

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 1st November, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

Mr. Speaker: Order, hon. Members! Those of you that have not walked in as yet will have to freeze where you are! Allow me to make the following Communication.

ADMISSIBILITY OF DOCUMENTS TABLED OVER ALLEGED LOSS OF KKV FUNDS

Hon. Members, you will recall that on Wednesday, 26th October, 2011, the Deputy Prime Minister and Minister for Local Government, while issuing a Statement during Prime Minister's Time on the implementation of the *Kazi kwa Vijana* (KKV) Programme, tabled a number of documents on the subject in question. You will also recall that some of the documents tabled were admitted. The Chair undertook to examine the other documents to establish whether or not they are admissible pursuant to the practice and procedure that this House has established.

Hon. Members, there are three documents in question; two are titled, "Statement from the World Bank on the Kenya Youth Empowerment Project". As I observed at the time, although the two documents are different in structure, their content is essentially the same. Each of these documents has contact details of persons who, on the face of it, are connected to or working for the World Bank in Nairobi. In addition, the Statement appears on the World Bank website. I, therefore, find that the statements, although different in format, are admissible.

Hon. Members, the Deputy Prime Minister and Minister for Local Government further tabled a third document titled, "Kenya Portfolio Financial Management Supervision – June, 2011: Interim and Unvalidated Report (FM) indepth Review, 13th September, 2011." The document has the following words imposed on it, "Strictly confidential - For internal World Bank view only." A careful study of the document has revealed that it is not signed and does not have a forwarding letter or details of the author. In addition, efforts to access it on the World Bank website have been futile as it is apparently not posted.

As hon. Members are aware, the Chair has guided the House on previous occasion on the admissibility and/or authenticity of documents tabled in the House. For instance,

on 18th January, 2011, when faced with a similar question, the Chair made the following Communication:

“The final document is not dated and there is no indication who the author is or to whom it is addressed. There is no signature or other identification of source or ownership. I have further perused the document with a view to ascertaining its source and admissibility, but find that the document, whatever may be its value or use outside this House, does not speak for itself in any of the crucial aspects pertaining to admissibility and our rules and is, therefore, inadmissible.”

Arising from the foregoing, therefore, I find that the document is not admissible. I make the same findings with respect to the document tabled by the Member for Ikolomani, hon. Dr. Khalwale which, although structurally different from that tabled by the Deputy Prime Minister and Minister for Local Government, appears to have the same conclusion on the amount of money that was allegedly misallocated.

In a nutshell, therefore, the net effect is that I admit the first two documents. I do not admit the last two documents.

I thank you.

QUESTIONS BY PRIVATE NOTICE

DETENTION OF MSF WORKERS BY UGANDA SECURITY AGENCIES

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

(a) Is the Minister aware that two Kenyans (Messrs Mussa Hassan Bulle and John Lodong), employees of MSF Switzerland, were detained by Ugandan security agencies on 5th June 5, 2011?

(b) What reasons led to their detention?

(c) What measures has the Minister taken to secure their release?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) Yes, we are aware that the Ugandan Government authorities suspected that the two could be linked to *Al Qaeda* or *Al Shabaab*. Upon arrest, the suspects were held at Kireka CID Anti-Terrorism Police Unit for interrogation between 5th June, 2011 and 13th June, 2011. However, these two individuals, upon our intervention - that is the Ministry and the Government of Kenya - were released on police bond. Nothing was found to implicate them so far. Up to now, the two individuals have been set free. The information we have is that the Ugandan Government has withdrawn the charges.

(b) Since these two individuals have been released and set free, this question does not arise.

Mr. Affey: Mr. Speaker, Sir, I want to thank the Assistant Minister for the Statement and particularly for the fact that he said they were released after their intervention. That is what should happen, ordinarily. These two Kenyans work with International Organizations MFS-Spain and they were going to Uganda. There is an emerging trend where Ugandan police constantly arrest Kenyans. It is unfortunate that the Government has not been taking sufficient steps towards engaging the Ugandan authorities. How

many other Kenyans are in Ugandan police custody as of today? We want to know how many they are and where they are.

Mr. Onyonka: Mr. Speaker, Sir, as I speak right now, we do not have such a record. In fact, such a record has not been brought to our attention. The Kenyan Government, through the Minister for Foreign Affairs, has been engaging the Ugandan Government as frequently as is possible to make sure that we maintain friendly and good neighbourliness. As you are aware, the problem of terrorism and its associated activities is a very complex and deep issue, and when any Government gets information which may lead to somebody being suspected, then they usually proceed to make arrests in order for them to confirm that the individuals are innocent. It may appear that the Ugandan Government or our other neighbouring countries could be harassing Kenyans, but the reality is that it is a matter that we have raised with them and they have agreed that they will always try to follow due process.

Mr. Njuguna: Mr. Speaker, Sir, thanking the Assistant Minister for the brief answer that he has given---

Mr. Speaker: Order, Member for Lari! You know the Assistant Minister had already been thanked by Ambassador Affey. So, try from now on, not to repeat the thanking. Proceed!

(Laughter)

Mr. Njuguna: Mr. Speaker, Sir, could the Assistant Minister inform this House the status of health of the two detainees that were held by the Ugandan authorities?

