon. Member is asking.

**Dr. Otichilo:** Mr. Speaker, Sir, if the Assistant Minister is sincere that we have had a shortfall in the production of sugar countrywide, could he explain why Mumias Sugar Company was able to export 15,000 metric tonnes of sugar to the EU community when actually we had a shortfall in this country?

**Mr. Ndambuki:** Mr. Speaker, Sir, Kenya has a quota with the EU which, in fact, we had lost. However, the Government got it back. It was given to Mumias Sugar Company so that they be supplying 15,000 metric tonnes annually. If they had not done that, Kenya would have lost the quota.

#### PREMATURE REPLACEMENT OF JKUAT COUNCIL MEMBERS

**Mr. Koech:** Mr. Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Council Members of the Jomo Kenyatta University of Agriculture and Technology (JKUAT) were replaced on 15<sup>th</sup> July, 2011, one year before the expiry of their term?

(b) What informed the decision and why was it done only six months to graduation?

(c) Can the Minister confirm that there is a relationship between the timing of the changes of the Council Members and the expiry of the Deputy Vice-Chancellor's term?

**The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):** Mr. Speaker, Sir, there was only one part of the Question we were to answer and that was on the procedure followed whether it was right.

Mr. Speaker, Sir, Prof. Njeru was reappointed on 7<sup>th</sup> November, 2011. However, the Ministry has noted that the process followed was not proper. In this regard, the Minister advised the University to ensure the right procedure on reappointment of the Deputy Vice-Chancellor as provided for in the Jomo Kenyatta University of Agriculture

and Technology (JKUAT) Act statute is adhered to. We have advised that they follow the right procedure. There is nothing to prevent Prof. Njeru from re-applying. Going by his qualifications he will be one of the very strong candidates.

**Mr. Speaker:** Last question, Member for Mosop!

**Mr. Koech:** Mr. Speaker, Sir, I want to thank the Assistant Minister for confirming my fears. This Question came on 8<sup>th</sup> November, 2011 and the Assistant Minister indicated that the interviews were ongoing. Today he has confirmed that, truly, on 7<sup>th</sup> November, 2011 the gentleman was re-appointed. I want to thank him for confirming that the process was not procedural.

Mr. Speaker, Sir, to confirm my fears, allow me to indicate here that on the same 8<sup>th</sup> November, 2011 when this issue was on the Floor, a letter was written by a one Eng. Julius Riungu, who is the Chairman of the Council addressed to Prof. Njeru referring to his letter of 6<sup>th</sup> April, 2011. It reads as follows:-

“I am pleased to inform you that during the Council’s Executive Committee meeting on 7<sup>th</sup> November, 2011 your application for re-appointment was accepted. You are, therefore, re-appointed for a period of five years effective 7<sup>th</sup> November, 2011.”

This is a letter written by the Chairman of the Council to Prof. Njeru. On 9<sup>th</sup> November, 2011 a letter was written by Prof. Francis Njeru, who is the Deputy Vice-Chancellor. It states as follows:- “I hereby inform you that I have received a letter re-appointing me for five years. I have today, 9<sup>th</sup> November, 2011 resumed my duties as DVC.”

This is a level of serious impunity and I want the Assistant Minister to confirm to this House that this statement he has made today is actually revoking the letter written by the Chairman of the Council which was unprocedural and that the DVC is not in office from today until the right procedures are followed.

**Dr. Mwiria:** Mr. Speaker, Sir, a letter will be sent from the Ministry, effective today to that effect. We accept the fact that procedure should be followed. That is what we stand for. However, I got very interested in this matter and I found that there are accusations that have issues that will require investigations by the relevant anti-corruption body. If found true, then, of course, that will bar Prof. Njeru from contesting. However, a lot of it, although I am not a judge, appears like witch hunt. I also found that the way the matter was taken there is quite a bit of tribalism in it. At the Council, people voted like we voted ODM and PNU during the last elections. This is a fact that we must contend with. When these matters came to Parliament, there were Members of Parliament who were raising questions like which party they came from and so on. I think we should avoid this. Nevertheless, the right procedure was not followed. We will follow it and go by merit. We will forget tribal issues and get the best person for the University.

#### RIOTS AT MASINDE MULIRO UNIVERSITY

**Dr. Khalwale:** Mr. Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that the graduation ceremony for Masinde Muliro University in Kakamega, scheduled for 18th November, 2011, is threatened following riots that led to indefinite suspension of students?

(b) What was the cause of the riots?

(c) What urgent measures is the Minister taking to contain the situation?

**The Assistant Minister for Higher Education, Science and Technology** (Dr. Mwiria): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the graduation ceremony for Masinde Muliro University of Science and Technology is threatened following demonstrations by students that led to indefinite suspension of students. As a matter of fact, the graduation is taking place tomorrow. My Minister is already headed to the University. We also know that the President who is a Chancellor will be awarding degrees and diplomas tomorrow.

(b) There were no riots. However, some engineering students demonstrated concerning the registration of their colleagues who had graduated and they had not been registered by the Engineering Registration Board. That is not a problem at Masinde Muliro University only. Other universities, like Egerton are experiencing it.

With regard to the graduation ceremony, the university has made the necessary security arrangements which are usual in all functions. The security arrangements are made to ensure the safety of guests and graduands. I think they should go ahead and conduct the graduation ceremony, even though the university is one of those that are on strike.

Finally, the university has submitted the engineering curriculum to the Engineering Board for approval. The curriculum that is currently being implemented by the university is the one which was accredited when Western College of Science and Technology was a constituent college of Moi University. So, the Registration Board has been talking to our universities and some of them have complied. Jomo Kenyatta University of Agriculture and Technology (JKUAT) complied and there is no problem. At the University of Nairobi they are clearing only one unit. But there are still problems with Egerton and Masinde Muliro universities. For the sake of our students, we are directing the Vice-Chancellors of the universities and deans of faculties to ensure that they abide by a curriculum that will not disadvantage our engineering graduates when they come out of those universities.

**Mr. Speaker:** Hon. Member for Ikolomani, please proceed!

**Dr. Khalwale:** Mr. Speaker, Sir, the Assistant Minister is giving a half-hearted directive. Over 800 students who have graduated after being trained, examined and qualified, have been denied an opportunity to practise what they learnt in school. Could you direct the ERB to register those graduates with immediate effect, since the curriculum that they are using, the template is the same as the one they were using at the other universities that have recognized that training?

**Dr. Mwiria:** Mr. Speaker, Sir, the ERB is a professional body and there are rules that guide its operations. I think we also want to be sure that if you are determined to be an engineering or medical graduate, you really have to be fit for the obligations that go with those qualifications. So, clearly, there were problems. But those problems are being rectified. They will be rectified for groups that are in the university now, and the ones that will come later on. Meanwhile, there will be negotiation with ERB to see what kind of measures could be taken to deal with some of the problems that had not been resolved by the time they were graduating. I just want to assure the hon. Member that we are talking with the chairman, as well as the secretary, and we have all agreed that students are innocent. They did not get the right guidance. Like at Masinde Muliro University you are teaching engineering courses but you have never learnt engineering yourself. That is

not a qualified engineer. That is not the problem of the student. We are addressing that. That is why we are insisting that the directive must begin with the university. Then we can negotiate with the engineering board.

**Mr. Lessonet:** Mr. Speaker, Sir, could the Assistant Minister give us the time lines upon which those negotiations will take place?

**Dr. Mwiria:** Mr. Speaker, Sir, already, the directive has been given. So, we hope that when we begin to discuss in the next semester, we will not be having these problems. If the Vice-Chancellors and the relevant departments comply, it should not be a problem anymore. We do not see why it should be a problem in some institutions and not others. So, we have a responsibility as the Government to defend those students. Let me say that by June next year, we shall have finalized that matter completely.

**Mr. Imanyara:** Mr. Speaker, Sir, did you hear the Assistant Minister say that part of the problem was that engineering students were being taught by people who were not qualified in engineering. How can a whole Assistant Minister stand before this House and say that they condoned a situation where students were subjected to illiteracy and yet, he did not take measures? How on earth can you allow engineering students to be taught engineering by non-engineers?

**Mr. Speaker:** Order, hon. Member for Central Imenti! You actually asked your question and started--- You know, I do not want to say it!

**Dr. Mwiria:** Mr. Speaker, Sir, there is absolutely nothing wrong with an Assistant Minister coming to say that things went wrong. I do not know why he should accuse me for telling the truth, and why he is disappointed that I said that. Mr. Imanyara. I did not condone it, but we found out that it was happening. That is why we are rectifying it. We do appreciate that. It is important that when there is such a problem, as soon as it is realized--- You know that universities are autonomous. We do not know what happens there until professional bodies tell us that things are not going on well. As soon as we knew that, we worked with the board to ensure that the situation was rectified.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House that those students were exposed to substandard education when, as you know, at the university, for a student to qualify, he must be subjected to internal and external examiners? Both those people examined the students at Masinde Muliro University and qualified them. But the board refused to register them. Is he in order to say that they were not being taught when they passed their exams – and some of them with flying colours?

**Dr. Mwiria:** Mr. Speaker, Sir, I think we need to make things clear. It is not just about engineering. When you do medicine in some top universities in Russia, you will still have to be registered by a board. I think we should encourage that because universities, the private sector and professional bodies should work hard to ensure that materials that we produce out of our institutions are good and meet our expectations.

I absolutely agree that many of the students who studied engineering in those universities had very good scores. They passed very well. These days, people who are getting first class honours degrees and PhDs are people who should never have entered the university in the first place. So, that is not unusual; it is happening. That is why we must have another body that is counter-checking on the kind of products that we are getting. That can only help us improve the quality of training in our universities.

**Mr. Olago:** Mr. Speaker, Sir, I have listened to the answer by the Assistant Minister and I feel dismayed. He has said that for professional courses, we should leave it to the boards to intervene when things go wrong. There are universities in Kenya that are now introducing faculties that offer professional courses like medicine and law. The students are taught by non-doctors and non-lawyers. What action are you taking to ensure that, that does not happen?

**Dr. Mwiria:** Mr. Speaker, Sir, first, we should appreciate that universities are autonomous. They have the senate that sets the curriculum. They decide on programmes that they have to offer. Then they employ teachers. University education has also become, in some universities and departments---

**Dr. Eseli:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Assistant Minister, do you want information from Dr. Eseli?

**Dr. Mwiria:** Let us hear what the man has to say.

*(Laughter)*

**Dr. Eseli:** I would like to inform the Assistant Minister that a medical doctor under training does not necessarily have to be taught by doctors, especially in the pre-clinical years. That is where you do physiology, biochemistry and so on. You will be taught by people who studied those subjects. They do not have to be medical doctors.

**Dr. Mwiria:** Yes. We have agreed that they must be qualified to teach. That is what the hon. Member for Kisumu has said. We do agree, but in the interest of improving the quality of our degrees in terms of what we expect and for purposes of Vision 2030 and other things that happen outside once you have graduated from the university, there is absolutely nothing wrong for professional bodies to help us in judging the people that come out of our universities. That is common practice worldwide and we should not take it badly. So, we encourage universities, as independent as they are---

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that they are leaving the issue of those courses to the professional bodies to sort of intervene and inspect. What is the role of the Commission for Higher Education? Is it in order for him to talk like that without disclosing the role the Commission for Higher Education?

**Dr. Mwiria:** Mr. Speaker, Sir, we have a partnership. For example, Parliament checks the Executive. The university will train, but they also have their own vested interests. You can find that out from the thousands that are graduating with all sorts of qualifications. That is a fact. The universities have to generate income and we know that. Therefore, because of that, there is nothing wrong with a professional body telling us whether the quality of what we are delivering is good enough. The Commission for Higher Education is expected to coordinate and harmonize institutions and curriculum before registration of institutions. But that does not prevent universities from doing other things once they have been registered. It is at that point that we need some other professional bodies to be part of that initiative; to check on the standards in our universities. It is absolutely not wrong and the universities have accepted that. We have to continue partnering with the private sector. We accept that partnership because they have a role to give us some inputs in terms of both the curriculum and the standards that they expect of the people that we train.

**Mr. Speaker:** Hon. Member for Konoin!

**Dr. Kones:** Mr. Speaker, Sir, Masinde Muliro University---

**Eng. Gumbo:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Mr. Assistant Minister, do you want information from the hon. Member for Rarieda?

**Dr. Mwiria:** I should not discriminate. I allowed the other one.

**Eng. Gumbo:** Mr. Speaker, Sir, I honestly would like to inform the Assistant Minister and my colleagues. I agree entirely with what the Assistant Minister is doing. Recently, I attended a seminar and the problem we have is that some of our universities are too ambitious. One of the Vice-Chancellors in a leading university offered to offer a course in geothermal engineering. There is nothing like geothermal engineering. To be a geothermal engineer you need to be a hydrologist, a geologist and so on. I think the Assistant Minister is very right. I want to plead with my colleagues that the process at ERB might look punitive but, please, let us produce worthwhile engineers. Not many of us know that the beautiful work that we are seeing on roads here is not done by the Chinese. It is the work of Kenyan engineers. That is because we allowed them to go through the incubation process to produce proper and functional engineers. So, I sympathize with my colleagues because it might look punitive. The students at Masinde Muliro University have appealed to us, as registered engineers, to try to help them, but the process must be allowed. There is a university in Kenya--- I will not name names!

**Mr. Speaker:** Order, hon. Member for Rarieda! That is good enough!

**Dr. Mwiria:** I want to thank Eng. Gumbo. In addition to that, let our students also get value for money. Some of the universities are in a hurry just to generate income so much, that issues of quality become secondary. That is not acceptable. Let us keep them under check.

**Mr. Speaker:** Proceed, hon. Member for Konoin.

**Dr. Kones:** Mr. Speaker, Sir, I was saying that Masinde Muliro University is a public university and is relatively new. But Egerton University is also a public university, but a very old one. It is the role of the Ministry of Higher Education, Science and Technology, through the Commission for Higher Education, to ensure that there is quality education in those universities. What was that Commission doing only to realize, after many years, that the quality of graduates that are produced there do not meet the standards?

**Dr. Mwiria:** Mr. Speaker, Sir, I would like to take hon. Members back to the formation of the Commission for Higher Education. Initially, the Commission only checked standards of private universities. Public universities did not fall under the purview of the Commission for Higher Education. In the new Act, we are saying that even public universities should be supervised by the Commission for Higher Education. Notwithstanding that, many things are happening and the process of inspection is on-going. As you inspect, you will find out that even things that started right, go wrong. So, we should not be surprised that we are discovering that. The important thing is the corrective measures that we are taking to move forward.

**Dr. Khalwale:** Mr. Speaker, Sir, the hesitation by ERB, I believe, is in good faith. That is because the board is concerned with matters of quality assurance. Could the Assistant Minister tell us what the Ministry is doing, not just in connection with students of engineering, but all other cases, so that our university standards of education do not



deteriorate to the level where you find that professional bodies will refuse to admit students, the way the Kenya Medical Practitioners and Dentists Board does not admit students from Russia and India, until they are subjected to board examinations?

**Dr. Mwiria:** Mr. Speaker, Sir, since this issue has been of great concern to us, we are convening a meeting of Vice-Chancellors of universities, deans of faculties and officials of registration bodies, not just engineering, but lawyers and so on.

**Mr. Koech:** On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that they are now trying to convene meetings. Earlier on, he had indicated that they are negotiating. This case has appeared before my committee. We have shared with them our concern and they have been telling us that they are negotiating. Many Kenyans have suffered for more than five years. Others have suffered more than ten years. Some even with first class honours degrees. Could he confirm to this House that for the last seven years---

**Mr. Speaker:** Order, Mr. Koech! You are on a point of order!

**Mr. Koech:** I am sorry, Mr. Speaker, Sir,

**Mr. Speaker:** You are now asking the Assistant Minister to confirm something that has been happening.

**Mr. Koech:** Mr. Speaker, Sir, is he in order to mislead this House that there are negotiations when seven years down the line they have not had a single negotiation?

**Dr. Mwiria:** Mr. Speaker, Sir, if there are negotiations, it is because seven years down the line there were no negotiations. So, we have to start somewhere. Is that no so? That is why I am saying that this is the first step we are taking, but we are doing other things, including ensuring that the curriculum that is taught is the right one and we direct universities to do so. So there are many measures! We will have an opportunity to discuss and the Departmental Committee on Education, Research and Technology will also be invited to that meeting, so that we all talk about this problem as interested stakeholders and come up with solutions as a team.

