

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 23rd October, 2013

The House met at 9.00 a.m.

[Hon. Deputy Speaker (Dr. Laboso) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: Order, hon. Members. It is the usual Wednesday ritual. We do not have quorum. Let the Quorum Bell be rung.

(The Division Bell was rung)

Order, hon. Members, we now have a quorum. We can continue with the business of the day. Call the Order.

NOTICE OF MOTION

ESTABLISHMENT OF NATIONAL IDENTITY CARDS PRODUCTION CENTRES IN CONSTITUENCIES

Hon. Odanga: Thank you hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to give notice of the following Motion:-

THAT, aware that the process of obtaining national identification cards (ID) is long due to the fact that there is only one production centre in Nairobi that caters for the entire country; deeply concerned at the backlog in the production of these IDs due to the centralization of the process; noting that the decentralization of administrative functions by way of devolution is central to the Government of the day, and it is not an option but a constitutional choice, this House urges the Government to establish national IDs production centres in every constituency as a way of decentralization to allow access of such services by the local people.

Thank you.

STATEMENTS

Hon. A.B. Duale: Hon. Deputy Speaker, I have a Statement that was sought by the Member for Suba, hon. John Mbadi. He was just here.

Hon. Deputy Speaker: He has just stepped out. I do not think he knew that.

Hon. A.B. Duale: I have notified him.

Hon. Deputy Speaker: He is somewhere behind there. Are there any requests? You could just give him a minute to return. I see no requests, so somebody needs to prompt hon. Mbadi so that you can respond to his Statement request. Okay; if we have no other Statement, we may have to move to the next Order, if hon. Mbadi cannot be found.

Hon. A.B. Duale: Hon. Deputy Speaker, I had agreed with hon. Mbadi, that is why he woke up early, and I also woke up early. You made a ruling that on Wednesday mornings, we issue Statements. I have no problem.

Hon. Deputy Speaker: I can see hon. David Bowen, maybe he has something to add. Is it on the same or you have a different matter?

Hon. Bowen: Hon. Deputy Speaker, I do not have a Statement, but three weeks ago, I requested for a Statement from the Chairperson of the Committee on Administration and National Security on the issue of work permits in the Immigration Department under the Ministry of Devolution and Planning. I was told I would get a response to the Statement in two weeks' time. Two weeks lapsed last week and I have not got an answer. You could ask the Chair to tell me exactly when I will get an answer to the question.

Hon. Deputy Speaker: Is the Chair in the House? He is out on parliamentary business. Is the deputy in the House? The Leader of Majority Party, can we have an undertaking on this question of security?

Hon. A.B. Duale: Hon. Deputy Speaker, I think you will help me because we need to do a serious letter to all Chairs. You gave a ruling that Chairs or Vice-Chairs must be here. It looks like the Vice-Chair is not allowed, but I will give a commitment that the Statement will be delivered on Thursday next week.

Hon. Deputy Speaker: The Leader of Majority Party, I think we need to do something. We cannot keep on every Wednesday morning repeating ourselves. We have people who have been given responsibility and responsibility allowances to go with their jobs, yet we are not getting the quorum that we need, both from the Majority as well as the Minority groups. On both sides, we are really having a problem with getting quorum on a Wednesday. I think you need to whip your Members on both sides of the House, and see what we can do about it, particularly with Chairs and their deputies; you do not know whether a question will be directed at you.

Leader of Majority Party, I can see hon. Mbadi is now in the House. You may continue to respond to his question. Hon. Mbadi, in future, when you know that you have a request, you should not absent yourself after appearing in the House.

APPOINTMENT OF MR. KINYUA AS CHIEF OF STAFF AND HEAD OF PUBLIC SERVICE

Hon. A.B. Duale: Hon. Deputy Speaker, the Member for Suba, hon. Mbadi, sought a Statement on the appointment of the Chief of Staff one Mr. Kinyua. The first question was whether the position of Chief of Staff and Head of Public Service is a position in the Civil Service.

The position has combined two hitherto distinct offices of the Chief of Staff established under Article 234(4) of the Constitution and the Office of the Head of Public Service created under Article 132(4)(a) of the Constitution. The post is now a single office in the Civil Service, but is referred to as public service under the Constitution. The

Office of the Chief of Staff and Head of Public Service is not a State office as prescribed under Article 260 of the Constitution, neither has the office been designated as such under any Act of Parliament.

The second question was whether the appointment to the office was undertaken through a competitive process as required by Article 232(1)(g) and (i) of the Constitution. The answer is that the Constitution has created four broad categories of offices in the public service and specified different modes of appointment. The competitive recruitment criteria prescribed under Article 232 of the Constitution is just but one of the methods. The others are as follows: The first are offices created and appointment is exclusively made by the Public Service Commission. These are establishments pursuant to Article 234 of the Constitution and form the bulk of the public service. Appointments to these offices within the framework of that Article must strictly conform to the competitive process prescribed under Article 132 of the Constitution.

The second are offices in the public service expressly created by the Constitution and appointments made by the President with the recommendation of the PSC and approval of the National Assembly. These kinds of offices are, for example, the Office of the Principal Secretary established under Article 155 of the Constitution. The third ones are offices in the public service established by the Constitution and appointments to which are made by the President with approval of only the National Assembly. An example is the Office of the Secretary to the Cabinet under Article 154 of the Constitution. The fourth are offices in the public service created by the President with the recommendation of the PSC. An example is the Office of the Head of Public Service created under Article 132(4)(a) and the Office of the Chief of Staff established under Article 234(4) of the Constitution.

These offices now are merged into one office under His Excellency President Uhuru Kenyatta's administration known as the Office of the Chief of Staff and Head of Public Service. This was created by the President with the concurrence of the Public Service Commission, which was granted on 22nd April, 2013. It can be seen that the appointment of the Chief of Staff and Head of Public Service does not require competitive recruitment.

The third question was what the functions of the Office of the Chief of Staff and Head of Public Service are, and whether there is an overlap between the office and that of the Secretary to the Cabinet. The answer is that the Chief of Staff administers and manages the personal staff deployed in the Office of the President, serving in State House and other State Lodges. The Head of Public Service is the President's Principal Assistant responsible for co-ordination and administration of Government Ministries and departments as prescribed under Article 132(3)(b) of the Constitution. The role of the Chief of Staff and Head of Public Service is quite distinct from that of the Secretary to the Cabinet. The mandate of the Secretary to the Cabinet is limited to Cabinet affairs and includes the following: He is in charge of the Cabinet Office, responsible for arranging business and keeping minutes of the Cabinet; he is responsible for conveying the decisions of the Cabinet to the appropriate persons and authorities.

In this respect, the Secretary to the Cabinet shall be working closely with the Chief of Staff and Head of Public Service in communicating decisions of the Cabinet concerning Ministries and departments.

Hon. Deputy Speaker, the last question by hon. Mbadi was whether the Chief of Staff and Head of Public Service shall be attending Cabinet meetings and the answer is, whereas the Secretary to the Cabinet shall, as a matter of right, attend Cabinet meetings as the Secretary, the Chief of Staff and Head of Public Service is not a member of the Cabinet and does not participate in the making of decisions of the Cabinet. However, the Chief of Staff may attend Cabinet meetings on the invitation of the Cabinet as and when appropriate.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Hon. Mbadi.

Hon. Ng'ongo: Thank you, hon. Deputy Speaker. I can see the Leader of Majority Party has struggled to address this issue. I sympathise with him because really he is a Member of Parliament like me and, therefore, cannot purport to be holding or answering on behalf of the Executive. I think this is one of the many areas where we have issues as a House on how to hold the Executive accountable.

Having said that, our Constitution is not ambiguous on how one can assume office in the public service or in the Civil Service or any other office. Our Constitution spells out three distinct ways of occupying an office in the public service and be paid from the taxpayers' funds. One of them is State office and, if you allow it, I will ask the Leader of Majority Party to go to Article 260 of the Constitution; State officers are clearly spelt out. If you are not in a State office, then you can only be holding a public office or public service office. If you hold a public service office, your recruitment must be through interviews conducted by the Public Service Commission and approval from that office.

Hon. Deputy Speaker, finally you can be personal staff of the President. So, these are three distinct ways. This office, from the Leader of Majority Party's own assertion and presentation, combines both being personal staff of the President and a position in the public service. As Chief of Staff, he is a personal staff of the President. As Head of Public Service, he is actually not only in the public service but the Head of Public Service and, therefore, this is a position that this House cannot allow the President to appoint a person to without due process.

Hon. Deputy Speaker, the Public Service Commission needs to be involved in the appointment of the Head of Public Service; there is no position in the public service which an individual can occupy based on appointment done by an individual. The President cannot hide under Article 234(4)(a) of the Constitution because this is not an office which he can create at his own pleasure. This is the Head of Public Service.

Hon. Deputy Speaker, I am at a loss how this issue is going to be addressed because this House is setting a precedent. I know that the Leader of Majority Party cannot order the President to revoke an appointment or pass it through the correct procedure which would involve Parliament's approval. Therefore, this House needs to come up with a solution on how we are going to force, or make the Executive to comply with this important requirement.

Hon. Deputy Speaker: Hon. Mbadi, give the Leader of Majority Party a chance since he is on a point of order.

Hon. A.B. Duale: On a point of order, hon. Deputy Speaker. I have cited all the provisions. I want the hon. Member to ask for clarifications that I can answer. He should not give a general speech. I want one, two or three clarifications and I will cite the provisions in the Constitution that the President used in creating both the Office of the

Chief of Staff and the Office of the Head of Public Service. What I need are clarifications.

Hon. Deputy Speaker: Yes. Hon. Mbadi, can you give a few other Members an opportunity to ask for clarifications, because we do not want one person to do so? Others want to raise clarifications and then he can put down the points. I believe he has noted your point; can you proceed to conclude so that others can also ask for clarifications?

Hon. Ng'ongo: That is okay, hon. Deputy Speaker. Given that, probably, the Leader of Majority Party did not get what I was asking, or the clarification I sought, let me make it very brief and concise. I want to ask the Leader of Majority Party to clarify the fact that this is the Head of Public Service and this position is in the public service; there are requirements in the Constitution with regard to how an officer can occupy a position in the public service. Why was that not followed?

Number two, the Leader of Majority Party has talked about the functions of this office, including co-ordination and administration of Cabinet affairs. If you go to Article 154 of the Constitution that gives the functions of the Secretary to the Cabinet, it is clear that it is the responsibility of that office to communicate Cabinet decisions to other State organs. So, how will we now distinguish between the functions of this office and that of the Secretary to the Cabinet? Are you not creating, or is the President not creating conflict between these two offices? How come that we, as Parliament, vetted the position of Secretary to the Cabinet and gave that position responsibility to co-ordinate Cabinet affairs and then the President now singlehandedly creates another office to do the same function and this House has not even vetted that officer?

Hon. Deputy Speaker: Your point has been made. Leader of the Majority Party, note a few clarifications and then you can answer after that.

Hon. (Eng.) Gumbo: Thank you, hon. Deputy Speaker. I am a believer in the diversity of our country; I am a believer in the fact that if there is a reason why we are not doing as well as we should, it is the fact that we have not been able to fully exploit the diversity of our country. One of my dreams and hopes is that before I die one day I should be able to see a Cabinet comprising of 20 people drawn from 20 communities in Kenya, but that is beside the point.

Hon. Deputy Speaker, this appointment is of concern. I have a lot of admiration for President Uhuru Kenyatta at a personal level, but I am concerned that this appointment perpetuates the view that he is like those before him. He is surrounding himself with people from a particular community. That is my view. Then could the Leader of Majority Party clarify--- I have seen he is having difficulties, just as hon. Mbadi has said, trying to justify this appointment. Was the President not merely looking for a way to reward a trusted personal friend? Lastly, I have a lot of respect for Mr. Kinyua. In my mind, he is a Kenyan patriot but really everybody must have their time. When we are seen to be recycling retirees, what are we doing to the ambitions of young, dedicated public servants who also want to move up the ladder?

Hon. Deputy Speaker: Okay. Hon. Benson Makali.