Mr. Onyonka: Mr. Speaker, Sir, the two individuals are actually well. They are healthy. We have not received any information to contradict the thinking. The Ministry of Foreign Affairs ensured that after they were released, we followed up with the necessary protocols. I can assure my colleague that these two individuals are safe and sound in Kenya.

Mrs. Shebesh: Mr. Speaker, Sir, the issue of having Kenyans detained or held in Uganda is not a new thing. What is the policy of Government in terms of dealing with the Ugandan Government because we always feel that our Ministry of Foreign Affairs is always apologetic towards the Ugandan Government, rather than being on the side of Kenyans?

Mr. Onyonka: Mr. Speaker, Sir, the truth is that we have not been behaving or acting in an apologetic manner to our neighbours, Uganda. We try to maintain a relationship which is friendly. Where we have outstanding issues we always try to make sure that we raise these issues using quiet diplomacy.

To be honest to my colleagues here, the Ugandan Government has always become very active and proactive when it comes to issues pertaining to Kenya. That does not mean that when issues come up at the border, say, our fishermen being arrested, the Ministry of Foreign Affairs and the Government of Kenya have always made sure that we engage, negotiate and discuss issues which are outstanding. We promise to make sure that we convince the Ugandan Government that since we are opening our borders because of the East African Community, we need to be much friendlier with each other, so that we do not have any outstanding issues.

Mr. Mbadi: Mr. Speaker, Sir, I would like to hear from the Assistant Minister what measures the Government is taking to solve the frequent disputes between Kenya and Uganda. In most cases, it is Uganda which is arresting Kenyans. They arrest our fishermen in Lake Victoria. They come and occupy Migingo. They take people from here to their country and now, there is this case of the two individuals. When are you going to get a permanent solution to these problems so that we do not hear of these frequent excuses of a friendly nation and yet, Uganda does not behave friendly? They are quite unfriendly. Could you kindly tell us how you are going to have a permanent solution to those problems? That is because we are getting irritated - especially those of us who live near the border with Uganda. It is a total problem. They arrest our constituents almost every week and we are tired of that and your excuses, Mr. Assistant Minister.

Mr. Onyonka: Mr. Speaker, Sir, the Ugandan Government is very friendly to the Kenyan Government and the Kenyan people. Sometimes, there is cross-border interaction or cross border crime. The long-term solution, according to me, is diplomacy between Kenya and Uganda. The issues which are outstanding between Kenya and Uganda can be solved amongst the two countries. Uganda is our biggest trading partner in the region and the world. Ugandans are very friendly with us bilaterally and internationally when it comes to issues of the African Continent. If there is any outstanding issue, the Ministry of Foreign Affairs is constantly talking to Uganda. The Kenyan Ambassador to Uganda has frequently been discussing and negotiating with the Ugandan Government on any outstanding issues which affect both our countries. I believe that the relationship is going to improve and if it does not, we will make sure that we work to make sure that it improves.

Mr. Affey: Mr. Speaker, Sir, the Assistant Minister has said that there are quite a number of Kenyans who have been arrested in Uganda. There is the famous case of Al Amin Kimathi, who was released after two years without any charges preferred against him. He was just released after going through difficult moments in Uganda and quite a number of his Kenyan colleagues are still there. Can you make an undertaking to the House that you will raise this matter with the Ugandan authorities with a view to releasing them as soon as possible so that they can join their families?

Mr. Onyonka: Mr. Speaker Sir, I believe the trials of Kenyans who have not been released from Uganda are still continuing. At some point, the Ugandan Government mentioned that they had some information which they wanted to use to deal with that matter conclusively. What I can tell my colleague in this House is that we want the Ugandan Government to note that due process must always be followed. The issue of Al Amin Kimathi must be given its due process. I believe that if his rights were violated, there is a process on how he can seek for compensation or any other recourse that might be followed. Otherwise, I can assure you that the Ugandan Government means well. They have informed us of that and Kenya means well. We will maintain a friendly relationship. We will continue using diplomacy to solve the problems which exist between our two countries. Otherwise, we are very good partners within the East African Community (EAC). We work together at a bilateral level at the African Union (AU) and other international fora.

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

(a) Does the Government have a plan to conduct civic education on the effects of consuming Genetically Modified Organism (GMO) food?

(b) Is the Minister aware that due to inadequate information on the importation, sale and consumption of GMOs, farmers in grain growing areas are suspicious of seeds being provided by Government agencies?

(c) How many experts on GMOs does the Government have in the country and, particularly, in Eldoret South? Can the Minister confirm to the House no GMOs, particularly seeds have been imported into the country?

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

(a) It is true that the Government has a strategy and a plan to conduct civic education to inform the public on the effects of consuming Genetically Modified Organisms (GMOs) in this country. The plan is referred to as National Biotechnology Awareness Strategy (Bio-Aware-Kenya). The objective of Bio-Aware - Kenya is to provide an all inclusive mechanism for awareness creation and raise the level of understanding and appreciation of biotechnology in the country. To this effect, a five year implementation plan for the national biotechnology strategy has been developed. The plan seeks to address public concerns on the consumption of GMOs and make them to understand that there is nothing wrong with GMOs as long as they are developed properly, and in credible facilities. If GMOs are well regulated, have passed the risks and safety assessments and are approved by the relevant competent authorities, then they are safe for consumption.