#### KILLING OF GOVERNMENT OFFICERS

**Mr. Bahari:** Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Under what circumstances were Messrs. Yusuf Godana, Hassan Sheikh Birik Mohamed and James Waweru killed in Lafey District on 27<sup>th</sup> October, 2011?

(b) Could the Minister confirm that the officers met their death while on duty?

(c) What assistance did the Government extend to the families of the deceased during their burial?

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

(a) On 27<sup>th</sup> October, 2011, at about 8.30 a.m. the late James Waweru, the late Yusuf Godana, the Principal, Lafey Secondary School; the late Hassan Sheikh Ali, an ex-councillor and the late Biriki Mohamed were on board a motor vehicle Reg.No.KAT 966Y, Toyota Hilux Surf, driving from Lafey to Mandera to collect KCSE Physics

examination apparatus. In their company were Mr. Abdi Mohamed Aden, Mr. Hare Gulo and two Kenya Police Reservists who were escorting the vehicle. It was while they were driving between Lafey and Fino, about 120 kilometers east of Mandera Police Station that they came into an ambush laid by about 20 armed men believed to be *Al Shabaab* who had crossed from Somalia. The two police reservists alighted from the motor vehicle to confirm who had blocked the road. However, before they could verify, they were shot at and an exchange of fire ensued. The assailants fired a rocket propelled grenade at the motor vehicle killing the occupants instantly and destroying the vehicle completely. The two police reservists suffered injuries and were later treated and discharged.

(b) Yes, I want to confirm that the education officers met their deaths while on duty.

(c) The Ministry of Education provided transport for the deceased body to Mandera Hospital Mortuary, coffin for the burial of the late Yusuf Godana Gadecha and a chartered plane by the Kenya National Examinations Council (KNEC) for airlifting the body from Mandera to Nanyuki Airbase where Government vehicles took the body to Merti for burial. They also gave the family members Kshs20,000 for funeral expenses. However, the Principal of Lafey Secondary School, the late Hassan Ali Mohamed was buried immediately at the scene according to the Islamic religion. The Ministry will pay death gratuity to the families of the deceased as required.

**Mr. Bahari:** Mr. Speaker, Sir, we know very well that we are at war with the *Al Shabaab* and these officers met their death while on duty. The chartered aircraft was on its own mission of collecting examination papers. It transported the body from Mandera while on its route. Why did the Ministry find it appropriate to use an aircraft which was on its own mission of collecting examination papers as opposed to being sensitive and bringing the body directly to Merti?

**Mr. Ojode:** Mr. Speaker, Sir, it does not really matter whether the aircraft was on its mission or not. What we are talking about is whether the services were met. This aircraft took the body all the way from Mandera to Nanyuki and then a Government vehicle took it to Merti for burial. So, I do not see any problem with that. I do not see where there is a problem.

**Dr. Nuh:** Mr. Speaker, Sir, Muslims have very strict rituals when it comes to burial that are dictated to by even hours, that a body should not lie in the open unless there are serious inconveniences that have been encountered. The hon. Member has asked a very valid question that the chopper was engaged in other business alongside ferrying the same body. So, they did not abandon whatever they were doing to ferry these bodies to respective places for burial. So, could he tell us, what time did the airplane leave Lafey and what time did it arrive in Nanyuki?

**Mr. Ojode:** Mr. Speaker, Sir, that thing happened accidentally when the fellows were ambushed and then we had to divert the services of this aircraft so as to take the body from Mandera to Nanyuki. Later on, we had to avail vehicles to transport the body from where it was to Merti. So, I do not understand whether we had to hire a chopper from here to go and collect the body.

**Mr. Bahari:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to evade answering the question? The hon. Member asked very clearly: If that is the case, what time did the aircraft leave Mandera and at what time was it in Nanyuki? Could he answer this very straightforward question!

**Mr. Ojode:** Mr. Speaker, Sir, it is true that that aircraft was on some mission of supplying examination papers. When the accident occurred, we prevailed upon the pilot to divert the services to collect the bodies from Mandera to Nanyuki. That is exactly what they did.

**Mr. Speaker:** Order, Mr. Ojode! Could you kindly give the time indication?

**Mr. Ojode:** Mr. Speaker, Sir, I do not have the exact timing, but if you want me to supply the exact timing I can do so, next week.

**Mr. Speaker:** Mr. Bahari, is that so critical that the times must be given?

**Mr. Bahari:** Yes, Mr. Speaker, Sir. This is the sensitivity of this matter. As human beings, we do not seem to have urgently addressed that issue. These officers were killed by enemies of this country while on duty. Special attention ought to have been given. I thought the Ministry was quite insensitive because it happened more than 24 hours later.

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

**Mr. Speaker:** Order, Dr. Nuh! I will want to defer Question No.4 by Private Notice for the Assistant Minister to come and answer the question with respect to the timing. What time did the aircraft get there and what time did it get the body to where it was going to be buried. As you do so, try and educate yourself on the tenets of the Islamic religion on deaths and burials. It may be just useful!

*(Question deferred)*

**Mr. Ojode:** I will do so, Mr. Speaker, Sir.

## ORAL ANSWERS TO QUESTIONS

*Question No.1295*

### MURDER OF FRANKLIN WALUBENGO MUTORO

**Dr. Eseli** asked the Minister of State for Provincial Administration and Internal Security:-

(a) what he is doing to arrest the killers of one Franklin Walubengo Mutoro near Naitiri Market in Bungoma North District on 29<sup>th</sup> August, 2011;

(b) what measures the Ministry is taking to arrest the deteriorating security situation in Kimilili and whether he could order frequent night police patrols in the affected areas; and,

(c) whether he could also ensure that all police officers who have served in the area for over three years are moved immediately to improve policing service.

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

(a) On 29<sup>th</sup> August, 2011, at about 20.00 hours Franklin Walubengo Mutoro, a 19 year old *boda boda* operator was hired by two unknown customers who wanted to be ferried from Naitiri Market to Lungai Village. On the way, the two fatally stabbed him on the neck and chest using a knife. They then robbed him of the motorbike Reg.No.KMCJ

265U, TVS star in make and red in colour. They escaped to an unknown destination. On receipt of the report, police visited the scene and commenced investigations immediately. However, no arrest has been made so far. A case file, Criminal No.915/253/2011 under Kimilili Police Station was opened and it is pending under investigations. All efforts have been put in place to trace and arrest the suspects.

(b) To curb insecurity in the area, the following measures have been put in place: The OCPD has beefed up security patrols during the day and night. The police have stepped up a crackdown on *boda boda* operators; those who are operating beyond 8.30 p.m. to forestall possible attacks by criminal posing as customers. The police are sensitizing the operators to desist carrying more than one passenger. Arrangements are in place to open a CID office in Kimilili to enhance investigations and collection of intelligence.

Finally, community policing has been revitalized to boost collection of intelligence thus in aiding crime prevention.

(c) It is the policy of the police service to move or transfer officers who have stayed in one station for three or more years and the same will continue as and when necessary.

**Dr. Eseli:** Mr. Speaker, Sir, while I would like to thank the Ministry for acting very fast and posting an OCPD to the place, part “c” of the Question was very specific: “Could the Minister also ensure that all police officers who have served in the area for over three years are moved immediately to improve policing service?” He has answered it by saying it is the policy of the police service to move or transfer officers who have stayed in one station for three years or more. I knew that policy. That is why I asked when they are going to do so, because there are officers there who have stayed for eight years. When is the Ministry going to move these officers away from the place and bring in new officers?

**Mr. Ojode:** Mr. Speaker, Sir, that does not even need a Question to be filed. It would have even come to my office and I would have removed them immediately. So I want to say that those officers who have overstayed for over three years in Kimilili Police Station will be removed as from next week and taken to other places. Is that okay?

**Mr. Speaker:** Dr. Eseli, will you, please, work with the Assistant Minister so that, that is done immediately.

**Mr. Lessonet:** Mr. Speaker, Sir, I have listened to the Assistant Minister’s statement and it looks like he has imposed a curfew from 8.30 p.m. on *boda boda* operators. Is he in order to do so within the law?

**Mr. Ojode:** Mr. Speaker, Sir, I would have mentioned if there was a curfew. However, after listening to what I said, I have not imposed a curfew although I have the capacity to impose one if there is need for a curfew.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. You can see the Assistant Minister boasting and bragging that he has the law on his side to impose a curfew.

**Mr. Speaker:** Order, Dr. Khalwale! I have not heard the Assistant Minister boast or brag. He merely made a statement that he has capacity to impose a curfew. That is all he said! I did not hear any boasting or bragging!

**Dr. Khalwale:** Mr. Speaker, Sir, if I may use the exact words that he used which are as you have said, is he aware that the new Constitution does not give him those powers, whatsoever, and specifically Article 58(2) which only puts these powers in the

Head of State and who can only exercise them for 14 days? If he wishes to continue, he can only do so by permission of this National Assembly. Could he tell us why he is imposing curfew on some people in Kimilili?

**Mr. Speaker:** Order, Dr. Khalwale! Which particular article are you referring to, the sub-article and paragraph?

**Dr. Khalwale:** Mr. Speaker, Sir, it is Article 58 which is about the state of emergency.

**Mr. Speaker:** Very well!

**Dr. Khalwale:** Mr. Speaker, Sir, Article 58(2) says that a declaration of a state of emergency and any---

**Mr. Speaker:** Order, Dr. Khalwale! Are you saying that a state of emergency and a curfew are the same thing?

**Dr. Khalwale:** Mr. Speaker, Sir, definitely, they are not. However, if you look at the same Article, Section 1(a), talks about public emergency.

**Mr. Speaker:** Order, Dr. Khalwale! You are certainly misleading the House. I disallow that! Anybody else interested?

**Mr. Njuguna:** Mr. Speaker, Sir, the Assistant Minister has just informed this House that he has ordered a crackdown. Could he, therefore, inform the House the measures that he has taken that innocent people will not be harassed as has been the case?

**Mr. Ojode:** Mr. Speaker, Sir, I have directed the police to keep law and order and to arrest those who are going to Kimilili to steal, maim or kill those who are using motorcycles.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Mr. Ojode cannot get away with this so lightly. The answer he has given Dr. Eseli reads as follows:- "The police have stepped up a crackdown on *boda boda* operators operating beyond 8.30 p.m." Is it in order for him to impose something that is unlawful and he is not sorry about it?

**Mr. Ojode:** Mr. Speaker, Sir, what is unlawful? To investigate and do a crackdown is unlawful? Under what Article or under what clause is that contained?

**Mr. Speaker:** Order, Mr. Ojode! You are supposed to be just giving us an answer; give information. Do not ask questions to Mr. Olago or any other hon. Member, for that matter.

**Mr. Ojode:** Mr. Speaker, Sir, I have said and I have mentioned that from 8.30 p.m. we will be more strict, so as to know those who are planning to steal the motorcycles. That is why I have intensified the investigations and the patrolling.

**Mr. Imanyara:** Mr. Speaker, Sir, in order to give effect to this crackdown that he will apply after 8.30 p.m. is he aware that the Traffic Act requires him to make regulations and gazette them to enable him to curtail the movement of vehicular traffic at any time?

**Mr. Ojode:** Mr. Speaker, Sir, it is true! The trend that was in Kimilili was growing from good to worse. Therefore, my officers had to do something to curtail or reduce the incidences of thuggery. That is exactly what I have done. I do not see why people are talking about something they do not understand well.

**Mr. Speaker:** Order, Mr. Ojode! Restrict yourself to the questions asked.

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. My point of order was whether they have invoked the provisions of the Traffic Act in order to do what he has been doing. That is all I am asking and he is not answering that question.

**Mr. Speaker:** Order, Mr. Imanyara! In fact, I heard the Assistant Minister to have answered even that part of your question. He said that he is aware that they require traffic regulation to curtail movement of traffic and he has at the same time said that they have effected a crackdown. Look at the word “crackdown” in the dictionary. I do not see anything wrong with him effecting a crackdown.

*(Applause)*

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

Last question, Dr. Eseli!

**Dr. Eseli:** Mr. Speaker, Sir, as I said earlier, indeed, they have stepped up most of what the Assistant Minister has just said, in an attempt to reduce the amount of thuggery and insecurity. However, up to now, nobody has been apprehended in relation to that killing, apart from very many other killings. The motorcycle has never been recovered. We have a new Officer Commanding Police Division (OCPD) sitting there on his own, without the requisite equipment and manpower to fulfill his duties. Could the Assistant Minister inform the House when he will ensure that the OCPD is fully equipped to discharge his duties?

**Mr. Ojode:** Mr. Speaker, Sir, since I posted the new OCPD, I am aware of some shortfalls. We are going to address those shortfalls and equip police stations with the required equipment, not just in Kimilili. We are in the process of equipping all police stations in order to minimize issues of thuggery. So, we will try our level best, at least, to assist the OCPD to minimize, if not to eradicate, incidents of thuggery which are now affecting your place.

**Ms. Karua:** On a point of order, Mr. Speaker, Sir. I am just worried that the Assistant Minister is being allowed to get away with an answer that is suggesting illegal measures. A crackdown by nature is restrictive of the freedom of movement. If he has to impose a crackdown, it has to be pursuant to the law. So, is the Assistant Minister in order to answer this Question by saying that he has commenced a crackdown on *boda boda* operators beyond 8.30 p.m. – a measure that is illegal? He has not put in place any regulations to allow him to do that?

**Mr. Speaker:** Order! Mr. Assistant Minister, you need not respond to that. First, that point of order has come belatedly. But because I allowed the Assistant Minister to get away with it, if that is so, I will give directions on the use of the word “crackdown” in the context of the Constitution next Thursday.

Next Question by Mr. Yakub!

*Question No.815*

#### NUMBER OF PRISONERS WITH KCPE QUALIFICATIONS

**Mr. Yakub** asked the Vice-President and Minister for Home Affairs:-

(a) whether he could state the number of prisoners who sat for the Kenya Certificate of Primary Education (KCPE) examinations in 2008, 2009 and 2010 in Coast and Rift Valley provinces;

(b) how much money was allocated for educational assistance for Shimo La Tewa, Naivasha and Kwale Prisons in 2008, 2009 and 2010; and,

(c) whether the Government has plans to post teachers to prisons with KCPE and KCSE candidates and, if so, how many of them will be TSC-registered.

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs** (Mrs. Kones): Mr. Speaker, Sir, I beg to reply.

(a) The number of prisoners who sat for KCPE is as follows:-

| <u>PROVINCE</u> | <u>YEAR</u> | <u>NUMBER OF CANDIDATES</u> |
|-----------------|-------------|-----------------------------|
| Coast Province  | 2008        | 87                          |
|                 | 2009        | 122                         |
|                 | 2010        | 83                          |
| Rift Valley     | 2008        | 56                          |
|                 | 2009        | 80                          |
|                 | 2010        | 174                         |

(b) On the question of whether money was allocated for education assistance to Shimo La Tewa, Naivasha and Kwale Prisons, my Ministry does not have a specific allocation for any particular prison. However, we normally receive Kshs500,000 to cater for examinations and invigilation in the entire Department.

(c) With regard to teachers, in 2010, the Ministry posted teachers to prisons with KCPE and KCSE candidates. Most of them were P1 teachers and the rest were trained graduates. They were posted to serve in the prisons. They are yet to go through training in our training centre. Therefore, all of them have been absorbed in primary schools.

*(Applause)*

**Mr. Yakub:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for her answer. But could she tell us the time limit when she will transfer the TSC registered teachers who are currently in Shimo Borstal to Shimo La Tewa Prison?

**Mrs. Kones:** Mr. Speaker, Sir, we have two borstal institutions in the country. There is Shimo La Tewa and Shikutsa in Western Province. In Shikutsa Borstal Institution, we have five teachers who are registered with TSC. Six of them are not registered with TSC. In Shimo La Tewa we have 11 teachers. Five are registered and six are not registered. But registration is in progress. We have advised those teachers to apply for registration with TSC. So, we are waiting for the response from TSC.

**Mr. Joho:** Mr. Speaker, Sir, the Member asked about the allocation in terms of funding to Shimo La Tewa. Given that this is a sign of goodwill that prisoners are registering for exams, what measures is she putting in place to have a sustainable programme that will encourage many prisoners to register and sit for exams?

**Mrs. Kones:** Mr. Speaker, Sir, we are planning to increase the budgetary allocation to cover for the necessities in prison schools.