Hon. Mulu: Thank you, hon. Deputy Speaker. I want to join hon. Members in seeking clarification from the Leader of Majority Party. I think it is obvious that he is struggling to answer the questions. I think procedurally, this appointment has issues. Being the Chief of Staff, that is okay because that is a personal appointment. However, being the Head of Public Service, it is unfair. This House vetted Cabinet Secretaries---

Hon. Deputy Speaker: Remember you are seeking clarification.

Hon. Mulu: Hon. Deputy Speaker, my clarification is: Why should this House vet Cabinet Secretaries and Principal Secretaries and not vet the person they are reporting to and who procedurally is supposed to be their boss? Is it fair to this House to have the Secretary to the Cabinet vetted and approved by this House and then he is delegated to a mere secretary of a meeting?

This country has a clear retirement age limit in terms of public service which is 60 years. Is it fair to Kenyans to get people who are over 60 years being appointed to public service and yet there are younger people who are looking for these positions?

Hon. Aden: Hon. Deputy Speaker I seek one clarification on this particular issue from the Leader of Majority Party. Indeed, I have no problem with Mr. Joseph Kinyua. He is a man I believe has the capability to serve this nation in a very professional and untainted manner. Having said that, I would like to bring to your attention Article 154 which is about Secretary to the Cabinet. It states that there is established the office of the secretary to the Cabinet which is an office in the public service. It also states that there is established the office of the principal secretary which is an office in the public service. If you read further you realize that these people will be nominated by the President and their names shall be subject to approval of the National Assembly. We are talking of the Head of the Public Service and yet you want to tell us that this position should be exempted when everybody else below it must be subjected to the approval of the National Assembly. This is an area that begs for clarification. It is not convincing, to say.

I actually think it was a deliberate move to avoid vetting by Parliament. Everybody else in the public service requires an approval of the National Assembly. I do not think that Mr. Joseph Kinyua would have struggled to be vetted by this House. I think he would have sailed through it, but we must respect the law. I beg to seek clarification as to why there has been an exceptional evasion of the law on this particular case.

Hon. Deputy Speaker: Hon. Chrisanthus Wamalwa, please, just stick to the clarification. Let us not have background information, if we can avoid it. This is in the interest of time.

Hon. Wakhungu: Hon. Deputy Speaker, sometimes when you are seeking clarification you need to give some background.

Hon. Deputy Speaker: Just try and be straight and clear.

Hon. Wakhungu: Hon. Deputy Speaker, I have no doubt about the performance of Mr. Kinyua. The issue is whether or not he is subjected to the Public Officers Ethics Act? If yes, other colleagues of mine have mentioned about the age limit. Is he also subjected to that? We know very well that the President has been doing integration so as to avoid duplication. So, I need clarification in terms of his role with that of Comptroller of State House.

Hon. Ochieng: Hon. Deputy Speaker, the issue for clarification here is not really about the holder of the office, Mr. Kinyua. What we have seen happening since the appointment of Mr. Kinyua is creation of positions and appointment of people to them. This is being done following the precedent set by the President.

Hon. Bosire: Hon. Deputy Speaker, in view of Article 232(1)(h), which is about representation of Kenya's diverse communities, it has been clear that all appointments are heavy on one or two sides. Assuming that *Bw.* Kinyua is correctly nominated and appointed; does the Leader of Majority Party agree that it is offending that the

nominations or appointments do not reflect the face of Kenya? Does he find the President to have done this in clear violation of the Kenyan Constitution that put him into office?

Hon. Bowen: Hon. Deputy Speaker mine is to ask the Leader of Majority Party to clarify who the Head of Public Service reports to, when the Constitution is very clear even on the Cabinet Secretaries under Article 153(4)(a), that they will act in accordance with the Constitution and provide Parliament with full and regular reports concerning matters under their control. Who does the Head of public service report to?

Hon. Ngunjiri: Hon. Deputy Speaker, I want to remind the complainants when they are talking about the position--- I think the Government of Jubilee---

Hon. Deputy Speaker: Hon. Ngunjiri, do you want to answer on behalf of the Leader of Majority Party?

Hon. Ngunjiri: Not really, but I want to comment. When the Government makes its appointments--- I want to support by saying that the Government always knows when it is making its appointments. This is because we won the election as Jubilee. Some people are complaining that the Government is appointing more people from one side. We won. The President knows where he should pick his appointees from.

(Loud consultations)

Hon. Deputy Speaker: Hon. Ngunjiri, your point has been made. Hon. Leader of Majority Party you have been assisted by hon. Ngunjiri; since you are clapping it looks like you are happy with the support.

Hon. A.B. Duale: Hon. Deputy Speaker, in Jubilee we believe in collective responsibility and I want to thank hon. Onesmus Ngunjiri for taking a serious step towards collective responsibility of the Coalition.

First and foremost, I want to say that this is one of the best Statements that I have brought before this House. I will stand by this Statement because it is based on law. Every paragraph that I have read, I have quoted the Constitution. This is a country that is governed by the Constitution and the law. Hon. Mbadi, the Statement was very clear.

I said it from the outset that the Constitution provides for this under Article 260. If you allow me, I will read the Article.

“public office” means an office in the national government, a county government or the public service, if the remuneration and benefits of the office are payable directly by the Consolidated Fund or directly out of money provided by Parliament.”

That is the definition. The same Article 260 says that a public officer is any person other than a State Officer who holds a public office. So, to my good friend from Kitui County, in my honest opinion, I have not struggled. I have never struggled. However, hon. Deputy Speaker---

Hon. Deputy Speaker: There is a point of order by hon. Mbadi.

Hon. Ng'ongo: Hon. Deputy Speaker this House has a responsibility and we cannot allow the Leader of Majority Party to escape from this issue of an appointment done illegally. This House must be alive to the fact that we are seeing dictatorship coming back to this country. We, therefore, need to be very careful. The same way some of us are talking today is the way Kariuki Chotara spoke in 1986 and Burudi Nabwera in 1988.

The Leader of Majority Party needs to be very specific and address the issues that we are raising. He should not try to dodge. I asked specific questions. There are three ways of getting into a public office and he has rightly touched on them. Could he tell me of those three ways which---

Hon. Deputy Speaker: You have already made your point, hon. Mbadi.

Hon. Ng'ongo: Just allow me to make this one. The Leader of Majority Party read Article 132(4)(a). He is misleading this House. What that Article is talking about is setting up the office, but not appointing to that office. The President is allowed to set up office in the public service after getting approval from the Public Service Commission, but appointment to that office, as he has done with Joseph Kinyua, must follow the due process of law. We cannot allow, as a House, the Executive to start violating this Constitution. This House must stop despotic leadership in this country. There is no room for sycophancy around leadership!

Hon. Deputy Speaker: Okay, your point has been made.

Proceed, Leader of the Majority Party.

Hon. A.B. Duale: Hon. Deputy Speaker, I am sure that when hon. Mbadi served as a supervisor for eight months, we witnessed the height of sycophancy in Kenya. I want to confirm that fact. So, sycophancy did not start in this Government. If you allow me, I will even read out the constitutional provisions. What is important is not how loud you shout but rather how you interpret the law. The Constitution does not belong to him. I will read out Article 132(4) (a). I want to be very categorical that these are the methods by which appointments are made, under the Constitution. I want to repeat that there is no instance when the President and the Government broke the law. We are using the same Constitution that all of us stood for in 2007.

I want him to listen to what the Constitution says. Offices created or appointments exclusively made by the Public Service Commission are offices established under Article 234. Anybody who has a copy of the Constitution may read Article 234. To make it clear, this forms the bulk of the public service. This is, again, done within Article 232. The second category is offices in the public service expressly created by the Constitution. Appointments are made by the President through a recommendation from the Public Service Commission. These appointments are, again, done under Article 155. Examples of such offices are those of Principal Secretaries.

Hon. Deputy Speaker, the third category is the public service offices established by the Constitution, appointments to which are made by the President, with Parliament's approval. So, the Public Service Commission has no role on the offices provided for under Article 155 – Principal Secretaries. These are offices which are created by the President and then Parliament approves the nominees for appointment.

The final category is that of offices in the public service created by the President, as in the case of the Chief of Staff and Head of Public Service; this is done under Article 132(4) (a). This is, again, in line with Article 234(4), which creates the Office of Chief of Staff to be appointed with concurrence of the Public Service Commission.

Hon. Deputy Speaker, the second question that hon. Mbadi asked was on Cabinet decisions and overlap with the duties of the Secretary to the Cabinet. The Cabinet Secretary's position is under Article 154. It basically deals with Cabinet meetings, filing and giving Cabinet decisions to Cabinet Secretaries. It has no role in the daily and weekly activities of Government departments and Ministries.

Hon. Gumbo raised a fundamental issue – whether the President is appointing members of only his community. I want to confirm that the State House Comptroller does not come from the community of the President. The Director of Communications at State House does not come from the President’s community, among many others.

If we go back to history, it will suffice that it is previous governments, including the former Grand Coalition Government, where those in authority appointed their cronies. For the first time in the history of this country, the Cabinet Secretary in charge of internal security does not come from the President’s community. However, the question that hon. Gumbo raised is not part of the question that hon. Mbadi asked.

Hon. Deputy Speaker, hon. Makali talked about the vetting of the Chief of Staff and Head of Public Service. I want to inform him that as far as the issue of vetting and approval by Parliament is concerned those offices are within the Constitution. The provisions in Article 155 apply to Cabinet Secretaries and Commissioners. So, if you look at the Constitution, you will see which appointments fall within the parliamentary vetting and approval category and which ones do not.

Hon. Kagogo asked to whom Cabinet Secretaries report. I agree with him that Cabinet Secretaries must do reports to Parliament after every six months. They are overseen by Parliament. However, the Executive, the Judiciary and the Legislature are independent of each other. So, Cabinet Secretaries report to the Head of the Executive, through the Chief of Staff and Head of Public Service, and through Cabinet meetings. They do not report to advisors or any other persons. The hierarchy is very clear. I want to make it very clear that Cabinet Secretaries do not report to anyone. They have weekly Cabinet meetings, where they make decisions. They have the Chief of Staff, who deals with the President on a daily basis.

Hon. Abdikadir talked about Cabinet affairs, departments and their co-ordination. The Chief of Staff and Head of Public Service is the principal assistant to the President. He is responsible for co-ordination and administration of Government departments. The President cannot deal with day-to-day co-ordination of Government Ministries and departments. It is from the Chief of Staff and Head of Public Service that the President gets a daily briefing on every Department of Government.

Hon. Deputy Speaker, hon. Wamalwa raised the issue of ethics. This is a very different domain. It is about integrity, which is in Chapter Six of the Constitution. Parliament has the mandate of investigating whether the said officer meets the integrity criteria provided by the Constitution.

A very fundamental or good question was, does the Chief of Staff and Head of Public Service’s role overlap with that of the State House Comptroller? I do not think so because the State House Comptroller is basically the Accounting Officer of State House. If the PAC or Parliament wants to deal with accounting or financial matters then the State House Comptroller is the man to deal with.

Hon. Bosire has talked about Article 232 on appointments. For appointments to fall within the criteria of this Article, you need to look at the public appointments in totality. You cannot single out one position and say that--- How do you take one position and divide it among the 42 tribes of Kenya? So, you look at the Cabinet, the Principal Secretaries, diplomatic postings and State corporations; you subject all the appointments to the provisions of the Constitution. I have no doubt in my mind that Parliament has a role to play. I believe that the President did that.

Hon. Ochieng has asked a very good question. Cabinet Secretaries are breaking the law. Nobody, including the Chief of Staff and Head of Public Service can break or contravene the Constitution. The Public Service Commission's role is very clear. As a Cabinet Secretary, you cannot establish a position when the law does not give you that power. You can also not transfer, promote or demote an office. In the presidential system that we have now; this is Government that we have now, the Accounting Officer and authorizing officer is the Principal Secretary. Cabinet Secretaries play the co-ordination role. They are like Chief Executive Officers (CEOs).

Under our system, it is the Principal Secretary, in corroboration with the PSC, who can transfer, demote--- You cannot create positions or titles which are not in the Constitution. That is very clear.

(Applause)

That is why Parliament and the Kenyan people decided to create an Executive outside the law-making organ. If you are a Cabinet Secretary, you must remain as such and a technocrat. If you want to play politics, then you resign from your position, look for a by-election, contest, win and come to the House. The role of Parliament is to make laws, to protect and defend the Constitution. I am sure that, that is what all of us are doing.