(b) It is true that there is inadequate information and that is why the Government has come up with the above explained plan to address those issues. As part of the implementation of the plan, the Government has come up with the following programmes to educate members of the public on the issue of GMOs.

1. Exhibitions at the national ASK shows
2. Media briefs and press releases in relation to GMOs
3. Several workshops have been organized by the Ministry in collaboration with other stakeholders to inform the public on the issue of GMOs. One of them was the stakeholders' workshop on biotechnology and issues-labeling that was held in KARI in the month of August. We also had a medical practitioner's biotechnology workshop that was held in Nakuru in October this year. We also have an international biotechnology conference on GMOs and food security which is to be organized jointly by the National Bio-safety Authority and the National Council for Science and Technology in the month of December.

Mr. Speaker, Sir, I am not aware that Government agencies are distributing GMO seeds. The Government agencies that distribute seeds in this country are KARI, Kenya Seed Company and the Ministry of Agriculture.

(Loud consultations)

Considering the weight of this matter, I would kindly request my friends in the House to speak in low tones so that they do not ask irrelevant questions later.

Mr. Speaker: Order, hon. Members! Please, let us hear the Assistant Minister! Lower the level of your consultations!

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, the seeds distributed by the said Government agencies are not GMO seeds. If somebody else is distributing the alleged seeds, then that is illegal and should be reported to the police.

Regarding the importation of GMO seeds in this country, I wish to state categorically that I am not aware of any importation of such seeds in the country. For one to import GMOs, he or she has to get an approval from the National Bio-safety Authority (NBA) as well as an import permit from the relevant regulatory agencies. He or she has to follow the variety release procedures as required by KEPHIS. To date, the NBA has not approved any importation of GMO seeds for commercial planting in the country, except for research purposes within contained or isolated environments. When the time comes, where there will be need to import GMO seeds for environmental release, the public will be informed through the appropriate channels as provided for in Section 18 of the Biosafety Act of 2009.

(c) There are experts in GMOs in this country. Kenya's premier research institute - that is, KARI - has 23 well trained research scientists in biotechnology on full-time employment. The research institute has a dedicated biotechnology research centre at National Agricultural Research Laboratories located at Westlands in Nairobi. The country has highly trained staff in areas of genetic engineering which include, at the very least, ten professors and 22 lecturers trained at PhD levels.

Mr. Speaker, Sir, the country is, therefore, undertaking continuous training and releasing of experts in biotechnology and genetic engineering. There are experts in the National Bio-safety Authority. Those experts are available at the national level. In addition, the National Bio-safety Authority works in collaboration with other regulators countrywide who, by law, are mandated to enforce the bio-safety regulations and inspections. There are bio-safety experts and inspectors at KEPHIS, that is, in the Ministry of Agriculture and the Kenya Bureau of Standards (KEBS). Those inspectors are available for deployment nationwide, including Eldoret South Constituency, where the Questioner comes from.

Mr. Speaker, Sir, on whether the Ministry can confirm to the House that no GMOs have been imported in the country, I wish to state that the NBA did receive two applications this year - 2011 - from World Food Programme (WFP) to import genetically modified corn soy blend and maize meal into Kenya and also for transit to Uganda. The Authority, through its Technical and Experts Review Committee, reviewed those applications. The importations were for relief food in response to the humanitarian crisis in the Horn of Africa.

Lastly, the application for transit to Uganda was supported by a letter of no-objection from the Uganda Bureau of Standards and were proved to be---

Mr. Speaker: Order, Mr. Assistant Minister! As far as I am concerned, you are a very seasoned Parliamentarian and, if you recollect my directions last week, you know you can deal with this matter very easily. Like part (c) of the Question asked you: "How many experts on GMOs the Government has in the country?" You would have answered by saying, "seven". For part (b) which asks: "Can the Minister confirm to the House that no GMOs, particularly seeds, have been imported in the country", I would have

answered: "I confirm". Period! Then you wait for supplementary questions. We will save our time that way.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, I agree with you 100 per cent. But since this matter has been very topical in the recent past, I wanted to go into the sub-stratum of this issue on GMO, so that everybody gets to understand our position. I know how to use the time of the House optimally and, therefore, allow me to just summarize in two minutes.

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

Mr. Speaker: Order, hon. Member for Naivasha! Please finish in two minutes.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, the applications for Uganda were approved with conditions that the consignment on transit be accompanied to the border, and that it meets the packaging requirements as per national and international standards.

I wish to stop there and invite any supplementary questions.

Mr. Speaker: Hon. Member for Eldoret South, proceed!

Ms. Chepchumba: Mr. Speaker, Sir, as I thank the Minister for that lengthy answer, I would want him to respond to the question: How much money has been allocated for civic education on the effects of GMOs?

Mr. Kamama: Mr. Speaker, Sir, I want to table a strategy plan that we have; that is the Kenya National Bio-Technology Awareness Strategy which we developed as a Ministry in consultation with the National Bio-Safety Authority (NBA). I have both versions for Kiswahili and English because this matter is about serious sciences. So, I table both of them.

