

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 3rd October, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Hon. Members, I have two communications to make.

ASSENT TO BILLS

Mr. Speaker: Hon. Members, this is in regard to returns on Bills received from the Attorney-General pursuant to the Standing Orders.

Standing Order No.125 requires the Attorney-General to present to the President within 14 days of receipt from the Clerk, every Bill passed by this House. Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return to the Speaker, indicating the time and the date that the Bill was presented to the President. The returns now received indicate that the Kenya School of Law Bill (2012) and the Legal Education Bill (2012) which were both passed by the National Assembly on 28th August, 2012 were presented by the Attorney-General to His Excellency the President for assent and that, they were duly assented to on the 21st September, 2012 at 12.00 noon.

I thank you.

NOMINATION OF MRS. YATTANI TO THE NATIONAL GENDER AND EQUALITY COMMISSION

Hon. Members, in a letter Ref. OP/CAB.3/75A dated 28th September, 2012 from the Permanent Secretary and Secretary to the Cabinet and Acting Head of the Public Service, the National Assembly has been advised that His Excellency the President in consultation with the Rt. hon. Prime Minister has nominated Mrs. Gumato Uku Yattani as a member to the National Gender and Equality Commission.

Hon. Members, I direct that the name and accompanying curriculum vitae of the nominee, together with the report of the selection panel including the score sheet, be forwarded to the Departmental Committee on Labour and Social Welfare for consideration prior to approval by the House. The Committee is subsequently hereby directed to table its report on or before the 16th October, 2012. I thank you.

Next order!

QUESTIONS BY PRIVATE NOTICE

REPATRIATION OF MS. LILIAN NYAMBURA FROM SAUDI ARABIA

(Capt. Wambugu) to ask the Minister for Foreign Affairs:-

(a) Is the Minister aware that the remains of Ms. Esther Muthoni Ngarega (Passport No. A1746327) who died in Saudi Arabia three (3) months ago have not been transported back to the country for burial?

(b) Is the Minister also aware that Ms. Lilian Nyambura, a sister to the deceased and working in Saudi Arabia is not allowed to communicate with her parents by her employer?

(c) What urgent measures is the Minister taking to ensure that Ms. Lilian is repatriated to the country and postmortem on the deceased is carried out and her remains brought back to the country?

Mr. Speaker: Member for Mathioya! The Member for Mathioya is not here. Question dropped!

(Question dropped)

Next Question by the Member for Bura.

REHABILITATION OF BANGALE DAM

(Dr. Nuh) to ask the Minister for Water and Irrigation:-

(a) Je, Waziri ana habari ya kwamba maji ya Bwawa la Bangale ambayo ndiyo njia pekee ya maji kwa wakazi wa Bangale imeharibika?

(b) Je, Waziri ana habari zaidi kuwa kuna uwezekano wa kuzuka maradhi kutokana na matumizi ya maji hayo?

(c) Ni hatua gani Waziri amechukua ili kuepushia wenyeji hatari hiyo?

Mr. Speaker: The Member for Bura is not here. Question dropped.

(Question dropped)

Next Question by the Member for Wajir South!

RESOLVING OF BOUNDARY DISPUTES BETWEEN WAJIR/GARISSA COUNTIES

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

(a) Could the Minister confirm that the current conflict being experienced in Wajir South Constituency emanates from the disputed boundary with Lagdera Constituency?

(b) Where does the boundary between Wajir and Garissa Counties fall and could the Minister table a map for those areas and the relevant Kenya Gazette notice?

(c) What steps is the Minister taking to ensure that the conflict over the boundary between the two constituencies is resolved expeditiously to avert recurrence of attacks?

Mr. Speaker: Mr. Assistant Minister, I do not have your request yet. I only have a request from Mr. Affey. Yes, Mr. Assistant Minister, I can see you. Proceed, I now have your request.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I hesitate to answer this Question because of the security implications it may have on the ground. I request that this matter be postponed so that we continue handling it on the ground between the parties concerned. For that reason---

Mr. Speaker: Mr. Assistant Minister, can you kindly cite the Standing Order that you are relying on to make that claim?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, national security. However, I do not have the Standing Order.

Mr. Speaker: Mr. Assistant Minister, cite the Standing Order. Maybe, you want to resume your seat for a moment. Mr. Assistant Minister, the position as I know from the Standing Orders is: If a Question pertains to a matter that is of security implications or is secret, then you may make that claim. But you need to go further and indicate how you would like the House to proceed. Normally, the House could be ordered to go *into camera* - if need be - for the business to be transacted. You are not quite doing that. It would appear that you did not even prepare to make that claim. You must persuade me, even as I make a decision and communicate it to the House. Otherwise, the answer is that you then need to engage the Questioner so that it is agreed by consensus that the matter is addressed away from the plenary. Those are the options that you would normally have. I do not know if you have any reaction to that before I give final directions.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I still think that answering this Question in full view of the cameras may trigger violence in the area. Indeed, there was a Ministerial Statement that was made by the Minister previously in which he preferred the matter to be dealt with by a parliamentary committee. There are ongoing consultations on the ground involving religious leaders and several clans. We think we will not achieve much by proceeding to answer the Question. It may compromise what we have already started doing on the ground. We do not want another Tana Delta situation.

Mr. Affey: On a point of order, Mr. Speaker, Sir. Indeed, from the Assistant Ministers reaction, he does not want to answer the Question in full view of the media. Then the most reasonable thing to do so that this matter is on record is for the Assistant Minister to still ask us to go *in camera* so that this matter is determined. As you know, this is the fifth time that this Question is appearing on the Order Paper. Just yesterday, the Chair gave the final undertaking that the Assistant Minister had supplementary information to provide to the House and, therefore, this Question will be answered.

Mr. Speaker, Sir, I sincerely think that this Question has no security implication. It is only a determination of a political and administrative boundary which the Assistant Minister is fully aware of. In fact, he has answered the Question in full.

I would request the Assistant Minister and the House that if, indeed, he thinks that addressing it through the media here would be problematic, we should shut off the media so that the Assistant Minister can talk to the House and we can dialogue.

Mr. Kapondi: Mr. Speaker, Sir, I just want to take the same cue that because this Question has been deferred many times that, in itself, confirms that the stakes are just too high. Given the fact that the people of Wajir South and Lagdera will be watching as legislators more or less combat one another on the Floor of the House, it could end up inflaming the passions on the ground. This is a boundary issue. I am of the same view that it is better handled *in camera* if the issues have to be addressed.

Mr. Bahari: Mr. Speaker, Sir, in this country, we have always talked about impunity. Most of the times, when you see flair-ups between communities, Members of Parliament have been accused of incitement and have become an easy prey for the police. When there are laws in this country and the Government does not want to implement them, I do not know what that amounts to.

As much as this matter is sensitive, I have a similar issue of an “uncalled for” boundary dispute with my good neighbours of Lagdera, which I have been following for the last six years. Provincial surveyors have been appointed, they have given their results, but nobody wants to implement the results.

Mr. Speaker, Sir, I therefore, plead with you that this matter be handled *in camera* in this House since nobody else is ready to handle it elsewhere.

Mr. Mututho: Mr. Speaker, Sir, it is obvious there is a big problem in that region. It is also obvious that all the parties do appreciate that particular phenomenon. Shall I be in order if I persuaded the Chair to refer--- Although you have said many times that the Chair does not have to really---

Mr. Speaker: Order, Member for Naivasha! This is a plenary of the House. I am sitting here as the Speaker not as the Chair.

Mr. Mututho: I stand guided. My apologies, Mr. Speaker, Sir. My mind was on the Chair of Departmental Committee on Administration and National Security. When talking about that, I feel that there are some issues which are so sensitive that if said even with all these six or eight walls that endorse this particular plenary, we are still not very okay.

The Chair, Mr. Kapondi, who is my friend, is capable, perhaps, to go even within his Committee to have a sub-committee so that we can have the nitty-gritties of that particular matter. That is because violence looks real in that particular situation. I would not support, with due respect, for us to go *in camera* in this plenary. I would go for this matter to be referred to the Committee. Even at the Committee, we should have a Sub-committee out there so that the nitty-gritties of that matter can be known.

Thank you.

Mr. Farah: Mr. Speaker, Sir, there is a serious problem in the country at this time because people are using arbitrary administrative boundaries that have been created over time. Some of them have changed five or six times over the last seven to eight years to translate them into community land. They have done so to try to cleanse certain ethnic communities from certain areas because, according to them, the bigger blocs of the ethnic communities are in another county. This, in itself, is like the same situation we have in Garissa.

In Garissa today, the administrative boundary of Garissa is three miles outside Garissa all the way to the end to Eastern Province. If you now come here and make a statement and say that the administrative boundary of Garissa is outside Garissa town in the interior of North Eastern Province, then what kind of situation are you looking for? Then, subsequently, the way it has happened in Tana River now and to say that the community has got to be shifted out of that place because the bigger bloc of the community is on the other side. There is politics here of the 2012

elections. There are issues of people trying to validate themselves in politics by pretending to be heroes by taking a copy of the HANSARD here, going with it and saying; “this is in this direction or that direction.” We have already undertaken a process.

Mr. Speaker, Sir, I want you to give me a bit of indulgence because of the seriousness of the matter. When I was away from here outside the country, there was a claim that I was not party to these kinds of negotiations---

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

Mr. Speaker: Order, hon. Member for Lagdera! There is a point of order by the hon. Member for Ndaragwa.

Mr. Farah: But I was up on a point of order---

Mr. Speaker: Order!

(Laughter)

Hon. Member for Lagdera, of course, you know better.

Mr. Farah: Fair enough!

Mr. Kioni: Thank you, Mr. Speaker, Sir. I am wondering whether the reasons being adduced by the hon. Member for Lagdera are not the same reasons we want these proceedings covered in camera. This is because the statements that are coming are bound to be taken by the public differently and we may end up with a wrong result.

Mr. Speaker: Indeed, hon. Member for Lagdera, that is useful. You can see why that point of order was important.

Mr. Farah: Yes, Mr. Speaker, Sir, that is very important.

As it is right now, there are seven other sub-clans that are involved in these negotiations that are coming up with the solution. The provincial administration is involved. We are prepared to even get the people of Mandera and the people of Wajir counties to sit down and resolve this thing in a manner essentially that is there to protect the peace. When we have already heard the Minister here giving a statement and we already started a process---

(Ms. Amina Abdallah's mobile phone rang)

Mr. Speaker: Order, Ms. Amina Abdallah! What are you doing? I am afraid you have to withdraw immediately. That is not permissible and you know it. We cannot allow hon. Members to attend to telephone calls or to receive telephone calls in the House and in the Chamber. Certainly, that is gross disorder! You will have to withdraw for the rest of the day and you will be excluded from the premises of Parliament, including your office.

(Ms. Amina Abdallah withdrew from the Chamber)

Proceed, hon. Maalim.

Mr. Farah: Mr. Speaker, Sir, we have already had a situation in which the Sultan who comes from a different district all together, and all the elders from this area, including calling elders, from Wajir and Mandera to sit down to sort out this issue. However, this business of rushing to the Press or the business of bringing issues here, which are very sensitive on the Floor of the House, when there is a parallel process being undertaken by the Government through the provincial administration as well as the local elders and the regional elders, is not fair. When I

say the regional elders, I am talking about the former North Eastern Province. It is not fair and it is in bad taste. In all fairness, this is not the way politicians or leaders should behave. We are in a position to resolve these things. Anything we say in this place, there are people out there on the ground who are going to take it differently and we do not want hon. Members to get drawn into this. I do understand it. So, my plea, is that it should be allowed---

Mr. Speaker: Order, hon. Member for Lagdera! There is a point of order by hon. Sirat.

Mr. Sirat: Thank you, Mr. Speaker, Sir. It is very unfortunate that the Deputy Speaker has started debating the merits of my Question.

Mr. Speaker, Sir, this is the fifth time that this Question has appeared on the Order Paper. The last time we sat in the Office of the President with all the leaders from the region. This issue was discussed, but unfortunately, it was not resolved.

Mr. Speaker, Sir, the Provincial Commissioner sent us; the North Eastern Province Parliamentary Group (NEP-PG), a letter to discuss these issues a year ago. Unfortunately, we did not resolve it. The Office of the President has not also been able to resolve this issue.

Mr. Speaker, Sir, I suggest that we go off air and discuss this issue in camera. Let us discuss this issue today and I promise that it will not go outside these four walls. But in the interest of the peace of Wajir South, Lagdera and the entire country, I beg that we continue discussing my Question, so that we can get an amicable solution to this matter.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Hon. Members, I have listened to the views of the Minister with respect to whether or not he can answer or should answer Question No. 3 by Private Notice. Among other things, the Minister has said that this Question may touch on matters pertaining to security. I have subsequently listened to other hon. Members who have spoken to the matter, beginning with Amb. Affey, hon. Kapondi, hon. Mututho, hon. Bahari, hon. Farah Maalim and finally, hon. Sirat.