I want to thank hon. Ngunjiri first for being the first Member to take part in collective responsibility.

Thank you, hon. Deputy Speaker.

Hon. Wario: On a point of order, hon. Deputy Speaker. For clarity, Article 132(4) talks about the establishment of a new office. Is the Office of the Chief of Staff and Head of Public Service new or it is an existing office? That is what I want to know. This is because Article 132(4) talks about a new office which is not in the Constitution.

Hon. (Eng.) Gumbo: On a point of order, hon. Deputy Speaker. There is a clarification which has been sought here which I think the Leader of Majority Party has to respond to. It is the question of the retirement age. As much as we acknowledge the capability of Mr. Joseph Kinyua, there are also young civil servants who want to grow in their careers. What are we doing to their ambitions when we keep recycling people who are past retirement?

Hon. Deputy Speaker: I think you did not address the issue of age. The issue hon. Abdikadir raised is also related to age. The Majority Leader, do you want to address that?

Hon. A.B. Duale: Hon. Deputy Speaker, I agree with hon. Wario. Article 132(4) creates the Office of the Chief of Staff and Head of Public Service.

On the issue of age, I think as a country, we do not want to throw away our elderly officers. As much as we want to create jobs for the young people, we want to retain people above 60 years or 61 years who have served the nation, and who still have brilliant ideas for transition purposes. So, we should not say that in a blanket way. I am sure that many of you have friends and relatives who are above 70 years of age, and who play a very big role in nation building. However, I am sure that the young people--- That is why this Government gave a 30 per cent procurement business to young people; they will do business with the Government. I am sure that, that will be given to the President.

Next time, he should reduce the number of people who are above 60 years of age. However, they should not be excluded from nation building.

Hon. Deputy Speaker: Let us have the last one from hon. Mbadi. Hon. Members, we will not go on and on, on this matter.

Hon. Bosire: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order, hon. Bosire. You have had a chance. You have already been given an opportunity. Did you not respond to hon. Bosire's concerns? That was on the question of diversity. I think he answered that. Order hon. Bosire!

Hon. Ng'ongo: Thank you, hon. Deputy Speaker. At least, I was happy when I served under the Grand Coalition Government, even if it was for a shorter period than hon. Duale served. At least, at that time, we were able to force the President to revoke several appointments. So, I do not regret that period.

There is a very critical issue which I raised and the Leader of Majority Party is out of order to evade it deliberately. The Article that the Majority Leader has said the President used to set up this office is Article 132(4). This Article says:-

“The President may-

(a) perform any other executive function provided for in this Constitution or in national legislation and, except as otherwise provided for in this Constitution, may establish an office in the public service in accordance with the recommendation of the Public Service Commission”.

Hon. Deputy Speaker, that provision is what the Leader of Majority Party has relied on to explain why the Chief of Staff and Head of Public Service was appointed. However, the question I had raised, which the Majority Leader is deliberately avoiding, is that this provision allows the President to establish an office following recommendation from the PSC. I want to challenge him to table a letter from the PSC. Establishing an office does not mean that you appoint the occupant of that office. The occupant of that office should be appointed following the correct procedures of appointment by the PSC. Why is it that the Leader of Majority Party is avoiding to say why the President appointed Mr. Joseph Kinyua as the Chief of Staff and Head of Public Service without following the procedure? Yes, he set up the office but the appointment is different. The Majority Leader should explain which law the President used that enabled him to avoid the proper procedures. That is my question. My question is not on the establishment of the office.

Hon. Deputy Speaker: Hon. Abdikadir, whom do you want to inform?

Hon. Aden: Thank you, hon. Deputy Speaker. I want to inform hon. Mbadi. He has articulated very well that the President, indeed, under the Constitution, has powers to establish an office. However, I want to draw the attention of the Majority Leader to Article 132(2), which says:-

“The President shall nominate and, with the approval of the National Assembly, appoint, and may dismiss-

- (a) the Cabinet Secretaries, in accordance with Article 152;
- (b) the Attorney-General, in accordance with Article 156;
- (c) the Secretary to the Cabinet in accordance with Article 154;
- (d) Principal Secretaries in accordance with Article 155;
- (e) high commissioners, ambassadors and diplomatic and consular representatives; and,

(f) in accordance with this Constitution, any other State or public officer whom this Constitution requires or empowers the President to appoint or dismiss.”

Hon. Deputy Speaker, it is very clear that Mr. Kinyua’s position is subject to the approval of the National Assembly.

Hon. A.B. Duale: Hon. Deputy Speaker, this debate is very interesting because it is based on the law. I want to start with hon. Abdikadir because he helped me. If you read Article 132(2)(f) – I want to read it for avoidance of doubt. But before that let me read sub-article (4), which hon. Ng’ongo read. This is the sub-article that the President first used to create the Office of the Chief of Staff, with concurrence of the Public Service Commission on 22nd April, 2013. If I go back to Article 132(2) (f), it says:

“in accordance with this Constitution, any other State or public officer whom this Constitution requires or empowers the President to appoint or dismiss.”

(Applause)

(Several hon. Members stood up in their places)

Hon. Deputy Speaker, let them hold their horses. We are not dealing with reports; we are dealing with the Constitution.

Number one---

Hon. Member: On a point of order.

Hon. A.B. Duale: Hon. Mbadi and hon. Abdikadir, if you can relax.

Hon. Deputy Speaker: Hon. Leader of Majority Party, I think the only issue I was likely to remind you of is to remember the sentence begins from sub-article (2); that is where the confusion is.

Hon. A.B. Duale: Hon. Deputy Speaker, yes, I can even start from sub-article (2). If you allow me, I can even go to section (2)(a) which talks about Cabinet Secretaries.

Hon. Deputy Speaker: Read the first sentence which talks about the President.

Hon. A.B. Duale: Hon. Deputy Speaker, Article 132(2), for avoidance of doubt, reads as follows:

“The President shall nominate and, with the approval of the National Assembly, appoint and may dismiss –

(a) the Cabinet Secretaries, in accordance with Article 152”

Hon. Member: Which has been done?

Hon. A.B. Duale: If you give me time, you will know---

Hon. Deputy Speaker: Order, hon. Members! I think you are together now.

Hon. A.B. Duale: We are not in a chorus, neither are we in a choir class. Listen to me.

Sub-section (a) reads as follows:

“the Cabinet Secretaries, in accordance with Article 152;

(b) the Attorney-General, in accordance with article 156.

(c), the Secretary to the Cabinet in accordance with Article 154;

(d) Principal Secretaries in accordance with Article 155;

(e) high commissioners, ambassadors and diplomatic and consular representatives---

When we will do it, we will follow the law and we will bring it to the House. That is what we do as a Government.

“(f) in accordance with this Constitution, any other State or public officer whom this Constitution requires or empowers the President to appoint or dismiss.”

Hon. Member: On a point of order, hon. Deputy Speaker.

Hon. A.B. Duale: Relax! The President used Article 132(4) to create the office. Article 132(4)(a) gives the President the power to create that office in concurrence with the Public Service Commission, which hon. Ng’ongo sought and I have given the date. Am I right?

So, the President fulfilled Article 132(2)(f) read together with Article 132 (4). Therefore, the law is very clear.

(Several hon. Members stood up in their places)

Hon. Deputy Speaker: Order, hon. Members! After seeing the interest all of you have on this matter, I think we can let it be taken up by the Committee on Justice and Legal Affairs. You can go and take all your concerns to the Committee when the relevant people are called to appear. This is really a question of interpretation of the Constitution. I think it is better for you to prosecute it in a committee sitting. Hon. A.B. Duale, what did you have to say?

Hon. A.B. Duale: Hon. Deputy Speaker, I will lay this document on the Table, but I think this matter is very clear. The questions that are sought are very clear and I do not think they need a committee to prosecute. This is because the last bit, if I repeat about the interest in Article 132(2)(f), gives the President powers to nominate and the other Article 132 (4) ---

Hon. Deputy Speaker: I do not think this House is going to take or usurp the powers of the President. I do not think that is the business we are doing or what we would want to do here.

Hon. Members, I am saying that because of the interest of hon. Members. I am sure the Member being talked about would also like to be heard. You have given a very comprehensive statement. However, there is another statement that was given by hon. Ng’ongo, who also seems to have another way which seems to be different. What he says about appointments and what you are saying seem to be at variance.

So, for the interest of everybody and for the interest of all hon. Members who may have an interest in this, I do not think we are going to appoint or sack any officer who has been appointed by the President. But we want it done so that everybody is comfortable that the due process of law has been followed. Therefore, we can move from that statement.

Hon. Bosire: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Bosire, if the Departmental Committee on Justice and Legal Affairs takes up the matter, you can go and seek all the clarifications that you would like there.

I have a Statement that is being presented on behalf of the Departmental Committee on Education, Research and Technology, by hon. Christine Ombaka. She is responding to hon. David Bowen’s request. Is that correct?

Hon. (Ms.) Ombaka: Yes, hon. Deputy Speaker.

Hon. Deputy Speaker: Please, go ahead and do that. I do not see your request to speak.

SUSPENSION OF STUDENTS FROM SOUTH EASTERN UNIVERSITY COLLEGE

Hon. (Ms.) Ombaka: Thank you, hon. Deputy Speaker for giving me the opportunity. I am presenting a report on expulsion of students from South Eastern Kenya University. This is in response to a question that was asked by hon. David Kangogo Bowen; Member of Parliament for Marakwet East Constituency. He wanted to know why the five students were expelled from this university.

On behalf of the Chairperson of the Departmental Committee on Education, Research and Technology, I present the report. South Eastern Kenya University is a full-fledged public university that was established through award of the Charter on 1st March, 2013, by the former President, His Excellency Mwai Kibaki.

The university has had several problems one of them being water. Water shortage was reported on the evening of Saturday 27th October, 2012, leading to students' unrest and disturbance on the morning of Sunday 28th October 2012. As a result, some students overturned and disturbed water storage tanks. They caused damage in the kitchen and looted food items and drinks in the kitchen, stores and students centre. The damage caused by the students was assessed to be Kshs6,891,371.50.

After carefully assessing the situation, the university college academic board made a decision to close the university in the afternoon of Sunday, 28th October 2012, to avoid further destruction of university property and also to give the university management adequate time to repair the damaged property.

Hon. Deputy Speaker, a special meeting of the university council was convened on 31st October 2012, to discuss the students' disturbance and a report was to be forwarded to the Ministry. Prior to the disturbance on Sunday, 28th October, 2012, the students had elected new students leaders on Wednesday, 25th October, 2012. According to the students' organization constitution, the newly elected leaders were to be sworn-in and take over office a week after announcement of the results and go through the induction programme.

During induction and handing over, the outgoing students' leaders briefed the incoming students' leaders on the status of the various issues affecting the students' welfare and the level of engagement with the university management. Other than the water shortage that was reported on the night of 27th and 28th October, 2012, the students had not presented any other grievances to the university management. So, the students did not have any adequate leadership at that time.

Hon. Deputy Speaker: Dr. Ombaka, your report really looks very long. Is there a way of summarizing it?

Hon. (Ms.) Ombaka: Hon. Deputy Speaker, well, this is what I was asked to present. I do not know how you want me to summarize, but I am giving you the full report, the way I was asked by the Chair to present it. So, just give me time to do it because she has just given it to me and I am trying to get the gist of the argument.

Hon. Deputy Speaker: Just find a way of saving us time.

Hon. (Ms.) Ombaka: Hon. Deputy Speaker, after the disturbance had taken place, the Committee carried out investigation, compiled and submitted a report that was

tabled and discussed before the university council. Let me just jump over some issues. The Committee identified 17 students who played the leading role in planning, mobilizing fellow students and executing the strike that resulted in the destruction of facilities and looting of university property.

The Committee found that the action by the students was contrary to the rules and regulations governing the students' council and discipline. The rules and regulations that the students were found to have contravened had been developed and approved as per Section 12(1)(f) of the Legal Notice No.102 of 15th January, 2008. The Committee recommended as follows:-

That, the 17 students appear before the University College Student Disciplinary Committee to answer charges that were specific to each one of them; for readmission, each of the 1,398 students who were in session during the disturbance, be charged Kshs4,930; and the university college takes short, medium and long-term measures to alleviate water challenges among other things.