(Mr. Kamama laid the documents on the Table)

On the issue of funds, we have allocated substantial amounts of money. For this year alone, we have given it close to Kshs20 million.

Mr. Letimalo: Mr. Speaker, Sir, so that the entire country benefits from that civic education, what plans has he put in place to ensure that the rural folk, who may not have access to information on TV or newspapers, benefit from it?

Mr. Kamama: Mr. Speaker, Sir, we have an elaborate strategy to take that information to the nook and cranny of this country. We have formulated a strategy and all the 47 counties will be covered.

Mr. Mwangi: Mr. Speaker, Sir, the challenge facing the Kenya Agricultural Research Institute (KARI) is inadequate funds for training researchers. Could the Assistant Minister tell the House what policy they have in re-training and retaining the researchers at KARI?

Mr. Kamama: Mr. Speaker, Sir, I told you we collaborate very closely with the Ministry of Agriculture and KARI, as you know, is under the Ministry of Agriculture. We collaborate quite closely and I know that this year alone, KARI got a substantial amount of money. I think KARI got something close to Kshs1 billion for operations and training researchers.

Mr. Mututho: Mr. Speaker, Sir, going by part "c" of the answer, the Assistant Minister admits that two applications have been approved. Given that it is in the public domain that GMO maize and food is available and has been detected in maize flour and

sausages, what measures is the Assistant Minister taking to prosecute the people who have imported GMOs and are feeding Kenyans with unauthorized GMOs?

Mr. Kamama: Mr. Speaker, Sir, I started by stating categorically that, first of all, we do not import seeds. Secondly, the two consignments that were approved are actually in the form of a blend and were actually taken to refugee camps. I want to confirm that there is no GMO food that is outside the refugee camps in this country.

Mr. Koech: Mr. Speaker, Sir, the Assistant Minister has confirmed that no GMO food shall be released to the people unless research has been done and the food has been declared safe. Could he inform this House and the public which GMO food has been declared safe internationally and within the country?

Mr. Kamama: Mr. Speaker, Sir, I talked about GMO products! Let us draw the dichotomy between the two - GMO foods and GMO products. The GMO products are actually approved by NBA and taken into enclosed environment where testing and research is done. But for GMO foods, I just want to talk about the two consignments that were taken to refugee camps. On the issue of the people who were supposed to be arrested, I must say that we have no information about them. There are no people who have taken GMO foods outside the refugee camps. On the consignment that was taken to Uganda, I want to also confirm that it was escorted by the Ugandan and Kenyan security and it was approved by the Uganda Bureau of Standards. That is the official position!

The Assistant Minister for Education (Prof. Olweny): On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Mr. Kamama, do you want information from your colleague?

Mr. Kamama: Yes, Mr. Speaker, Sir.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I wish to inform my colleague - for the benefit of the House - that there is no GMO food. You can get food derived from GMO products. But no food has ever been genetically modified!

(Applause)

Mr. Kamama: Mr. Speaker, Sir, I think you have heard it loud and clear. Prof. Olweny is an expert in bio-technology and bio-engineering.

Dr. Munyaka: Mr. Speaker, Sir, the Assistant Minister has said that we have GMO experts at Kenya Bureau of Standards (KEBS). Is he aware that KEBS lacks the capacity and equipment to conduct GMO testing currently? That is a very important firm for quality and standards of grains in Kenya?

Mr. Kamama: Mr. Speaker, Sir, if my good friend, Dr. Munyaka, heard me clearly, I talked about a substantial number of professors in KARI, Kenya Plant Health Inspectorate Services (KEPHIS) and experts in the NBA. I know that we have very few of them at KEBS. They have the capacity because that role will be played by the NBA, which is getting empowered by the Ministry. I want to confirm to the House that the NBA is getting money to start its own special laboratory to handle this matter appropriately.

Dr. Otichilo: Mr. Speaker, Sir, I wish to know from the Assistant Minister what security measures he has put in place--- That is because there is a chance some people are likely to bring GMO seeds in this country and that has happened before. For example,

invasive species like water hyacinth and *mathenge* were all brought in. what security measures has he put in place to ensure that, that does not happen?

Mr. Kamama: Mr. Speaker, Sir, I think this issue was actually addressed by this House when we came up with the NBA. We enacted that and we now have a law in place. So, we are strengthening the NBA. It will liaise with other stakeholders like KEBS, KEPHIS and even the Kenya Ports Authority (KPA), so that there are enough security measures to address that problem. That way, we will not have GMOs filtering into the country.

Ms. Chepchumba: Mr. Speaker, Sir, I would like the Assistant Minister to state whether the Government has emergency programmes in case those GMO products fail.

Mr. Kamama: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well!

ORAL ANSWERS TO QUESTIONS

Question No.867

LACK OF FEMALE CELL AT YATTA POLICE STATION

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

(a) why there are no female cells at Yatta Police Station and when the Government will construct one; and,

(b) why there is no Police Dog Unit in the entire Yatta District despite frequent thefts, burglaries and robberies and when the unit will be established.