I have heard that the common concern running through the submissions by all these hon. Members is that the Question relates to matters that are sensitive and that may very easily lead to a breach of security. It may not be in the interests of hon. Members of Parliament, as leaders in this nation, to have this matter discussed in plenary and, therefore, within the hearing of the public.

Our Standing Orders have provisions to cover situations such as this. That would be found in Standing Order No.214. So, the right way to proceed with this matter would be for hon. Kapondi, who is the Chairman of the Departmental Committee on Administration and National Security, and who first alluded to a possibility of this matter being heard in camera, in which case that the public withdraw from the Chamber and that we even stay away from live broadcast as we transact this business. So, I direct and advise that hon. Kapondi formally moves that strangers be ordered to withdraw. We will then deal with this matter in camera, if the House so determines.

Proceed, hon. Kapondi.

MOTION

WITHDRAWAL OF STRANGERS FROM THE CHAMBER

Mr. Kapondi: Thank you, Mr. Speaker, Sir. I wish to formally move that strangers in the House be allowed to leave and that the cameras be shut down, so that hon. Members can be allowed to interrogate the Minister on Question No. 3 by Private Notice on the Order Paper.

(Question put and agreed to)

Mr. Speaker: I, therefore, direct that strangers withdraw from the Galleries and anywhere else in the precincts of this Chamber. I also direct that all the cameras be switched off and all microphones as well. Hon. Members, please, be patient as this is happening; we will proceed shortly as soon as I have confirmation that, that is fully done.

(All strangers withdrew from the Galleries)

(The House went into camera)

(The proceedings resumed)

RESUMPTION OF QUESTIONS BY PRIVATE NOTICE

DISBURSEMENT OF FUNDS TO CONSTITUENCY ROADS COMMITTEES

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

(a) Is the Minister aware that several roads in Nyakach Constituency are impassable and what steps will he take to make them motorable?

(b) When will the Minister release funds to the Constituency Roads Committees (CRC) across the country and how much will each constituency receive?

(c) Could the Minister provide details of all roads that have been rehabilitated or repaired using the 10% of roads Maintenance Levy constituency allocations within Nyakach Constituency in the last three years?

May the cameras be revived!

Mr. Speaker: Order! The Member for Nyakach has asked Question No.4 by Private Notice and I direct the Clerk to see that the Sergeant-at-Arms switches on the cameras so that we go back to full plenary. We will allow two minutes for that to be done.

(Live broadcasting of proceedings resumed)

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

(a) I am aware that several roads in Nyakach Constituency are in need of urgent repair. My Ministry, through the respective road Authorities, has prepared the Annual Public Roads Programme (APRP), identifying the damaged roads, with the intent of repairing them.

(b) I have already released Kshs7 million in the first quarter of the financial year to every Constituency Roads Committee (CRC). Each CRC is eventually expected to receive Kshs15.7 million from the 22 per cent Road Maintenance Levy Fund (RMLF) and Kshs7.1 million from

the 10 per cent Roads Maintenance Levy Fund (RMLF), respectively. This is in accordance with the projects received by the Kenya Roads Board (KRB) from the Treasury.

(c) The roads that have been rehabilitated or repaired using the 10 per cent RMLF allocations within Nyakach Constituency in the last three years are as follows: Katito-Miruka, 2009/2010; Kibigo box culverts on Kanyalori and Omondi Bridge, and on Paponditi, 2010/2011; Paponditi-Bodi Road, Kabogo box culverts, and Katitu-Miruka-Kanyigo Road, 2011/2012.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Yes, hon. Ochieng.

Mr. Ochieng: Mr. Speaker, Sir, the Minister admitted that several roads in my constituency are in bad shape. He has also confirmed that they have released Kshs7 million for the repair of those roads. We all know that gravelling a kilometre of road costs about Kshs1 million. A total of about 100 kilometres of road in my constituency have been damaged. Could he confirm when he will give us sufficient funds, other than the amount he has mentioned, in order for roads in my constituency to be repaired?

Dr. Machage: Mr. Speaker, Sir, I confirm that when I get sufficient funds, I will give enough money to all the constituencies to repair and build their roads. As at now, I have been limited by what I receive from Treasury. What the Exchequer gives me is what I give out.

Mr. Speaker: Yes, hon. Kiptanui.

Mr. Kiptanui: Mr. Speaker, Sir, I wish to thank the Assistant Minister for releasing Kshs7 million to every constituency. He has said that he released Kshs7 million in the first quarter of the financial year. In a year, there are four quarters, which means that the annual allocation for each constituency is Kshs28 million. However, in his response, he said that each constituency will receive Kshs15.7 million. Last year, each constituency received over Kshs20 million. Why is there a reduction from Kshs20 million to Kshs15 million per constituency in this financial year?

Mr. Speaker: Mr. Speaker, Sir, the amount of money that we release to the constituencies is limited to the Fuel Levy Fund (FLF) money collected by the Kenya Revenue Authority (KRA). The money is released to constituencies as per the projections.

Mr. Speaker: Yes, Member for Nyakach.

Mr. Ochieng: Mr. Speaker, Sir, sometime in June the Ministry promised to provide Kshs50 million for the repair of Sondu-Nyabondo-Kusa Road, which is D218. That amount has not been indicated here by the Assistant Minister. Could he let me know when the amount is going to be availed? This is a special amount because it is going to enable the road to be repaired fully.

Dr. Machage: Mr. Speaker, Sir, I do not have that information, and if it were so, I would be one of the happiest people, because I come from the same County; I will follow up that information.

ORAL ANSWERS TO QUESTIONS

Question No.1750

DELAY IN COMPENSATING FAMILY OF LATE
NKUMBUKU AUGOSTINO

Mr. Ruteere asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that Mr. Nkumbuku Augustino (ID No 8883258) was attacked and killed by an elephant on 20th December, 2011, and that the matter was reported at the Meru Police Station; and,

(b) what arrangements the Government has made to compensate the family and when the next-of-kin will be compensated.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Mr. Nkumbuku Augustino of ID.No.8883258 was attacked and killed by an elephant on 20th December, 2011, and that the matter was reported to the Meru Police Station and later on to the Kenya Wildlife Service (KWS) office in Meru.

(b) The compensation payment process is on course and the next of keen to the victim will be paid before the end of this month.

Mr. Ruteere: Mr. Speaker, Sir, I thank the Assistant Minister for the answer he has given; but from what I have, the answer was written on 4th September, 2012 and it is saying that the compensation will be paid in October. That is a month ago. Today he is saying that the process is on-going. How long will it take and which day of this month will the cheque be ready for the family to collect?

Mr. Nanok: Mr. Speaker, Sir, I have said that the payment will be done before the end of October. I do not have a specific date right now but I want to assure you that before October is over, the cheque will be processed and send through the District Commissioner (DC), Meru, to hand over to the next of keen.

Mr. Njuguna: Mr. Speaker, Sir, threats to human beings by wildlife has been a common feature and many Kenyans have lost their lives. What is the Ministry doing to deliberately address this menace?

Mr. Nanok: Mr. Speaker, Sir, as I have said before in this House, we have done a lot to try and address this situation. We have game wardens all over the country, particularly in areas where these incidents have been reported. We have also put up electric fences in restricted areas. Some of the issues raised by the hon. Member are also going to be addressed in a new Bill, which has been pending. I can inform this House now that the Bill is now in front of the Cabinet, and I will be urging my substantive Minister, and my colleagues who sit in Cabinet meetings, to help fast-track it. This weekend, also, we shall be meeting with the Committee that oversees my Ministry, so that we may agree on any issues that they may have on the Bill, so that when the Bill comes to the House, we will pass it on a fast-track basis, so that Kenyans can enjoy the new reforms that we envisage in the wildlife subsector.

Mr. Wambugu: Mr. Speaker, Sir, we also have many problems on the eastern side of the Aberdares with elephants because they destroy our crops. There are also many monkeys which are a menace to our community. When is the Assistant Minister going to post an officer from the KWS to be able to control these animals that are destroying our crops?

Mr. Nanok: Mr. Speaker, Sir, we will make every effort to support him. In fact, after this I will sit down with him to get the details of the specific areas around the eastern side of Aberdares, so that I can task my officers in the KWS to be on the lookout 24/7.

Mr. Ruteere: Mr. Speaker, Sir, I would wish the Assistant Minister to tell us if such things happen in future to enhance conservation of wildlife, and compensate the affected victims on time, so that wildlife-human conflict can be reduced to enable human beings to also protect or conserve wildlife.

Mr. Nanok: Mr. Speaker, Sir, I undertake that we will endeavour to do that. In this particular case, the processing of the claim took some time; you know at the district level, there has been a high turn-over of DCs, who chair the Wildlife Compensation Committees on the ground. That is why this compensation delayed, but this matter has now been sorted out. We hope that when the new Bill comes to this House, we will look into this matter, so that if an officer who is supposed to chair a committee is away there is a deputy who can go on with meetings and decisions can be made; that way we will remain within the timelines that are set for payment of compensation.

Question No. 1783

EXTRADITION OF KENYANS ARRESTED IN
MOZAMBIQUE TO TANZANIA BY KENYAN POLICE

Mr. Kabogo asked the Attorney-General:-

(a) to inform the House under what circumstances 12 Kenyan businessmen, Messrs. Peter Giruka Mburu, David Ngugi Mburu, Simon Gathinji Kariuki, Michael Mbanya Wathigo, Patrick Muthee Miriithi, Boniface Mwangi Mburu, John Odhiambo Odongo, Gabriel Kung'u Kariuki, Jim Maina Njoroge, Wilfred Onyango Nganyi, Simion Ndung'u Kambuthi and Peter Mahera Kariba, were arrested in Mozambique and handed over to Tanzania Police by the Kenya Police delegation under the watch of J. Nyaga Reche (SSP) and former Nairobi Area PCIO, Sammy Githui, on 16th December, 2005;

(b) whether he is aware that two of the above mentioned persons, Messrs. John Odhiambo Odongo and Peter Mahera Kariba, have since died in Karanga Prison in Moshi, Tanzania, as a result of injuries from torture; and,

(c) whether he could undertake to extradite the remaining 10 Kenyans, who are languishing in a foreign jail, to face trial in Kenya, if there are any charges against them.

Mr. Speaker: Hon. Member for Juja, apparently there is communication pending in my office, and I was not in my office this morning; I was away dealing with Parliamentary business. The Attorney-General apparently is in Geneva on Government business. So, obviously, this Question cannot be answered today. We want to defer it to Thursday next week at 2.30 p.m.; I hope the Attorney-General will be here then. Hon. Member for Juja, will you please note that?

Mr. Kabogo: Mr. Speaker, Sir, I appreciate that, because I do not have a choice. But may I request the Chair if it is possible to ask the Minister of State for Provincial Administration and Internal Security - because it is their officers who surrendered Kenyans to Tanzania - whether he could in the meantime look into this affair and see whether we could get our brothers and sisters in captivity in Tanzania released.

Mr. Speaker: I am sure the Minister has notice of that and he should do what he can even before the Attorney-General returns. Otherwise, the Question is deferred to Thursday next week at 2.30 p.m.

(Question deferred)

Question No.1281

RULE ON PACKAGING OF POTATOES
IN 110-KILOGRAMME BAGS

Mr. Kioni asked the Minister for Local Government:-

- (a) when the Ministry will effect the 110 kilogramme bag rule on all the potatoes bought from farmers; and,
- (b) what measures he is taking to ensure farmers benefit from this rule.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, with the indulgence of the hon. Member, after some consultation, I would want to be given more time to be able to have some consultation with the hon. Members who are affected, particularly the ones from the potatoe growing areas. I would request that this Question is deferred until Thursday afternoon next week.

Mr. Speaker: Fair enough. I direct that Question No. 1281 be deferred to Thursday next week at 2.30 p.m.

(Question deferred)

Hon. Members, the balance of the Questions by reason of where we are; well into the Prime Minister's Time, the first half are deferred to Tuesday next week and the second half to Wednesday next week.

Question No.1795

TARMACKING OF KAKRAO-OGWEDHI-MIGORI
-NYARONGI-MACALDER ROAD

(Question deferred)

Question No.1461

EXPENDITURE ON SECURITY ROADS IN NYATIKE DISTRICT

(Question deferred)

Question No.1806

FRUSTRATIONS FACED BY KENYANS FROM UK
CHARTERED INSTITUTE OF ARBITRATORS

(Question deferred)

Question No.1664

PARKING OF LORRIES ALONG SALGAA/JUA KALI TOWNS

(Question deferred)

It is so directed and we want to take the next Order.

We will begin with the Right hon. Prime Minister who has a Statement this afternoon.