*(Mr. Ethuro stood up in his place)*

**Mr. Speaker:** Mr. Yakub! Order, Mr. Ethuro! You did not demonstrate any interest in this Question until belatedly.

**Mr. Yakub:** Mr. Speaker, Sir, could the Assistant Minister inform the House what plans her Ministry has to install libraries in prisons because they are very important?

**Mrs. Kones:** Mr. Speaker, Sir, normally, willing donors and NGOs donate books. As of now, we have established two libraries. One is in Naivasha and another in Nakuru.

*(Applause)*

**Mr. Speaker:** Order! Hon. Members, I thought hon. Ethuro would then be interested and rise on a point of order to congratulate the good Assistant Minister!

*(Mr. Ethuro stood up in his place)*

*(Laughter)*

**Mr. Speaker:** Next Question by Mr. Duale!

*Question No.1269*

#### DROUGHT INTERVENTION MEASURES IN ASALS

**Mr. Speaker:** Is Mr. Duale not here? Order, hon. Members! I have no indication that hon. Duale is away on any official parliamentary or other Government business and so, I will drop the Question.

*(Question dropped)*

Next Question by Mr. Kabogo!

*Question No.1074*

#### NON-PAYMENT OF TERMINAL DUES TO M/S KTEC LTD WORKERS

**Mr. Kabogo** asked the Minister for Labour:-

(a) whether he is aware that M/s Kenya Tanning Extract Company Limited terminated the services of 21 workers with effect from 31st December, 2008, but has declined to pay them gratuity, redundancy or other dues;

(b) when the former employees will be paid their dues; and,



(c) what measures the Ministry will take to ensure that, in the event of closure of the company, the former employees are paid all their dues.

Mr. Speaker, Sir, however, the Minister and I approached the Chair to agree that this Question comes next week on Thursday. That is because he was attending to some national matter.

**Mr. Speaker:** Hon. Members, that is correct and I, therefore, in those circumstances, defer Question No.1074 to Thursday afternoon at 2.30 p.m.

*(Question deferred)*

Next Question by Eng. Rege!

*Question No.1115*

NON-PAYMENT OF RETIREMENT BENEFITS TO  
MR. MAGAI JONYO BY NCC

**Eng. Rege** asked the Deputy Prime Minister and Minister for Local Government:-

(a) how long it takes the Nairobi City Council to pay retirement benefits to its retired employees;

(b) whether he is aware that Mr. Benson Magai Jonyo (032171/164) retired on 31st December, 2003 but has not been paid his retirement benefits and other dues to-date; and,

(c) what measures he will take to ensure retirement benefits of all retirees in all local authorities, including Mr. Jonyo, are paid promptly.

**Mr. Speaker:** Is the Deputy Prime Minister and Minister for Local Government not here? Deputy Leader of Government Business what is the fate of the Minister and his Assistant?

**The Minister for Transport** (Mr. Kimunya): Mr. Speaker, Sir, we are expecting one of them. But, perhaps, we could use some time and if they do not come, we can revisit the matter later.

**Mr. Speaker:** Order! We cannot give further time, because the House is well aware and even you, Deputy Leader of Government Business, will recollect that there seems to be some persistence in default in this area. I do not want to elaborate beyond there.

*(Mr. Mudavadi was applauded as  
he entered into the Chamber)*

The good Deputy Prime Minister and Minister for Local Government, I had just said from the Chair that there appears to be some persistence in default in this area. I was not more specific than that, but maybe you want to deal with it.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, first of all, let me apologize because as things stand, my

colleague in the Ministry has been away for quite sometime. So, there is quite some task for me. I hope---

**Mr. Speaker:** Order, Deputy Prime Minister and Minister for Local Government! At least, you have some goodwill from the membership, particularly those who believe in African traditions, led by the Member for Gichugu. They say that you will live for long. She believes that when you are mentioned and you show up, it is a sign that you will live for many years.

*(Laughter)*

You may proceed!

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir. You heard the Deputy Prime Minister and Minister for Local Government say that he is challenged because his colleague has not been available to assist him. I just wanted to remind him that the same colleague used to assist another Ministry. Maybe he needs to borrow from that other Ministry to assist him when the colleague is away.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I am now available. On a lighter note, I would not want to challenge the ruling from the Chair about my longevity; I think it is in good spirit.

**Mr. Speaker:** The Member for Turkana Central deserves some courtesy from you. At least, appreciate what he has alluded to.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, yes, I do appreciate, but I think my colleague will be back very soon and the workload will be lighter.

**Mr. Speaker:** Do you not want to reciprocate in kind?

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I do not want to borrow with interest because the interest rates have lately gone up. It could be quite expensive to borrow.

*(Laughter)*

**Mr. Speaker:** Proceed, Deputy Prime Minister and Minister for Local Government!

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, regarding the Question raised by Eng. Rege, I did respond and there were only specific areas that were left. These were to do with what other additional payments Mr. Benson Magai Jonyo had received.

Mr. Speaker, Sir, I would like to indicate that he had received the following: -

(i) he was paid Kshs90,000 in September, 2003 through the payroll. This was for the long service award;

(ii) he was also paid terminal leave days of Kshs59,089.80 in November, 2003;

(iii) he also got the collective bargaining arrears of Kshs55,860, paid in December, 2003; and,

(iv) I had also indicated earlier that the amounts due to him for pension had been paid by Local Authorities Pension Trust (LAPTRUST) to the tune of Kshs599,276.

Mr. Speaker, Sir, these are the additional payments that I want to make available to the hon. Member in my reply, so that he can convey this particular issue.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Prof. Kaloki) took the Chair]*

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Local Government for his response. However, I would like to ask him to pay the balance with interest. Yes, indeed, Mr. Jonyo did receive Kshs90,000. He also received payment for terminal leave days. In fact, he received most of these enumerated payments. However, regarding the pension contributions, he was told that a cheque was written, but he never saw that cheque. You know what is happening in our Government offices. In some of them a cheque may be written but the owner of that cheque may never get to receive it. What will the Deputy Prime Minister and Minister for Local Government do in order to ensure that Mr. Jonyo receives his cheque? Even if it means some forensic auditing, it should be done because the man is really suffering.

Mr. Temporary Deputy Speaker, Sir, also in my discussion with the Minister, he did indicate that Mr. Jonyo had made medical claims from---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Eng. Rege, do you have a question for the Minister?

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, I did ask a question, but I wanted to ask a second one.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Eng. Rege!

Hon. Minister, did you get his question?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, yes, I got the gist of his question.

Mr. Temporary Deputy Speaker, Sir, he was asking about some medical payments which were paid through Kenyatta National Hospital. I would want to indicate that, yes, there was an amount of Kshs82,719 which was paid to cover his medical bills. This was not recovered from his salary. Subsequently, he presented another medical claim of Kshs57,755, but this was in dispute because he presented claims to deal with Kenyatta National Hospital, yet the documents that he presented were for the Coptic Hospital. Therefore, this amount is in dispute. But I am willing to meet this particular retiree, so that we can help him if there are any other grey areas which can be dealt with specifically. I wish to undertake that I will sit with him and the relevant officers, so that they can go through this process, rather than having a situation where Parliament is now debating the issue of medical bills for this particular officer. I will be very happy to be of assistance to go through in detail whatever issue that may still be outstanding.

**Mr. Bahari:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Member for Karachuonyo was very specific. He asked about the cheque - I cannot remember the exact figure - on pension which the retiree has not received. Can the Minister confirm whether the retiree has received it? If, yes, then he should give the cheque number and when he actually did receive it.

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, the cheque is for Kshs599,276.70 and the number is 018387, dated 3<sup>rd</sup> February, 2005.

Mr. Temporary Deputy Speaker, Sir, secondly, to the best of my knowledge, the hon. Member told me that this amount had been received, but there are additional areas where he is claiming over and above this particular amount. I will table here a letter from the Managing Director of LAPTRUST, which indicates the details of this amount and other subsequent amounts that have been paid to the bank account of the member, which again, is indicated in this letter, where the transfers are normally done.

*(Mr. Mudavadi laid the document on the Table)*

**Mr. Letimalo:** Mr. Temporary Deputy Speaker, Sir, part “c” of the Question concerns retirement benefits for all retirees in all local authorities. I do not think that the Deputy Prime Minister and Minister for Local Government has given his undertaking to ensure that all the retirees will be paid. Could he undertake to pay all the retirees because we have very many of them who have not been paid their benefits?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, I wish to confirm to the House that, indeed, the pensions body in the Office of the Deputy Prime Minister and Ministry of Local Government; that is either the LAP Trust or the LAP Fund have been very prompt in settling dues of ex-Local Government employees. Indeed, these two institutions have been some of the best public pension schemes that have been run in this country. So, unless there is a specific case, I would like to assure this House that members of this scheme normally get their payments without any difficulties whatsoever.

**Mr. James Maina Kamau:** Mr. Temporary Deputy Speaker, Sir, due to over employment by the Nairobi City Council (NCC) in the last couple of years, the council has been unable to meet its obligation as far as paying retirement benefits to its employees is concerned. What has the Ministry done to make sure that the payments of retirees are streamlined?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, as we speak now, the NCC is no longer in arrears of any dues as pension contributions to the various employees. They have, indeed, reconciled their accounts and have settled whatever is due to the LAP Trust and LAP Fund.

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, could the Deputy Prime Minister and Minister for Local Government give us evidence that Mr. Jonyo received the Kshs599,000? Who signed for the cheque? Where was it banked? Has it been cleared and in what account because he has not received the money? If it was encashed, who encashed it? It is clear that Mr. Jonyo has only received Kshs90,000, Kshs59,000 and Kshs55,000 which totals about Kshs200, 000.

**The Temporary Deputy Speaker** (Prof. Kaloki): That is clear enough, Mr. Ruto!

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I am not sure that it is clear with the Deputy Prime Minister and Minister for Local Government.

**The Temporary Deputy Speaker** (Prof. Kaloki): He is ready!

**Mr. Ruto:** Could he confirm?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, I said very clearly that I will table in this House a letter from the LAP Trust confirming the payments made, cheque number and the date. To the best of my knowledge, the hon. Member admitted to

me that Mr. Jonyo admitted to have received this money but there are claims over and above the figure he is raising. So, the dispute is no longer the Kshs599, 000.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I have reason to believe the hon. Deputy Prime Minister and Minister for Local Government. He has said that the Kshs599,000 paid to Mr. Jonyo was paid through a cheque, a cheque that was supposed to have reached Mr. Jonyo. Could he produce evidence of the amount that entered Mr. Jonyo's account? That is the only evidence he can satisfy us with.

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, I do not have the details of his account here but that is something that can be extracted. However, I can undertake that over and above the letter, I will be able to produce the bank statement for LAP Trust indicating that the transfer was effected.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Deputy Prime Minister and Minister for Local Government, do you want to be informed?

**Mr. Mudavadi:** Yes, Mr. Temporary Deputy Speaker, Sir.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I wanted to inform the Deputy Prime Minister and Minister for Local Government that he could have even done that in his office. He could have checked the bank statement to see whether the cheque was cleared. He could have brought the bank statement to this House.

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, the point of information was tracing the commitment I was making. However, I am ready to produce the bank statement of LAP Trust.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Deputy Prime Minister and Minister for Local Government, could you provide proof that this beneficiary, Mr. Jonyo, received his payment? Are you able to find that link?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, I can produce the bank statement from LAP Trust which would show where that cheque was cashed. I can produce that one.

**The Temporary Deputy Speaker** (Prof. Kaloki): Showing the account of Jonyo?

**Mr. Mudavadi:** Yes, Mr. Temporary Deputy Speaker, Sir. I will also provide the statement from LAP Trust because they also have these details.

**The Temporary Deputy Speaker** (Prof. Kaloki): That is fine. Then pass the information to Eng. Rege.

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, you know as well as I do that the production of a copy of the cheque or a cashed cheque in the bank does not necessarily necessitate that he, himself, cashed that cheque. That is why I was asking from the outset that we do a forensic audit on those cheques that were purportedly written to this man. This man is suffering and he needs cash. I would really appreciate if the hon. Deputy Prime Minister and Minister for Local Government can take this issue seriously because this is just one of the many members of this country who are suffering.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Deputy Prime Minister and Minister for Local Authority, what is your final word on that issue?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, I am taking this matter very seriously. In fact, attached to the letter that I have tabled, for instance, there is also an addendum which shows the account number of this gentleman and what he drew on a monthly basis from the pension over and above the lump sum payment that was given.

So, I am taking this matter very seriously. It is a serious matter. This man deserves his bread and butter. So, I cannot take it lightly.

**The Temporary Deputy Speaker** (Prof. Kaloki): Thank you.

*Question No.1218*

GRABBING OF LAND AT OL JOROROK

**Mr. Mureithi** asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware that the Government allocated land to the community for the establishment of an educational centre at Ol Jororok but the same has been “grabbed” and the plans from the Council hidden from the Project Management Committee;

(b) who the beneficiary of the irregular allocation is; and,

(c) what measures he will take to ensure that the plot is reverted to community use.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the management of Ol Jororok Education Centre requested the County Council of Nyandarua on 20<sup>th</sup> July, 2007 for land allocation for a social welfare plot in order to build a social welfare centre. The County Council of Nyandarua vide their council minutes allocated half-an-acre of a portion of a plot to build the centre and on 13<sup>th</sup> March, 2008, the Council of Nyandarua entered into a Memorandum of Understanding with the Ol Jororok Town Education Centre Management for the use of the community welfare plot No.49 in Ol Jororok Township on the following terms: One, there was going to be an educational centre and it is not supposed to collect any fees. The centre was supposed to make development on only half of the acreage. Two, the centre was to be used only for the provision of adult education and as a community resource centre and not as a profit making enterprise.

(b) The council has confirmed that the social welfare plot No.49 exists as per the MoU signed between the County Council of Nyandarua and the Educational Centre. That is the only structure that is supposed to be on that land and there is no indication of any other beneficiary.

(c) As of now, this plot has not been transferred to any individual organisation. It still remains the property of the Council. I want to assure the House that it will continue to be used as an educational centre and we will not accept any transfer to any other individual organisation unless it is specifically for this purpose and proper procedure has been followed for the Ministry to sanction.

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, if you look at the chronology of this plot, it was purported to have been given in 2007. In 2007, money from the Constituencies Development Fund (CDF) was allocated to build an educational centre. At that point, the plot was one acre. In March, 2008, I was a Member of Parliament when the purported welfare group moved to the Council to form an MoU with them. Then the second tranche of CDF money was allocated.

After I asked this Question, the Council moved to the plot and removed the fence that had been erected by the members of that group. The grabbers went back at night and put the fence back. I would like the Deputy Prime Minister and Minister for Local Government to tell us whether this is the procedure for the councils to provide plots to the people, by using MoUs and creating a clause saying that they can reclaim that plot and then enter into the process we saw in Mavoko, where they can decide to either take back the plot or demolish the plot? I am really perplexed by the answer. Can you really let us know exactly what happened with this plot and why they reduced it to half-an-acre when I was still a Member of Parliament in 2008?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, the documentation I have from the council indicates that the memorandum they entered into for this welfare project was for half-an-acre. This is the documentation I have, and I will table it here.

Secondly, I also want to confirm to hon. Members that no transfer has been approved by the Ministry for this plot to be transferred to anybody else. The plot still remains the property of the County Council of Nyandarua. No transfer has taken place. I have communicated with the Clerk to the Council, that this plot should not be transferred to anybody whatsoever. It must continue to remain the property of the County Council of Nyandarua.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, the problem of land grabbing is not unique to Ol Kalou. Other municipalities like Ruiru and Thika suffer the same fate. Is the Deputy Prime Minister and Minister for Local Government aware that these municipalities are using allocation letters of 1992 to make current titles? If so, what is he doing to curb this menace? Can he undertake to stop all the allocations that are as a result of forgeries of 1992 when KANU was in power, especially in Ruiru, where the Fire Department land was grabbed as late as last month? Could he undertake to consult with the Ministry of Lands to stop these new allocations?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, I would like to let the House know that as we speak, the Ministry has already issued a circular to all the local authorities, that they are not allowed to transfer any land whatsoever, especially during this transition period that we are going to be moving from the current regime to the county government regime. So, we have stopped. The local authorities have the circular. So, any Town Clerk, or any public officer within the local authority who will be involved in the transfer of an asset, knowing very well that there is a circular stopping all land transactions, will be punished severely.