Mr. Speaker: Where is the Minister for Provincial Administration and Internal Security? Mr. Dalmas Otieno, you are the Minister in charge of Public Service. Are you not? Where is your Minister in charge of Provincial Administration and Internal Security?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, as you know, there are issues of national security and he must be engaged elsewhere. But we will pass the communication to them.

Mr. Speaker: Order, hon. Members! Mr. C. Kilonzo, note that we have received communication this afternoon that Mr. Ojode, who would have answered this Question, has had to go out of the country to Hanoi, Vietnam, I think for some capacity building. So, we will defer this Question until his return next week!

(Laughter)

(Question deferred)

Question No.1139

NON-PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS IN SUBA DISTRICT

Mr. Mbadi asked the Minister of State for Public Service:-

(a) whether he is aware that Suba District was gazetted by the Government as a hardship area in early 2010; and,

(b) when the Government will start paying hardship allowance to teachers and civil servants working in the district.

Mr. Speaker: Order, Mr. Mbadi. Mr. Mbadi, given particularly that this Question is coming for the second time, you would have done very well if you just said: "I ask Question No.1139.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I beg to reply.

(a) I am aware!

(b) We made proposals to the Treasury to pay the hardship allowances in three phases. Phase I for the year 2011/2012, Kshs530 million; Phase II for 2012/2013, Kshs1,355,000,000; Phase III for the year 2013/2014, Kshs1,355,000,000, making a total of Kshs3,240,000,000. The Treasury was unable to make any allocations for this Financial Year because there were a lot of other remunerations which were also being implemented in installments. I trust, therefore, that in the next financial year, the programme to pay the hardship allowances as approved by the Cabinet will be implemented. As regards the teachers, I would like the hon. Members to note that allowances are subject to collective bargaining agreements and teachers agreements will come up for review in 2013. That is the only time that hardship allowances for teachers may be reviewed and changed. For now, the areas and the amounts remain as previously negotiated.

Mr. Mbadi: Mr. Speaker, Sir, I would like to know from the Minister--- That is because it is really bad to represent a constituency which does not have one kilometer of tarmac road and then teachers and civil servants who work in such a district are not considered for payments of hardship allowance, despite the fact that they work in hardship areas. The question that I want the Minister to answer is this: If the policy of the Government is to pay any civil servant - including teachers - who work in an area that is already classified as a hardship area, why is it that the Government cannot just implement this policy in Suba? That is because it is the Government that has already classified Suba District as a hardship area. Why is it that in other regions which are classified as hardship areas, the Government is paying hardship allowance? But for the district where I come from, which is also classified the same, teachers have to wait for a collective bargaining agreement in 2013. The Constitution, in Article 27(4), is very clear. The State cannot discriminate against anybody or a group of people. Why is it that the teachers and civil servants working in Suba District - which the Government has already classified as a hardship area - are not considered for payment and yet, the Government pays others?

Mr. Otieno: Mr. Speaker, Sir, it would be helpful if the hon. Member made a distinction between the remuneration of teachers as determined through a collective bargaining process. That includes the hardship allowance amount and the hardship allowance areas. The areas that the teachers negotiated are different in some particulars with the areas for civil servants. Gwassi was gazetted as a hardship area for civil servants as a new area. The teachers had not included it and, if they did, they are getting their allowances as of now.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead this House and the country that an area can be classified as a hardship area for teachers separately and a hardship area for civil servants? If an area has been classified as hardship area by the Government, it should be so. Is there a separate hardship area for teachers and another one for other civil servants? Is it in order for the Minister to mislead this House?

Mr. Speaker: Order, Mr. Mbadi! You have actually made your point. Do not flog it! Minister.

Mr. Otieno: Mr. Speaker, Sir, I have clarified that the two processes are independent and done by different people. Teachers insist that they will negotiate their remuneration and benefits themselves, including the areas where those benefits will be paid. Civil servants, through their union, also do so separately. As we speak, the two allowances and the areas are different.

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

Mr. Speaker: Yes, Mr. Mbadi, and it had better be!

Mr. Mbadi: Mr. Speaker, Sir, I think the Minister is just annoyed!

Mr. Speaker: What did you say?

Mr. Mbadi: Mr. Speaker, Sir, the Minister is just annoyed!

Mr. Speaker: The Minister is just annoyed?

Mr. Mbadi: Yes, Mr. Speaker, Sir, because he is avoiding answering my Question. We have been on this issue, with your indulgence. The Government---

Mr. Speaker: Order, Mr. Mbadi! Of course, we want to use our time properly. You have accused the Minister of being annoyed. You, yourself also, should refrain from getting annoyed! So, when I stop you, do not look at what the Speaker is directing as, perhaps, derailing you. You know I have practiced law for many years and I can see your demeanor from where I am. So, please, indicate what is out of order in the answer that the Minister has given you.

Mr. Mbadi: Mr. Speaker, Sir, we have been on this issue since last year.

Mr. Speaker: I am aware.

Mr. Mbadi: Mr. Speaker, Sir, the Government, itself, in its wisdom, gazetted and announced that Suba District, alongside others, was a hardship area. They promised teachers and civil servants that, as from 1st July 2010, they would start getting the hardship allowance. They even indicated the amount. So, is it in order for the Minister to mislead this House that, that is a decision they had to take, together with the union, when they had already announced and made it known to the teachers in my district that they will get a hardship allowance with effect from 1st July, 2010? Up to date, they have not done so!