PRIME MINISTER'S TIME

KENYA'S INVOLVEMENT IN THE AMISOM MILITARY OPERATION IN SOMALIA

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I rise to make a Statement on Kenya's involvement in AMISOM Military Operations in Somalia. This Statement has been necessitated by several inquiries which have been made internationally regarding Kenya's intentions in Somalia.

In view of the fast evolving state of play in Somalia, it is necessary to put forward a renewed case for Kenya's continued involvement in the search for lasting peace and durable security in Somalia under a stable and democratic government.

It is also important to articulate Kenya's vision for the peaceful, prosperous and stable neighbouring Somalia as a matter of great national interest to Kenya. Kenya has over the years invested immense diplomatic energy and financial resources in the search for a stable and secure Somalia.

Before doing so, may I, first, express our nation's full support to the Kenyan men and women of uniform who are currently engaged in Somalia. We applaud their sacrifice and commitment to serve our country at a great risk. We recognize their efforts to help the people of Somalia regain their peace and security and also secure back their stability. Their engagement in Somalia is in furtherance of the region's security in the Horn of Africa and not just limited to the protection of Kenya's own national interests.

Mr. Speaker, Sir, Kenya launched *Operation Linda Nchi* in October last year. The purpose of this operation was to degrade the *Al Shabaab* militia in Somalia who were posing a security challenge to this country and hence threatening Kenya's security and economic interest. Internationally, Kenya's initiative to enter Somalia has gained support and as a result of this, the African Union requested Kenya to join the AMISOM in November, 2011.

The status of the military operation as at now is that the Kenya Defence Forces have captured the final objective of the town of Kismayu which was the heartland of the *Al Shabaab* militia. Most of southern Somalia is now liberated by our forces and they are now carrying out pacification in the said region. Pockets of *Al Shaabab*, however exist in the countryside and particularly along the Juba River.

Mr. Speaker, Sir, the battle casualties for the KDF are at less than 17 with five missing in action. The nations involved in AMISOM are Uganda, Burundi, Kenya and Djibouti. Sierra Leone is scheduled to arrive in October of this year ready for deployment. Kenya is deployed in Sector II where Sierra Leone will join the KDF troops once they are deployed.

Mr. Speaker Sir, it is the responsibility of the international community, Kenya included, to help the people of Somalia to build lasting peace and to reconstruct their country after decades of civil strife and cyclic cases of natural disasters, drought and famine.

After more than two decades of lawlessness constituted with an eight year transition period, Somalia finally elected His Excellency Hassan Sheikh Muhamud as their new president. The new president's mandate is to steer the country from a post-armed conflict transition to a period of reconstruction under a stable administration. This requires concerted international efforts to support the new administration to establish a secure and stable environment essential for reconstruction. Kenya will play its part in this process. We value the co-operation and joint efforts with the other nations in accelerating the reconstruction of Somalia.

Mr. Speaker, Sir, Kenya has been at the forefront for regional and international efforts to stabilize Somalia. Its engagement in Somalia has at times been within a limited framework or at other times under multinational auspices. Such engagement has been informed by Kenya's national interest and its obligation under the international law.

Kenya has borne a huge economic and security burden arising from instability in Somalia. Our own security has been under constant risk due to threats caused by the proliferation and trafficking of illicit weapons, organized transnational crime, illegal cross-border contraband trade, illegal acquisition of official identity and travel documents by Somali aliens which has eroded Kenya's credibility and international confidence in its passports, refugee influx, environmental degradation, terrorism and upsurge in religion extremism.

Faced with these challenges, Kenya has had no option but to act unilaterally at times whenever the international community has been dithering. It is in Kenya's interests that Somalia has a credible effective and democratic government. This is the basis upon which we can enjoy strong bilateral relations with Somalia. Kenya, therefore, fully supports the elected President of Somalia and the new administration. We look forward to strengthening our co-operation through immediate exchange of high-level official visits; formation of a joint commission of co-operation; inviting the participation of Somalia in the affairs of the East African Community, IGAD and other regional bodies; the signing of non-aggression pacts and the formation of a joint board of commission to demarcate and deposit the agreed border markings with the United Nations.

Mr. Speaker, Sir, Kenya remains ready to assist the new Somalia administration in establishing and strengthening civilian public institutions and systems for police, health, education and judicial services. We are ready to work with the new Somalia administration in establishing a programme for the return and resettlement of Somalia refugees, returnees and repatriation of legal Somalia aliens from Kenya back to Somalia. The Government of Kenya will work closely with the new administration in Somalia to fight extremism and terrorism. Somalia must not become a breeding ground for extremists or terrorist groups like *Al Shabaab*, *Isbul-Islam* and *Al Qaeda*. Appropriate bilateral mechanisms for intelligence sharing, joint operations and anti-terrorism laws need to be put in place.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

In conclusion, we want to assure the international community that Kenya is committed to finding durable and lasting peace in Somalia. Kenya fully respects the sovereign right of the people of Somalia to run their affairs. We want to engage the international community in putting together a reconstruction plan for Somalia. Now is the time to match words with resources for rebuilding Somalia. This is not the time to speculate on the intentions of those countries which

are actively engaged in Somalia. It is the time to support the new administration in Somalia and for the international community to work together to secure peace. It is time for the international community to work together, to hold accountable any forces that may seek to undermine the peace in Somalia. Indeed, Kenya's diplomatic engagement in/on Somalia is to be strengthened so as to galvanize the support of the international community for reconstruction of Somalia.

Mr. Deputy Speaker, Sir, I want to add that contrary to certain insinuations, Kenya has no territorial claim against the Republic of Somalia. Kenya has no need to occupy even one inch of the Republic of Somalia.

(Applause)

Thank you, Mr. Deputy Speaker, Sir.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the Government through the Kenya Defence Force (KDF) has made a sterling and successful engagement in Somalia, for which we would like to congratulate the Government through the Prime Minister. However, to say the least, the way the Government is handling *Al Shabaab* within the country is clumsy. Could the Prime Minister tell us whether the Government intends to flush out the militia of *Al Shabaab*, who Kenyans fear are found in Eastleigh and parts of South C?

Mr. Ochieng: Mr. Deputy Speaker, Sir, in order to deal with the acts of terrorism effectively in this country, we have on several occasions requested the Government to put in place the CCTVs around the City. Could the Prime Minister confirm to the nation when this project will take off?

Mr. Chachu: Mr. Deputy Speaker, Sir, from the outset, I want to congratulate the KDF in Somalia for the great work that they have done. They have made this country proud. Could the Prime Minister tell this House who will shoulder the immense financial cost associated with this very important operation? Is Kenya shouldering this cost alone or is the international community helping Kenya in terms of the cost that is associated with this major operation in Somalia?

Mr. M. H. Ali: Mr. Deputy Speaker, Sir, while commending and congratulating our Defence Forces for capturing Kismayu and dealing with the *Al Shabaab* in Somalia, what has happened to intelligence gathering in Kenya so that acts of terrorism can be dealt with before they occur? This is because it has become regular now that we have acts of terrorism in Mandera, Wajir, Garissa, Nairobi and Mombasa. What is the National Intelligence Service and the Criminal Investigation Department (CID) doing?

Mr. Mungatana: Mr. Deputy Speaker, Sir, could the Prime Minister confirm or deny that since the entrance of the KDF into Somalia, the unexplained foreign exchange (Forex) influx into Kenya has fallen from the value of Kshs172 billion to Kshs6.4 billion? If this is so, what is the net effect in Kenya and whether, in fact, it is good that we have lost all these monies?

Mr. Deputy Speaker: The Rt. Hon. Prime Minister, could you respond to those five clarifications?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, the hon. Member for Ikolomani said that the manner in which the Government is handling the *Al Shabaab* issue leaves a lot to be desired. You can actually combine that question with the one asked by the hon. Member for Mandera East, Mr. Hussein, who also talked about intelligence gathering in the country. He asked what the police are doing about this.

Our security forces have tried and are doing their best. However, hon. Members need to appreciate the fact that dealing with a terrorist gang is not one of the easiest things. There are a

number of would-be attacks which have been nipped in the bud by the security forces. I have information which is never made public all the time. I want it to be known that it is not that our security forces are sleeping. We are dealing with a gang that is operating in a very wide open space. There are areas which are porous and, therefore, penetration is very easy. This is also added to the fact that it is very easy for some of these people to come in and blend with our people in the country very easily and recruit from our territory.

So, Mr. Deputy Speaker, Sir, I want hon. Members to know that we are not immune to this. If that was the case, the attack on the World Trade Centre in New York would never have occurred. There have been so many terrorist attacks in several countries with very elaborate security systems but the terrorists, sometimes, manage to penetrate. Therefore, I would urge our hon. Members not to discourage our security forces but to encourage them to continue to do the good work that they are doing.

Hon. Ochieng Daima wanted to know about the Closed Circuit Television (CCTV) project. I can only confirm to the hon. Member that the project of installing CCTV cameras within the City of Nairobi is ongoing. Hon. Chachu Ganya was concerned about the cost of that operation. That operation costs a lot of money. We had no choice but to launch that operation because our own national security was seriously threatened. It did cost us quite a lot of money. Since that time, our forces have joined African Mission In Somalia (AMISOM) process. Therefore, the cost of the operation is now being borne by the United Nations (UN). The question has been: From what time does the UN take over the responsibility of funding? We have been talking of January whereas they have been talking of August. So, this is a matter of discussion. We are still deliberating but, right now, all the expenses are being shouldered by UN.

Mr. Deputy Speaker, Sir, hon. Mungatana wondered about the drop in influx of forex – the illicit money from Kshs172 billion to Kshs6.64 billion. Most of the money that was coming illegally into the country was being smuggled. There was suspicions that it was coming from the piracy on the high seas. The pirate's money is money that has been basically extorted or robbed from other people and, therefore, it is not clean money. I do not think that our economy should depend or rely on illicit money that is being brought in here to be hidden; money that has been obtained through criminal activities. So, we, as a country that respects transparency and a country that is fighting against international terrorism, we must guard against the influx of those kinds of funds in our country.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: We have a lot of other business. We will just take an additional three more.

Mr. Kapondi: Mr. Deputy Speaker, Sir, while I take this opportunity to congratulate our Kenya Defence Forces (KDF) for having done us proud in Somalia by capturing Kismayu, I would like the Prime Minister to---

Mr. Deputy Speaker: You are on a point of order, hon. Affey. What is your point of order?

Mr. Affey: Mr. Deputy Speaker, Sir, it was not a point of order. It was a clarification from the Prime Minister.

Mr. Deputy Speaker: Proceed, hon. Kapondi.

Mr. Kapondi: Mr. Deputy Speaker, Sir, could the Prime Minister clarify the following: Now that the *Al Shabaab* that were responsible for insecurity from our borders to Kismayu have been chased away and the security between our border and Kismayu has more or less been restored, when is the Kenyan Government and the international community going to deal with

the issue of refugees in our country? When are they going to be relocated because those refugees are part of the problem that is causing insecurity internally here in this country? So, when are they going to be relocated because the security in their country has, more or less, been restored?

Mr. Affey: Mr. Deputy Speaker, Sir, I want to begin by congratulating our security forces. As you know, I served as the Ambassador of this country to Somalia for a period of six years – nearly five years and a few months. This particular Kenyan engagement now should have come much earlier. In fact, it should have come four to five years ago. The collateral damage would not have been as much as it is. However, I want to ask my colleagues to refrain from using the words “captured Kismayu” because we have not captured Kismayu. In fact, what we did was to liberate Kismayu from terrorists. So, to use the word “capture” is, in itself, not good language. What I want to ask the Prime Minister is: Military engagement is not a permanent solution. We must have a Somali driven political process that can take control and manage. In order to empower the Somali Government, what arrangements is the Kenya Government making to allow the citizens who live in the areas which have been liberated to reclaim back their lives and politics so that, that stability becomes a sustainable engagement and not a military solution to that particular situation obtaining in Somalia?

Mr. Githunguri: Mr. Deputy Speaker, Sir, the Prime Minister has spoken very well about the situation in Somalia and I join him in congratulating our soldiers for a job well done. However, could he indicate to the House whether he has any plan of making impromptu visits to our soldiers in Somalia to boost their morale? That has been done in other countries facing the same situation. He does not have to tell us when he will do it due to insecurity, but it will be good if he can plan to do so.

Eng. Gumbo: Mr. Deputy Speaker, Sir, mine is really to join the rest of my colleagues in congratulating our very brave men and women in Somalia for the excellent job they are doing. As a Kenyan, I am immensely proud of them. On a very sentimental note, I want to say that one of the combatants in Somalia is Captain Mosoti Nyandago, a former student of Cardinal Otunga High School where I went to school. I am proud to say that long before I joined this House, I helped him – since he is an orphan - with his school fees and he is now in the armed forces and I am very proud of him.