The second point I want to put across---

**Mr. Kabogo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Deputy Prime Minister and Minister for Local Government say that they have issued a circular. I have said that they are using 1992 papers to avoid this circular. So, he needs to make a commitment to liaise with his counterpart in the Ministry of Lands not to issue any title deeds within the municipalities using those allotment letters. That is the problem.

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, if the hon. Member had given me just an extra minute, I would have confirmed to him that over and above the circular, we are working very closely with the Ministry of Lands so that no title can be issued, be it originating from what they call "back-dated movement" without the approval of the Minister. So, any transaction that involves transfer of land in a local authority must

get the approval of the Minister, and it can only be given on condition that the Minister is satisfied that it is going to a public school or to a hospital and that, it is not anything that relates to the fraudulent arrangement that the hon. Member has given an example of.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, you heard the Deputy Prime Minister and Minister for Local Government state that no titles will be issued. Where I come from, the local authorities do not issue title deeds. They issue allotment letters. Does your circular also cover those local authorities that issue only allotment letters?

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, it is true that local authorities do not issue title deeds. That is the function of the Ministry of Lands. To get to the stage of issuance of a title deed, the process of allotment is what follows. However, let me assure the hon. Member that we have given instructions that clearly stop all transactions on land. That is the message we have given. The only ones that are coming forward to the Minister must be for the public good, and I gave examples of educational institutions and hospitals.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Mureithi, ask your last question.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order!

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, I would like the Deputy Prime Minister and Minister for Local Government to confirm, because the people of the welfare group are not there anymore. They are non-existent, meaning that these were the proxies used in 2007 in order to enter into an MoU with the Council in 2008 and deny the youth half-an-acre. That is why it was being grabbed at night. Could he confirm to this House that this welfare group in Ol Jororok will be entitled to their original plot that was allocated to them in 2007, but which was converted into an MoU in 2008 in order to circumvent the in-coming Member of Parliament, so that the grabbers could take half-an-acre and the youth group continue with a half-an-acre? Could he confirm that if they come to him, he will allocate them the original plot that was initially allocated to them?

**The Temporary Deputy Speaker** (Prof. Kaloki): Deputy Prime Minister and Minister for Local Government, that is your final answer.

**Mr. Mudavadi:** Mr. Temporary Deputy Speaker, Sir, the development that has gone on there – CDF money has been expended on the particular project – clearly indicates that this is a public project. Therefore, they will receive support from the Ministry to ensure that their interests and the investment of the CDF for Ol Kalou does not go to waste. I want to assure the hon. Member again that we have made it clear to the Nyandarua County Council that nobody else should interfere with that particular project.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Let us move on to the next Question.

*Question No.1108*

CROCODILE/HIPPOPOTOMUS MENACE IN LAKE TURKANA

**Mr. Ethuro** asked the Minister for Forestry and Wildlife:-



(a) how many people have been killed or injured by crocodiles or hippopotamus in Lake Turkana since 2000 and if he could indicate the respective years and the locations of the events,

(b) how much money has been paid as compensation to the victims and/or their next-of-kin, and;

(c) what the Government is doing to avert the menace caused by the crocodiles/hippopotamus in Lake Turkana.

**The Temporary Deputy Speaker** (Prof. Kaloki): Is the Minister for Forestry and Wildlife here?

Mr. Kimunya, could you give an undertaking?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, could I ask that the Question be listed on the Order Paper on Tuesday, next week to allow me to trace them and alert them to come here?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Ethuro, will you be comfortable with the Minister coming to answer your Question on Tuesday, next week?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, first, I do not think the Deputy Leader of Government Business has given me or this House a reason why the Minister is not available today to answer my Question. So, what guarantee could he give me that he will be available on Tuesday, next week?

**The Temporary Deputy Speaker** (Prof. Kaloki): Deputy Leader of Government Business, could you assure the hon. Member that the Minister will be here Tuesday, next week?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I will have enough time between now and Tuesday, next week, to locate them and ensure they will be here. I was expecting them to be here. Since I have no idea why they are not here, I am sure, if given time, I will be able to trace them.

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We wanted to talk to the Deputy Prime Minister and Minister for Local Government because there is a grave activity going on around the country.

Land belonging to local authorities, which would be transferred to the counties, is being looted all over the country. We wanted him to do something when the issue was still hot, so that he could assure the country that he will do something to stop the looting.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well! Government Chief Whip, you will have an opportunity to do so. But now, we cannot go back to something that we have dealt with.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Are you standing up on a different point of order?

**Mr. Kabogo:** On the current issue, Mr. Temporary Deputy Speaker, Sir. You have seen how casually the Minister is taking this matter. When we, hon. Members, come here and ask Questions and we are not present---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Kabogo!

**Mr. Kabogo:** I am building my point of order.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order!

**Mr. Kabogo:** Could you, please, allow me?

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Please, we have a lot of business to deal with.

**Mr. Kabogo:** I am on a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order.

Mr. Kimunya, you gave your undertaking that the Minister will be here on Tuesday, next week. Mr. Ethuro, do you agree with that? Are you comfortable with that date?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I can only agree to deferring this Question on one condition that neither the hippos nor crocodiles will eat my people between now and that time. Could the Minister guarantee?

**The Temporary Deputy Speaker** (Prof. Kaloki): Next Question!

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Kabogo, not on something that we have already dispensed of. Are you standing up on a different point of order?

**Mr. Kabogo:** I was standing up on that point of order.

**The Temporary Deputy Speaker** (Prof. Kaloki): I do not want to deal with it at the moment.

Proceed, Mr. Kutuny!

*Question No.1193*

REPAIR OF ROADS IN CHERENGANY

**Bw. Kutuny** auliza Waziri wa Barabara:-

(a) Serikali imeweka lami barabara zipi katika Eneo Bunge la Cherang'any tangu mwaka wa 2000,

(b) Serikali itakarabati lini na kuhakikisha barabara ya Maili Saba-Kaplamai-Kachibora-Kapcherop inapitika, na;

(c) ana mipango gani maalum ya kutengeneza barabara zote katika Eneo Bunge la Cherang'any ambazo hazipitiki kamwa kufuatia uharibifu mkuu ulioletwa na mvua nyingi ya hivi majuzi.

**Eng. Gumbo:** Hoja ya nidhamu, Bw. Naibu Spika wa Muda. Je, Bw. Kutuny ana haki kuuliza Swali hili mbele ya Bunge ilhali tunajua juzi Mhe. Rais alizindua ukarabati na ujenzi wa barabara katika sehemu hiyo? Ana haki?

**The Temporary Deputy Speaker** (Prof. Kaloki): Endelea, mhe. Waziri wa Barabara.

**The Minister for Roads** (Bw. Bett): Bw. Naibu Naibu Spika wa Muda, ni ukweli Rais alizindua ujenzi wa barabara katika eneo hilo. Hata hivyo, Bw. Kutuny ana haki ya kuuliza Swali lake hapa Bungeni.

Bw. Naibu Spika wa Muda, naomba kujibu.

(a) Wizara yangu haijaweka lami barabara mpya katika eneo la Cherang'any mwaka huu. Hata hivyo, kupitia Kenya Rural Roads Authority (KeRRA), tumetoa kandarasi ya kujenga upya barabara ya Eldoret-Ziwa-Kachibora (D328) na Kachibora-Moi's Bridge (D330/E334). Vile vile, kupitia Kenya National Highways Authority (KeNHA), Serikali imetenga Kshs160 million kugharamia ukarabati wa barabara ya Kitale-Sibanga (C48).

(b) Kupitia Kamati ya Barabara ya Eneo Bunge la Cherang'any (CRC), Kshs2,272,400 zimetengwa kukarabati kilomita 20 za barabara za Maili Saba-Sibanga (D330) na Kaplamai-Kachibora (E328) mwaka huu wa matumizi ya pesa 2011/2012. Kazi hii itaanza baada ya mvua kupungua. Pia, kupitia KENHA, Kshs18 million zimetengwa mwaka huu wa 2011/2012 ili kugharamia ukarabati wa sehemu kadhaa za barabara kati ya Kachibora na Kapcherop. Shughuli ya kutoa kandarasi imeanza na tunatarajia kwamba kazi yenyewe itaanza mwezi wa Disemba mwaka huu.

(c) Ni kweli kwamba mvua inayoendelea kunyesha katika eneo la Cherang'any imeharibu sehemu za barabara kadhaa ikiwa pamoja na zile zilizokarabatiwa wakati wa matumizi ya pesa 2010/2011. Mwaka huu (2011/2012), Serikali kupitia kamati ya Eneo Bunge la Cherang'any (CRC), imepanga kutumia Kshs30 milioni kukarabati kilomita 299 za barabara katika eneo hilo. Kazi ya kukarabati barabara itaanza baada ya kumalizika kwa msimu huu wa mvua.

**Mr. Kutuny:** Bw. Naibu Spika wa Muda nimemvulia kofia Waziri kwa kujibu Swali hili katika lugha sanifu ya Kiswahili.

Kwanza nataka kushukuru pia Serikali kwa kuzindua ujenzi wa barabara kadha wa kadha katika sehemu za North Rift. Barabara ambayo kandarasi tayari imetolewa inaanzia Chepkoilel-Ziwa-Kachibora. Barabara hii inaenda mpaka Kitale. Pia, amesema kwamba kandarasi ya ujenzi wa barabara kutoka Sibanga hadi Kitale tayari imetolewa. Hata hivyo, hakuna karandarasi iliyotolewa ya ujenzi wa barabara ya Kachibora mpaka Sibanga. Ningependa Waziri aeleze Bunge Serikali ina mipango gani ya kukarabati barabara hii ili iweze kutumika.

**Mr. Bett:** Bw. Naibu Spika wa Muda, ni kweli kwamba tumetoa kandarasi Sibanga, Kitale, na Chepkoilel mpaka Kachibora. Ni kweli kwamba kuna sehemu kutoka Kachibora hadi Sibanga ambayo imebaki. Ningetaka kuihakikishia Bunge hili kwamba, hatuwezi kuiwacha sehemu hiyo kwa sababu ni barabara moja hadi Kitale. Pesa ambazo tuko nazo zinatoshia kutengeneza barabara kutoka Sibanga hadi Kitale. Tukipata pesa msimu ujao, tutamaliza kutengeneza barabara hiyo kutoka Sibanga hadi Kachibora.

**Mr. Joho:** Bw. Naibu Spika wa Muda, ninampa hongera Waziri kwa Kiswahili chake sanifu. Mvua iliyopita katika nchi hii imeleta hali ya taharuki kwa barabara nyingi. Kule Mombasa, imetupa kizungumkuti kwa sababu hatujielewi pale tulipo katika hali ya barabara. Utalii ni muhimu sana katika Kaunti ya Mombasa na ni mlango wa kuingia katika Afrika kaskazini. Je, Waziri ana mikakati gani kabambe ya kuharakisha urekebishaji wa barabara zetu?

**Mr. Bett:** Bw. Naibu Spika wa Muda, ninafahamu kwamba mvua imeleta taharuki katika sehemu ya Mombasa na kuharibu barabara. Ningetaka kulihakikishia Bunge hili kwamba jambo hilo limenifikia na nimeamuru maofisa wangu waziangalie barabara hizo. Muda si muda, nitakuwa na ripoti kuhusu Kaunti ya Mombasa.

**Mr. Ethuro:** Bw. Naibu Spika wa Muda, ningependa kumshukuru Waziri kwa Kiswahili sanifu. Waziri amesema kuwa barabara kutoka Kachibora hadi Sibanga inaelekea Kitale. Ningependa kumkumbusha Waziri kwamba, - inafaa ajue - barabara kutoka Kachibora mpaka Sibanga inapitia Makutano, Kapenguria mpaka Lodwar. Kwa vile amesema atatengeneza barabara hizo zote, je, atarekebisha lini barabara ya Sibanga-Makutano-Kapenguria-Lodwar? Ametenga pesa ngapi za kurekebisha barabara hii ili nami nimwalike Rais aje aifungue barabara hiyo?

**Mr. Bett:** Bw. Naibu Spika wa Muda, ninaamini kwamba mheshimiwa Mbunge anataka barabara hiyo irekebishwe. Kusema kweli, hilo ni Swali tofauti na Swali ambalo linajibu. Ningemwomba Mheshimiwa Mbunge alete Swali bungeni la kipekee ambalo linahusu barabara hiyo ili nitafute jibu ambalo litamfaa kwa sababu yeye ni mwanaume tosha!

**Mr. Mbuvi:** Bw. Naibu Spika wa Muda, ninampongeza Waziri kwa kazi nzuri anayoifanya Makadara na Cherangany. Kwanza, ningetaka Waziri atuambie ni kwa nini Wizara yake inapeana kazi kwa wanakandarasi wafidhuli, wazabinazabina, marambuza, wanahizawa, ambao wanaongezea pesa za kandarasi ilhali kuna wanakandarasi ambao wanapeana viwango vya chini vya pesa, ilhali wote wana vibali sawa, na wamehitimu kufanya kazi ya kukarabati barabara.

**Mr. Bett:** Bw. Naibu Spika wa Muda, mheshimiwa Mbunge ametumia maneno makubwa makubwa na mimi sielewi kama ni Kiarabu, Kiswahili au Sheng.

**Mr. Kutuny:** Jambo la nidhamu, Bw. Naibu Spika wa Muda. Nimemsikia Waziri akisema kwamba labda Kiswahili cha mwenzangu “Sonko” si sanifu. Lugha ambayo ametumia ni Kiswahili sanifu ila tu ametumia misamiati. Ukiangalia katika Kamusi ya Kiswahili “sabinasabina” ni mtu ambaye ni mlegevu. Katika lugha ya Kiingereza, ni mtu “lazy”. Kiswahili ambacho amekitumia ni sanifu wala si Sheng.

**Mr. Bett:** Bw. Naibu Spika wa Muda, sijasikia mazungumzo kutoka kwa---

*(Technical hitch)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Waziri, sasa unaweza kuendelea.

**Mr. Bett:** Bw. Naibu Spika wa Muda, ninaamini kwamba vyombo hivi vinaogopa Kiswahili sanifu kutoka kwa jamaa hawa wakubwa wakubwa pale.

Tunatoa kandarasi kutokana na matangazo kuwa tuko na kazi fulani. Hii inafanyika kwa kutumia taratibu za kutosha ambazo zimewekwa. Hatuwezi kupeana kandarasi kwa njia ya ulegevu au kwa kuonea wengine. Jambo hilo haliwezekani kufuatana na sheria iliyoko katika Wizara yangu. Hatuwezi kuenda kinyume cha sheria tulizoziweka.

**Mr. Wamalwa:** Bw. Naibu Spika wa Muda, Kaunti ya Trans Nzoia ni ghala la Kenya; ni Kaunti ambayo inalisha taifa hili na wakulima wanahitaji barabara nzuri ili wafikishe mazao yao sokoni. Ninashukuru kwa sababu barabara ya Ziwa hadi Sibanga hadi Kitale itatengenezwa. Je, kando na hii barabara ambayo ilikuweco hapo mbeleni, Serikali ina mpango gani wa kuweka lami barabara mpya katika Kaunti hii ya Trans Nzoia? Kuna barabara yoyote kama vile barabara ya Shikhendu, Babaton hadi kule Kisawai na Endebess?

**Mr. Bett:** Bw. Naibu Spika wa Muda, kwa Bajeti hii ya Serikali, hatujatenga fedha za kugharamia barabara ambayo mheshimiwa amesema. Lakini tunaitengeneza barabara kutoka Kisumu, Kakamega, Webuye hadi Kitale. Tunaichora upya barabara kutoka Kitale kuelekea Makutano mpaka Lokichogio kama vile mhe. Ethuro alivyosema. Mambo hayo yanaendelea kupangwa lakini wakati huu, hatujatenga fedha za kugharamia barabara ambayo mhe. Wamalwa ameuliza.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mhe. Kutuny, ukiwa na swali lolote, unaweza kumwuliza waziri.

**Kutuny:** Bw. Naibu Spika wa Muda, kabla sijauliza swali la mwisho, swali langu limeamsha Wabunge wengi kuzungumza kwa lugha ya Kiswahili. Ungewapatie waheshimiwa wengi nafasi labda wanataka kuuliza maswali.