Mr. Speaker: Very well! Mr. Minister, then deal with that point of order in this respect, so that we finish with this matter.

(a) Did the Government generally gazette the district that Mr. Mbadi represents as a hardship area? "Generally" means covering everything regardless of whether or not you are a civil servant, a teacher or, for that matter, a secretary of the Public Service Commission?

(b) Did they promise teachers that they would start paying them hardship allowance immediately?

Mr. Otieno: Mr. Speaker, Sir, the Government proposed that hardship allowance areas and hardship allowance amounts be harmonized between civil servants and teachers. The teachers union rejected that harmonization. They, themselves, wanted to negotiate both the areas and the amounts independently. In doing so, they have to wait until 2013 when the next round of negotiations will be conducted as regards their pay and benefits. So, the teachers withdrew from the proposed harmonized hardship allowance areas and amounts. This, we have debated in this House many times and I am sure the hon. Member knows.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Could the Minister confirm that he once promised in public, that the Government would pay hardship allowances beginning August this year? If he did so, why did he have to mislead public servants?

Mr. Otieno: Mr. Speaker, Sir, it is true that I announced so. However, budgetary allocation is done by the Treasury and Parliament. Indeed, I appealed to the relevant committee of the House to assist and make sure that the promise was implemented. Funds could not be allocated for payment of hardship allowances because of other issues that took priority in resource allocation.

Mrs. Odhiambo-Mabona: Thank you, Mr. Speaker, Sir. I am having a little difficulty with the Minister's answer. Issues raised in respect of Suba affect Mbita because they formed one district before they were split into two. The reason I am having difficulty is because if the road is bad and a public servant uses it, it does not change to become soft and neither does it change when a teacher uses it to become harder and vice versa. So, the policy the Minister is adopting is unconstitutional and discriminatory. My question is; what will he do to comply with the Constitution so that he can treat people the same way? Suba and Mbita districts are always treated in a discriminatory manner. That is why hon. Mbadi is annoyed. Today, when we met as the CIOC, I saw a map of the arid and semi arid areas and Suba and Mbita are excluded in that and yet they are semi arid. Why are we being treated differently?

Mr. Otieno: Mr. Speaker, Sir, there is a criterion used. This is a mathematical and economic criterion that is very precise. Allocations are given on the basis of points of hardships. If on that basis an area is a hardship area, it is designated so. If it does not get the marks that would classify it as a hardship area, it is excluded. To clarify further, we do not take the whole district these days. We take divisions because of the little variations that can exist within one district.

Mr. Koech: Mr. Speaker, Sir, listening to the Minister's answer, the Government has declared an area a hardship area, for the residents and the people of Kenya and he wants to hide behind negotiations. This Government only seems to be listening to demonstrations, strikes as it was presented recently during the teachers' strike. Why should the Minister ignore teachers just to wait for negotiations when in essence, if he gave the teachers hardship allowances, the Kenya National Union of Teachers (KNUT) would not demonstrate but instead thank the Government for a good job? Why can you not consider them?

Mr. Otieno: Mr. Speaker, Sir, it just happens to be the law that remuneration for the unionisable Members of KNUT is negotiated periodically. That is the law and they quoted the law to us. Otherwise, we would have directed all public servants to get the same allowances in the same areas. But the teachers said that we could not do so because the law empowered them, through a collective bargaining process, to change their

remuneration and benefits. Until that law is changed, we cannot dictate to teachers to accept our proposals.

Mr. Mbadi: Mr. Speaker, Sir, I am very much aware that if there is any negotiation that would improve the welfare of staff, there is no union that would object to that. If the Government had determined these districts as hardship areas and it has a policy of remunerating and paying allowances to teachers and civil servants in those areas, what stops the Government from adding additional districts in the list of those which are benefiting from the hardship allowances and wait for the collective agreement of 2013?

I do not think that KNUT would refuse to accept that. Why can the Government not include teachers who are working in Suba, Mbita and all other districts which were classified as hardship areas? I do not think KNUT would refuse to accept that.

Mr. Speaker: Order, do not give your opinion. You asked a question. When you say that “you do not think”, then you slide into another area.

Mr. Mbadi: The way the Minister is putting it---

Mr. Speaker: Order, Member for Gwassi.

Mr. Otieno: Mr. Speaker, Sir, on the issue of remuneration of public officers, I went into great detail. I even analyzed for the teachers that up to the P1 Grade, they would benefit from the new proposals. However, they still insisted that as much as you are giving us better benefits, the power to do so belongs to us through the collective bargaining process. So, we are not taking your offer, Mr. Minister, until the next round of bargaining negotiations.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to evade my question by bringing a policy issue? What KNUT was opposing was policy change. I am asking very clearly; since there is a policy of remunerating teachers who are working in hardship areas at the moment, why can you not apply the same principle and policy and remunerate those teachers from Suba, Mbita and the rest, who are working in hardship areas without changing the policy?