The students' disciplinary committee of the University College Academic Board which is provided for in Statute 16 under the terms of reference invited 17 students to appear before the Committee. These were the recommendations that the Committee made: Two students were exonerated and allowed to continue with their studies, one student was warned and allowed to continue with the studies, one student was suspended for one academic year and one student was suspended for four academic years. The following 10 were expelled from the university. I will not mention their names, but they are here. Two students who were invited to appear before the board did not appear before the students' disciplinary committee and therefore were suspended. This is also a section that tells us about the approval of the students' disciplinary committee students' disciplinary committee. The decision of the students' disciplinary committee tabled discusses the adoption in the University College Academic Board meeting of 18th December, 2012. They were ratified as follows:-

Twelve of the expelled and suspended students appealed against the decision to suspend or expel them and the decision arrived at was as follows: One student's expulsion was lifted and the student was immediately reinstated in the university and issued with a warning letter. Four students resumed classes. One student's suspension for one academic year was upheld and he is expected to resume his studies on 23rd September, 2013. The last student's suspension for four academic years was upheld. Five students remain expelled. These are the five that were in question.

One of the five expelled students had re-appealed against the Senate's decision. The university is in the process of constituting an appeals committee under statute 14(3)(1) and (2). The students will be informed of the outcome of the appeal process once they meet. The report ends here, but says that immediately the university college was set up on 15th July, 2008, it faced a number of challenges just like any other new institution. However, most of the initial challenges have since been addressed and others are at different stages of finalisation. The university is currently doing its level best to ensure that the necessary infrastructure is put in place to provide learning and teaching environment that is conducive. That is the end of the report and I table it.

(Hon. (Ms.) Ombaka laid the document on the Table)

Hon. Deputy Speaker: Hon. David Kangogo, I do not know whether you can identify your students from what the Member has read.

Hon. Bowen: She has not read the names of the students. She has said that she has the names, but she has not read them out. I must appreciate the report as read. However, expelling students for four or five academic years, young people who are still looking for a bright future, is not fair. The Constitution is very clear under Article 43 on Economic and Social Rights. Section 43(f) guarantees right to education.

Again, the Member has said that property worth Kshs6 million was destroyed and all the students were charged some fee. From the information that I presented to the Chair of the Committee on Education, Research and Technology the students, especially the leaders had not taken office by the time the strike occurred.

If you read the report, the new student leaders actually are the ones who were expelled from the school and they did not participate at all in the strike because they were just about to be sworn in. Even up to now, they have not been sworn in as the new student leaders because they were expelled. So, why is it that the old students who were there before the strike were not involved in the expulsion?

Hon. Deputy Speaker: That is a clarification you are seeking. Let another clarification be sought and then you can answer them. Just jot them down.

Hon. Iringo: Thank you, hon. Deputy Speaker. I appreciate the report that has been given but I feel that when we are disciplining these students we should be doing it as a corrective measure but not as a punishment which could destroy the lives of these young citizens. During the adolescence stages or due to peer pressure these kids do so many things. When the Senate or the school's leadership just spells out very punitive punishments like expulsion for four years now and then you are destroying their lives. If you leave a young person in the cold for four years, for him or her to retrace their lives again it becomes very difficult and it is very expensive for their families and country.

Hon. Deputy Speaker, therefore, in as much as the Senate said they were doing it within the rules, these rules should be revised to the extent that let them be corrected but not to be punished or destroyed. I feel personally that the four years expulsion is very punitive and destructive to these young people's lives and, therefore, such things should be reviewed.

Hon. Deputy Speaker: Christine, those could be recommendations to your Committee.

Hon. (Ms.) Ombaka: Thank you, hon. Deputy Speaker. I will take those comments to the Committee. Let me say that the five students who had been expelled have a right to appeal. So far, they have not. Those who appealed, their cases have been handled and so I think they have a right to appeal. They just have not taken action to do so but there is a committee that has been set up by the university that will listen to their appeals. So, what is important right now is that the five expelled students can appeal. They have a chance to come back. I will relay the information to the Committee once more. Thank you.

Hon. Deputy Speaker: Thank you. David Kangogo, maybe a last comment.

Hon. Bowen: Hon. Deputy Speaker, it is a bit fair if they can be given a chance to appeal and be considered again for admission. Like my colleague has said here, the university rules and regulations are supposed to be corrective measures and not punitive

measures. So, if they are given a chance to appeal I think it will be better for these young men. Thank you.

Hon. Deputy Speaker: Thank you, hon. David Kangogo. So, next Order please.

MOTIONS

ESTABLISHMENT OF NATIONAL UNIFIED IDENTIFICATION SYSTEM

THAT, aware that the process of obtaining national identification documents such as birth certificates and national identification cards is long and complex due to the different centres of processing such documentation; deeply concerned that there is a multiplicity of identification documents in registration of identity cards, birth certificates, passports, elector's cards, driving licences, National Hospital Insurance Fund and National Social Security Fund cards yet there is a proposed simplified way of doing the same; noting that the Government is embracing new ICT measures in line with Vision 2030, this House urges the Government to spearhead the establishment of a national unified identification system that harmonises all personal bio data.

(Hon. Nyamai on 2.10.2013)

(Debate concluded on 16.10.2013)

Hon. Deputy Speaker: Debate on this one was concluded. It is only putting the Question. Yes, we have a quorum. I will therefore put the Question.

(Question put and agreed to)

CONSTRUCTION OF MULTI-DAMS TO HARVEST FLOOD WATER

THAT, aware that every year floods and drought wreak havoc in various parts of the country; observing that flood seasons are often followed by times of drought, leading to loss of lives and lack of water for many; concerned that from 1995 to present, just over 500 small-scale sand dams have been constructed as water reservoirs, further concerned that as a result, there has been unplanned and rampant digging of multiple boreholes, leading to fast and widespread depletion of water tables; noting that such depletion leads to falling of trees and adversely affects the entire ecosystem yet it could be prevented by harvesting flood waters for later use; deeply concerned that the ecosystem has a big impact on the environment as a whole, this House urges the Government to build multi-dams and ensure they are located equitably around the country while complementing the existing dams, and establish other measures for water harvesting especially during rainy or flood seasons for sustainability.

(Hon. (Ms.) Sunjeev on 16.10.2013)

(Resumption of Debate interrupted on 16.10. 2013)

Hon. Deputy Speaker: Hon. Members, this Motion had also been moved and the seconding had begun but since the person who seconded is not here, we will assume that he has completed his seconding. I will then propose the Question.

(Question proposed)

Hon. Deputy Speaker: Joseph M'Meruaki.

Hon. M'uthari: Thank you, hon. Deputy Speaker. I rise to support this Motion. This Motion is very important and I thank its Mover for bringing it forward. We are aware that Kenya faces a water deficit and the challenges that we face are enormous. If we have this initiative where we could have mega water dams distributed all over the country, then we have the possibility of increasing the water base of this country. Then we could also have an opportunity to harvest this water. This water can be cleaned and used for drinking. At the same time, this water can be used also for irrigation. We have gone to some other countries which have done water harvesting and even if they are more arid than our country, they have more water. I know we experience rainy seasons. These rains come and we experience floods. Floods destroy roads and farms. However, if this water is harvested it will be utilised for drinking and irrigation and this will cushion people from food shortages. For a long time, our agriculture is mostly rain-fed and this does not guarantee food production. However, if we can have a bit of effort in water harvesting as it has happened in the recent years as far as the road infrastructure is involved, then as a country we will move towards achievement of Vision 2030.

Hon. Deputy Speaker, as I speak, there is a very sad situation in my constituency of Igembe North where a 20 litre *mutungi* of water can cost as much as Kshs50 and these possibilities exist. So, if we also have these dams constructed and then we take into consideration their fair distribution, then we will go a long way in terms of supporting the people and livestock. More than 80 per cent of our land is classified as arid and semi-arid but even in these areas, floods occur. So, if we have this type of investment in these areas and they are fairly distributed, then we could convert these arid areas into high potential areas because they have not been exploited.

So by improving the accessibility to water and not relying on rivers--- We know that there are some parts of this country that do not have running rivers. However, they get floods as a result of heavy rains that do fall sometimes. If we have a good master plan which looks at all the areas of this country we could build dams and capture this water, say, in every constituency. This would go a long way in easing the water challenges. We will be in a position to replenish the water table. If we have many dams across the country, this will contribute towards reducing the impact of climate change. The water could be used for irrigation and this will diversify food production. It will also increase the possibility of more people living better lives. In large land areas this will improve livestock keeping. We will be able to get meat and milk from the livestock and diversify the income mix for our farmers. In the long run, we will improve the income and food security. When you cannot guarantee your people food then you cannot claim that you are independent.

In my constituency there are many children who cannot go to school because there is no water. These are the areas that we want to focus on. I know that my people are suffering and if the Government supports this kind of initiative then we could cushion people from some of these problems. That way, the people will have life with dignity. The children will go to school and everybody will have a better healthy life than we have at the moment.

I support this Motion.

Hon. Aden: Hon. Deputy Speaker, I stand to support this Motion. Indeed, this Motion has come at the right time when this country is experiencing acute water shortages and drought. The issue of floods and droughts has become an annual menace. It is a problem that is recurring year in, year out. This must be brought to an end. We need to organize ourselves given the little resources available. The organizations and agencies that have been created to deal with emergencies need to be reorganized in order to ensure that we alleviate the continuous suffering of Kenyans many of whom are either victims of floods or drought.

It has been in the national news and I want to thank the media for highlighting the plight of the people of Balambala Constituency and the problems they are going through at this time of the year. There is a serious shortage of water in Balambala Constituency in Garissa County. I have raised this issue with several authorities. I want to call upon the Government from here. The Government needs to declare an emergency in Balambala Constituency before people start dying. Animals die every day in my constituency. I want to take this platform to say that the people of Balambala are faced with a serious water shortage because of the fact that the previous rains did not fill the pans which are the common source of water for the largely predominant pastoralist community in Balambala. Because of the delayed long rains, the people of Balambala are now in an emergency situation. I call upon the Government to pay immediate attention to that part of this country.

Hon. Deputy Speaker, with regard to the county government which is now mandated to have devolved funds, I request that it ensures that there is provision of water for human beings and livestock. Garissa County, in my view, is not responding at all to the situation that is in Balambala Constituency. I call upon the County Government of Garissa which now has the devolved funds and especially funds set aside for emergencies to respond to this situation and equip the boreholes which have failed because of simple things. They need to ensure that there is adequate water trucking to the pans which have dried up and so people and animals are not at risk of death.

I am a very worried representative of the people of Balambala. I call on this honourable House and the Government of Kenya to come to our help as the people of Balambala. Our town, Balambala has a population of not less than 20,000 people. These people are forced to use jerry cans to go and get water more than 20 kilometers away. Last weekend, I was there to wish the students who have just started their exams--- I want to take this platform to wish all the students who are doing their Kenya Certificate of Secondary Education exams the best. Indeed, one of the biggest problems the children face there is that they cannot get water to quench their thirst. They trek many kilometers to get water for their own use. This is the situation in that part of the country.

[Hon. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Hon. Cheboi) took the Chair]*

In order to address this problem, I think we need to empower the National Drought Management Authority. This is a very important Authority because it has all the information on the situation across the country. The Authority has information on where rains failed and where drought is being experienced. They have the capability to mount an immediate response to the situation in Balambala and the rest of the country. The Authority must be funded adequately. I will personally bring a Bill to this House to ensure that funds are set aside from the national kitty to give resources to the Authority so that it is able to respond to these situations.

When I visited their offices in Garissa, I realized that they are doing exceptionally good work and I commend them for that. They have the data and they know where the gaps are. If the Authority is given adequate funding, it will do a lot.

This is an agency which was set up to respond to such issues but their mandate right now is limited to supervision and intelligence gathering, in terms of drought issues. There is no reason for an agency like this one, with its big abilities and network across the country, not to be in a position to respond to the needs of the people. We must give them funds in order for them to be able to mount such operations. I say all this on behalf of my constituents, whose plight was aired on television across the country. The television broadcasts showed how bad the situation is for the people of Balambala. We urgently need national response to attend to the needs of those Kenyans, who are suffering at this point in time.