**Mr. Ruto:** Hoja ya nidhamu, Bw. Naibu Spika wa Muda. Waziri aliulizwa na---

**The Temporary Deputy Speaker** (Prof. Kaloki): Ni swali ama ni nini?

**Mr. Ruto:** Hoja ya nidhamu, Bw. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Prof. Kaloki): Endelea basi!

**Mr. Ruto:** Hoja ya nidhambu, Bw. Naibu Spika wa Muda. Bw. "Sonko" alisema kwamba kuna wanakandarasi fulani ambao wanatoa pesa; wengine pesa nyingi na wengine wanatoa pesa ndogo ndogo na akaendelea kueleza hao ni akina nani. Lakini sijui kama Waziri alikubali kama kuna wanakandarasi wa aina hiyo. Hakujibu swali hilo.

**Mr. Bett:** Hatuna wanakandarasi wa kutoa kitu kidogo na hukuna wanakandarasi wa kutoa kitu kikubwa bali tuna wanakandarasi wa kutengeneza barabara. Barabara inatengenezwa kulingana na taratibu ambazo zimewekwa katika kufanya kazi hiyo.

**Mr. Kutuny:** Bw. Naibu Spika wa Muda, ninashukuru. Ninakuomba uruhusu swali langu la mwisho liulizwe na Bi. Peris Chepchumba kwa niaba yangu.

**Hon. Members:** Haiwezekani!

**The Temporary Deputy Speaker** (Prof. Kaloki): Waziri, una chochote unachotaka kuongezea?

**Mr. Bett:** Bw. Naibu Spika wa Muda, sina la ziada. Asante sana.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes, what is your point of order, Mr. Kabogo?

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, I rise on a point of order under Standing Order No.183 (1) and (2) as read with Standing Order No.97 and Standing Order No.1 on issues that this House has deliberated during Question Time and certain decisions have been taken by the House or undertakings given by the Ministers.

Mr. Temporary Deputy Speaker, Sir, I have four issues that I would like to address the Chair on. One, I asked Question No.542 on 24<sup>th</sup> March, 2011 about a lady who had been bitten by a dog and it was referred to a Departmental Committee---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Let me find out about the procedure. Just give me a little time and I will give you an opportunity to continue. However, I need to call the next Order.

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

Order! Just a minute. Let the Chair consult!

*(The Clerk-at-the-Table consulted the Chair)*

Hon. Kabogo, could you approach the Chair?

*(Mr. Kabogo consulted the Chair)*

Let us move on to the next Order, which is Statements. I think I have already ruled on that!

## MINISTERIAL STATEMENT

**The Temporary Deputy Speaker** (Prof. Kaloki): All right. We will begin with the Government side. Issue any Statements that---

*(Mr. Washiali stood up in his place)*

Mr. Washiali, you will have the opportunity. Just wait!  
Proceed, hon. Assistant Minister!

### INSECURITY IN TRANS NZOIA/ BUNGOMA COUNTIES

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, on Tuesday, 6<sup>th</sup> September, 2011, hon. Wamalwa stood on a point of order and requested for a Statement on insecurity in Trans Nzoia and Bungoma counties.

Mr. Temporary Deputy Speaker, Sir, in the Statement, he sought clarification on the circumstances under which a G-3 police rifle was found in the hands of a suspect and, later, in the hands of a mob that lynched the suspect. Further, he sought clarification as to whether that particular rifle was the same that had been used in a series of murders in Saboti, Waiteluk and Kiminini divisions.

I wish to state as follows. On 19<sup>th</sup> August, 2011, a report was made at Saboti Police Post regarding a suspect who was about to be lynched by the public upon being suspected of robbery. Two police officers who were on duty rushed to the scene at Muroki Shopping Centre where the incident was reported to be taking place. Both officers were armed, one with a G3 rifle while the other had an FN Rifle. On arrival at the scene, the two police officers tried to rescue the suspect from the irate mob. It was at this juncture that one police officer, Patrick Mutinda, was robbed of his rifle – a G3 SN6927182EN – and got injured. His colleague, a police reservist, Michael Makokha, escaped. The following day, that is on 20<sup>th</sup> August, 2011, members of the public surrendered the robbed firearm with all the 20 rounds of ammunition to the police. The same rifle had been issued to the said officer on 19<sup>th</sup> of August, 2011, vide the Saboti Police Post Arms Movement Register Serial No.59. This is a confirmation that the rifle had not been removed from the armory before the incident, thus disputing the allegations that the same had been used in robberies in Saboti, Waiteluk and Kiminini divisions.

Further, Mr. Temporary Deputy Speaker, Sir, after the incident, investigations commenced immediately and one Jotham Makui Ngakane and Christine Simura Nyongesa were arrested and charged with robbing PC Mutinda of his rifle vide Kitale Police Station No.CR811/993/2011 and Court File No.1953/11 and 1962/11, which came up for hearing on 24<sup>th</sup> October, 2011.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, this is one case where we are grateful as a country that we now have police reforms and we have a law creating an independent oversight body over the police, because what the Assistant Minister has stated to this House is at variance with what was on the ground. This is because the

firearm in question was found in the hands of a suspect, but the Assistant Minister has said that, that firearm was dispossessed from an officer who was on the ground, which is totally at variance with what was on the ground. Because this was a case where the police were supposed to investigate themselves and the people of Muroki, who recovered the firearm, refused to hand it over to the same police. Could the Assistant Minister tell the House whether there has been an independent team to investigate this incident, because there was a death? Has there been an inquest into this death? Was there an independent team that was dispatched to Kitale to investigate this case?

Apart from that, Mr. Temporary Deputy Speaker, Sir, we want to tell the Government that insecurity in Trans Nzoia is a matter of great concern. What has the Assistant Minister done to ensure that we have a police station in Saboti and Kiminini divisions where recent deaths have increased and robberies continue to take place?

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I want to confirm that investigations were done and that is why we ended up arresting two fellows with regard to this case.

With regard to what was on the ground, what was in the ground was a rumour and that cannot be the same with what I have. That is why it is at a variance.

I had also indicated to hon. Wamalwa that the District Security Team can do a letter requesting for the creation of two more police stations within the constituency. I am willing to create those police stations once I get the letter in order for us to reduce the thuggery incidents within that area.

Mr. Temporary Deputy Speaker, Sir, I have also said and I want to confirm here that we will reshuffle those police officers who have overstayed in a particular station so that the hon. Member can get a new team that can work within that constituency. We will do that very soon as long as the hon. Member wants us to do the reshuffle.

## POINTS OF ORDER

### STATUS OF MUSIC INDUSTRY ON COLLECTION/ DISTRIBUTION OF ROYALTIES

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, I would like to ask for a Ministerial Statement from the Attorney-General on certain issues and status of the music industry in so far as collection and distribution of royalties is concerned. This is in light of the fact that the Music Copyright Society of Kenya (MCSK) licence was terminated through Kenya Gazette Notice No.5093 of 19<sup>th</sup> April, 2011 and later expired on 30<sup>th</sup> October, 2011.

In his Statement, the Attorney-General should address himself to the following specific issues:-

(a) To furnish this House with the audited accounts of the collecting agency from the year 2006 to 2011.

(b) The Attorney-General to table the list of members of the Music Copyright Society of Kenya and the schedule of royalty distribution for the same period.

(c) In view of the expiration of the licence, could the Attorney-General tell this House who is currently collecting the royalties and the measures the Attorney-General is putting in place to ensure smooth operations and safeguard the interests of our musicians?

(d) What other measures is the Attorney-General putting in place to combat music piracy as well as protect intellectual property rights as is currently provided in our Constitution?

Thank you.

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. On the Statement requested by Mr. Mbau, I would also wish to ask the Attorney-General to state why he has never revised the law as amended in last year's Finance Bill in the way agents of MCSK are collecting the so-called royalties and why one year later, they still have agents terrorizing people all over the city and in other parts of the country while the law has been amended. We want the Attorney-General to table the procedures in this House.

#### STRAY WILD ANIMALS FROM RUMA NATIONAL PARK

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I rise to ask for a Ministerial Statement from the Minister for Forestry and Wildlife.

In the Statement, I would like to ask the Minister as follows:-

- (i) Is the Minister aware that wild animals have escaped from Ruma National Park and are posing a threat to human life? As a matter of fact, buffalos were sighted at Kipasi and Rapora area this afternoon.
- (ii) What is the Government doing to immediately recapture the animals and to ensure the people of Lambwe are secure?
- (iii) What is the Government doing to hasten providing electric fencing to deal permanently with this issue?

**The Temporary Deputy Speaker** (Prof. Kaloki): Deputy Leader of Government Business, give an undertaking on Mr. Mbau and Mrs. Odhiambo-Mabona's requests for Statements.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, on the issue of Mr. Mbau to the Attorney-General, we will require about three weeks to compile all the data that has been requested for. He is talking of three years of data. We will have it three Thursdays from today.

In terms of the Statement from the Ministry of Forestry and Wildlife, we can have that by next Thursday.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Today is Thursday and next Thursday is one week away. We are all aware of the sight of a buffalo. What is the Government going to do between now and Thursday? A buffalo can kill so many people in a day. Some action needs to be taken.

The Deputy Leader of Government Business needs to assure us and the people residing around Kipasi and Rapora. They are likely to go to Gwasi because that place is very near. What is the Government going to do to make sure we do not lose even a single person?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I am sure the administration is already aware of the situation and action will be taken



from the administrative point by the Kenya Wildlife Service (KWS) and others in terms of containing the situation. However, the Statement on the long-term measures will be coming by Thursday next week.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well!  
Mr. Washiali, now you can move.

DISORDERLY CONDUCT BY TRANSPORT MINISTER ON  
SYOKIMAU/KYANG'OMBE DEMOLITIONS

**Mr. Washiali:** Mr. Temporary Deputy Speaker, Sir, I rise on Standing Order No.97 (1)(j) which reads:-

“Disorderly conduct is grossly disorderly if the Member concerned acts in any other way to the serious detriment of the dignity or orderly procedure of the House”.

Mr. Temporary Deputy Speaker, Sir, it was only yesterday afternoon when the Chair ruled and directed that forceful eviction of residents from their houses in Syokimau, Kyang'ombe and Maasai villages should stop until the Committees of this House look into this matter and then write a report that will be debated in this House. The reports we are receiving from the ground is that the evictions are still taking place. They have even gone further and invaded the neighbouring estates.

I think and strongly feel that this is happening with the blessings of the Minister for Transport, Mr. Amos Kimunya. I personally feel that this is disorderly conduct and I would wish that the Chair invokes Standing Order No.98 which will name the Minister so that he can now learn how to respect this House in future.

**Mr. Duale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member in order? The same Standing Order No.97 (1) (j) only refers to matters that have happened in this House. We do not want to use the dignity of this House--- That Standing Order refers to a Member when he misbehaves on the Floor of the House. What goes on out there being done by the Government or any other person has no bearing on an individual Minister or an individual Member. We should not misuse the Standing Orders of this House.

**The Minister for Transport** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Mr. Washiali in order to mislead this House that the Speaker gave directions in a way he has purported it was given; that there shall be no evictions until the Committees have looked into the matter when the Speaker was very specific? That was the day before yesterday. He said that there shall be no evictions between Tuesday night and Wednesday morning when I come to answer the questions on Kyang'ombe. We respected that. There were no instructions following yesterday about any evictions.

In any case, following separation of powers, the House will not be giving instructions to the Executive or the courts in terms of what happens. However, is he in order to mislead the House that the Speaker gave those instructions and purport to use that to institute the measures he is purporting to do?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Washiali stood on a point of order and quoted Standing Order No.97(1)(a, b, c, d and j). I would like to read it so that we can be able to move on. It reads:-

“Conduct is disorderly if the Member concerned-

- (a) creates actual disorder;
- (b) knowingly raises a false point of order;
- (c) uses or threatens violence against a Member or other person;
- (d) persists in making serious allegations without, in the Speaker’s opinion, adequate substantiation;
- (e) acts in any other way to the serious detriment of the dignity or orderly procedure of the House.

Hon. Members, the Chair rules that we will find out what transpired yesterday from the HANSARD and give directions. For the time being, we need to leave it there. The Committee will continue to carry out investigations. We will make that particular decision next time. We cannot be able to make that ruling today.

**Mr. Mungatana:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Since we are still on Statements, I am standing to request for a Statement.

**The Temporary Deputy Speaker** (Prof. Kaloki): Actually, you were to seek for a Ministerial Statement. I think you notified the Chair.

#### QUARTERLY ECONOMIC/BUDGET REVIEW REPORT

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Finance with regard to the quarterly economic and budget review report of the performance of the Budget of the first quota of the Financial Year 2011/2012.

Mr. Temporary Deputy Speaker, Sir, on Tuesday, the Minister tabled to satisfy Section 41 of the Fiscal Management Act a report on the budget quarterly review. But several things have arisen and I want specifically to seek the following clarifications from the Minister with regard to the report that he laid. I will do that on behalf of myself and on behalf of the Budget Committee.

Mr. Temporary Deputy Speaker, first, we want the Minister to explain the following issues:-

(i) Why is it that there were exceptionally high Exchequer releases to the Ministry of Education, 41.4 per cent, Ministry of East African Community, 35.6 per cent, the State Law Office, 31 per cent and Ministry of Trade, 30.6 per cent? All those agencies of Government have received over 30 per cent of the allocations within the first quota, which inexplicably means that they will most likely overshoot their budget if this trend continues. That is the first clarification we wish to seek.

(ii) Mr. Temporary Deputy Speaker, Sir, the second issue is on the non-Exchequer issue to the Ministry of State for Immigration and Registration of Persons. The Ministry has not received any resources in the first quota of the financial year, which means that there is a possibility of a change of Appropriations-in-Aid (A-in-A) that we had agreed will be collected from the Ministry, and which they may have changed into revenue. We had said here in the Budget Policy Statement that all those should be treated as part of revenue. They needed to have gone to the Consolidated Fund and be issued with revenue normally. We need a clarification on that. Are they obeying what this House passed or is the Minister doing his own things?

(iii) Mr. Temporary Deputy Speaker, Sir, most agencies have received exceptional low Exchequer issues on the development funds. We are worried that, that might lead to non-implementation of projects and programmes. It would be costly in terms of holding Government funds that have been borrowed already and interest is accumulating thus, making that money very expensive.

(iv) Mr. Temporary Deputy Speaker, Sir, we would also like the Minister to come and explain to the House the following:-

He had undertaken to keep the inflation rate within a single digit. What are the factors? Why is it that in this quarterly review, that has been disobeyed? In fact, we have gone to double digits within the first quarterly review? At the same time, we want fidelity to what we have passed in this House.

Mr. Temporary Deputy Speaker, Sir, finally, the Minister should tell this House whether he has been faithful in utilizing the funds that we have given him. If he has overdrawn any money from the Consolidated Fund which was not in the Budget, has he, in keeping with the Constitution, brought anything to Parliament under Article 243 of the Constitution for further approval?

Mr. Temporary Deputy Speaker, Sir, we want these and other issues to be clarified on the Floor of the House. That is because we want fidelity to what we passed in this House. We want him to follow what we said in this House.

Thank you.

**The Temporary Deputy Speaker** (Prof. Kaloki): All right, Minister Kimunya. You are the Deputy Leader of Government Business!

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the matters asked are quite lengthy. I will communicate to the Deputy Prime Minister and Minister for Finance to avail that information in three weeks time. So, he will have three Thursdays from today.

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, I think we need to be a bit more serious. The Deputy Leader of Government Business has been a Minister for Finance and he knows that those quarterly reports are required by this House because of the Fiscal Management Act. He knows that the explanations we are seeking are explanations within the knowledge of the Minister. If he says one week, I will understand. But when he says three weeks, he is taking the House for granted. That is because it will almost be due for the next quarterly review. Then it will make no sense. We want the Minister to explain to this country because he read the Budget here. We agreed on how the money is going to be used and we all contributed. He is now doing other things which are not making us happy. Could he come and explain to this House in one week's time?

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. You have done well. Mr. Minister, why do you think three weeks is adequate?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, I am aware that the Deputy Prime Minister and Minister for Finance is travelling on official business and he needs to be instrumental in the gathering of all the information and any other clarifications that will be required. The hon. Member may require clarifications which might not even be part of the Statement. So, he may not delegate the answers for any other clarifications as the hon. Member has requested. I would like the Minister to be here in person within three weeks time. He is going to be away for two

weeks; which now means the one week you wish to be granted. I would rather we have that.