My question to the Prime Minister is: Since those brave men and women of Kenya have succeeded where some of the mighty armies in the world have failed and were, in fact, humiliated, what special honours are we going to grant them especially those of them who have fallen in the battle front?

Mr. Nyambati: Mr. Deputy Speaker, Sir, I also wish to join my colleagues in congratulating our KDF in Somalia for a job well done. I want to know from the Prime Minister, especially taking into account that this is a very expensive exercise that is costing the country a lot, whether, as a nation, we have a timetable on when we are going to recall our troops back. That is because we cannot afford to have our forces there indefinitely. More so, we do not want to be labeled as occupying forces in another country. Do we have a programme for our forces to return back home?

Mr. George Nyamweya: Mr. Deputy Speaker, Sir, perhaps the points I might have had have been handled by hon. Nyambati that, in fact, as a Government and a country, we must have a clear time table disengaging or involving the international community in the peace keeping. I think the job that was done was to liberate. Now we need the job of peace-keeping and that may not be necessarily a suitable job for Kenya.

Mr. Deputy Speaker, Sir, secondly, I was at the United Nations just recently when this matter came up. We must be cautious about giving the impression that we can do or we have done this thing on our own. We must be able to acknowledge the efforts and involvement of the other countries. Indeed, I think this is the right time to engage the international community on behalf of Somalia; how to invest in it and stabilize it and ascertain the most important for ourselves the burden we have shouldered. This is the time to engage the international community to help Kenya regain stability and put it back on the road to recovery. This is something we would like the Prime Minister to clarify. We must have a clear programme of engaging the international community to alleviate the burden that Kenya has been shouldering in respect of resettling the Somalis in Somalia and pacifying and helping northern Kenya and Kenya itself generally in regaining its own stability---

The Minister of State for Defence (Mr. Haji): On a point of order, Mr. Deputy Speaker, Sir. I am only enquiring whether the hon. Member is right to say that we are being assisted. There is no country which has assisted Kenya. We have gone to this liberation of Somalia on our own. It is only the African Union with whom we have entered into agreement who are supposed to make the payments. No any other country has helped us.

Mr. Deputy Speaker: Except the Somali National Forces. Could you make that clarification, hon. Haji? There are Somalis who have borne the brunt of the casualties.

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, I agree. I was merely talking about the Kenya Defence Forces (KDF) that were fighting alongside the Transitional Federal Government soldiers who have also gone through a difficult time.

(Mr. George Nyamweya stood up in his place)

Mr. Deputy Speaker: Order, Mr. George Nyamweya! This is clarification and you have already sought your clarification. Could we have the last one, hon. Kioni and then the Prime Minister will respond.

Mr. Kioni: Mr. Deputy Speaker, Sir, I want to join others in congratulating the KDF and AMISOM for the successes that they have done in Somalia. But as we continue with this success story and with the admission of the Prime Minister that residents of Somali can easily mingle with our own in this country, could he inform this House what extra measures his office is putting in place to ensure that issuance of ID cards is not extended to these fleeing militias? I ask this knowing very well that there is genuine fear that all is not well within the Department of Registration of Persons.

Mr. Deputy Speaker: Prime Minister, could you make the final clarifications and then we go to the next Order?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, the hon. Member for Mt. Elgon wanted to know when the refugees will be returned now that security has come back to Somalia. As we speak right now, security has not fully returned to Somalia because some *Al-shaabab* militia groups are on the loose. They have just being dislodged from Kismayu and Mogadishu but they are not completely subdued.

Secondly, the issue of refugees is handled by the United Nations High Commission for Refugees (UNHCR), which is in charge of their upkeep. We did request earlier when we liberated a very substantial territory of Southern Somalia that, maybe, a camp could be set within Somalia itself where there will be provision of food and other services. I know that some of these

refugees could be encouraged to go back. Quite a number of these refugees are economic refugees and not political refugees.

Mr. Deputy Speaker, Sir, we say if we could recreate Dadaab inside Somalia, then maybe some of these people will rather be IDPs within Somalia rather than refugees in Kenya. We have not yet reached an agreement with the UNHCR, but now that the situation is improving, we hope that this matter will be addressed in due course.

Hon. Affey, of course, stated the obvious that military is not the solution. Force can never be a solution to a conflict such as this one in Somalia. That is why in my Statement I said that we are working closely with the new Government in Mogadishu and we are also going to assist them to create a stable civil authority within Somalia itself. So, we are not trying to apply force. Force was just an absolute necessity after all other peaceful avenues to the resolution of the conflict had failed. That is why we decided to answer force with force. We know that it is not a lasting sustainable solution to the conflict in Somalia. Therefore, we are going to work very closely with the international community to assist the new Government in Mogadishu.

The hon. Member for Kiambaa, hon. Githunguri, congratulated the troops, which we have done and wondered when we are going to visit the troops. I know that the Commander in Chief of the Armed Forces of the country maybe visiting the troops any time. So, I want him to know that the Government will pay a visit to our troops. But we have already congratulated them and we are in constant contact with them.

Hon. Gumbo wanted to know what honours the Government is going to bestow upon the soldiers including the fallen heroes; those who have paid the ultimate price in defence of their country. These are Kenyan patriots. These are Kenyan heroes who deserve the highest recognition. I want the hon. Member to know that we have an institution that deals with conferring honours to Kenyans who have served this country exemplary in different capacities. That is going to be done when the time comes.

Hon. Nyambati was concerned about the timetable for withdrawal. We do not intend to stay in Somalia even a minute longer than necessary. We also do not want to put a timeframe on this because our own security is involved. We are working closely with the rest of the international community on this issue. So, as and when our security personnel make an assessment and advise that our presence is no longer necessary, we will withdraw. However, the Members need to know that our forces there now are part of the AMISOM troops which include soldiers from Ugandan, Burundi and Djibouti. Shortly, they will be joined by troops from Sierra Leone. So, it is not a solo effort by Kenya. It is an AU mission out there in Somalia.

Hon. Nyamweya's is, of course, an extension of that question. He said that we should involve the international community. We have been urging the international community all this time to get involved. As you know, given the experience of the 1990s, the international community has been very reluctant to offer personnel to Somalia. That is why Kenya reluctantly agreed to move in there. We had Ugandan and Burundi troops operating from around Mogadishu under AMISOM. However, because Kenya shares a common border with Somalia, we had desisted from sending soldiers inside Somalia. We were only forced to do so when there was no other avenue. It was when they attacked our territory and this was destabilizing our own economy. That was when we decided to send our troops there. We have said that there is need for peace keeping efforts and more importantly for more civilian support with regard to supplies. This is because the country which has not had civilian authority for over 20 years has been devastated.

What our troops have found in Somalia is distressing. There is no infrastructure in that country. There are no schools and health centers. So, the task of reconstructing Somalia is enormous and it requires concerted international efforts. It is far beyond the means of this country, much as we may have the goodwill to do so. That is why this matter has been discussed at several international conferences, including the UN General Assembly last week. We can see that the signs are positive.

I want to particularly recognize the role that has been played by the Government of Turkey. They decided to be forthcoming in support of the Government in Mogadishu by, for example, helping to reconstruct the airport and the road from the airport, and those within the country. This is in order to restore some of the devastated infrastructure. That was a positive effort. Other countries are now gradually coming in. We hope that with concerted efforts, we will be able to turn things round inside Somalia.

Hon. Nyamweya also said that we should acknowledge the contributions of others. Yes, we have acknowledged them. We have not been there alone. We know that Uganda has been there much longer. We even know what happened in Kampala when the *Al Shabaab* attacked innocent citizens who were watching football and killed so many people there. Ugandan troops in Somalia have done a commendable job. Likewise, I want to pay tribute to the Burundian troops. Burundi is a country that is just emerging from civil war, yet in the interests of another African country, they were able to contribute troops to go and help restore order inside Somalia. I also pay tribute to Djibouti. All these countries have made a sacrifice. May I also mention the support that has been given by the Government of Ethiopia, which is our neighbour. It contributed troops and that made our work much easier.

Hon. Kioni was concerned about the measures which are being taken to shield the process of issuance of ID cards from invasion or interference by aliens, that is people who are not Kenyan citizens, and, therefore not eligible to receive ID cards.

Mr. Deputy Speaker, Sir, the Minister in charge of immigration has put in place measures for the registration of refugees. When the refugees enter this country, they are taken to refugee camps and immediately upon arrival, their fingerprints are taken and they are registered. They are then issued with refugee ID cards. Once that has been done, it becomes impossible for such a person to go and again register as a Kenyan citizen. This is because the records are there and the computer being used will reject such a person when he wants to register again as a Kenyan citizen.

However, we are also urging Kenyan citizens to co-operate with authorities. Lodging some of these suspicious characters--- Aiding and abetting them is dangerous for our internal security. Experience has shown that no one knows when an innocent refugee will turn into a terrorist. So, whenever these aliens are around, our advice to our citizens is to report the matter to the police, so that records are taken and appropriate measures put in place in order to protect our innocent citizen.

In conclusion, as a country neighbouring Somalia, we have a responsibility, and I think we have discharged our responsibilities to the best of our ability as of now. We want to see a stable and economically strong Somalia. That will help us as a country. If Somalia advances, it will become a market for goods that are manufactured in Kenya and *vice versa*. Trade will thrive within this region. Somalia is a very big territory and is rich in mineral resources and so on, just to say nothing about the hardworking and enterprising population that it has. Somalis have shown all over the world that they are men and women of enterprise. Given a stable environment

in their own country, they can turn Somalia round and make it a very prosperous neighbour that this country desires.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Last week, I sought a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the state of insecurity in Kisumu City, and he promised to give that Statement this afternoon. I can see he is here and I think that he is ready.

Mr. Deputy Speaker: We will take only one Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs. Will you be in a position to issue that Statement tomorrow?

Mr. Olago: Mr. Deputy Speaker, Sir, last week when I sought the Statement, I indicated to the House, and it agreed, that the state of insecurity was so severe that the matter was extremely urgent. I actually asked for it last week. I beseech you, Mr. Deputy Speaker, that if it is not very long we have it now.

Mr. Deputy Speaker: Minister, do you have the Ministerial Statement?

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Deputy Speaker, Sir, two Ministerial Statements are due today from my office, and I am ready with both of them.

Mr. Deputy Speaker: Including the one for Kisumu?

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Yes, Mr. Deputy Speaker, Sir. The one by hon. Olago and the one by hon. Khalwale.

NON-IMPLEMENTATION OF CIRCULAR ON INCREASE OF SALARIES/ALLOWANCES OF POLICE OFFICERS

Mr. Linturi: On a point of order, Mr. Deputy Speaker, Sir. Three weeks, I raised an issue over a Question that was before this House with regard to the remuneration of police officers in this country. There is a circular that had come from the Department of Personnel Management in the Ministry of State for Public Service. You directed that this matter be deferred and since the Question was cross-cutting, the Prime Minister was supposed to respond. I have been waiting for two weeks. On Thursday last week, I raised the matter again with the Speaker and he directed that the Prime Minister answers this Question today. The Question is not listed. I am seeking your guidance now that the Prime Minister is with us in the House today, if he could indicate when he can substantively respond to this Question which has been pending for the last one month.

Mr. Deputy Speaker: Right Hon. Prime Minister, do you wish to react to that?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, that Question rightly falls within the docket of the Minister of State for Public Service and we have referred it to him.

Mr. Linturi: Mr. Deputy Speaker, Sir, that is the reason I had directed the Question to the Minister of State for Public Service. When the matter was canvassed before this House, it was found that the issues that were raised were cross-cutting. The Minister alluded to the fact that there were no budgetary provisions. There were issues to do with the Ministry of State for Provincial Administration and Internal Security. Since the Prime Minister is the coordinator of Government Ministries, the Chair then and you are the one who was on the Chair, must have been informed by the wisdom that since the Question is cross cutting, the best person to respond to it was the Prime Minister. I wish to plead with him to find that the state of security in this country is wanting. The demoralization level of the officers who are serving this country requires

to be addressed by an officer who is in charge. The people who share power are the only ones who can easily get access to funds. I plead with the Prime Minister to find it necessary to answer this Question. This will be more assuring.

Mr. Deputy Speaker: The nature of the work of the Minister of State for Public Service is cross cutting. He deals with all Ministries, departments and public service. He deals with any public servant. When a matter has agriculture, medical and labour and the rest of it, then you could say you would want the Prime Minister to respond to it because it is cross cutting. But if it has to do with remunerations, then the Ministry of State for Public Service, is, in its nature, cross-cutting. It will be the competent body to do that.

Mr. Linturi: Mr. Deputy Speaker, Sir, while I may not want to challenge your opinion at this juncture, I am surprised by your change of tune. You are the one who sat on that Chair that particular day and, in fact, you spoke very passionately about this matter. You personally referred the matter to the Prime Minister.