With those many remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you. Let us hear the County Woman Representative of Tana River, hon. Halima Duri.

Hon. (Ms.) Duri: Thank you, hon. Temporary Deputy Speaker. As the Member for Balambala has put it, water scarcity also affects Tana River County. At one point in time, Tana River County suffers from floods, during which people lose domestic animals and lives. At another point in time, people suffer from drought. Therefore, I support this Motion. Construction of deeper boreholes will assist both livestock and the people living in Tana River County as well as in other parts of the country where people are always affected by drought.

Another thing that the Departmental Committee on Environment and Natural Resources should discourage is the cutting of indigenous trees in those areas. Cutting of indigenous trees will have a devastating impact on the environment. Tana River is a country where people always suffer from floods or drought. The people of Tana River County today cannot even sustain their own lives as far as food is concerned. During the droughts, people suffer from famine and lack of water. If big dams are constructed there, they can even be used for irrigation, thus enabling people in such areas to produce their own food.

Drought in Tana River County has become the order of the day. Therefore, the Government should find ways of helping the people in Tana River as well as those in other parts of the country. There should be ways of safeguarding the lives of domestic animals and human beings. The lives of human beings and domestic animals are at risk

during such times. Today Tana River has no face because people cannot sustain themselves due to drought.

Therefore, I support the Motion and urge that what is proposed therein be implemented immediately, if possible. The digital Government and the national disaster response team should go out there to assist the people to ensure that they do not lose their lives to drought and hunger.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you very much. Let us hear hon. Ronald Tonui.

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support the Motion.

I believe that since water is a devolved function, all the money that we have under the Ministry of Environment, Water and Mineral Resources should be taken back to either the constituencies or the counties because we are aware of how money is misused in the Ministries. We have very large dams in this country, which the Ministry has been participating in their construction. Those responsible for the implementation of those projects have been involved in too much corruption.

Therefore, I believe that the best thing to do for this country is to devolve those funds, so that money can be shared out to all parts of the country. All of us need water. I cannot remember any water project having been implemented by the national Government in my constituency of Bomet Central. In terms of projects, the national Government is not being felt by the people on the ground.

If you move round the country, you will notice that the impact of devolved funds is being felt. The impact of the Constituencies Development Fund (CDF) is being felt. The impact of the money that has just been devolved to the county governments is already being felt greatly. I went to one area of my constituency---

Hon. Aden: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): What is it, hon. Abdikadir?

Hon. Aden: Hon. Temporary Deputy Speaker, is the hon. Member in order to mislead the House that the national Government is not doing anything to help the people who are currently being affected by drought? I want to state categorically that the national Government has been of great help but let me say that the issue of devolving water services should be very well thought-out.

The Ministry of Environment, Water and Mineral Resources has great capabilities. It has very good engineers who understand the problems as they are across the country. All the water pans that we have in the Arid and Semi-Arid Lands (ASAL) were done by the national Government. They are the ones who continue to support us at this point in time. As I said earlier, we are not feeling the effect of the county governments. Purchasing a small spare part of a failed borehole system involves a very long bureaucracy under the county governments system whereas in the national Government, they will contact a pre-qualified supplier and ask him to supply the particular spares within a very short period of time.

So, devolution of water services must be very carefully thought-out.

The Temporary Deputy Speaker (Hon. Cheboi): Order! Order! Let us consider that as his opinion. Whether it is placed or misplaced opinion, it is okay. He has a right of opinion. I was trying to capture where to declare him out of order but I could not find it.

He has given his opinion. He has a right to it. If he feels, on his part, that the counties are doing much matter and if, on the other hand, you feel that the national Government is doing better, it is okay.

Proceed, hon. Tonui.

Hon. Tonui: Hon. Temporary Deputy Speaker that was unnecessary interruption. I am entitled to my opinion. I believe that by the time we come here to discuss the issue of finance and sharing of revenue, the pressure on the national Government to send more money to the county governments will be very high, especially on the issue of water. Who has not read that there is a lot of corruption in the construction of water dams in this country? The process involved is very corrupt. Furthermore, the programme has always been concentrated in certain regions of this country. Who says that there is no dry place in my constituency? In Bomet Central, we have a dry area, where we need irrigation.

The other day, I was interacting with some of my colleagues, who said that they did not want certain dam projects that the national Government had planned to construct in their region because they would displace people. The project involves a lot of money. They were talking about projects whose budget was about Kshs12 billion.

I need these funds in my constituency because I want to provide water to my constituents. I would like this money to be devolved. The Department of Water in the Ministry of Environment, Water and Mineral Resources should be abolished at the national level.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Tonui, that does not give you a leeway to make sweeping statements which are unsubstantiated. You have talked of Kshs12 billion but you are not attributing it to any particular project. Unless you substantiate that, you should not make those claims. Just prosecute what you are saying.

Hon. Tonui: Hon. Temporary Deputy Speaker, Sir, I can do it.

The Temporary Deputy Speaker (Hon. Cheboi): You should have done that as you spoke. Just proceed and prosecute what you were saying.

Hon. Tonui: There are water projects which are on course and I was requesting that I get something small to provide water in my constituency. I have heard that there is a dam planned for the western part of the country called Tongaren. The people around that place are saying that this is a highly populated area and if a dam is constructed, it will displace some of them. We are keen to have water in Bomet Central so that farmers can use it to irrigate their farms.

The people who are in the national Government who make these decisions should know the needs of the people on the ground. That is why I am of the view that this Motion is very good. It should not have stated equitable distribution across the country but rather bring the distribution to the constituency or county level so that the impact can be felt. However, I support this Motion.

Some sections of my county are water catchment areas. People normally say that we take care of the Mau Forest because this is a water catchment area. It is like we are taking care of a cow which we are not milking because no piped water has been provided in Bomet. That is why I am very keen to say that all the money meant for water in the national Government should be devolved because that is a devolved function. There should be no duplication. The Department of Water in the Ministry of Environment, Water and Mineral Resources should be abolished so that the Government can save some money and use it elsewhere.

I believe that oversight will be much better if this is done at the grassroots because the oversight that is done on the national Government is not the best.

So, I support this Motion because water is a very vital commodity and all of us are in need of it. The issue is, how do we share the resources which are allocated to water in this country?

Thank you, hon. Temporary Deputy Speaker. That is my view.

Hon. (Ms.) Amolo: Thank you, hon. Temporary Deputy Speaker, Sir. I rise to support this Motion. We need to construct multi-dams especially in Kakamega where we have a lot of rain. It rains every day. If only that water could be directed to a dam, it could help quite a number of people like our brothers in Balambala. There is enough water in Kakamega because it has rained since March. Every time I go home, I find it raining. It starts raining at 1.00 p.m. up to the following day. This is the case and yet we do not have a place to store that water. Come December, people will be starving in the same Kakamega because they did not harvest water which they can use for irrigation. The Government should construct dams in the county or constituency. This is because we have enough water that can be used by many people in this country. We could even establish greenhouses if we had water. However, we experience drought sometimes which causes diseases that affect most of our people, especially women.

Women are the ones who really suffer because they cover several kilometres looking for water. I can tell you that you cannot carry two jerry cans as a woman. You can only carry one on your head or on your back. That one jerry can of water is not enough for your children in the House. This is the case and yet the man is there waiting to take a shower with the same jerry can of water. So, you waste a lot of time looking for water. We believe that women are very good managers. We could be busy doing other businesses that can change the economy of this country other than wasting time looking for water.

Hon. Temporary Deputy Speaker, Sir, the Government should build these dams so that we can get electric power. If this is done, we will not rely on Masinga Dam and other dams that produce hydro electric power. We have River Yala which passes through Kakamega and it is always full of water. We should find ways in which we can use this water to do irrigation so that we have enough food to feed our people.

We can also save a lot of the money that we spend to buy water to educate our children. The water we buy sometimes is not safe. We are talking about Kakamega and Balambala and yet quite a number of houses here in Nairobi do not have water. What has happened? What are we doing here if we cannot have water in the capital city? How will water get to Balambala if we do not have water in this city? How will water get to Migori and yet we do not have water here in the city? I do not have water in my House even as I stand in this House and I had to buy water this morning.

It is very important for the Government to find out how we can educate our people so that they can harvest water. We keep on talking about this but our people do not know how to harvest water. It is high time we created awareness on how to construct these dams and how our people can harvest water that can be used during the dry season. So, I urge the Government to construct these dams. It should look at Kakamega where there is plenty of water because it rains every day. That water can be piped to other areas so that Kenyans can use it wherever they are.

Hon. Temporary Deputy Speaker, I support this Motion. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us hear from hon. Nanok.

Hon. Nanok: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Motion. As hon. Members over there are saying, I am now the richest in terms of water. In my constituency, in Turkana West, we have Lotikipi Plain that is holding water that can be used in Kenya for over 70 years, as we are told. The water is one kilometre under the ground and it has never helped us. We have never had water. We are always on the run moving to those very unsecure areas of this country in search of water for our livestock and ourselves.

Hon. Temporary Deputy Speaker, because of the issues that this Motion is raising, I stand to fully support it. The business of urging the Government for all these years seems to have worked. Actually, the Government has been making plans. The Government has had policies to provide water and targets to provide water to every household in this country. Somehow, these plans have not actually been implemented. It was supposed to have been done by the year 2000 so that every house has running water.

Hon. Temporary Deputy Speaker, my constituents walk over five or 10 kilometres in search of drinking water and for domestic use; leave alone water for livestock. That is looked for, for two days. Our livestock take two days to get water. This Motion is relevant in our case and for the whole country because we know the kind of interventions we have had have actually not sorted our problems.

Hon. Temporary Deputy Speaker, we need to look at the appropriateness of the policies that have been pursued by the Ministry of Water, which is currently called the Ministry of Environment, Water and Mineral Resources. We need to have interventions that are going to address the challenges of a water starved country because in the coming years, we will be having the challenge of providing water to a population that his growing every other year.

Hon. Temporary Deputy Speaker, huge dams will promote other economic activities around when they are constructed. One can introduce fish farming in these huge dams. People can engage in meaningful economic activities like fishing. We can also introduce irrigation using water from these huge dams. That is an economic activity that is going to benefit our people. Arising from this will be settlements. The pastoralists will settle down instead of moving from place to place in search of water.

It is also known that floods and droughts cause a lot of havoc and damage, both socio-economic and environmental. So, if these dams are constructed, they will mitigate against those havocs caused by floods or droughts.

Hon. Temporary Deputy Speaker, every time we raise issues of Government policies that have not served us well, it is because of the way those policies are implemented when corruption sets in. I want to concur with the hon. Member who contributed some time back that, it is because of corruption that we plan for things to happen in this country and they do not happen. The intention is not followed by action. This brings about a lot of political game plans and in-fighting because people think that when we are in Government, this is when we are provided with these amenities, yet these are basic needs.

Hon. Temporary Deputy Speaker, water is supposed to be free the way air is free. This is because without water there is no life. So, as planners and policy implementers of Government, we need to be sensitive and provide Kenyan people with the very basic

needs like water. If we are going to think of constructing dams, we will have to consider that there are areas in this country that are so densely populated that you may not construct a dam because you will displace so many people. Therefore, you need to plan for them. But in some areas, you will not have that headache.

For instance, in Turkana, there is land and flooding occurs. I live in a constituency where we receive rainfall once in three to four months. When I say once, I am talking of rainfall that comes for only two to three days. Two days and that is it for the whole year. But when it comes, it causes floods, destroys infrastructure and displaces people. For sure, if dams are constructed in such areas, then we will have mitigated a major concern of the people. We will make life better for the people of Kenya. As the Government plans to do this, it should do the construction of the dams across the country and it should start with those areas that will appreciate the intervention most.

In the year 2003 when the Budget was read, Central Kenya was allocated Kshs5 billion towards water improvement. Turkana, which is water deficient got only Kshs500 million. It beats logic, who is in need? At least, in some places a stream runs throughout the year, while in others, there is no water completely.