**Mr. Mungatana:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The definition of “Minister” is not the Minister himself. It is the office and I have said that many times. We have an Assistant Minister there called hon. (Dr.) Oburu Odinga. If hon. Uhuru Kenyatta is away on official duties, the Assistant Minister can come and issue that Statement. We are not really interested in him. We are interested in the Assistant Minister for Finance and the Ministry of Finance to come and explain. Treasury can give that information. Chair, please, give a direction for these people to be serious. That is because they are not being serious.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Kimunya, you cannot do it in two weeks?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we will try to do it in two weeks from today.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Mungatana, let us live within the two weeks. I think two weeks are sufficient. Could you give that undertaking through the microphone there?

**Mr. Mungatana:** Thank you, Mr. Temporary Deputy Speaker, Sir. Two weeks is okay.

**The Temporary Deputy Speaker** (Prof. Kaloki): All right. Mr. Kimunya, let us deal with that. Hon. Mbuvi would like to seek another Statement!

## PERSONAL STATEMENT

### ALLEGED POLICE INVOLVEMENT IN DRUG DEALINGS

**Mr. Mbuvi:** Mr. Temporary Deputy Speaker, Sir, I rise under Standing Order 76 to issue a Personal Statement.

Mr. Temporary Deputy Speaker, Sir, on Tuesday 15<sup>th</sup> November, 2011, I requested for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the police involvement in drug business and killings carried out by the same police officers, to silence key witnesses who are fellow police officers. On the same day, I received a call from an unidentified caller threatening me with dire consequences for raising the matter in the House. Similarly, my spouse was equally threatened with death.

Mr. Temporary Deputy Speaker, Sir, in a closely related case to this, the *KTN* investigative journalist who runs the series *Jicho Pevu*, Mohamed Ali, was also threatened by the same people, suspected and believed to be senior police officers within the police force and the masterminds in the murders of SP. Erastus Chemorei, Police inspectors, Badi Mwajirani and Bakari Mwanguta, among other junior police officers.

Mr. Temporary Deputy Speaker, Sir, I still recall a few months ago, a bogus report on suspected drug traffickers was tabled in this House, alleging that hon. Kabogo, hon. Joho, hon. Harun Mwau, a former Assistant Minister in the Government and I, were drug dealers. Hon. Mwau voluntarily resigned to pave way for investigations to be carried out. During the same period, two other Cabinet Ministers resigned to pave way for investigation against their cases to be concluded. Now that the senior police officers,

including the Commissioner of Police, have been mentioned as suspected drug traffickers and murderers of key witnesses, and due to the public outcry and pain and tears of the families who lost their loved ones, I, therefore, appeal for the indulgence of this House and the Government, for these mentioned officers to be interdicted, in order to pave way for independent investigations to be conducted.

Mr. Temporary Deputy Speaker, Sir, last night as I left this House, I was trailed by a vehicle registration number KAC 142Q. My driver was forced to make a round lap at a roundabout in order to throw them off my trail. I would like to inform the House of this untenable situation which is an attempt at curtailing the oversight role of Parliament. I will not relent in my efforts to serve my constituents and more importantly, discharge my duties as a legislator in the august House, irrespective of how powerful these individuals involved in this criminal matter are and what they do to deter me.

Mr. Temporary Deputy Speaker, Sir, lastly, I ask the Minister in charge of Internal Security to guarantee my security and that of my family in view of these threats.

### **POINT OF ORDER**

#### **DELIBERATIONS ON COMMITTEE ON JUSTICE AND LEGAL AFFAIRS BY HBC**

**Mr. Baiya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Statement from the Leader of Government Business which he undertook to provide today, regarding the deliberations on the Committee on Justice and Legal Affairs by the House Business Committee (HBC).

**The Minister for Transport (Mr. Kimunya):** Mr. Temporary Deputy Speaker, Sir, indeed, the HBC has been deliberating on this matter. I would like to say that it is making good progress and a final decision will be made on the matter on Tuesday next week. So, I would like to seek the indulgence of the House that we have that final decision made on Tuesday and then, we can bring a comprehensive Statement on Wednesday next week, in terms of the way forward on this Committee.

**Mr. Ruto:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Deputy Leader of Government Business has been telling us about a certain Tuesday for the last six months. He has never done anything on any of the several Tuesdays that he has asked for. Where is the assurance that this other Tuesday is any different?

Mr. Temporary Deputy Speaker, Sir, notwithstanding that, would I be in order to request that the HBC, having even failed to obey Standing Order No.176, which requires that they fill vacancies within seven days--- Standing Order No.176 reads:

“A vacant position occasioned by the resignation, removal or appointment of a Member to the Government shall be filled within seven days after the National Assembly next meets.”

Mr. Temporary Deputy Speaker, Sir, this same HBC has flouted so many Standing Orders. Would I be in order to request that we actually deliberate on the usefulness of the HBC as of now? They have failed to lead Parliament, provide leadership and even defied the Speaker. The Speaker ordered them to even bring a Motion to resolve this matter just two days ago. The same HBC has actually defied the Speaker. That leadership is in question. Would I be in order to request that we actually

probably suspend any further Government business until this is done, because the same Deputy Leader of Government is referring this matter to the principals? I understand that they have referred it to the principals to resolve this matter, which means that they cannot provide leadership. How do you resolve a matter that belongs to Parliament outside Parliament?

**Mr. Kabogo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise under Standing Order No.183(1)(2)---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Kabogo! Are you dealing with the same matter?

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, I stood on a point of order.

**The Temporary Deputy Speaker** (Prof. Kaloki): Let us, first of all, conclude this particular matter and then we will come to you.

**Mr. Mungatana:** On a point of order, Mr. Temporary Deputy Speaker, Sir. On the same matter that hon. Ruto has raised, I remember very well the Speaker himself, two days ago, did say that he had approved two Motions, which were to be debated yesterday in the morning. I remember him saying that on Wednesday, they will be prioritized by the HBC and should come before the House for debate. One of those Motions was mine and we never saw it on the Order Paper. Somehow, could the HBC prioritize those Motions, because we have to resolve it? If you have not been able to resolve it there, let those Motions come here and we will resolve them. Is it in order for the HBC to defy the Speaker who ordered them to bring these Motions on Wednesday morning?

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well! Let us take two more and then hon. Kimunya will answer those particular questions and concerns.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, the House remembers that one of the parties nominating Members to this Committee withdrew the names of three Members from this Committee. In effect, that left eight Members of the Committee, including the Vice-Chairman of the Committee. We would like to find out why either the Speaker or Clerk of the National Assembly has not given clerks to this Committee of eight Members, who to my understanding of Parliamentary practice, would still be sitting legally as a Committee under the chairmanship of the Vice-Chairman, as the Acting Chairman, until such a time that this House or that Committee would find a substantive Chair.

**Ms. Karua:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it would be wrong for us to blame the clerks of Parliament. I sit in the House Business Committee. Members know that there is a power game here between the coalition partners; one partner withdrawing the Members and a decision by the House Business Committee to reconstitute but the whips unable to agree on the names. I think if we really want to resolve this, it is the two coalition partners to each give and take because the stalemate is a power game. If we cannot do it that way, then by next Wednesday, those of us in the House Business Committee, on Tuesday, we must release the Members' Motions because the leaders on both sides have been unable to resolve this. On Wednesday, then that Motion ought to come for the Members to determine the fate of the two Committees.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Midiwo, you will be the last one and then we go to the Minister!

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Dr. Khalwale said that one of the parties, and let me declare that it is ODM, withdrew three Members. That is not a statement of fact. The ODM withdrew all its Members and that fact remains. I want to agree with hon. Karua that this is a power game and it does not matter how many Motions you put here. We will end up following the Standing Orders and we will end up where we are unless the issue is resolved.

The problem which is being raised by indisciplined Members of our party cannot be brought here for discussion.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Midiwo, could you be specific on what is not in order?

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, what is not in order is the statement that ODM withdrew its Members partially. Even the Member who raised this issue has been withdrawn. He is just indisciplined. The issue of indiscipline is big in most political parties in this country. So, no matter how many Motions you attempt to bring, we will end up in the same place. I want to tell you that if a Motion found itself on the Floor of the House, ODM, officially, will not participate because we do not believe it is within the law.

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, you can now see the reason why we need, in a quiet environment of the House Business Committee, to look at all these matters one last time and provide a comprehensive solution to the House. This is because the matter is more complex than appears on the face of it. I would like to seek the indulgence of this House that we give all options a chance. There are political options, legal options and Standing Orders. However, unless we get a comprehensive way out of this, we will continue in this quagmire forever. Parliament cannot beholden forever because of all the factors at play in this matter. So, I seek, as I had earlier mentioned, that we give this matter a chance for next Tuesday during which time we will also be considering the Motions. Indeed, the Motions were considered but because of the line up of the Motions that were already ongoing, it was agreed that they be put on the line up and they may be coming sooner than later. So, that can be done on next Tuesday and the Statement can be made on Wednesday.

**Mr. Kabogo:** Mr. Speaker, Sir, I have attempted to do this severally and I hope that I will now have a chance to do it. I said that I was standing on a point of order under Standing Order No.183, (1) and (2) as read with Standing Order No.97 and Standing Order No.1. This pertains to situations where Questions have been asked by Members in this House and certain positions take by the Government on several Questions. For example, on Question No.799 which I had asked with regard to Employees of Karuri Town Council, the Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government, Mr. Nguyai, gave an undertaking to this House that in three weeks, he would consult the Attorney-General and bring the position to the House. That was on 27<sup>th</sup> April, 2011. Three weeks would have been in May but now we are in November. Equally, on Question No.838, to the Minister of State for Provincial Administration and Internal Security on Githurai Police Station, on 4<sup>th</sup> August the Minister said that he required two weeks to solve the problem and move Githurai Police Division back to Ruiru. On 4<sup>th</sup> August, two weeks would have been in mid August.

Equally, on a Question by Private Notice with regard to a child who was electrocuted at Kahawa Garrison, the Minister said that he would consult and it would take at least, two weeks to find out which amongst the Department of Defence and his Ministry would be responsible for compensation. That has not happened to date. Equally, there was a question on a sewer flowing into---

**The Temporary Deputy Speaker** (Prof. Kaloki): When was that?

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, that was on August 18<sup>th</sup>, 2011. Equally, on June, the Minister for Public Health and Sanitation undertook to liaise with the Deputy Prime Minister and Minister for Finance to find out when the Kshs1.9 billion would be available to start the sewer works and stop sewage from draining into Ruiru River. The hon. Minister, Mrs. Beth Mugo, confirmed that she would speak to the Deputy Prime Minister and Minister for Finance. To date, sewage is still flowing into Ruiru River. So, my question to the Chair is: What is that Members should do to get what Ministers have committed to the House because we do not ask these Questions just for the sake of asking Questions? We ask Questions for action to be taken. They have promised action on several dates but nothing has happened. That is our frustration as Members of the Back Bench.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir the issues raised by hon. Kabogo are genuine, very grave and need to be addressed. But unfortunately, I am sorry to say that they cannot be addressed under Standing Order No.183. This Standing Order refers only to reports of Select Committees specifically and it says:-

“(1) Within sixty days of a resolution of the House or adoption of any Report of a Select Committee---“

The Standing Order does not refer to Questions. I have similar challenges like hon. Kabogo but they go to the Implementation Committee. I am sorry this Standing Order does not refer to Questions.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, the hon. Member was not listening to me. I said 183(1) as read with (2) and as read with Standing Order No.1. So, if I cannot find shelter under Standing Order No.183, I can find shelter under Standing Order No.1.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. Mr. Deputy Leader of Government Business, the issue here is about commitment. Could you assure the House that these commitments will come to pass? Hon. Members are waiting because these issues have not been resolved.

**The Minister for Transport:** Mr. Temporary Deputy Speaker, Sir I just want to assure the House that, in the first instance, all these commitments have been made in good faith. The good faith will be maintained as far as possible. I will communicate to the various Ministers who made the commitments as raised by hon. Kabogo, and any others that have been raised, to look into the matters and expedite the actions that were promised to the House. This is because the Government is committed to carrying out its commitments. In some of the cases, in fact, actions have materialized even before the committed dates. Perhaps there is an oversight in some of these things. We will look at all the matters and ensure that the promised actions are carried out.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Kabogo, since you are very organized in the way you presented your case in this House, I would like you to sit down with the Deputy Leader of Government Business and go through that. That way,



you can do a follow up with him and he can get in touch with the relevant Ministries to make sure that commitments are made.

**Mr. Kabogo:** Mr. Temporary Deputy Speaker, Sir, I have a problem with that in that the matters that I am raising are matters for this House and not matters between hon. Kabogo and hon. Kimunya. They are commitments made to the House. We cannot talk about good faith when action was supposed to be taken in April, and now it is towards the end of the year. Can he give an undertaking to the House that those commitments will be followed?

**The Temporary Deputy Speaker** (Prof. Kaloki): Actually, the Minister stated that commitment would be there. Since you have brought up the issue so well, what we should ask the Minister to do is to make sure that commitment is discharged. He has to consult with the relevant Ministries, because there are various Ministries which are concerned and prepare a document which he can bring to the House.

Minister, when do you think you will complete this?

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, in the first instance, I concurred with the House that I would contact all the Ministries to look at all the commitments they had made and ensure that they live up to those commitments. We can give a status report on those commitments within two weeks.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Kabogo, I still want you to stay on it to make sure that those commitments are implemented.

**Mr. Kabogo:** I am much obliged, Mr. Temporary Deputy Speaker, Sir.

**Mr. Ruto:** On a point of order, Mr. Temporary Deputy Speaker, Sir. As a matter of procedure, I was wondering whether it is in order to suggest that matters that are a property of the House can become matters that are a property of hon. Kabogo. There was a suggestion from the Chair to that effect, which is contrary to the Standing Orders, even though the suggestion is from the Chair.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order, hon. Ruto! Hon. Kabogo was the one who came up with the issue and it is for him to make sure that he continues to own the process. Otherwise, we know very well that this matter is a property of the House, and that the Minister made that particular undertaking.

Hon. Kimunya, do you have a Statement?

## MINISTERIAL STATEMENT

### BUSINESS FOR THE WEEK COMMENCING 22<sup>ND</sup> NOVEMBER, 2011

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to make a Statement regarding the Business for next week, pursuant to the provisions of Standing Order No.36(4).

Mr. Temporary Deputy Speaker, Sir, next week, we expect the House to deliberate on the following Bills, which are currently in the Second Reading stage.

1. The Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011
2. The Ratification of Treaties Bill, Bill No.28 of 2011
3. The Cancer Prevention Bill, Bill No.47 of 2011
4. The Consumer Protection Bill, Bill No.50 of 2011

Mr. Temporary Deputy Speaker, Sir, the following Bills will also be considered at the Committee of the whole House Stage.

1. The Malaria Bill, Bill No.8 of 2011
2. The Engineers Bill, Bill No.25 of 2011

Mr. Temporary Deputy Speaker, Sir, the House will also consider the following Motions, which are ongoing.

1. A Motion by hon. Ekwe Ethuro to the Ministry of Water and Irrigation, urging the Ministry to allocate 10 per cent of its budget to all constituencies in equal proportion and another 10 per cent of its budget to all constituencies in northern Kenya and ASAL constituencies.

2. A Motion by hon. Maina Kamau to the Ministry of Education, urging the Government to ensure that at least 75 per cent of all qualified students are admitted to the regular programmes in the public universities in the year 2011.

3. Continuation of debate on the Motion by hon. Ababu Namwamba that began on Wednesday to the Ministry of Agriculture, urging it to urgently avail a grant of Kshs2 billion to the Agricultural Finance Corporation as bad loans portfolio to enable the AFC provide appropriate relief to both crop and livestock farmers in all the 47 counties adversely affected by the prolonged drought in the country.

Mr. Temporary Deputy Speaker, Sir, the House Business Committee will be meeting on Tuesday, 22<sup>nd</sup> November, to consider business for the rest of the week, including all the other Motions that may need to be prioritised, as earlier indicated.

Thank you.

**The Temporary Deputy Speaker** (Prof. Kaloki): Next Order.

## MOTIONS

APPOINTMENT OF HON. WILSON MWOTINY  
LITOLE AS MEMBER OF PARLIAMENTARY  
SERVICE COMMISSION

**The Minister for Transport** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of Section 45B(1)(e) of the former Constitution as saved by Section 3(2) of the Sixth Schedule to the Constitution, this House appoints the Hon. Wilson Mwotiny Litole, M.P. to serve as a Member of the Parliamentary Service Commission.