Mr. Deputy Speaker: In which case, the Prime Minister, in his own wisdom, has felt that, this should be dealt with by the Ministry of State for Public Service. It happens. We direct certain Ministers to deal with an issue, but within the Government itself, there is always that kind of a re-organization. Could you clarify that, hon. Prime Minister?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, indeed, we have discussed this matter with the Minister concerned and we have agreed that he has all the information that is required to deal with this Question. Therefore, I believe that the Member, all he wants is an answer and not who answers that Question. There is always collective responsibility in the Government. I can assure the Member that the Minister of State for Public Service will adequately deal with it.

Mr. Linturi: Mr. Deputy Speaker, Sir, if that is the opinion of the Prime Minister and we are so convinced, then you should make a ruling on when this matter should come back to the House for the response.

Mr. Deputy Speaker: Hon. Prime Minister, in that collective responsibility, when can the Minister deal with this issue?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, Thursday, next week.

Mr. Deputy Speaker: Thursday, next week! It is so directed.

PRECAUTIONARY MEASURES TO MITIGATE EFFECTS OF FLOODS

Mr. Bahari: On a point of order, Mr. Deputy Speaker, Sir. Two weeks ago, following predictions by the Meteorological Department about the possible extended and heavy rains, I asked the Prime Minister to indicate to the House what precautionary measures they will take in case the rains will cause destruction of roads and floods. I also asked him to tell us what the related water bodies are doing. To date, he has not responded. I want to request for an indication when he intends to respond to this Statement.

Mr. Deputy Speaker: You are basically asking for an issue, which in your opinion, involves many Ministries. The Prime Minister has just walked out. Could another Minister make an undertaking on the same? Hon. Bahari, to be precise, two weeks ago, sought a Ministerial Statement on our preparedness because of the expected unusually heavy rains and with all its accompaniments in terms of floods, displacements, medical issues and food. He wanted the Prime Minister to give a comprehensive Ministerial Statement on our preparedness on that. Did I get you right, hon. Bahari?

Mr. Bahari: Mr. Deputy Speaker, Sir, indeed, yes. You are very right.

Mr. Deputy Speaker: Give an undertaking on that, hon. Orengo.

The Minister for Lands (Mr. Lands): Mr. Deputy Speaker, Sir, I was just wondering whether that would not be an appropriate question or clarification to come from the Ministry of Environment and Mineral Resources.

Mr. Deputy Speaker: For the preparedness?

The Minister for Lands (Mr. Orengo): Yes, Mr. Deputy Speaker, Sir. The Ministry of State for Special Programmes is for calamities or specific programmes. I stand to be corrected. I can give an undertaking to inform the Minister.

Mr. Deputy Speaker: Could you give that undertaking and do it very fast?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, Wednesday, next week in the afternoon.

Mr. Deputy Speaker: It is so directed, hon. Bahari.

Mr. Bahari: Mr. Deputy Speaker, Sir, the issue cuts across Ministries. For example, the Ministry of Livestock Development and Marketing and the Ministry of Public Health because of the Rift Valley Fever. As long as the Ministry of State for Special Programmes will incorporate all those issues, I will have no problem with that.

Mr. Deputy Speaker: Hon. Orengo, I hope you will deliver those concerns.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I have taken note and I will inform the Minister.

Mr. Deputy Speaker: It is so directed. Hon. Wamalwa, could you, please, proceed and deliver your Ministerial Statement?

ALTERCATIONS BETWEEN LSK/CIVIL SOCIETY/JUDICIARY OVER VETTING OF JUDGES/MAGISTRATES

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Deputy Speaker, Sir. Dr. Khalwale had requested for a Ministerial Statement on the public spat that has been going on between the Judges and Magistrates Vetting Board, the Judiciary and the Law Society of Kenya (LSK). This was requested on 27th September, 2012. In his request, hon. Khalwale specifically sought the following. Assurances of the independence of the Judiciary as enshrined in the Constitution, clarification on the claims by the LSK that the Chief Justice has allegedly been interfering with the vetting of judges and magistrates, a clarification on whether the Vetting Board has complained to me of any interference with their work by the Chief Justice and whether we have confidence in the Judges and Magistrates Vetting Board in view of the Board's recent decision to reinstate judges it had initially found unfit to serve on the Bench.

Finally, the hon. Khalwale sought a clarification as to whether the Chief Justice is under attack by forces keen on reversing the very positive gains made so far since he assumed office and steps being taken to protect the Chief Justice from such forces. I now want to assure hon. Khalwale that this country is painfully aware of our recent past, particularly, the 2008 post-election violence that occurred. At the time, it was very clear that this country suffered a crisis of confidence in its key institutions, particularly the Judiciary. This was brought about by years of misrule that eroded public confidence in the Judiciary. It also eroded the independence of this key institution. We know that with the coming in force of the new Constitution, judicial reforms have been some of the best reforms in this country so far. Long gone are the days of an

overbearing Executive and a feeble Judiciary. Long gone are the days when the Judiciary would be starved of finances or funds and it would be at the mercy of the Executive.

As we speak, we know that we now have in place a new Constitution. Article 160 states very clearly:-

“In the exercise of judicial authority, the Judiciary, as constituted by Article 161, shall be subject only to this Constitution and the law and shall not be subject to the control or direction of any person or authority.”

The Judiciary is, indeed, a core equal partner with all the other arms of Government and I would like to assure the House that this independence is being respected. The Judiciary has also a Judiciary Fund that has recently been operationalized. This will safeguard the independence of the Judiciary as it will be able to regulate its own administrative expenses, priorities and activities from the Fund which will be a direct charge from the Consolidated Fund. Therefore, we want to assure the House that so far, the Judiciary has done very well under the very able leadership of the Chief Justice, Dr. Willy Mutunga, and we expect that position not to change. In fact, on 19th of this month, the hon. Chief Justice will be inviting all of us for a first historic occasion where we will have the state of the Judiciary address which will be akin to what we have been seeing in other countries like the State of the Union Address by the US President. We will be addressed by the President of the Supreme Court, the Chief Justice, on the State of the Judiciary and I believe that when he does - all Members will be invited to attend – we will be shown the state of the Judiciary as an independent, strong and vibrant institution which is different from what it was before.

On the second issue, particularly of concern is the allegations made by the LSK. I believe they were quite grave because they touched on the Chief Justice. The claims attributed to the LSK questioned the impartiality of the Chief Justice and I believe that they were regrettable. This is because I am informed that the LSK has never formally written to the Judiciary over this issue and the hon. Chief Justice has never and has not interfered with the vetting process of judges. The hon. Chief Justice and his office have been very supportive of the vetting process. His office has provided the necessary support to the Judges and Magistrates Vetting Board. This includes provision of all files and documentation requested by the Board. He has also given access to officers of the Board to peruse any files they require.

Administratively, the Vetting Board has no complaint. As of yesterday, I also spoke to the Chairman of the Board, Mr. Rao and they have no complaint against the Chief Justice. However, the Board has expressed concern with the decision in a Constitutional Petition No.11 of 2012 where the court granted an order of stay of the vetting process for period of 14 days. One of the judges who issued that order was himself due to be interviewed by the Board on 11th October. The order was issued despite the request by counsel that the judge should disqualify himself from the Bench and that the court should first determine the issue of whether it had the jurisdiction to hear the matter. The order of stay to the vetting process was, therefore, issued without regard to the submissions of counsel who were present in court and was delivered despite the evidence of conflict of interest of one of the judges in the two-to- one majority ruling. It is unfortunate that the judge sat on a panel on a matter touching on the vetting process---

Mr. Deputy Speaker: Order! Our Standing Orders are very clear. You cannot discuss or deliberate on the conduct of a judge, President or any Member of the Judiciary on the Floor of the House. As a lawyer, I am sure you understand that. Basically---

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Deputy Speaker, Sir. We will not go into the details. These are the issues that the Judges and Magistrates Vetting Board had raised.

Mr. Abdikadir: On a point of order, Mr. Deputy Speaker, Sir. Thank you for your intervention on that matter. Is the Minister in order to discuss an active case that is in court? He and I know that the matter is being adjudicated over by the court as to the merits and demerits of the decision of judge. We were in a meeting with him yesterday where it was agreed that the Attorney-General would take a suit on that particular matter.

Mr. Deputy Speaker: Clearly, that also falls under the *sub judice* rule and you cannot pass any judgment. Hon. Minister for Justice, National Cohesion and Constitutional Affairs, can you withdraw that bit?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I was just giving the details and informing the House that as we speak, what has been perceived as a crisis between the Vetting Board and the Judiciary is not a crisis. Whatever had been raised is being addressed before the same court through a process of an application for review. Therefore, there is no crisis. That is the assurance I want to give the House.

Mr. Deputy Speaker: That is clearly the significance of the independence of the Judiciary which basically you were alluding to from the beginning in very flowery words. We have a new Judiciary. So, you should not also cross the boundaries.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Thank you, Mr. Deputy Speaker, Sir. I was just giving the information because the Member was quite concerned about the public's spat but that is where we are now and we believe that this matter will be resolved through the proceedings that are before court.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The hon. Minister who is also a lawyer has used the words "it was unfortunate" and you have directed that he withdraws and apologizes so that it is not part of the record of the House. Otherwise, it will affect the on-going adjudication process.

Mr. Deputy Speaker: What is going to affect the on-going adjudication process?

Dr. Khalwale: Mr. Deputy Speaker, Sir, the words that the Minister has used that the ruling by the judge was "most unfortunate". He should withdraw that.

Mr. Deputy Speaker: You are, indeed, right in drawing the attention of the Chair to that fact.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, we were answering the question as to why the Board said what it said. It was the opinion of the Board at that time that the court did not have the constitutional authority to intervene.

Mr. Deputy Speaker: Minister, that is not a matter to be determined on the Floor of this House. It is a matter to be determined by a high level of the Judiciary. When you discuss the merits and the demerits of it, the issue of *sub judice* comes in. You cannot discuss the regrets of a matter that is before court.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Deputy Speaker, Sir, I believe that it was the opinion of the Board. That is what I am telling the House. However, the matter is being resolved through the application of the court process. I believe that it will be resolved. So, my assurance to the House is that there is no crisis. We have full confidence in the court process.

Mr. Deputy Speaker: What is your point of order, hon. George Nyamweya?

Mr. George Nyamweya: Mr. Deputy Speaker, Sir, is it even in order for us, as a House, to be discussing the matter? This matter is quite seized by an independent body. Even the Question could be deferred until the matter itself is resolved by the appropriate organ. If the Minister were to proceed in the way he was doing, it would be another defiance of a court. There has already been defiance of a court order. We, as Parliament, are going to be defying another court order.

Mr. Deputy Speaker: Thank you very much, hon. Nyamweya, for drawing my attention to that fact. Hon. Orengo, do you have a point of order?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I do not know whether it is in order to bar a person from giving an opinion over a ruling on---

Mr. Deputy Speaker: Not on a matter that is live in court, and which is not before the Floor of the House.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, the ruling has already been given. Anybody can criticise that ruling.

Mr. Deputy Speaker: Order! Order! The matter has already gone to court.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, that is gagging not only the House---

Mr. Deputy Speaker: Order! Order! You are out of order, hon. Orengo. With a lot of respect for you, this matter is active in court. Any discussion and deliberations on it has the effect of trying to influence the outcome of the court case. So, as a matter of fact, I wish to immediately discontinue any further deliberations on this matter. Therefore, deliberation on this matter is deferred until the court issue is resolved.

Dr. Khalwale, I am sure that you are very happy with that ruling.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am very happy with your ruling but there are certain aspects of my Question which are not before court. I want those aspects clarified. So, kindly, allow me to seek clarifications on them, because---

Mr. Deputy Speaker: Dr. Khalwale, the moment a matter is *sub judice*, we have to tread very carefully. I am not in your mind and, therefore, I cannot disaggregate what can be deemed as *sub judice* and what cannot. So, with a lot of respect to you, too, I stick the direction that the matter be deferred until it is resolved in court.

Hon. Olago Aluoch, I understand that you have already had an understanding with the Minister that your Ministerial Statement will be issued tomorrow.

Mr. Olago: That is so, Mr. Deputy Speaker, Sir.

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

BILL

First Reading

THE TRUTH, JUSTICE AND RECONCILIATION (AMENDMENT) BILL

(Order for First Reading read)

PROCEDURAL MOTION

WAIVING OF REFERRAL PERIOD OF THE TRUTH, JUSTICE
AND RECONCILIATION (AMENDMENT) BILL

Mr. Deputy Speaker: Hon. Wamalwa, do you intend to move the Procedural Motion yourself? Of course, any other Minister can move it.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I beg to move:-

THAT, notwithstanding the provisions of Standing Order No. 111(2), this House resolves to waive the referral period of the Truth, Justice and Reconciliation (Amendment) Bill (Bill No 56 of 2012) to the relevant Departmental Committee.