Mr. Speaker: Order, Member for Gwassi! To be fair to the Minister, I am satisfied from where I sit, that the Minister has, in fact, answered that Question. You only want him to repeat the answer. He has answered it constantly. There is a contract between the KNUT and the TSC that the KNUT will negotiate the remuneration levels of all teachers regardless of where they may be. Whether they come from Machakos, Suba or wherever, they negotiate according to the Collective Bargaining Agreement (CBA). I think I understand that.

Proceed!

Mr. Mbadi: Mr. Speaker, Sir, there is a rate. There is nothing to negotiate. There is a rate to pay teachers working in hardship areas and it is known. There is nothing to negotiate.

Mr. Speaker: Order, Member for Gwassi! I do not want to appear as if I am standing on your way. If I were in your shoes, I would go back to the KNUT, now that the Minister has given that answer. If the Minister is hiding under the auspices of the CBA, then you can come back here with authority and say that what the KNUT is saying or what the Minister is saying is false and is misleading the country, then I would take it from there.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. The issue I raised, which according to me the Minister did not answer, is assuming that what the Minister is saying is true and assuming that teachers have negotiated and you have a small community of Subas in Mbita and Suba districts who do not have the numbers to negotiate. Should they be punished because they have been out-negotiated? Yesterday, I was with teachers of Lambwe and Kamasenge and they requested me to ask the Minister this question. Why are we being discriminated against? It is unconstitutional.

Mr. Speaker: Mr. Minister, you may want to respond to that before I give my directions on the issue as I understand it.

Mr. Otieno: Mr. Speaker, Sir, on the issue of discrimination, I explained that there is a criteria used and approved by the Ministry of State for Planning, National Development and Vision 2030, to determine the hardshipness in particular areas. It is on the basis of that criterion which applies throughout the country that they will be classified as extreme hardship areas and others as moderate hardship areas. The criterion is not discriminatory. It applies across the board. However, the results approve some areas for this facility and not others.

Mr. Speaker: Order, hon. Members! For the benefit of hon. Odhiambo-Mabona, who has insisted that the Minister or the Government is discriminating against the people of Mbita as well as Suba, if that is so, then that would mean that a constitutional right of the people of Mbita and Suba is being breached. If that is so, comply with the same Constitution you are quoting as authority and file a reference in the High Court for this declaration to be issued. Thereafter, pursue remedies by way of damages including against the Ministry of State for Public Service.

Proceed in that manner!

QUESTIONS BY PRIVATE NOTICE

NON-PAYMENT OF RETIREMENT BENEFITS TO RETIRED TEACHERS FROM 1997-2007

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

(a) How much money has been set aside to pay retirement benefits to teachers who retired between 1997 and 2007, following the dismissal of an appeal (Civil Appeal Case No. 300 of 2009) filed by the TSC against a judgment of the High Court in Nakuru in 1997 (HCCC No. 65 of 2006) awarding retirement benefits to the teachers?

(b) Can the Minister confirm that the money set aside will be adequate to pay all the benefits to the teachers and, if not, when will the balance of the benefits be paid?

(c) Can the Minister confirm that all the due benefits will be paid using the normal Government system, through the Treasury?

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

(a) I am not in a position to give information regarding the money set aside to pay retirement benefits for teachers who retired between 1997 and 2007. The Ministry of Finance, which is mandated to pay teachers pensions as per the Pensions Act, Cap. 189, is better placed to provide the information.

(b) Following my answer to part “a” above, part “b” does not arise.

(Mr. Kabogo stood up in his place)

Mr. Speaker: Order, Mr. Kabogo! Allow the Assistant Minister to finish giving his answer.

The Assistant Minister for Education (Prof. Olweny): As for part “c,” pensions and other due benefits to the retired teachers are normally paid using the Government system. The Teachers Services Commission (TSC) processes documents for retired teachers and forwards them to the Director of Pensions in the Treasury for payment of retirement benefits.

Thank you, Mr. Speaker, Sir.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. I was trying to save the House some time because the Assistant Minister is misleading the House. The same Assistant Minister, on the 7th of December, 2010, answered the same Question on pension in this House, and I would like him to have a look at the Hansard because I have a copy. This Assistant Minister has answered this Question before, and even said in the House what action the Ministry was taking because of the pension of these teachers. So, he is misleading the House. Is he in order?

(Mr. Kabogo laid a document on the Table)

Mr. Speaker: Assistant Minister, perhaps you should look at the HANSARD.

Prof. Olweny: Mr. Speaker, Sir, at that time, the process was still with the TSC, and after the court case was finalized, the TSC processed the papers, passed them to the Treasury and it is the responsibility of the Treasury to pay the pensions.

(Mr. Kabogo stood up in his places)

Mr. Speaker: What is it, hon. Member for Juja?

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. The Minister did not address himself to my point of order. What I am only saying, simply is this: He answered; he even quoted the case, that he was aware that it had been settled. He even went ahead to say that the Ministry of Finance had a meeting on the 30th of August. So, he is avoiding my point of order. He is misleading the House! I would urge the Chair to have a look at that Question so that you find what I am saying is relevant.

Mr. Speaker: Let the Minister look at it first.

(Prof. Olweny perused the document laid on the Table by hon. Kabogo)

Prof. Olweny: Mr. Speaker, Sir, if you look at the Hansard, let us go to part “b.” I will read it to the House.