Hon. Members will recall that hon. Murgor who served in the Parliamentary Service Commission (PSC), has since been appointed an Assistant Minister, thus creating a vacancy in the PSC. The party that had nominated him has given the name of hon. Litole as a replacement, which was considered by the House Business Committee and approved, and this name is hereby submitted to this House for final approval. I believe that hon. Litole has the capacity to serve hon. Members in the PSC and we submit his name to the House for approval.

With those remarks, I beg to move and request hon. Mudavadi to second the Motion.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I second.

*(Question proposed)*

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, hon. Litole has been a career civil servant and a very progressive Member of Parliament. I, therefore, support the Motion.

**The Assistant Minister for Lands** (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, I support the appointment of hon. Wilson Litole, hoping that he is going to be a trade unionist for this Parliament given the fact that the current Commissioners do not defend Members of Parliament. I hope he will bring new life into the Commission.

*(Question put and agreed to)*

ADOPTION OF REPORT ON NOMINATION OF CHAIRPERSON  
AND MEMBERS OF THE NATIONAL GENDER/  
EQUALITY COMMISSION

THAT, pursuant to Section 11 of the National Gender and Equality Commission Act, 2011, this House approves the Report of the Departmental Committee on Labour and Social Welfare on the nomination of the Chairperson and Members of the National Gender and Equality Commission laid on the Table of the House on Tuesday, 8th November, 2011 subject to deletion of the recommendations under paragraph 7.2 (page 13) of the report and inserting the words “that the House approves the nomination of Ms. Winfred Osimbo Lichuma as Chairperson of the National Gender and Equality Commission” in place thereof.

*(Mr. Kivuti on 16.11.2011)*

*(Resumption of Debate interrupted on 16.11. 2011)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Lenny Kivuti, you have an additional 19 minutes to reply.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I stand here to speak on behalf of the Departmental Committee on Labour and Social Services, which is a Committee of this august House. The matter which is actually crucial for the decision of this House involves constitutional appointments. It involves issues which touch on--- I do not want to use the word “tribal”. I would rather use “ethnic” and “regional balancing”.

Mr. Temporary Deputy Speaker, Sir, I am not actually complaining about the speed at which this Motion has moved, considering that last week on Thursday, I moved this Motion and it was seconded by Mr. Keter. Immediately after that, an amendment was moved and it changed the Motion and negated the spirit in which I had moved the Report of the Committee.

I would have wished to listen to many more hon. Members discussing the issue of ethnicity in this House and how we will be dealing with such matters in the future. This did not see the light of day, but at the same time---

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. With all due respect to the Committee and more respect to the Chair, are we debating the issue of ethnicity or their Report? the reason why I am taking serious exception to this is that the person who is likely to be the beneficiary not only comes from Ikolomani, but also comes from my community. Does it mean that when you want to identify the first chair of a commission who happens to come from my community and constituency, then it becomes an ethnic issue? Is he in order?

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Khalwale, there is nothing out of order there.

Proceed, Mr. Kivuti.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I hope to be given time. I will be able to answer Dr. Khalwale appropriately because I am making my submission.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The issue of what needs to be done at the stage where we have reached with this Motion is governed by the Standing Orders. Yesterday afternoon, just before the House rose, the Chair asked Mr. Kivuti to respond as required by Standing Order No.86. The question was put yesterday and when he started to respond; time ran out and we were asked to resume debate today, this afternoon. Today, all that Mr. Kivuti can do is to comply strictly with what Standing Order No.86(1) says. If you allow me I will quote the last sentence very quickly, it states as follows:-

“---if the Mover does not wish to reply, immediately, the Speaker shall put the question.”

So, either he replies or he declines to reply and we put the question. Nothing else.

**The Temporary Deputy Speaker** (Prof. Kaloki): That is exactly what Mr. Kivuti is doing.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I am replying to the issues which were raised.

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe the two hon. Members of Parliament agree that they did not have a chance to debate.

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Mr. Kivuti.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, yesterday I was called upon to reply and noted, *inter alia*, that our Committee's recommendation was mutilated and changed substantially. I have the following few comments to make in submission.

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir!

**Mr. Kivuti:** Under the circumstances, and before we go to vote, I would like to pose the following two issues. One---

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to thank you.

With tremendous respect to my friend Mr. Kivuti, a committee is an organ of this House. The Committee made its recommendations to this House. The House considered, amended and disposed of the amendment. Is it in order for the chairman to drag this House into a fresh debate?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Ogindo, what exactly do you want the hon. Member to do? He is responding.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I am not amending---

**The Temporary Deputy Speaker** (Prof. Kaloki): Hold on, Mr. Kivuti.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, what I would have expected---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! You cannot expect the hon. Member to read your mind on a particular issue---

**Mr. Ogindo:** But that was your question!

**The Temporary Deputy Speaker** (Prof. Kaloki): I think you are getting what I am telling you Mr. Ogindo.

Proceed, Mr. Kivuti.

**Mr. Kivuti:** Mr. Temporary Deputy Speaker, Sir, I would have finished by now.

I have no objections to the amendments to the Motion. However, I want to put to this House three or four issues which may be of use when the Chair puts the House to vote.

First, do the four candidates, who were numbered one up to four, qualify to be of Luhya ethnicity?

*[The Temporary Deputy Speaker  
(Prof. Kaloki) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, this question is to be addressed in view of the fact that our Committee found information which was not correct, and which we believe the two principals used to address the matter. For this reason, we are concerned that we need to uphold the constitutional rights as provided in Article 27(4) of the Constitution. It clearly states that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress or language or birth.

There is also need for the interviewing panels in the future to bring up the issue of ethnicity even before the interviews take place. In case, if some ethnic groups have to be discredited, they should not even be called for interview.

Finally, we need to include all the 42 tribes in the tribal balance when ethnicity is being considered, particularly the minority tribes. We should also follow Article 56 of the Constitution.

The changed Motion negates what we had considered as fairness in the whole exercise. Now that this Report has been changed substantially and is completely different from what we had proposed earlier, I move that this Report be rejected by this House.

I beg to move.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! Standing Order No.60 (1) provides for a Division.

It states:-

“The Speaker shall direct a Division to be taken if a Member claims a Division”

I did not hear anybody claim it but I assume that by standing up, you are claiming it, and as per paragraph (a)-

“(a) the Speaker considers that there is reasonable doubt as to the outcome of the vote in question; or---”

Of course, the Chair has no doubt and;

“(b) if, on a question other than a question of procedure, twenty or more further Members rise in their places to support the Member claiming the Division”.

Part (b) provides that on a question other than a question of procedure, twenty or more further Members rise in their places to support the Member claiming the Division. I have certified from the Clerk-at-the-Table that the Members standing were 17. So, you did not get the requisite number to merit a Division. So, the vote is carried.

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The debate that has just ended was so keenly awaited by Members. I just wanted to applaud the camaraderie among the Luhyia Members. Even the ones who never come to Parliament have shown up today.

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Members! The Chief Whip, hon. Midiwo, is completely---

**Hon. Members:** Out of order!

**The Temporary Deputy Speaker** (Mr. Ethuro): He is not only out of order, but out of tongue. This Motion has been carried. So, we should have called the next Order. I thought you were on another matter. In any case, who made you the custodian of the roll call of Members of Parliament?

Next Order!

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

*[Mr. Deputy Speaker took the Chair]*

ADOPTION OF PSC REPORT ON SENATE NOMINEES TO SALARIES/  
REMUNERATION COMMISSION

**Mr. Olago:** Mr. Deputy Speaker, Sir, on behalf of the Chairperson of the Parliamentary Service Commission (PSC), I rise to move the following Motion.

THAT, this House adopts the Report of the Parliamentary Service Commission on the Nomination of Mr. Jason A.N. Namasake and Ms. Mariamu El-Maaway as Nominees of the Senate to the Salaries and

Remuneration Commission, pursuant to Article 230(2)(b)(vii) of the Constitution as read with Section 11 of the Sixth Schedule to the Constitution and Sections 6 and 7 of the Salaries and Remuneration Commission Act, 2011 (Act No. 10 of 2011), laid on the Table of the House on Thursday, 10th November, 2011.

The Salaries and Remuneration Commission is established under Article 230 of the Constitution of Kenya, 2010, and the powers and functions to be exercised by it are two, one, set and regularly review the remuneration and benefits of all State offices and two, advise the national and county governments on the remuneration and benefits of all other public officers. The Salaries and Remuneration Commission shall, therefore, play a crucial role as far as the emoluments of all persons who work for the public are concerned. Allow me to recite Article 230(2)(b) of the Constitution of Kenya, 2010, which provides that the Salaries and Remuneration Commission shall consist of one person each nominated by the following bodies:- The Parliamentary Service Commission, the Public Service Commission, the Judicial Service Commission, the Teachers Service Commission, the National Police Service Commission, the Defence Council, the Senate on behalf of the county governments and one person each nominated by an umbrella body representing trade unions, one person nominated by an umbrella body representing employers, one person nominated by a joint forum of professional bodies, one person each nominated by the Cabinet Secretary responsible for finance, one person nominated by the Attorney-General and one person who has experience in the management of human resources in public service nominated by the Cabinet Secretary responsible for Public Service.

Mr. Deputy Speaker, Sir, the persons nominated by the Attorney-General and the Cabinet Secretary responsible for finance have no vote in the Commission. However, Section 7 of the Remuneration Act provides for the procedure for nomination of persons pursuant to Article 230 of the Constitution of Kenya; it provides that the relevant nominating body shall by advertisement in at least two local daily newspapers of national circulation invite applications from persons who qualify for nomination under the Constitution and the Act for nomination of members of the Commission.

The relevant nominating body shall, therefore, consider the applications received to determine their compliance with the law and the Constitution. It will interview the applicants and forward their names to the Cabinet Secretary for onward transmission to His Excellency the President. The President, after consultation with the Prime Minister, shall then nominate one person from each nominating body.

As hon. Members are aware, the Parliamentary Service Commission is established under Section 45B of the former Constitution of Kenya as saved by Section 3(2) of the Sixth Schedule of the new Constitution. The Commission is re-established by Article 127 of the current Constitution and is responsible for the provision of services and facilities as are necessary for the effective and efficient functioning of Parliament. It is responsible for the carrying out of such actions as may be necessary for the wellbeing of the Members and staff of Parliament. Pursuant to this mandate, a person nominated to serve in the Salaries and Remuneration Commission by the PSC shall be a person who is invited by application in the Press and whose name shall be forwarded to the cabinet Secretary as per the law.

I am glad to tell the House that as far as the nominees of the Parliamentary Service Commission (PSC) are concerned – these are not subject to approval by this House - the PSC has nominated two names to his Excellency the President, namely hon. Oloo Aringo, EGH and Ms. Irene Njeri Wanyoike. These will not be subject to debate by the House. That leaves the nominees of the Senate on behalf of the county governments to the Salaries and Remuneration Commission to be dealt with by the House. There is currently no senate yet the Constitution provides that the Salaries and Remuneration Commission shall include one person to represent the Senate on behalf of the county governments.

What then happens in the interim as we await the Senate? The solution to this quandary is to be found at Section 11 of the Sixth Schedule of the Constitution of Kenya, 2010. This transitional clause on the Senate provides:-

(1) Until the first Senate has been elected under this Constitution—

(a) the functions of the Senate shall be exercised by the National Assembly;”

Section 11 (2) of the Sixth Schedule fortifies this by stipulating:-

(2) Any function or power of the Senate shall, if performed or exercised by the National Assembly before the date contemplated in subsection (1), be deemed to have been duly performed or exercised by the Senate.”

Therefore, the National Assembly is today the proper body to nominate the person on behalf of the Senate to be a member of that Commission.

The PSC is the organ of the National Assembly responsible for matters concerning remuneration and benefits of the Members of the National Assembly. The Commission has played its role as a Committee of this House in considering applications and interviewing candidates for nomination to the membership of the Salaries and Remuneration Commission on behalf of the National Assembly which, in turn, is acting on behalf of the yet to be established Senate.

Mr. Deputy Speaker, Sir, the Commissioners considered the curriculum vitae of each applicant, scrutinized the original academic qualifications and testimonials and carried out interviews on the basis of the following areas as provided by the law. These were academic qualifications, additional knowledge in either finance or administration, public administration, economics, human resource management or labour laws. Relevant work experience in either finance or administration, public administration, economics, human resource or labour, distinguished work career, understanding of the Constitution, Powers and functions of the Senate and county governments, the role of the Salaries and Remuneration Commission, leadership and management skills, extent to which the candidate meets the requirements of Chapter Six on values, leadership and integrity; personal attributes such as decisiveness, confidence, self awareness, honesty, accountability, discipline, commitment, communication skills, interpersonal skills and understanding of group dynamics.

Mr. Deputy Speaker, Sir, the top male candidate was Mr. Jason A.N. Namasake and he is recommended to be the nominee of the Senate to the Salaries and Remuneration Commission. When it came to the female candidate, Ms. Mariamu El-Maaway scored the third-highest marks. The Commissioners, however, noted that during the interviews, Ms. Mariamu El-Maaway had more training, more exposure and leadership skills than the top female candidate, which was Ms. Sarafina Kathurima, and she was generally better



placed to articulate the concerns of the Senate on behalf of the county governments at the Salaries and Remuneration Commission.

The second placed female candidate was Irene Njeri Wanyoike, who has already been recommended as the female nominee of the PSC and is, therefore, not eligible to again be nominated as a nominee of the Senate.

Mr. Deputy Speaker, Sir, the Parliamentary Service Commission believes that the two, Mr. Jason A.N. Namasake and Ms. Mariamu El-Maaway are the best placed applicants to represent the Senate on behalf of the county governments on the Salaries and Remuneration Commission.

With those remarks, I beg to move that pursuant to Article 230(2)(b)(vii) of the Constitution of Kenya, 2010, and Section 7(1)(2) of the Salaries and Remuneration Commission Act, 2011, this House approves Mr. Jason A.N. Namasake and Ms. Mariamu El-Maaway to be the nominees of the Senate on behalf of the county governments to the Salaries and Remuneration Commission.

Mr. Deputy Speaker, Sir, I have the honour to request that hon. Chris Okemo seconds this Motion.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I wish to second the Motion; just to emphasize that we, as much as possible, went strictly by the provisions of the Constitution and provisions of the Salaries and Remuneration Commission Act. In doing so, we went through a very thorough interview exercise, and I can assure you that the best candidates are the candidates that we have proposed for nomination.

Mr. Deputy Speaker, Sir, we took into account not just the merit or the performance; but we also took into account the issue of regional balance. If you look at the four candidates, you will find that they represent four different regions.

Mr. Deputy Speaker, Sir, I therefore second the Motion and I would like to request my colleagues to approve the Motion as proposed.

*(Question proposed)*

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Deputy Speaker, Sir. In supporting this Motion, I wish to indicate that even though the nominees are not personally known to me, I want to agree with the Commission in relation to the reasons that they have given.

One of the things I want to comment on is what the Seconder spoke to, that they took into account the issue of regional balance. One of the things I want to indicate in relation to that is that the Constitution provides that in every nomination, we shall take into account regional and ethnic balance.

Mr. Deputy Speaker, Sir, I want to indicate that as Members of Parliament, we must internalize what that means. Even though the Constitution does not define what a region means, we must either come up with a law that defines what a region is, or we must start thinking what constitutes a region.

Broadly, we still think of regions as provinces, so that when we appoint people we go by provinces. The Constitution provides for counties. Therefore, when we do nominations you will hear Members complaining that their counties have not been considered.

Mr. Deputy Speaker, Sir, in the nomination to another commission, one of the major issues of concern that was raised in relation to the nomination of Winnie Lichuma

was the same issue. Hon. Members must be clear that even when there are nominations to be done that cover the old Western Province, there are counties and there must be a balance. I think what the Principals were trying to do in jumping from number one to number four, which was jumping from the person who was number one, whom I think was Ms Maria Nzomo in the list for the Chair to Winnie, who was number four, was to ensure that a county that had hitherto not had somebody was represented.

However, I would advise the Principals that whenever that kind of situation arises, there must be a memorandum or some written explanation to Parliament, so that we do not see the kind of questions that were being asked, and that has made people start wondering whether there is a problem with Winnie Lichuma when there is no problem with her. She was my classmate. She is a lawyer and she is very competent.