Mr. Deputy Speaker, Sir, without necessarily dwelling at length on the reasons as to why it is necessary to waive the referral period of this Bill, we should take into consideration the fact that the Truth, Justice and Reconciliation Commission (TJRC) was an important mechanism in resolving the problems of this country as experienced over the years, and particularly following the general election of 2007.

Given that the Commission has not submitted its Report, and we are approaching the tail-end of the life of the Tenth Parliament, it is important that the House is in a position to deal with a matter which I consider to be basically technical, as the Bill that has just been read the First Time relates only to the extension of the period of the Commission to enable it conclude its work.

Parliament has been very gracious in extending the Commission's period before, under the Act, because of the existence of the procedure and mechanism for doing so. The last extension completely covered the authority and powers of the House to extend the Commission's period by way of an ordinary resolution of the House. We cannot extend the Commission's period without amending the Bill.

Mr. Deputy Speaker, the Report of the Commission would be important. It will be a great disservice to the nation if they are not given time to complete its work. It is essentially important for these matters to go before the Committee for consideration before the plenary of the House considers the Bill but it is common knowledge that we are now living on borrowed time.

So, I plead with the House that although we are undermining a process which is established to give effect to the efficiency of the House in dealing with Bills, in the current circumstances, this Procedural Motion is justified. Therefore, I recommend to the House to support it.

With those remarks, I beg to move.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

Mr. Deputy Speaker: Yes, hon. Abdikadir.

Mr. Abdikadir: Mr. Deputy Speaker, Sir, I oppose the Motion.

With much respect to my senior learned friend, hon. James Orengo, he will remember that this institution is one of the first institutions that were formed after the Serena process. It is a very key institution. It was meant to conclude its work in two years' time. When the Act was

enacted, it was stated that there would be no extension except with the leave of Parliament; and that, if extension was given, it would not be for more than six months.

The two years were done. The institution came to Parliament and sought an extension and Parliament gave them an extension for six months but, again, they failed to conclude their mandate. They came to Parliament again and a further extension was given to enable them write their Report. That extension was given in March/April, 2012.

It is now six months since then. The lawyers say that this institution is guilty of what is called “laches”. He who comes to equity must come with clean hands. When you are asking for time, you must show that you spent your time earlier usefully. What the Minister is asking is that we by-pass the Committee that would have helped this House find out what is going on, why they have not concluded and where exactly they are in the process right now. It would be absolutely unfair to the House and completely irresponsible of the House for us to move the way the Minister is suggesting. Let this institution come to the Committee, explain why they need more time and why they have not done their work during the given time even after so many extensions. If the Committee is convinced, then it can come and tell us so. Otherwise, we are going to ask for extensions every time and it will be a revolving thing.

Dr. Khalwale: Mr. Deputy Speaker, Sir, just to take over from where Mr. Abdikadir has left, I beg to oppose this Motion with a lot of respect to Mr. Orengo, whom I know is anxiously waiting for this report because a lot of injustice was also done to him during the fight for the second liberation. I remember how we were clobbered with him in Kisii and Busia during the days of *Mageuzi*.

Out of the Serena Talks that took place after the post-election violence, a number of commissions were formed. Many of them have done very well. When I look at what these commissioners are doing, I am starting to wonder, are they attempting to convert themselves into pensioners, or what exactly is it that they want? We must demand of this Commission that in these days of performance contracting, we cannot allow a certain group of workers in Kenya to think they can work forever and without reporting to us.

I want to conclude by saying that if, indeed, we must give them time, they should give us a report on progress made, and then based on it, we will be able to judge whether they need two months or two years.

I oppose.

Mr. Baiya: Mr. Deputy Speaker, Sir, I also stand to oppose this Motion. I chair a committee of Parliament that has a responsibility of oversight over this Commission. I want to agree with what the previous speakers have said. This Commission had two years; it experienced some challenges and that was why it was given an extension of six months. Nevertheless, they came and said that they had concluded all the hearings and needed three months to put together a report and forward the same to the two principals. How they allowed the three months to lapse before presenting this report begs a lot of questions. They are now seeking a further extension of time; with respect, I have no explanation. This is not reasonable and it should not be condoned by Parliament.

Therefore, I oppose.

Mr. Mungatana: Mr. Deputy Speaker, Sir, I wanted to pick it up from there. Dr. Khalwale asked what this Commission does. I wanted to say last week or a few days ago, they were in Tana River. The whole team was there apparently on a fact-finding mission. They have not written their report but they were on a fact-finding mission. The National Commission for Integration and Cohesion has already gone to do work there. This is replication of duties. More

importantly, I want to make this point; I made it also when the Minister was moving something related to this in a Bill here. If the interest of this Commission is to make their report known to the world, nothing stops them. Nothing stops them from making a simple application to the High Court to request for the report to be public. Then it will be all over in the internet. I do not see what it is that they want to do and why they must sit again. There is no justification for the money that they are being paid, the allowances they seek and the nice hotels they are going to just to write a report. That is not acceptable.

Mr. Deputy Speaker, Sir, I have a lot of respect for Mr. Orengo, and when he believes in something, he will move it with passion. In this particular case, the *passionometer* was reading nil. So, it is obvious that he is not convinced. Let us not agree to by-pass the Committee. It is our eyes. Let this matter go to the Committee and let them explain themselves there. If the Committee is convinced, then it can convince us. If it is not convinced then, they should file their report with the courts and Kenyans will have access to it.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I stand to oppose. The name of this Commission is “Truth, Justice and Reconciliation Commission (TJRC)”, and it was formed because of the issues of post-election violence. We have a few months to the election; who are they going to reconcile and when? This is a body that has become a joke, because they have finished their work. They came before our Committee and we agreed to extend their time when they indicated the challenges that they were facing. Indeed, we are getting from the grapevine that the report is done, but due to political considerations, they do not want to give it out. They cannot use this House to rubberstamp game playing.

I oppose and suggest that they must come before the Committee and explain themselves.

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, I rise to support the Motion. It is important that we give this Commission time to complete their report and reconcile this country. This is the first time that we are having a truth and reconciliation commission. It is something new. They are still on learning curve. There is nobody with a monopoly of knowledge. So, let us give them more time. If you look at members of the Commission, they are people of integrity, who are highly respected by this country. Let us give them more time. This is simply procedural. Let us approve this procedural Motion, so that we go to the main one.

Mr. Deputy Speaker: This is a Procedural Motion and it should not take long.

Mr. Chanzu: Mr. Deputy Speaker, Sir, it is for the same reason that the Minister is advancing that I stand to oppose. He is saying that they are professionals and people of high integrity. The jobs of commissions are given to people of integrity and professionals, who must do their work within the given time. It is the specialized nature of their work that requires them to keep time. It should also be a lesson to other commissions, because they are appointed for a specified and then they spent a lot of time on squabbles instead of starting to do their work.

It is for those reasons that I oppose.

Mr. Oyugi: Mr. Deputy Speaker, Sir, I would like to oppose this particular Motion. The term of the TJRC has been extended several times. I was not a Member of this House then, but I remember that the last time an extension of time was given, it was for purposes of report writing, which has actually gone over-time. If at all the TJRC wants an extension, that should be appropriately handled by the Committee. If they give sufficient reasons that extension could be granted through the Committee.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Njuguna: Mr. Deputy Speaker, Sir, on the same breadth, this is a Commission that has wasted precious time. It has wasted public resources. It has not done justice to this country. Instead, it has engaged in unnecessary wrangles.

I very strongly oppose.

Mr. Linturi: Mr. Deputy Speaker, Sir, I rise to oppose this Motion. When I look at the composition of this team, I really sympathize with the country because we gave them this job on the understanding that they would serve this country right, give us a very good report and achieve the whole objective of reconciling Kenya.

These people have exceeded their sell-by date. The more we give them time, the more we continue over-burdening the taxpayer and yet we need to save as much money as possible to pay the doctors that are on strike and our teachers whom we must pay by the end of the year. I want to plead with this House to find it necessary that we do not give them any extension. Since they have not been able to meet their objective, we may even go further and ask for a surcharge because they have really wasted a lot of Kenyans' money.

Mr. Keter: Mr. Deputy Speaker, Sir, this is a very vital Commission to some of us who really need peace in this country. I do understand the reasons why my colleagues are opposing this, it is because we have extended the Commission's term several times and they have been fighting. But now they are at the final stage of preparing their report. So, with that, I plead with my fellow hon. Members, let us extend for the final time, they clear their report, it comes to the House and we adopt it.

So, I support.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Deputy Speaker, Sir, I want to plead with the Back Bench to sympathize with the Government's position. I agree with Mr. Keter. Those of us particularly from the Central Rift where conflict has been part and parcel of every election cycle really would like to see that we conclude these matters and find a way to heal the country and move forward. I want to plead with my colleagues in the Back Bench and I can see them smiling, so I hope they are persuaded because it is a Procedural Motion.

I support.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I know this is a Procedural Motion but I just wanted to make a little response.

Mr. Deputy Speaker: The rules do not allow one to move and then come to contribute. That is why I thought you were standing on a point of order.

The Minister for Lands (Mr. Orengo): If you may allow me, I think that what has come out from the Floor, especially those who are expressing the opposite view are quite justified. Probably the reasons why this extension is required may not come through this Procedural Motion, but at the time when we will come to the Bill. Probably, the hon. Members may be of the view that it is important to extend the time.

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. I have never seen somebody trying to respond to a Procedural Motion.

Mr. Deputy Speaker: You cannot move and then at the same time contribute. I thought he was on a point of order.

(Question put and negatived)

Mr. Deputy Speaker: Hon. Members, under the circumstances then Order Nos.10 and 11(i) cannot be transacted. We will have to proceed to Order No. 11(ii).

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

[The Temporary Deputy Chairlady

(Dr. Laboso) took the Chair]

THE PROCEEDS OF CRIME AND ANTI-MONEY
LAUNDERING (AMENDMENT) BILL

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, we are now in the Committee of the whole House to consider the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, Bill No.25 of 2012.

Clause 2

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 2 and substituting therefor the following new clause –

Amendment of 2. Section 2 of the Proceeds of Crime and
section 2 of Anti-Money Laundering Act, in this Act referred
No.9 of 2009 to as “the principal Act” is amended –

(a) by deleting the definition of “monetary instruments” and substituting therefor the following new definition-

“monetary instruments” means-

(a) coins and paper currency designated as legal tender of Kenya or of a foreign country and which is customarily used and accepted as a medium of exchange in Kenya or the country of issue;

(b) travellers’ cheques, personal cheques, bank cheques, money orders or securities;

(c) any other negotiable instrument which is in bearer form, or other form through which title passes upon delivery;

(b) by inserting the words “or benefits” immediately after the words “economic gains” in the definition of “proceeds of crime”.

(c) by deleting the definition of “realizable property” and substituting therefor the following new definition-

“realizable property” means-

(a) property laundered;

(b) proceeds from, or instrumentalities used in, or intended to be used in money laundering or predicate offences;

(c) property that is the proceeds of, or used, or intended or allocated for use in, the financing of any offence; and

(d) property of corresponding value.

(Question of the amendment proposed)

*Question, that the words to be left out
be left, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 2 as amended agreed to)

(Clauses 3, 4, 5 and 6 agreed to)

Clause 7

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 7 and substituting therefor the following new clause -

Amendment Section 17 of the principal Act is amended by deleting the
of section 17 proviso.
of No.9 of
2009.

The Temporary Deputy Chairlady (Dr. Laboso): If you could just make a comment, what is the import of your amendment?

The Minister for Finance (Mr. Githae): Basically, we are trying to remove the proviso which makes it very difficult to implement the whole section.

(Question of the amendment proposed)

*Question, that the words to be left out
be left, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 7 as amended agreed to)

Clause 8

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 8 and substituting therefor the following new clauses-

**Amendment
of section 24
of No.9 of
2009.** 8. Section 24 of the principal Act is amended-

(a) in paragraph (a) by deleting the expression “11” and substituting therefor the expression “12”.

(b) by renumbering paragraph (r) as paragraph (s) and inserting the following new paragraph

-
“(r) The Centre may request any supervisory body, monetary authority, financial regulatory authority, fiscal or tax agency, or fraud investigations agency to provide it with information where such information is reasonably required for the proper discharge of the functions of the Centre under this Act or for purposes of achieving the objectives of the Act.”

(b) by inserting the following new paragraph immediately after paragraph(o)-

(oo) shall have power to compel the production of, or to obtain access to all records, documents or information relevant to monitoring compliance outside the scope of onsite inspection.

Madam Temporary Deputy Chairlady, again this is an error. It should have referred to Section 12 instead of Section 11. So, we are just correcting. It was an error in the Act. It referred to the wrong section.