Hon. Temporary Deputy Speaker, we cannot live like this and say that we are all in the same country. That is why you hear in some parts of this country people saying that they are moving to “Kenya”. This is because that seems to be where the services are concentrated. Therefore, equitable distribution of these dams will go a long way to alleviate problems that are being felt in some corners of this country.

With those remarks, I rise to support this Motion.

Thank you.

Hon. F.K. Wanyonyi: Thank you, hon. Temporary Deputy Speaker. I rise to support the Motion which has come at the right time. I remember at one time I spoke so passionately about flooding, particularly in my area.

Looking at this Motion, the Government is asked to build multi-dams and ensure that they are equitably spread while completing the existing ones. Whoever brought this Motion to the House is actually coming to my rescue.

Hon. Temporary Deputy Speaker, first of all, I am made to understand; and there is a---

(Loud consultations)

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. (Maj-Gen.), Nkaissery. You are interfering with the concentration on the debate.

Hon. F.K. Wanyonyi: Thank you for protecting me. I was saying that there is the National Drought Management Authority that deals with drought in this country. As the Chair is aware, every year we have had problems of either flooding or drought. Those flood prone areas, particularly in Trans-Nzoia, the Government needs to do something about it. The Government should assist because those areas that flood have become very destructive at the end of it all.

Hon. Temporary Deputy Speaker, floods destroy property. If we had dams built along rivers, flooding would not happen. We have a river called Sabwani that drains into Nzoia River. If there are plans to build dams as suggested in the Motion, then the benefits are many. One, the dams will check the speed of the river and thereby reduce the damage

downstream. We will then create an environment where those dams can be used to do some farming. The water can be used for irrigation.

Secondly, we have the Ministry of Agriculture which is saying that it wants to do fish farming. Those dams would provide water for fish ponds. In my case in Trans Nzoia, I have gone out deliberately to teach the youth and the women, so that they can benefit from this idea that the Ministry of Agriculture is coming with by promoting fish farming. So, by building these dams, we will have the direct benefits for the people. First, it will check the destruction of the river during flooding, two, there will be irrigation and three, we will have fish farming in those rivers.

The other thing is the multi-dams as we know and then we have the mini-hydro plants which will generate electricity. The people around the dams will benefit by selling electricity to the national grid and secondly, the fact that they are around the dams, they will get electricity cheaply. That is a social responsibility that will accrue by building the dams there. Thirdly, the Egyptians had been benefitting. The floods that we see all the way end up in Egypt. The Egyptians sell rice to this country. If you go to any supermarket, you will see rice from Egypt. It is all here. They get the water from here. It is now time that we used our water. I was talking to a Member sitting next to me and if you go to a place like Kisumu, you will find that there is no water, yet as the Member from Kakamega has said, there is a lot of rain in western Kenya. The problem is that we do not use that water. We do not harvest it.

By supporting this Motion, I would also be asking the Government to start harvesting water, so that during the drought period, that water can be used for irrigation and for domestic use. The other thing that I want to mention about the dams is that apart from fish farming, during the dry period, it is normally very warm and people can do a lot of horticultural production. Therefore, I support this Motion and urge the Government to implement the provisions of the Motion. It should have been implemented yesterday.

I support the Motion.

Hon. Dawood: Hon. Temporary Deputy Speaker, Sir, I stand to support this Motion by hon. Sunjeev Birdi. It is a very timely Motion and it should not just be urging the Government, but it should be more of making sure that this is implemented.

Two weeks ago, I was in Geneva for the Inter-Parliamentary Union (IPU) Conference where disaster management was discussed and a case study was done by a Parliamentarian from Bangladesh which experiences a lot of floods. They have done a case study of people who live in flood prone areas and what came to my mind is hon. Namwamba's constituency, Budalangi, which has been affected by perennial floods. I commend the Member for Budalangi for, at least, managing to save his people from all the floods and he is doing a great job. The IPU Conference discussion on disaster management resolved that we should mitigate factors which affect our people and flood water should not go to waste. We need to harvest that water. The best way to harvest that water is through the creation of multi-dams or dams along the river banks. With that, we will save a lot of lives. We could also use that water for irrigation. The Jubilee Government manifesto provides that they intend to irrigate 1 million acres of land in the next five years. If we have the dams, we will have done very much. Water is life. We had a policy which said that there should be water for everybody by 2010, which was then shifted to 2015. I hope that before the end of the term of this Jubilee Government, we will have water for all with these dams being created. Mount Kenya has lost a lot of

its ice through global warming. It has reduced from nearly 10,000 to just above 5,000 now.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Member, you have a point of order?

Hon. Member: No.

Hon. Dawood: Hon. Temporary Deputy Speaker, Sir, I was just wondering whether he lives near Mount Kenya. Maybe he heard about Mount Kenya in Nyeri and wanted to come there. I was saying that Mount Kenya has reduced in size because of the ice and all the water which comes down within the borders of Mount Kenya and goes down to rivers, which eventually goes to River Tana and to the Indian Ocean. So, we lose a lot of water. We have lost more than half or about a half of Mount Kenya and it has gone to waste. Our people, especially women, go to great lengths to collect water.

Some parts of North Imenti, the constituency I represent, are prone to drought and we get relief food. Relief food is not the answer because it is very undignified for people to be asking for relief food when they have good agricultural land which can be irrigated through the dams. We can create irrigation schemes similar to the ones which are being done in Israel and Egypt. County governments are principally responsible for water matters, but it would be my request to the national Government to not devolve the function of making those dams. They need to retain a little function with the national Government.

I would like to urge the Mover of this Motion to probably put something there. When she says “equitably”, it should probably read: “in each and every constituency there should be at least one dam if not two.” This is because it has been the trend that dams have been done within Eastern Province which we were part of previously but in only one section of Eastern Province. Meru County does not have even one dam and for my constituency, North Imenti, we do not have a dam at all. We have not heard of a dam in North Imenti. I would like to say that we need these dams as a matter of priority and I would urge the Member who brought this Motion to bring a Bill to Parliament so that we can have these dams constructed not in another five or 10 years but in the next financial year. The national Government should keep funds for them in the Budget so that we can have these dams as soon as possible.

With those few remarks, I beg to support and thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Banticha.

Hon. (Ms.) Banticha: Thank you, hon. Temporary Deputy Speaker. I rise to support this Motion. Floods and drought have been causing a lot of havoc across the country. Lives have been lost and properties destroyed by floods and drought. During the rainy season most rivers including Nzoia River, Tana River and Ewaso Nyiro River burst their banks and destroy crops, schools, health centres and houses and also lead to loss of many lives. This has really affected a lot of people in many ways. Many people have become Internally Displaced Persons (IDPs) during the rainy season and they are forced to rely on aid from the Government and other relief agencies.

Hon. Temporary Deputy Speaker, a holistic approach is needed including building of dykes, construction of dams, management of catchment areas and observation of environmental rules in road construction. Vegetation should also be planted in the catchment areas to reduce the flashfloods and retain some of the water upstream. I also suggest the use of water upstream for electricity generation to reduce the water speed

along with the introduction of artificial banks to decrease the flow of water. The rampant poverty should also be addressed because it is the main reason that people have exposed themselves to risks.

Hon. Temporary Deputy Speaker, finally, water harvesting in the upper catchment areas through the construction of multipurpose structures such as dams should be done to reduce the amount of water reaching the low lying areas. Also, in most of the arid and semi-arid areas we have an acute shortage of water and the county governments have done little to alleviate this problem. I kindly request the Government to take urgent measures to help the people mostly from arid and semi-arid areas.

With those few remarks, I support this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Hon. Duale Dahir.

Hon. M.D. Duale: Thank you, hon. Speaker for giving me this chance. From the outset, I want to say that 90 per cent of the people in northern Kenya actually depend on rain harvested water or underground water. However, I want to say that to get underground water requires a lot of technology because you need to drill boreholes and this is very expensive. I want to say that creation of multi-dam systems and desilting of all dams will really help in harvesting large quantities of rain water which can be used for a lot of things including domestic use, livestock use, irrigation, planting trees, regeneration of the aquifer and for introduction of fish farming.

Hon. Temporary Deputy Speaker, I want to say that the constituency I represent which is Dadaab and majority of Garissa County, we are currently facing a serious shortage of water. Many people trek for long distances to get water for their animals and for domestic use. This is because the dams which were there have either been filled by silt and cannot harvest enough water or the rains failed and there was not enough water. Therefore, this Motion really has come at the right time to help people living in these kinds of areas if they are supported with this project to actually harvest water for domestic use.

Hon. Temporary Deputy Speaker, currently, of course, the area I represent has no permanent river. We have dry river beds which occasionally have a lot of water when there are floods. For example, the Lagdera riverbed comes all the way from around Marsabit area up to Kismayu and when it rains, the amount of water which goes to the sea is so massive. Construction of multiple dams can actually help in improving the economic lives of the people there as they can engage in farming.

Hon. Temporary Deputy Speaker, on the issue of the current drought, I want to say that I think the national Government has done the greatest part on water because it has been there but most of the resources currently have been channeled to the county governments. My appeal to the county governments especially in these drought affected areas is to become proactive. This is because, for example, Garissa County has about Kshs1.4 billion for water and health which is quite a substantial amount of resources and it can actually help in water trucking especially during this dry spell when people are facing a serious challenge with water.

So, with those few remarks, I want to support this Motion and appeal to all Members to do the same. Thank you very much.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you. Hon. Iringo.

Hon. Iringo: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I rise to support this Motion by hon. Sunjeev and I strongly feel that it has

come at the right time because of the problems we as a country are experiencing as far as water is concerned.

Hon. Temporary Deputy Speaker, water is life and we have got a lot of water but it is also scarce because of the nature and the way we handle water issues. During the rainy season, we experience excess water which becomes even a disaster in most parts of the country and during the dry spell the country appears as if it has not had any water for years. So, especially as far as Vision 2030 is concerned, this is the time the national Government and also the county governments should put in place structures and concerted effort so that proper planning is done so that the water which flows during the rainy season is harvested and it can be used during the dry spells.

Hon. Temporary Deputy Speaker, in doing this, it will be like killing several birds with one stone. When it rains, the water just goes down the ocean or to the rivers. In the process, it sweeps away all the top fertile soil and deposits it in the ocean where it is useless. At the same time, all the fields, *shambas* and grounds are eroded. Even our roads are destroyed and we start from zero gain. So each year, there is a budget for repairing roads and bridges which are damaged during the rainy season. If the waters that flow from the mountains and hills are conserved and harnessed by way of putting up dykes and dams, the water can be controlled and we will save our roads and bridges from destruction. We will also prevent our soil from going into the ocean. We will have the same water stored for future use.

My constituency - Igembe Central - has the Nyambene Hills. Once it rains, the lower side of the constituency is flooded with water with a lot of soil. In fact, houses and plantations are buried and many people are left homeless. In the upper parts of the constituency, there are canyons and gullies and people are marooned; making it impossible for them to move even to the next villages. Immediately after the rains, we start to build dykes and makeshift bridges. In the process, we waste a lot of time and money. Most of the Kenyan land is arable. We cannot compare ourselves to countries like Israel, Egypt, Saudi Arabia and others. However, in those countries, there is extensive farming with the little water that is there. They get water from boreholes and use it for irrigation. Here, we have vast land which does not even need fertilizer. But we do not have rain to water the areas so that we can get food. It is high time this matter is looked into critically and resources put together so that we conserve the ecosystem, the soils, the flora and also get water for our people.

During the dry spell in my constituency, we have water pans in the lower part which are filled with silt whenever it rains. We have to invest in removing the silt because running water was just left to run into the water pans which have been dug by the Ministry in charge of Agriculture and Livestock Development. Because of poor planning, the soils are carried by the water into the water pans. We need a technological approach of conserving the water. That way, we will save our soils, roads and bridges and then have water for future use.

I beg to support.

Hon. (Ms.) Ghati: Thank you, hon. Temporary Deputy Speaker. I rise to fully support this Motion because it is the right thing to do. It is not the first time we are talking about flooding in this country. We are all aware that when it floods, it really causes havoc in this country. I am talking about my county, Migori. Nyatike Constituency in my county has never known peace whenever it rains. Every time I am in

Nyatike, I feel like I am not in this country. School children waste a lot of time looking for water. There are no households there. In my county, only 28 per cent of households there have access to clean water. We have not really discussed this issue seriously.