Mr. Deputy Speaker, Sir, I want to speak again to the issue of ethnic balancing that is also provided for in the Constitution. When we come to this House, many people say that we should not take into account issues of ethnicity. However, we are the ones who took that into account and put it in the Constitution. The reason we did this was so that we must take into account all ethnic communities in Kenya. We must be alive to the fact that there are certain ethnic communities that are more populous than others. Therefore, in appointments, there must be some level of equality while we take into account equity. We must recognize that there are populous and minority communities. We must also recognize that while we should give opportunities to the majority communities, we must also take into account the smaller communities. We may not take into the smaller communities in the same measure, but we must now and again take them into account.

That is why, for instance, in the boundaries commission, even though there was a Luo who did very well and was ahead, the person who was taken was a Kuria. That is why even in a past commission, the lady who was number one and was a Luo, Dr. Odhiambo of Egerton University, with 80 marks was not taken. The second person who had 69 per cent came from Meru and was taken. It is a sacrifice that we must be prepared to pay as a country for purposes of unity.

With those few remarks, I support.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, I will also be very brief on this Motion. Let me start by thanking the Mover of the Motion, and note with appreciation the two nominees.

We note that Jason Namasake is a very highly experienced person. He has served the International Labour Organization (ILO) for 30 years. That is very serious commitment to international duty. We also note that Jason is also a dispute resolution specialist. This person is going to bring a lot of experience to the Commission. We also note that he has been chosen by the employers' association in Kenya to represent their interests on safety and rights. We also note that this person scored very highly, 78 marks, meaning that this person will give very satisfactory service to the Commission.

Concerning the second nominee, Mariamu, this is a relatively young educationist. She has gone through local universities, where she acquired relevant education. She was able to impress the interviewing Commission; I think service, diligence and patriotism will take this country far.

Mr. Deputy Speaker, Sir, with those few critical observations, I fully support the nomination of these two personalities.

**Mr. Deputy Speaker:** I now call upon the Mover to reply.

**Mr. Olago:** Mr. Deputy Speaker, Sir, I wish to thank the Members of the House for supporting these nominations, and I beg to move that they be accepted.

*(Question put and agreed to)*

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

ADOPTION OF SELECT COMMITTEE  
REPORT ON COST OF LIVING

THAT, this House adopts the report of the Parliamentary Select Committee on Cost of Living laid on the Table of the House on Tuesday October 25, 2011.

**Mr. Deputy Speaker:** It clearly looks like the Committee is not ready today to move this Motion!

*(Motion deferred)*

Next order!

ADOPTION OF REPORT ON GRAINS  
DISCHARGED AT MOMBASA PORT

**Mr. Okemo:** Mr. Deputy Speaker, Sir, the Committee on Finance, Planning and Trade held several meetings to interrogate the operations at the Kenya Ports Authority (KPA) and various berths that deal with grain bulk handling. We came up with the finding that berths three and four were dedicated to grain bulk handling.

Prior to 1998, these activities were carried out by the Kenya Ports Authority (KPA) itself---

**Mr. Deputy Speaker:** Order, Mr. Chris Okemo! The tradition, which the Chair wants to assume that you are well acquainted with, is that you read the Motion verbatim, or as it appears on the Order Paper, first of all. You then proceed and give your argument.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I think I was very eager to get on with it, and forgot the procedure. I would like to seek your indulgence.

Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on grains discharged at the Port of Mombasa laid on the Table of the House on Wednesday 17th August, 2011.

Mr. Deputy Speaker, Sir, as I had stated earlier that we had several interviews with both the parent Ministry, which is the Ministry of Transport, and also the Management of the KPA. Out of those deliberations, we established that, indeed, facilities as they exist today at the Port of Mombasa are not adequate to accommodate a second bulk handler.

So, because of that, the first handlers, who had an agreement with the Kenya Ports Authority (KPA) and Grain Bulk Handlers Limited, had a monopoly. We know that it is much better to have competition; we should have two or more people competing. This reduces the cost of doing business, which is beneficial to the consumer. Unfortunately, because of technical problems and restricted facilities, only one handler can be accommodated. That handler was using both Berth 3 and Berth 4, where they have put up discharge facilities which are for grain bulk handling. Those facilities are much more efficient than when KPA, itself, was dealing with the activity. At the moment, they are able to handle about 1,000 metric tonnes of grain per hour. Therefore, they are able to do a fairly quick vessel turnaround; this minimizes demurrage costs and, therefore, leads to lower price for the end product.

Mr. Temporary Deputy Speaker, Sir, our observation was that, because of this, the Government, in conjunction with the KPA, when they will have the new facilities proposed to be developed at Dongo Kundu, should make facilities available to accommodate more than one handler. More importantly, the Government should also make facilities available for fertilizer handling. All that will go into reducing the cost of food and grain that will be imported through the port.

Mr. Temporary Deputy Speaker, Sir, the beauty of the current facilities is that they can be adapted overnight. If, tomorrow, we are food sufficient and we are not importing food and, instead, we have a surplus, those facilities are capable of being converted immediately into export handling facilities. That is the beauty of it. Therefore, we recommend that for the time being, we have the current handler, who should try and operate at the best efficient level, even though he is only operating at 48 to 49 per cent capacity. That is one reason why it would not make much sense if he is only operating at 48 to 49 per cent to introduce a second handler. It will not help the situation. In fact, it would be wasteful competition.

Therefore, we are recommending, as a committee, that the current handler continues operating with the facilities he has and that when other facilities are available both at Dongo Kundu and the proposed Lamu port, things be reorganized to ensure that there will be no monopoly. One person, or entity, should not be given more than one licence; others can also have the opportunity to operate there. That will lead to competition and to lower costs of doing business.

Mr. Temporary Deputy Speaker, Sir, we also think that it is not a good idea to have what you would call a vertical monopoly. A vertical monopoly means that you are an importer, handler, miller, wholesaler and retailer. That is a very dangerous kind of monopoly to have. Therefore, we say that anybody who is doing one of those activities should not be given a licence to deal with a second activity. Horizontal monopolies are also not allowed, meaning that the same handler at the current facilities should not be given a licence to operate in Lamu or Dongo Kundu, when facilities become available there.

Mr. Deputy Speaker, Sir, with those few remarks, I would like to move that the Report be adopted. Before I do that, I would like to take the opportunity to thank all the members of my committee who spent a lot of time and made a lot of efforts to put together this report.

With those remarks, I beg to move and ask Prof. Kaloki to second.

**Prof. Kaloki:** Mr. Deputy Speaker, Sir, I rise to second this Motion for the simple reason that the Committee did investigate the matter pertaining to the grain handling facility and the capacity of the company that does grain handling at the Port of Mombasa.

Mr. Deputy Speaker, Sir, I support this Motion because the capacity at the existing facility is very limited. We found that there was congestion at the facility. We concluded that rather than putting more players into an existing facility, it would be wise for the Kenya Ports Authority to establish other berths in Mombasa and elsewhere, for example at Dongo Kundu and Lamu, where additional players can establish grain discharging facilities.

Mr. Deputy Speaker, Sir, the cost of food is high because of having few players at the Port of Mombasa. Therefore, more players can come in and discharge grain from the ships that bring food into the country. Our recommendation is that if we have additional players entering the market and discharging grain, that will cut the cost of food and doing business.

Mr. Deputy Speaker, Sir, I beg to second this particular Motion.

*(Question proposed)*

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I rise to support the Motion for the adoption of this Report.

Mr. Deputy Speaker, Sir, it has been a matter of great concern that we have had a monopoly at the Port of Mombasa, in a very crucial activity, namely the handling of grain; this country has had this situation for many years. For many years, we have looked at the Indian Ocean and expected grain to come through importation to fill the deficit that we have had over the years. When you visit Mombasa you learn that the story of this monopoly has been deliberated on a lot. We are happy that the Government is finally making efforts to make create room at Dongo Kundu. There has been a proposal to do this since the KANU regime of President Moi and even after President Kibaki took over leadership. Every President who has visited Coast Province has in his speech mentioned Dongo Kundu. We do hope that one day the Dongo Kundu project will become a reality, and will open up this area. We also hope that the Lamu Port will become a reality.

The recommendation of this Committee is that when these two areas open up, we should have competition by allowing in participants other than those who have been handling grain at the Port of Mombasa. Competition is healthy for the nation. We do remember the days when we only had the Voice of Kenya (VoK), that monopolized the airwaves. When we look at our country today, it will be unbelievable for the next generation to be told that, at one point, there was only one television station that monopolized our airwaves.

Having opened up our borders, we believe that it is possible in future an activity as crucial as grain handling to be opened up for competition. We do look forward, as a country, to the day when we will not be handling grain from other countries in our country. We look forward to the day when, as a country, we will remove Kenya from the list of food insecure nations of the world. This is because we are capable producing enough and we have the potential.

God has blessed this country immensely with good rains and fertile land. The farmers of this country are capable of producing not just enough to feed this nation, but to

export and feed other nations of the African Continent and beyond. We hope that the day will come when the grain handling facilities will be used to export grains to other countries.

We also hope that the Government will do something towards implementing a resolution of this House that we passed when I brought a Motion for the establishment of a fertilizer factory in this country. We know that due to the delays at the Port of Mombasa, farmers have not been able to access inputs at the right time. Because of the threat of piracy in the Indian Ocean and the Gulf of Aden, we have had serious delays in the importation of fertilizer, and even the importation of grains through this port. We hope that the Government will keep its promise.

As somebody mentioned, those concerned are already carrying out feasibility studies for the establishment of a fertilizer factory in this country. We will have a fertilizer factory established. We already have a seed company, the Kenya Seed Company, that produces the best seed in Africa and supplies seed to Tanzania, Uganda and other countries in the East African region. We hope that with the establishment of the fertilizer factory, and since now we have a seed company in Kenya, we will use not just the Port of Mombasa and the facility at the Grain Bulk Handling Company in Mombasa, but also the proposed Dongo Kundu and Lamu Port projects; we will be able to use these ports to export grain to other countries; that is the desire of many in this nation.

With those many remarks, I beg to support.

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I rise to support the Committee's Report. I thank the Departmental Committee on Finance, Planning and Trade for the work they have done in looking at the matter at the port that has caused unnecessary tension in terms of the way operations have been taking place at the port. For once, we have a comprehensive report done by a Committee of this House that has taken time and interviewed all the players, been to the site and focused on getting to the issues and helping the House and the country in terms of making decisions as we move forward.

Let me say that we are very fortunate at the Port of Mombasa in terms of the growth that we are seeing. Even in the face of the global recession and reduction in activities in all the other ports, the Port of Mombasa has been registering growth. As of last year, we handled up to 19.1 million tones of commodities. The growth is projected to increase partly because of the growth in our neighbouring countries like Uganda, Sudan, the opportunities in Eastern DRC, Rwanda, Burundi, Northern Tanzania and all the other countries that we serve. Obviously, we are responding to all these challenges through further expansion of the port. I am sure that when the Committee visited the Port, they observed the expansion we are doing at Berth No.19 in terms of the second container terminal. The contractor has been identified and is currently mobilizing to start works of expanding our Port to cope with increased demand in the future. Obviously, with the strategic decision to build a second port at Lamu--- We will open up a free port at Dongo Kundu.

Mr. Deputy Speaker, Sir, all these things come with challenges. One of the challenges that we have had at the port is: What do you do as you expand all these facilities? Do you still continue with business as usual in terms of having all the old and new operations performed by the Kenya Ports Authority (KPA)? Is it not time to start opening up on a progressive basis for other players to come and do what they do best at

the port, while the KPA management is left with the core job of developing ports. It should not be bogged down by the day-to-day management and labour issues. It should deal with the bigger picture of development, so that we can become a port worth talking about, and be like other ports in the rest of the world?

In terms of efficiency, the Bulk Grain Handling Company has proved that, that is the way to go. I want to give an example. I believe that the Committee has noted this. Just recently, we had some importation of fertilizer and, because of the way it was packaged in the ship, it had to be handled manually. It took over two months to off-load that fertilizer. From the time the ship docked to the time the fertilizer got to the farmer, we may well have missed the opportunity for the farmer to use it for the season because of the way it was handled. This was because we do not have the equivalent off-loading facility for fertilizer similar to that for grains.

Mr. Temporary Deputy Speaker, Sir, we have accepted this challenge and I am happy to note that one of the Committee's recommendations is that we should be talking the current fertilizer licensee and work out a situation where they either put it into use within the 112 months or we have it revoked. It may well be that the licensee is willing but, perhaps, the politics around the port have not facilitated the licensee to actually operationalise the facility, so that the fertilizer can get to the farmers when they need it and at reduced costs.

However, this is something we have taken on board. We have already written to the KPA management and told them to start putting in place a mechanism to advertise for the entire fertilizer handling as a business. Although grain handling is one of the options, people may well come up with new technologies on how to handle fertilizer, so that next year we do not have a situation where the KTDA, and other organizations, import fertilizer, it comes to the port and occupies a berth for a whole month as farmers are wait for it. By the time they access it, the rains have gone. This is the kind of situation we want to avoid.

Mr. Temporary Deputy Speaker, Sir, I am glad that the Committee concurs with us. We should work together, so that we can get alternative ways of bringing in fertilizer. As and when we set up our own factories to produce fertilizers, we will reconvert the facility to export our fertilizer.

Let me also mention that in our development of the Lamu Port, we are thinking of starting with the first three berths – a container berth, a general cargo berth and a bulk cargo berth. I am happy that the Committee has picked this up. Part of our discussions with Ethiopia is to do with the need to open up the entire southern Ethiopia. If you look at all that area, from Moyale to Addis Ababa, it is very rich in terms of sugar plantations. The Government of Ethiopia has a bigger possibility of expanding sugar plantation in that area; there all the water and the right terrain. All the sugar produced there will be exported through the Port of Lamu. So, we know that the Lamu will target that area and will also handle our imports.

Mr. Temporary Deputy Speaker, Sir, therefore, I am very happy that we concur with the Committee. I would like to urge the Committee to share their experiences with other Members of the House, so that they can appreciate what is happening at the port, in terms of all the complexities we are facing; in this way we can work out solutions together. I am happy that this is one occasion when we have worked with the Committee and come up with solutions that are good for this country.

With those words, I beg to support.

**Mr. Ogindo:** Mr. Deputy Speaker, Sir, I rise to support the Report. However, allow me to make one or two observations. I want to start by saying that sometime in 2008 this House passed a Sessional Paper that was to give Kenya Ports Authority (KPA) a guarantee to borrow money for the expansion and the dredging of the Port. There is very slow work in that direction---

**The Minister for Transport** (Mr. Kimunya): It is on schedule.

**Mr. Ogindo:** Mr. Deputy Speaker, Sir, the Minister is confirming to me that it is on schedule. I want to congratulate him for that. But the point here is that we want the port expanded, so that the movement of goods there can be expedited.

With the recommendation of the Committee, it is just imperative that competition be introduced for the benefit of the consumers, the majority of whom are Kenyans. The Ministry could also consider opening other ports on the build, operate and transfer (BOT) arrangement, so that goods can flow in and out of Kenya expeditiously.

I beg to support.

**Mr. Deputy Speaker:** Could the Mover reply

**Mr. Okemo:** Mr. Temporary Deputy Speaker, Sir, I wish to thank my colleagues for supporting this Motion. I am sure it will go a long way in improving the activities in the Mombasa port; we particularly look forward to the initiation of the Dongo Kundu and the Lamu Port projects. I hope that a mechanism will be put in place to ensure that there will be fair competition and many more players in this area.

With those few remarks, I beg to move.

*(Question put and agreed to)*

## **BILL**

### *Second Reading*

#### THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I beg to move that the Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011 be read a Second Time.

This Bill is a proposal for the amendment of the Procurement Act. It is in line with the provisions of Article 55 of the Constitution of Kenya, which provides that the State shall take measures, including affirmative action programmes, to ensure that the youth have opportunities to participate in the political, social and economic spheres of life of this great nation. Affirmative action has been defined in the interpretation part of the Constitution. Affirmative action as defined in the interpretation part includes any measure designed to overcome or ameliorate an inequity, or the systematic denial or infringement of a right or fundamental freedom. Under this Article, for the first time, our Constitution has recognized the young people of this great nation.

## **ADJOURNMENT**



**Mr. Deputy Speaker:** Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until 22<sup>nd</sup> November, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.