(Question of the amendment proposed)

*Question, that the words to be left out
be left, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by deleting Clause 10 and substituting therefor the following new Clause-

Amendment of 10. Section 46 of the principal Act is amended by

section 46 of deleting subsection (4) and substituting therefor the
No. 9 of 2009. following new subsection –

(4) The records required under subsection (1) shall be kept by the reporting institution for a period of at least seven years or such longer period as the Centre may in writing require, from the date the relevant business or transaction was completed or following the termination of an account or business relationship, without prejudice to any other records required to be kept by or under any other written law, and shall be made available on a timely basis to competent authorities.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 10 as amended agreed to)

New Clause 8A

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 8 –

Amendment of section 24 of No. 9 of 2009. **8A.** The principal Act is amended by inserting the following new section immediately after section 24-

Instructi
ons or
directio
ns.
24A. (1) The Centre may issue such instructions, directions, guidelines or rules to reporting institutions as it may consider necessary for the better carrying out of its functions under this Act or regarding the application of this Act.

(2) Any instructions, directions, guidelines or rules issued under this section may -

(a) be either general or special;

(b) be revoked or varied by subsequent instructions, directions, guidelines or rules;

(c) be given to such persons and in such manner as may be considered appropriate by the Centre.

(3) The Centre may, where it deems appropriate, delegate powers to a supervisory body to issue instructions, directions, guidelines or rules regarding the application of this Act to reporting institutions regulated or supervised by the supervisory body:

Provided that a supervisory body shall consult the Centre prior to issuing any instructions, directions, guidelines or rules under this section.

(4) Notwithstanding subsections (1), (2) and (3), the Centre or a supervisory body may in writing, direct any reporting institution to whom the provisions of this Act apply, to -

(a) provide the Centre or that supervisory body, as the case may be—

(i) with the information, reports or statistical returns specified in the notice, at the time or at the intervals specified in the notice; and

(ii) within the period specified in the notice, with any document in its possession or custody or under its control;

(b) cease or refrain from engaging in any act, omission or conduct in contravention of this Act;

(c) perform such act as may be necessary to remedy alleged non-compliance with this Act; or

(d) perform such act as may be necessary to meet any obligation imposed by this Act.

(5) The Centre or a supervisory body may examine a document submitted to it in terms of subsection (4)(a) and may make a copy thereof or of part thereof.

Madam Temporary Deputy Chairlady, this is basically giving the financial reporting centre powers to effectively proceed with their job.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

*(Question, that the new clause be read a
Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 8B

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 8A –

**Amendment of
section 36 of
No.9 of 2009.**

8B The principal Act is amended by inserting the following new section immediately after section 36 -

**Responsibility for
supervision
of
Reporting
Institutions.**

36A. (1) The Centre shall have the powers to regulate and supervise all reporting institutions, regarding the application of this Act.

(2) Subject to subsection (1), each supervisory body shall be responsible for supervising and enforcing compliance with this Act or any instruction, direction, guideline or rule made pursuant to or in terms of this Act by all reporting institutions regulated or supervised by it and to whom the provisions of this Act apply.

(3) The obligation referred to in subsection (2) shall form part of the legislative mandate of any supervisory body and shall constitute a core function of that supervisory body.

(4) Any law which regulates a supervisory body or authorises that supervisory body to supervise or regulate any reporting institution to whom the provisions of this Act apply, shall take account of subsection (2), and a supervisory body may utilise any fees or charges it is authorised to impose or collect to defray expenditure incurred in performing its obligations under this Act or any order, determination or directive made in terms of this Act.

(5) A supervisory body, in meeting its obligation referred to in subsection (2), may -

(a) in addition to any powers it has under any other Act, exercise any power afforded to it in this Act;

(b) take any measures it considers necessary or expedient to meet its obligations as imposed by this Act or any order, determination, instruction, directive or rule made in terms of this Act, or to achieve the objectives of the Centre or this Act;

(c) require a reporting institution supervised or regulated by it and to whom the provisions of this Act apply, to report on that institution's compliance with this Act or any order, determination, instruction, directive or rule made under this Act in the form, manner and within the period determined by the supervisory body;

(d) issue or amend any licence, registration, approval or authorisation that the supervisory body may issue or grant in accordance with any Act, to include the following conditions-

(i) compliance with this Act; and

(ii) the continued availability of human, financial, technological and other resources to ensure compliance with this Act or any order, determination or directive made under this Act; and

(e) in making a determination in accordance with any Act applicable to it as to whether a person is fit and proper to hold office in a reporting institution, take into account

any involvement, whether directly or indirectly, by that person in any non-compliance with this Act or any order, determination, instruction, directive or rule made in terms of this Act, or any involvement in any money laundering activity.

(6) A supervisory body shall submit to the Centre, within such period and in such manner as the Centre may prescribe, a written report on any action taken against any reporting institution in terms of this Act or any order, determination, directive, instruction, or rule made under this Act.

(7) The Centre and each supervisory body shall co-ordinate the exercising of their powers and performance of their functions under this Act to ensure consistent application of the Act, and may for such purpose; enter into a written memorandum of understanding in respect thereof.

Madam Temporary Deputy Chairlady, the purpose is to give some teeth to the financial reporting centre.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 11

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 10 -

Amendment of section 47 of No.9 of 2009.

11. The principal Act is amended by inserting the following new section immediately after section 47 -

Obligation to register with the Centre.

47A. (1) All reporting institutions to which this Act applies shall register with the Centre within such period and in such manner as the Centre may prescribe.

(2) The registration of a reporting institution under subsection (1) shall be accompanied by such particulars as the Centre may require.

(3) The Centre shall keep and maintain a register of every reporting institution registered in terms of this section.

(4) A reporting institution shall notify the Centre, in writing, of any changes to the particulars furnished in terms of this

section within 90 days of such change.

(5) A reporting institution that fails to register with the Centre as required by sub-section (1) commits an offence.

Madam Temporary Deputy Chairlady, this is just to give a requirement that the records be held for a number of years so that if the financial reporting centre wants to access that information, it is available.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 12

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11 –

Amendment of section 93 of No.9 of 2009.	12. Section 93 of the principal Act is amended by inserting the following new sub section immediately after subsection (6) -
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(7) The Court may –

(a) before making a confiscation order, or

(b) in the case of property in respect of which a restraining order was made, where that order was served in accordance with section 68, or in the case of property in respect of which a court order has been made authorizing the seizure of the property, set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the conveyance or transfer was made for value to a person acting in good faith and without notice.

Madam Temporary Deputy Chairlady, again, the proposed amendment seeks to provide powers to the court to avoid transactions carried after confiscation or forfeiture orders have been given and where such persons involved knew that such a transfer would prejudice the ability to recover the confiscated goods.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

*(The new clause was read a Second Time)
(Question, that the new clause be added to the Bill, put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Proceeds of Crime & Anti-Money Laundering (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) in the Chair]*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE PROCEEDS OF CRIME & ANTI-MONEY LAUNDERING (AMENDMENT) BILL

Dr. Laboso: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Proceeds of Crime & Anti-Money Laundering (Amendment) Bill, Bill No.25 of 2012 and approved the same with amendments.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Forestry and Wildlife (Dr. Wekesa) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, I beg to move that The Proceeds of Crime & Anti-Money Laundering (Amendment) Bill, Bill No.25 of 2012 be now read the Third Time.

The Minister for Forestry and Wildlife (Dr. Wekesa) seconded.

(Question proposed)

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, I would like to take this opportunity to sincerely thank the Members of this august House for all the support they have given me as I have moved my Bills.

Madam Temporary Deputy Speaker, this was a very important Bill. These amendments were as a result of a conference that was held in Mozambique, where our Proceeds of Crime and Anti-money Laundering Act was looked into and these were the shortcomings that were found to exist.

Madam Temporary Deputy Speaker, with the passage of this Bill, I can now confidently report that this country is now on its way to creating a proper financial centre in this country. We are looking for investments. Again, let me say that I am proud of my time at the Treasury. For the first time in an election year, our foreign direct investment is going up. That shows the confidence that the investors have in this country and the managers of its economy. I would like to thank the staff of Treasury for having worked very hard to come up with these amendments. Last week, we passed the Anti-Terrorism Bill which is just awaiting presidential assent. The Bill criminalizes the financing of terrorism.

So, I will now say that Kenya can look at the world straight in its own eyes and say: “We are now moving towards a proper and well regulated economy.” Money laundering is now an offence and I am putting on notice anybody who now attempts to launder money here, either through self or other people because we have now made it an offence. Therefore, we should see corruption also going down because money laundering also increases corruption.

*[Madam Temporary Deputy Speaker
(Mrs. Odhiambo-Mabona) left the Chair]*

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

Madam Temporary Deputy Speaker, again as I conclude, I would like to say that this country is moving in the right direction. We should see our growth in the economy move from 4 per cent to 6 per cent and even approaching 7 per cent.

With those words, I beg to support.

Mr. Njuguna: Madam Temporary Deputy Speaker, let me start by thanking the Minister and his entire staff for their commitment and dedication on this very important Bill. Secondly, let me indicate that this new law has been long overdue and it would deter money laundering activities in the country and trigger sound economic performance.

Finally, let me thank the Minister for releasing the Constituencies Development Fund (CDF) to the constituencies very quickly. Hon. Members of Parliament will now be able to

complete all the projects that they have started in their areas which are beneficial to the constituencies. I hope this new law will now trigger stricter financial management in our country.

With those few remarks, I fully support the Bill.

Mr. Mututho: Madam Temporary Deputy Speaker, I want to congratulate the Minister and his staff because the people who thought they had made fortunes out of piracy can now have sleepless nights. The Minister will be able to move in. The Minister will have to instill confidence in the international world. The people who thought Kenya was safe to bring all those proceeds from such weird gains; from pirating have no place now.

Madam Temporary Deputy Speaker, it takes courage and I want to thank the Minister for taking courage and leading other African nations in showing that we can be disciplined and do neat and clean business. The staff of Treasury, much as we have heard so many complaints and compliments at the same time, should be congratulated too. For them to come up with this framework of such a comprehensive law amid possible interferences and avoiding any direct influences that would have rendered this particular piece of legislation useless, it is really commendable. I am saying this because for quite some time now, I have been involved in the drafting of the Alcohol Control Act. I know the forces of evil can be immensely powerful to an extent that, at times, you are not sure whether you are talking to the same people or other characters. So, for men and women who sit down for long hours and draft such laws, we say thank you very much. They should be encouraged to fine tune other statutes that will help Kenyans. We are looking forward to you, hon. Minister, with the permission of the Chair, to declare that Upper Hill becomes the new capital centre of the Republic of Kenya so that all those *nyama choma* places and other places can now be acquired by the Government or the rest of the private sector so that, we have all these banks come to Capitol Hill. That way, we will be able to challenge South Africa.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Mututho, it is not a debate, it is just very brief comments.

Mr. Mututho: Madam Temporary Deputy Speaker, Sir, I am just excited. With due respect, just give me half a second. I am looking at that one day when, when you are approaching Capitol Hill, you are approaching the financial capital of Africa; that is Upper Hill, Nairobi. I thank you and congratulate the staff and Minister for Finance.

Thank you.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

The Temporary Deputy Speaker (Dr. Laboso): Next Order.

MOTIONS

APPROVAL OF THE DRAFT ELECTIONS (REGISTRATION OF VOTERS) REGULATIONS 2012

THAT, Pursuant to Section 109 (3) of the Elections Act No. 24 of 2011, this House approves:-

The Draft Elections (Registration of Voters) Regulations 12

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, that Order has been deferred.

(Motion deferred)

The Temporary Deputy Speaker (Dr. Laboso): Let us go to the next Order.

ADOPTION OF SESSIONAL PAPER NO.3 OF 2012 ON
POPULATION FOR NATIONAL DEVELOPMENT

*(The Assistant Minister, Ministry of State for Provincial Administration and Internal Security
(Mr. Lesrima) on behalf of the Minister for Planning, National Development and Vision 2030 on
2.10.2012)*

(Resumption of Debate interrupted on 2.10.2012)

The Temporary Deputy Speaker (Dr. Laboso): This was an on-going debate and hon. Millie Odhiambo was on the Floor.

Proceed.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I just want to indicate that when I had started contributing in support of this Motion, I had indicated that I am writing a novel which is entitled; *“Getting Lost with Freedom”*, that speaks to a lot of things that this policy seeks to address. One of the things that I look at is that when you grow up and when you were younger there was a lot of hope for change and the transformation of this country. That was anchored on the fact that we had optimum population and the resources that were available could be properly utilised by the population. But when you look at the whole country now, smaller towns that we had hoped would grow into cities have now become shanties. The cities – and I do not even have words to describe them – are shanties. That is because we had not taken very seriously the issue of planning. We know that many planners will tell you: failing to plan is actually planning to fail. That is why I really want to congratulate the Minister for bringing this. Indeed, it is regrettable that it has taken two years between the lapse of the earlier policy and the one that the Minister is bringing. I would just encourage that because we are a country that is changing and there are a lot of reforms that are going on---

I just want to say that there are a lot of reforms that are going on. We need to be up to speed with reforms and, indeed, use this policy to bring change. I want to indicate that I am very happy. If you see some of the items that are listed here, it is very mindful of the Millennium Development Goals and that it seeks eventually to realize some of those goals. Indeed, if you look at the first goal it is to eradicate extreme poverty. In this country, we have issues of extreme inequalities across the nation. If we are able to actually look at the country and certify the country in relation to poverty, then we will be able to free our resources so that we focus the resource to areas where they are most needed.