In April this year, when there were floods in almost all parts of this country, people and animals died. This is not a small matter. There are areas in Nyatike Constituency where you cannot find clean water for drinking. This is because we have not put mechanisms in place. Migori County is next to the lake and yet, when it rains, we have problems in accessing water. Egypt is an arid country, but it has put in place mechanisms which have enabled it to irrigate its farms and, therefore, feed its people and even have extra to export. Egypt is feeding the world. It is simply because they have working mechanisms in place. We now have county government. Functions to do with water and the environment have been devolved to the county governments. We need to compel the county governments to ensure that they have a reservoir. They need to build dams which other constituencies can draw water from.

We have been talking about the construction of dams and dykes along the rivers. There is River Kuja in my county. When this river breaks its banks, families are displaced. I want to support this Motion because people and animals have died. We need to ensure that county governments train our people about harvesting water. Our people do not know how to harvest water. They largely depend on natural rain. When it does not rain in this country our people become poor. We need to be serious about the issue of flooding and water in this country.

In this country, you will see women carrying *vibuyus* and all manner of containers looking for water. They waste their energies which they could divert elsewhere or do meaningful things. We need to be serious about the issue of water because water is life. This is a matter that is addressed in Chapter Four of the Constitution under the Bill of Rights. We are not talking about something small; we are talking about a constitutional right of this country.

With those many remarks, I want to support the issue of dams and reservoirs and the whole issue of addressing flooding in this country. Thank you very much.

Hon. Mwangi: Thank you, hon. Temporary Deputy Speaker. I stand to support this Motion. If there is any Motion to support the Jubilee Government to fulfill its dreams of actualizing irrigation of one million acres of land, then it is this Motion. If there is any contributor to poverty in this country, then it is lack of water. A few months ago, every hon. Member was crying of flooding in their constituencies. A few months later, we are now crying that we do not have water, animal feeds and food. I think that successive governments in this country have failed to actualize some policies which are lying on shelves. After 50 years of Independence, we have good brains and policies which are on shelves and they are not being actualized. How come a country like Israel is able to feed its people and yet, it lies in a desert? It is high time we put more funds into this.

We need to create more dams. If we could have many dams along our rivers--- If today the seven dams break down, Garissa Town will be nowhere to be found. This is because we have no other dam downstream to break the flow of that water to Indian Ocean. By now the Government should be putting up funds to actualize this thing. I urge the Implementation Committee to actualize this Motion immediately. The last rains in Maragua created a lot of havoc. Our bridges were broken down and our cash crop destroyed.

Today, in a place where we would ordinarily be having a lot of food, following the long rains, we do not have any food. We do not have bridges. If we can have dams, we can feed Maragua Constituency, Murang'a County and Kenya as a whole. As hon. Members, if we can create dams using our respective CDF money, we can help to show this Government where to go.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Chanzu.

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support this very important Motion.

What hon. Members have been talking about here today is like repeating ourselves, because we have had similar Motions in this House. The biggest problem has been follow-up and implementation. In fact, I want to commend the NARC Government because when it came to power in 2003, quite a number of reforms took place in the water sector. We only used to have the Ministry of Water before then but when the NARC Government came to power, we ended up having the parastatals that we see today, including the Water Trust Fund in the Ministry of Environment, Water and Mineral Resources. After that, follow-up is what has been the problem.

If the policy of the Government can be that we must give water to the people and not just politicising issues, as it happens during the campaign periods, when we talk about ensuring that every homestead gets water, it can be good. So, the most important thing is the kind of policies that we can put in place. Some of my colleagues have talked about using the CDF. In the last Parliament, the then Ministry of Water had a programme through which they wanted to create a similar arrangement but it did not work because the Executive did not want to give away some of its functions to the CDF.

Hon. Temporary Deputy Speaker, even though water services have been devolved to the counties, I still do not believe that we should be handling these matters at the county-level. Some of the counties are very big. Suppose you get a governor who decides not to help certain parts of the county, given the selfish nature of human beings? I believe that this is a function which can be handled at the constituency-level. The only problem is that even though the CDF has done a lot, it is not sufficiently funded for this purpose.

So, it means introducing a lot of changes. We need to make a number of improvements in terms of allocating more money to the CDF, so that every part of the country can have money for water. If we only rely on the national Government to handle the money, there will always be the problem of money not being enough. Right now, some functions are not being carried out because there are too many mouths to feed. I believe that if we handle this at the constituency-level, it will work.

Hon. Temporary Deputy Speaker, you remember the *El Nino* phenomenon. We addressed those issues here. There was flooding all over and everybody, including people in Nairobi, was talking about it. Right now Nairobi looks very peaceful but if it rains heavily for two days, you will find water sweeping away people. So, you can imagine what happens elsewhere, where there are no controls. Therefore, we need a very serious policy on this matter. I would even urge the Mover of the Motion, who has done a very good job, to consider what I am saying. It is good for us to look around and see whether there is any research that has been carried out and put everything together, so that we can harmonise everything and ensure that it becomes easier to manage water issues rather than managing things in a piecemeal manner.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Richard Makenga.

Hon. Makenga: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to add my voice to this very important debate. I rise to support this very timely Motion.

Water is very scarce in my constituency. We only see water during the rainy season. After the rainy season, water goes away. Water scarcity has brought a lot of problems to my constituents. People have to walk long distances in search of water. Sometimes the unscrupulous businessmen who come round, vending water, charge exorbitantly for the commodity. It is, therefore, high time the Government established ways of harvesting rain water in dams, so that the perennial water problem in ASAL areas can be addressed adequately.

We have a bigger problem in my constituency. When there is drought, people in my area get water from Nolturesh area, which gets water from Mount Kilimanjaro. As that water is tapped to my constituency, certain communities along the way destroy the piping system to access the commodity. So, the water does not reach its intended destination. This is a big problem for us in Kaiti. We are not able to get water from Nolturesh, which is the only source of water in that area. So, I urge the Government to continue with its efforts of constructing water dams in that region.

I would also like to point out that the Government has an ambitious project of supplying water in Ukambani area. I have in mind the proposed Thwake mega dam project, which is a Vision 2030 project. However, we cannot wait until the next 10 or 15 years to have water from Thwake Dam. It is high time the Government constructed small dams to particularly provide water to my constituency. We have a seasonal river called Kaiti. In fact, Kaiti Constituency is named after Kaiti River. However, there is no water in that river. The river is very long, traversing the whole constituency. This is the case and yet there are no dams built downstream so that, that water can be supplied in the constituency.

Hon. Temporary Deputy Speaker, Sir, I would also like to say that there was a project which was funded by the Water Trust. That project was to supply water within the upper area of my constituency called Kilungu. However, the water project was mismanaged and the pipes which were laid were vandalized. The money for that project went to waste because it was not used for the right purpose.

I urge the Government to investigate that water project so that we do not continue losing money meant for very valuable water projects. Very few individuals misappropriated the money and the project was never completed.

The other issue is on the briefcase contractors who masquerade as contractors. When they are awarded tenders to do dams, they do shoddy jobs and the dams they built get damaged. This is very painful because people support a project when it is started. However, water is never harvested at the end of the day because the works done on the dams are shoddy. So, I urge the Government to be very keen on briefcase contractors who are awarded those projects but do not do a good job.

Water is a very important commodity. In my constituency, livestock farmers do not have water for their animals to drink. They resort to using banana stems which store water. So, they feed the animals using the banana stems as a substitute to water.

I congratulate the Mover who brought this Motion because it is very timely. I support this Motion and we would like dams or dykes to be built across the country.

Finally, I also urge the Government to supply water tanks to institutions like schools or churches so that they can access water during the dry spell.

Hon. Temporary Deputy Speaker, Sir, with those few remarks, I fully support this Motion. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you, hon. Makenga. Let us have hon. Rose Mitaru.

Hon. (Ms.) Mitaru: Thank you very much, hon. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to a Motion that is very crucial. I come from a very dry area called Gachoka Constituency in Embu County. We have a lot of water up the mountains in Embu County. However, in my constituency and part of Siakago Constituency, what women and children in schools go through is total suffering. We have dams and rivers that provide water and generate electricity to the whole of this country. Although this is the case, we are the least recipient of that electricity and water in our constituency. Women have resulted to buying donkeys and looking for water everywhere. Sometimes they take three hours a day in search of water.

During the dry season, those people do almost nothing other than looking for water. The people who live near the dams that supply electricity to our hospitals, schools and the whole of Kenya fetch water from the dams. We have lost very many people and livestock because the crocodiles attack them. This is the case and yet the Kenya Wildlife Service Officers do not visit the areas to see what has happened and compensate the victims. I have been waiting to talk about water that is very pertinent to me and people in my county.

I would not like to see relief food coming to our constituencies. The money used to buy that food should be used in water harvesting so that we produce enough food for this nation at the end of the day. This is because the water we lose every year to the Indian Ocean is enough to grow crops in this country throughout the year. So, I am very happy that the Mover of this Motion thought of water harvesting.

I think we should pass a law in this House so that every Member of Parliament can come up with a report saying how many households have water in his or her constituency. We could set the year 2030 as the target when we can get water to everyone. However, this will not happen if an important Motion like this is passed but it is not implemented. We have enough water in Kenya especially in the dry areas. We do not have to drill many boreholes that affect our underground water. We can harvest rain water because it is enough. Let every Member in this House go to his or her constituency and look at the best way to harvest water.

This House should know why our women are being killed by crocodiles while they fetch water from the dams. That is the case and yet the same water is used to supply electricity to the whole of this country. I am very serious on this matter but I do not know how to go about it. However, we must work as a team in this House to support our people so that they have enough food and clean water near their homes. They should not walk for 10 kilometres to look for water that is used to generate electricity in this nation.

People are dying out of hunger and malnutrition and their children carry dirty water in small bottles to drink in classrooms when it is very hot. We need to do a lot of research and support this Motion. I will tell the people I reach that Vision 2030 is very

far. We have lost very many people through hunger and malnutrition and yet we are losing a lot of water.

Thank you, hon. Temporary Deputy Speaker. I support this Motion with all my heart.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you, hon. Mitaru. That was supporting the Motion with a lot of passion. Let us have hon. Duba. Is he absent?

Hon. Oyoo: Thank you very much, hon. Temporary Deputy Speaker, for the giving me this opportunity. First, I want to thank the Mover of this Motion because she has brought a Motion which is very dear to my heart and very relevant to the mandate I am currently having on behalf of my electorate.

Hon. Temporary Deputy Speaker, I come from Muhoroni Constituency which was hived from the old Nyando Constituency. The area is known in the country to be predominately flood-hit area. We have perennial floods that come second to Budalangi floods. I think Muhoroni and Nyando constituencies combined are affected more than Budalangi.

Hon. Temporary Deputy Speaker, this is a Motion we must support and ensure that it is passed and not only passed, but we must ensure that it is implemented to the letter. I am saying so because we have had policy frameworks in this country and there was a time the Government promised a lot of things. If the Government of the day promises something then the Government coming must follow up and see whether such promises were implemented.

Hon. Temporary Deputy Speaker, we were told that there would be water at every doorstep by the year 2000. The year 2000 came and it was a farce. It never happened and the Jubilee Government also came on the platform of trying to alleviate the sufferings of the citizenry. They promised that they would do what was not done by the previous Governments. One of the promises was to make sure that the lives of Kenyans are easy by making sure that their women do not have difficulties going to fetch water far. They also promised that floods are not going to ravage our lands and that they would make ample use of land.

Hon. Temporary Deputy Speaker, I do not know why in this country we always behave as if everything is an emergency. We have to wait until floods wreck havoc in a particular area and then you see the kind of attention and expenditure used. The Government of the day will go all the way up to the site where the devastation has occurred.

Hon. Temporary Deputy Speaker, I am saying so because early this year, my constituency, alongside Nyando and Nyakach were hit by ravaging floods. I tried to knock bigger doors and they were able to open very easily and I was promised assistance. Serious Government officers came on the ground. They gave solutions which started from food, blankets, health facilities and other promises. They promised that was a temporary measure. They said that upon subsiding of the floods, they were going to make a tour again and ensure that the dams were built and the flood menace ravaging the Kano Plains and its environs would be mirage.