I want to focus especially on the issue of child-led households, or older persons that are taking care of children that are orphaned, as a consequence especially of HIV/AIDS. I am also happy that it is cognisant of the issue of education which is also an MDG goal No.2 of achieving universal primary education.

Madam Temporary Deputy Speaker, the policy is also cognisant of the issue of gender equality and empowerment of women. Indeed, as hon. Prof. Anyang-Nyong indicated, one of the greater things that we have to do as a country is to actualize Article 100 and other Articles that have to do with marginalized communities and marginalized groups and also actualizing the Equalization Fund so that we do not just have the population figures, really as cosmetic figures but to help us in dealing with the challenges that we are facing as a country. I am looking at the indicators.

Even though there are some positive trends in terms of the indicators that are shown in the policy such as total fertility rate per 1000 live births that has improved. But if you look at some of the key indicators, the issue of life expectancy has gone down. Therefore, it actually shows that even though we might be saying we are doing well as a country in terms of controlling population, some of it is because life expectancy has gone down as a consequence of poverty and diseases and inability to access drugs for a lot of the poor households. I am also happy that there is a focus on improved maternal health, combating HIV/AIDS related diseases and ensuring environmental sustainability.

Madam Temporary Deputy Speaker, I know that it is very difficult to measure the issue of satisfaction but I would have loved that one of the goals or expected results that we would have included in this policy is whether we actually have a satisfied populace, because of proper planning. Indeed, I can see that some of the results that we are looking at are, reduced fertility and mortality rates; substantial resources freed for national development, skills development and utilization and a balance of socio-economic and environmental sustainability.

Madam Temporary Deputy Speaker, I am saying it would be nice if we had included the issue of satisfaction, although it is difficult to measure. It is satisfaction because we actually have a country that is at war with itself both at the broader level, but also at individual level. Indeed, earlier today, I had indicated that we have a lot of cases of young people committing suicide because of the frustration and challenges that we are facing. But a lot of it really stems from the fact that as a country we have been living by accident and we have not been properly planning. So, my challenge to the Minister, is yes, indeed, it is good---

I do not want to use the previous rhetoric that we used to have that once you had good policies you put them on the shelves. I am sure that as a country we have definitely moved away from that. I would like to be optimistic because I can see that we have certain positive changes. I want to encourage the Minister to move with speed and bring the appropriate legislation, where necessary.

I know one of the pieces of legislation that has not been brought forward is the one on reproductive rights for women. Unfortunately, it is one of those laws that are misunderstood; everybody thinks that everything that has to do with reproductive rights is abortion. A lot of women suffer a lot because of lack of access to reproductive services across the country. Many women die because they cannot reach healthcare facilities. Many children die because they cannot get adequate services when they are aged between age one year and five years.

Therefore, I support and, as I indicated, Mr. Minister, please, ensure that you bring the appropriate legislative framework as soon as possible, so that we protect our women and children.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Githae, were you going to answer on behalf of Government? If that is so, we can allow two more hon. Members.

The Minister for Finance (Mr. Githae): That is all right, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Njuguna!

Mr. Njuguna: Madam Temporary Deputy Speaker, Sir, let me be very brief in my observations.

This sessional paper is calling for major issues to be addressed and one of them is about more security in the country. Recently, we have seen murders and killings in our towns and homes. This is a new development that must be addressed immediately.

Industrialization is key to the development of this country. We have seen concentrated locations of industries in the capital. This must be addressed as a matter of priority. We need to create jobs for our youth. Jobs must be created where the youth are. Therefore, this is an issue that the Ministry or Government must address properly.

Concerning economic development of our country, it is not healthy, according to what we have seen recently in this country--- We saw employees of Kenya Airways being sacked. This is going to affect harmony in various homes. The whole affair was not handled well. We should not sack our own people and employ foreigners. Recently, we had various strikes. This is not good for security in this country and for better economic performance.

I would like to thank the Minister for Finance for, although belatedly, agreeing to sit down with the teachers and finding a solution with regard to the strike. We also thank the teachers for also accepting the agreement easily and going back to school. We hope that the teachers will create the necessary time to cover the ground that was not covered. I would also like to urge the Government to implement the package as agreed with the teachers.

It is also important to appeal to the Minister for Medical Services to borrow a leaf from the Minister for Finance and come to the rescue of suffering Kenyans by ending the doctors' strike.

It is important to pay special attention to HIV/AIDS victims in this country. Drugs are very expensive and they are not able to access them. It is, therefore, important that the Government looks for ways and means of making the required drugs accessible to the victims.

With regard to infrastructure, shoddy works have been witnessed. Resources have been wasted as contracts get delayed. This is an area in which the Government can save a lot of money, if contracts are followed properly and quality work is implemented. That way, transport and communication will be improved.

With those few remarks, I support.

Mr. Langat: Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity so that I can also make a contribution on this important issue. One surprising thing about Kenya is that her population is increasing rapidly compared to the time of Independence and even from 1900 when the Kenyan population was about 2.5 million people. Now we have almost 40 million people. The population is increasing, but without any proper plan that can accommodate it. The Ministry of State for Planning, National Development and Vision 2030 should be very serious and ensure that the population matches the planning, so that we can control our economy.

Sometimes, there is a lot of hunger. As we approach the harvesting season, the Government should be prepared to buy enough food from the farmers. Most of these suicides and all these other issues are because of hunger and other problems. If the Government can be serious and buy enough food as we approach the harvest season and store it, we can manage some of these problems. If you look at our industries, for example, the cotton industry, they are collapsing. The cotton industry collapsed because we gave priority to second hand clothes that killed our industry. We, as a country, did not promote our industries. We should protect our

industries because that is where most of our people get employment. We went to Thailand the other day and we found that they have only 3 per cent unemployment rate. Kenya has good ideas, but poor implementation. RIVATEX in my area and Raymond companies collapsed. These industries should provide employment to our youths. Right now, we are talking about creating employment opportunities. But if we do not promote our industries, then we will not get any place to employ our youths.

We are told that in 1963, Kenya and Singapore were at the same level. Right now, Singapore is ten times better than us. It has reached a time when we need to search ourselves to see where we went wrong. We cannot be at the same level with a certain country and, then all of a sudden, it is ten times ahead of us. It is time for us, as a country, to plan for our people.

Mr. Mututho: Madam Temporary Deputy Speaker, in supporting this policy, I want to say that we should now convert the huge population and the high level of elite into a resource. No country can develop unless it has the human resource. Right now, we should focus on what the Prime Minister of Malaysia, when we met him sometimes last year, declared that Kenya can develop. But among the first things that we must do, and which I believe we can do even tonight, is to have good table manners.

Every time we meet foreigners and other investors, the first thing we want to talk about is how corrupt we are and how we are going to strengthen our anti-corruption laws. Nobody wants to do business with those kinds of people. We should emulate what this Government has done in the past few years in terms of roads. It has done what other Africans are envying and seeing, what was impossible to do, by keeping quiet, living within your means and organizing yourself. The other aspect is that Kenya has very innovative people. I travelled to Tanzania the other day and landed at the Kilimanjaro International Airport, but there was only one plane there, which we landed in. We stayed for a long time before any other one landed there. Had the airport been in Kisumu, Eldoret or even Wajir and other places, there would have been a lot of commerce there because of the innovativeness of our people. That resource, which boils down to population, should be celebrated; a good hard working people.

Madam Temporary Deputy Speaker, you will remember the Tazara Railway. That is what we are trying to do now from Lamu all the way to Sudan. It will be useless if we do not have these people. So, even as we grow as a population, we should celebrate our people and supplement the Government efforts, having invested heavily and having 85 per cent of us being literate compared to the Philippines who are 65 per cent literate. We are doing pretty well.

This dark continent is darker by night. You just need to Google and see that we only built Johannesburg in South Africa, a bit of Nairobi and other places. So, if we could have power distributed to our population so that the night can be used gainfully, either for enjoyment or whatever it is, then the population issue would be sorted out. I think we should give a good listening to our ladies and a kind ear. They are suffering and they have suffered. I said that last time and people seemed worried that they are contributing 52 per cent of the labour. With their contribution in agriculture at 52 per cent, what do they get in return? They get less than one per cent. That is in terms of direct investment to ladies. So, if we could change our philosophy in development so that we are able to acknowledge the large labour and the effort by ladies, the issue of population will become manageable. Issues to do with the number of children will be controlled by the normal supply and demand other than legislative or policy issues. I support this policy wholly and hope to see more improvement on it so that as I have said, it can look at people as a resource and not a liability.

Thank you, Mr. Temporary Deputy Speaker.

The Minister for Finance (Mr. Githae): Thank you, Madam Temporary Deputy Speaker. On behalf of the Minister, I sincerely thank the Members of this august House for the support and contributions when the Policy Paper was being prepared. I also thank the staff of the Ministry for a job well done. It was not easy coming up with this National Development Policy Paper on Population. It was not easy. Let me also thank the staff of the National Assembly for the help and assistance that they accorded to the Committee.

As I conclude my remarks, it has come out very clearly that those Members of Parliament who call on their constituents to give birth to many children for the sake of obtaining political support are doing a disservice to this country. It is not just the population that is important but it is the fact that out of that number, how many people are able to afford their daily bread. What is their disposable income? What is their state of health? What is their state of housing? How many have piped water? How many have access to tarmac roads? To me, these are the most important things and not just the numbers, as people have been saying. From this Policy, we have again seen that the low income people tend to have larger families and you have to ask yourself why. The high income people have very small families and yet it is people in the high income groups who live in large maisonettes with many bedrooms which most of the time are locked because there are no children to sleep there.

Madam Temporary Deputy Speaker, sometimes I wonder how our other colleagues managed to live in single room kind of residences. Somebody would have a family; sometimes one would even have two wives and children. I just wonder how they used to sleep. So, we are saying that the reason as to why we have these problems is population which is not educated, and which the head of the family is unable to take care of. Therefore, we are saying that population can be an asset, but it must be well educated. It must be a population which has jobs and other means of livelihood. Having a large population just for the sake of it does not auger well for the country.

It is clear that within the next 30 years; more than 50 per cent of our population will be living in urban areas. So, we must plan for our urban areas. We should not continue with the shoddy job that the local authorities are doing. One of the reasons as to why we have the so-called “illegal structures” is that our local authorities wait for somebody to start constructing yet they know that the fellow has no permit to do so. He is left to construct. Once the house is complete, they go and knock it down. So, the question that people ask is: “Where were you when this fellow was putting up the illegal structure?” If our urban centres were properly planned, even people in the neighbourhood would be able to raise an alarm and everything would be taken care of in good time.

Madam Temporary Deputy Speaker, another thing we have seen is that we need to change the policy of local authorities. As far as local authorities are concerned, the so-called “unplanned structures” do not exist yet we know that they exist. We know that we have slum areas. So, instead of pretending that slums do not exist just because they are not planned for, we should adopt the South African example and take services to those areas. We should provide slum areas with roads, electricity, telephone services and other services. That is the way you upgrade them. I am glad that the Ministry of Housing has adopted that policy and they are now continuing with the upgrading of slum areas, instead of pretending that they do not exist.

We, from the Ministry of Finance, have allocated sufficient funds for what we call “cash transfers” to the elderly members of our population as well as to the vulnerable and orphans, in an effort to give some disposable income to them. What we are saying is that we should stop the exercise so-called “pilot studies” because when you do pilot studies, you discriminate against

some areas since you choose one or two districts. This causes us a lot of problems as some hon. Members ask why their districts are not receiving the so-called “cash transfers”.

Madam Temporary Deputy Speaker, finally, we are saying that if you educate a woman, you educate a family. That is very true. We have the one-third gender rule. Members of Parliament are now struggling to find a formula but what I want to say for the record is that when the Constitution was being drafted, Treasury raised the concern of how expensive it would be to implement it, but they were not listened to. We have now adopted the new Constitution, which says that no public body should have more than two-thirds of its membership comprising of one gender.

We should not use costs as an excuse for denying women their rightful share of the seats in Parliament and in the Senate. We should come up with a solution. Democracy is expensive. Therefore, we are recommending that Parliament should respect the one-third gender rule.

With those remarks, I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time to interrupt our business. Therefore, the House is adjourned until tomorrow, Thursday, 4th October, 2012, at 2.30 p.m.

The House rose 6.30 p.m.