Hon. Temporary Deputy Speaker, I thought that because it was in the Jubilee Government, which is the Government built on the framework of "*sema na kutenda*" that something would be done. But my hopes were dashed when nothing was done. The bridges that were swept away by floods and roads that were badly damaged were

captured and brought to the attention of Government officers. Requests were made to the Ministry of Transport and Infrastructure and the engineers requested for some money. When I followed up the matter - of course, the Ministry of Special Programmes which was in-charge at that time is now dissolved, we have the Ministry of Transport and Infrastructure - I was told that there was no money. All the funds that were devoted towards this course were taken to a province which had not been badly hit as our province and which had no constituency as badly hit as Muhoroni and Nyando.

Hon. Temporary Deputy Speaker, at the time of addressing this House, there are no bridges and roads are impassable. The roads are damaged and yet we have a Government that promised to say and deliver. My efforts to have them fixed have been blocked by lack of finances. This House must take its mandate very seriously. Why should we have perennial floods when we have a Government with a full-fledged Ministry of Devolution and Planning? They are supposed to plan and know what we have and how to prioritize it. Why do we not deal with this flood issue once and for all?

I have had the benefit of travelling to Cairo. I travelled all the way to Alexandria. As you try to travel to the countryside, it is a desert but when you look outside, there is favourable land because there are no floods. What disturbs you is to see the vegetation green, courtesy of water from the lakes. Those people know how to harness water and make use of it.

Hon. Temporary Deputy Speaker, it is a shame that in Kenya, in big supermarkets and even local markets here, the best product that you can put on either comes from Israel, South Africa or Cairo, in Egypt. Save for South Africa, the two are serious arid areas but they are making best use of their resources to do things that can help their citizenry. But here, we want to vet people with Kshs2 billion while people are dying because of floods, roads are not passable and bridges are not there. Why do we not have priority?

Hon. Temporary Deputy Speaker, we enjoy very cordial relationship with the Israel Government and now we are enjoying very good cordial relationship with the Chinese Government, they are very good. The other day our President went to tour China. I am very happy when he came back he came with big goodies, but when he opened them, I never saw anything on irrigation. I did not see much about flood control; when these people are specialists in flood control. They have made use of their technology and resources in controlling floods in their countries very well. Instead of asking for many fabulous things, why can we not--- I am happy we have asked for infrastructure and they have helped us. Why do we not ask for help on floods control or is it because maybe, the people who are worst hit may not be our endeared species politically? I believe that this may not be the case.

Hon. Temporary Deputy Speaker, I have respect for the ruling class, they are young and they must be in a position to correct the ills that were done by their predecessors, so that they can give me the right of convincing the Luo people that these people are not as bad as the old ones. But when their issues are not addressed, we have difficulties in bringing them together. We want to help and we want to live as a country.

Hon. Temporary Deputy Speaker, I am very happy Parliament is becoming sober now. We are talking and in this Parliament people are able to operate as Kenyans. Those polarizations are gone. We also want to be in the major Government; the advisors and those people around the ruling mandarins to give them room to see Kenya as Kenya. I

want to tell them that the question of rampant floods in western Kenya, especially in Muhoroni and Nyando and to some extent Budalangi must be addressed. When it is addressed, lives will be saved. When lives are saved, Kenya will be stable and peaceful and then we can talk about growth.

Hon. Temporary Deputy Speaker, I want to take this opportunity to remind this House that we need to prioritize that region because we need to fulfill the promise of Ahero pilot Rice Irrigation Scheme rather than having cosmetics like Mwea Irrigation Scheme. We need the Government to put its priorities right and make sure that the Ahero pilot Rice Irrigation Scheme has the facilities that are needed for it.

I want to second this Motion and assure the Mover that I will support it to the hilt and ensure that it is passed and we will follow its implementation.

Thank you very much.

Hon. (Ms.) Chae: Thank you, hon. Temporary Deputy Speaker, Sir, for the opportunity also to support the Motion. I wish to voice my sentiments on the same.

I come from the Kisii region which has a hilly terrain. The area is highly populated yet scarcity of water is the norm. If the situation continues the way it is for the next 15 years, women from Kisii will be going to Lake Victoria to collect water. They will then go for five kilometres into Lake Victoria to fetch water. I really support this Motion. We need to have a lasting solution to the problem of water. When we have a lasting solution, that is the only time that we can be comfortable that our women have time to enjoy their lives in this planet. If there is lack of water, there is no way the woman is going to enjoy her life. She has to ensure that the family has water for domestic use and even for the animals. In Kisii, the Government is going to work a lot harder to come up with a lasting solution due to the hilly terrain.

When it rains, we see the water and cry that there are floods. When there is no water, we are crying in Kisii. That is the time that we do not have vegetables and we have to go to Kisumu to look for *Omena*, so that our people can eat. If we harvest this water, many problems are going to be solved in the whole country including the Kisii region. About 80 per cent of our bodies are made up of water. Therefore, we should ensure that water is available in every region of the country. We are debating this important Motion and I hope that we are going to make a follow-up to ensure that its provisions are implemented. We should ensure that our people have peace and they can sleep well. This is a cry of the women and the children. When the woman is comfortable, then there will be a future in this country.

For us to ensure that there is enough water in Kisii, the Eucalyptus trees along the rivers, which have caused the rivers to dry, should be done away with. I know there are also other regions which have done away with the planting of the Eucalyptus trees along the rivers because they consume a lot of water. There should be a serious policy to ensure that these trees are planted elsewhere. Then we can create awareness in our people, so that they can know the trees which are environmentally friendly to be planted along the rivers.

I support the Motion.

Hon. (Ms.) Chepkwony: Thank you, hon. Temporary Deputy Speaker, Sir. I would like to support the Motion. Dams are very useful in our areas. In my area, Kipkelion in Kericho, the land is very fertile yet you find that they only plant crops when there are rains. If water is harvested there, we will plant a lot of food in that area, for

example, tomatoes and cabbages. By creating dams in that area, we will ensure that people in that area get water throughout the year. They should not only depend on rain water. So, if we construct dams in that area, we shall have food throughout the year and we shall not have any problems.

Women walk long distances, for example, 10 kilometres in search of water. By building dams in these areas, we will be able to do green houses for growing flowers, tomatoes and different types of fruits and vegetables.

We can even export some of them. We will have employment opportunities for our youths if we can have dammed water which will be used for irrigation. So, I support this Motion very much and I want to say that in other areas of the country, we need to build dams. You find that the water in Egypt and other countries of Africa comes from Kenya and we wonder why we are not able to practise irrigation. Is it because the Government does not want to implement water policies? We want to know that. We have these resources and nobody is utilising them. We find that in North Eastern Province people are fighting over water and when floods occur people are again crying for their lives. So, if there are dams built within those areas, you will not find people fighting over water.

Hon. Temporary Deputy Speaker, so, I would like to support this Motion. Let the Government implement it and build dams within our arid and semi arid areas so that our people can get employment. For example, during the dry season we find that we import food. It is really pitiful for such a country like Kenya to import food when we have the resources. We have land and water but we do not know how to use them. A Member said here that Israel is a desert; it is true. I have gone there. They do not have rain but they are only using irrigation to grow food crops. I wonder why Kenya cannot use that irrigation system. Why should we cry twice? We cry when there is rain and we cry when there is no rain.

Hon. Temporary Deputy Speaker, so, I would like to urge the Members to support this Motion and at the same time urge the Government to implement it. There is no need for us to pass this Motion here in Parliament and it is not implemented. If that is so, we will have wasted our time. So, we urge the Ministry concerned to make sure that this Motion is implemented so that our people will really work hard to get their food.

So, with that, I support the Motion and hope everybody will do so. Thank you very much.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. Kingo'la.

Hon. King'ola: Thank you, hon. Temporary Deputy Speaker, Sir. From the outset, I want to say that it pains me as I contribute to this Motion. We are just at the onset of the short rains and very soon we will start seeing people from Nyando, Baringo and down the Tana Delta crying. Sometimes back we watched a lady from Nyando crying that: "*Serikali kuja saidia.*" Time has come when this Government should now rise and say that flooding is a thing of the past.

Hon. Temporary Deputy Speaker, Kenya is blessed with rivers, enough rainfall and the climate is good for rain water collection. Technology is everything. If you go to Egypt which is a desert, you will find that it relies on River Nile. The construction of the Aswan High Dam was done sometimes in the 1960s. That is a dam which contributes to the food basket of that nation. It is ironical to see Egypt exporting rice to Kenya. They

even export onions, tomatoes and oranges to this country and yet the area that they are irrigating is equal in size to one province in this country.

Hon. Temporary Deputy Speaker, we have seen what technology can do.

I want to assure this Government, it being a digital one, that if these rivers, that is, Tana, Nzoia, Athi and Galana had high dams, we would not be relying on climate. We would not be talking about dry seasons because we would be irrigating our farms round the year. I know that when the rains come in November and December Athi River which criss-crosses my constituency will flood. I know that my CDF emergency kit will be swallowed because I will need to resettle displaced people. We need to put legislation in place to enforce environmental laws.

Some time back there were some laws where people living along river banks were not allowed to encroach 100 metres near the river. What do we see now? So many people have settled near the rivers. Actually, some people live 10 feet away from the river. This is what is contributing--- The river comes with its negatives. Most of our cities are stone cities. So much water is collected by our buildings and yet our drainage system is questionable. It is high time we came up with legislation that water harvesting is a must. This way, we could minimize running water which erodes our top soil.

If we can build these dams the way the Mover of this Motion has suggested then we will help our water table come up. This is because much of the water will be stored in the dams. Instead of wasting a lot of money through the CDF and the Ministry in charge of roads building water pans, it is high time we came up with, say, three dams. We have dams like Masinga and Kindaruma. We need now to have dams purposely for agriculture and fishing. These dams will hold water for us. Because of the climatic changes, we have seen water levels rising. This is contributed by the water which runs to the ocean. It is time we resolved that Israel and Egypt cannot be the nations to beat us when it comes to agriculture and yet they lie in deserts.

I want to challenge the Minister in charge of agriculture and the President to come up with these dams so that we can stop this flooding and we save our people and property. This House needs to increase the budget on such activities.

I stand to support this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. ole Ntutu. You have five minutes.

Hon. ole Ntutu: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support this Motion.

In this country, we have two weather extreme conditions, namely, floods and droughts. The reason as to why my colleague brought this Motion is to try and look for ways of dealing with the problem of floods. Floods have become a problem in this country. During the rainy season, we lose a lot of our properties. Many of our bridges and roads are washed away by floods. I happen to visit some European countries. In those countries, research is carried out to map out the areas being affected by floods.

In this country, it is obvious that most ASAL areas are affected by floods. In the western region, we have Budalangi, which one of my colleagues here talked about. That is the constituency that my good friend, hon. Namwamba, represents. I wonder when, every year I see that lady crying to our Government there is nobody who listens to her. I want to urge hon. Members that, as leaders, we must find ways and means of dealing

with the issue of floods. Floods can help us. If we construct dykes and dams, we can store flood water for irrigation and domestic use.

When it rains in Narok West, it is a problem. Most of the homesteads are washed away. It costs the Government a lot of money to repair bridges. It takes people years to reinstate the properties that are lost. In fact, in Maasai Mara Game Reserve, where tourists flock to watch the spectacular wild beast migration most of the time, when there is no water, a big number of wild animals die. If we can save water during the rainy season, we can save our wild animals as well as our livestock, which also die during the dry season.

Therefore, I would like the hon. Member to look at this matter deeply. I do not think it is enough for us to just say that we urge the Government. I think we should start a Government body to critically look at how we can control floods because it is costing this country a lot of money. So, why not use the money that we waste to rebuild our roads to study the situation countrywide before even trying to do anything? When most of us see water flowing downstream, we ask ourselves: "Where is this water going?" We end up advising our people to move to higher grounds to avoid being swept away by floods.

What I would like to urge my colleagues is that we probably need to consult scientists on how we can control floods. I believe that building dams is the easiest way of doing it, so that we can have water reserves. But, again, maybe, there is a better way of doing it. Therefore, let us do more than just urging the Government.

With those remarks, I beg to support.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, it is now time for interruption of our business. Therefore, the House is adjourned to this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.