“(b) An urgent meeting was held on 30th November, 2010 between the TSC and the Treasury’s Department of Pensions. It was resolved that the 1997 schedule be implemented by adjusting the pension benefits based

on the salaries of the retirees and be paid at respective dates of their retirement. The budgetary implications for the balance of lump sum (gratuity) and the monthly pension arrears for 30,000 retired teachers are being worked out by the Director of Pensions---

Not Ministry of Education. Director of Pensions!

“---and the report will then be submitted to the Deputy Prime Minister and Minister for Finance---

Not Minister for Education!

“---for consideration and payment approval.”

Not Minister for Education! So, the issue is with the Minister for Finance and not with my Ministry. All other details that you want of my colleagues are with the Pensions Department, which you can get from the Minister for Finance.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. these are teachers and the Ministry of Education clearly is the one in charge of teachers; it has handled this matter before even in the Question. Even if the Ministry of Finance comes in, it is as an agent on behalf of the Ministry of Education; you are still the principal! Can you, therefore, tell this House what you are doing to actually liaise with the Ministry of Finance and own up? Are you in order to attempt to escape your obligation?

Prof. Olweny: Mr. Speaker, Sir, these persons – the people we are talking about – are not teachers. These ones are retirees who were employees of the TSC but at this time, they are not our employees; they are not teachers!

Ms. Karua: On a point of order, Mr. Speaker, Sir. The Question relates to teachers. The Minister has said he does not have information of the payment and that they are with the Ministry of Finance. Is it in order to ask that you direct that part of the Question to go to the Ministry of Finance so that we can get a complete answer for these retired teachers who are suffering?

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

Mr. Speaker: From a similar perspective or a different one?

Mr. Kabogo: It is on a similar perspective, Mr. Speaker, Sir.

Mr. Speaker: If it is a similar perspective, you can carry on because I will give directions just now.

Mr. Kabogo: Mr. Speaker, Sir, my point of order was very simple. The Minister is saying he is not in a position to answer part “b” of this Question because it relates to another Ministry and I am saying that the Minister himself answered this bit. So, that is my point of order. He did answer; he attended to the matter and he is now escaping whereas at that time, he did address the matter. Is he in order to tell the House that he cannot address this matter?

Mr. Speaker: Order! Order! Order, hon. Member for Juja! Even as much as you are getting so passionate over the matter, the Minister actually read the answer he gave on the Hansard, and in that answer, he says that the Treasury has the details in terms of quantum of payments and it is the Treasury, through the Pensions Department, that will effect payment. He is not resigning from that; he is merely repeating it!

Mr. Pesa: On a point of order, Mr. Speaker, Sir. While it may be in order to channel this Question to the Minister for Finance, when the Minister was answering this Question, in his last statement, he gave a commitment to teachers in this House and he stated as follows:

“I promise here that we are going to do our best to ensure that, that payment is done as soon as possible.”

So, Mr. Speaker, Sir, he assured us in this House. He did not tell us that he was going to refer the Question to the other Minister! In the spirit of collective responsibility, this is a very sensitive issue and I expect the Minister to have consulted and come up with an answer.

(Several hon. Members stood up in their place)

Mr. Speaker: Order! Order! This matter, to me, appears straight forward. However hard you push this Minister – even if you put a gun against his head – he does not have the capacity to pay this pension. So, the answer is for us to direct this Question to the Deputy Prime Minister and Minister for Finance to come and indicate how far he has gone with ensuring that the requisite pension is paid, and I so direct!

(Applause)

(Question deferred)

Hon. Member for Emuhaya?

DRASTIC INCREASE IN SUGAR PRICES

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

a) Why has the retail price of sugar increased drastically from less than Kshs120 per kilogramme to over Kshs250 per kilogramme in the last two months?

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

Mr. Speaker: Is the Minister for Trade here?

Order, hon. Members! I have heard, away from the House, that there has been considerable exchange of letters on this matter between the Ministry of Trade and the Ministry of Agriculture with each of them wanting to shift responsibility to the other. So, now that matter then will have to be resolved by the Leader of Government Business, regarding who, between the two Ministries, should answer this Question.

Mr. Dalmas Otieno, if you want to hold brief for the Vice-President and Minister for Home Affairs and get these Ministries to sort out this matter internally, including in the Cabinet this week and determine who will answer this Question, it will appear again on the Order Paper on Tuesday next week. One of them must be prepared to answer the Question.

Please, communicate back to the Office of the Clerk by Thursday on who will answer the Question on Tuesday next week.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I will do so.

Mr. Speaker: Very well!

Member for Emuhaya, please note, the Question will come on Tuesday at 2.30 p.m.

(Question deferred)

Ordinary Question by the Member for Vihiga!

ORAL ANSWERS TO QUESTIONS

Question No.1175

NON-ISSUANCE OF TITLE DEEDS TO SHAVIRINGA RESIDENTS

Mr. Chanzu asked the Minister for Lands:-

(a) whether he is aware that the people who were relocated to Shaviringa in Hamisi District from Mbale in Vihiga District in 1991/1992 to pave way for the construction of Vihiga District headquarters and Vihiga District Hospital have not been issued with title deeds to date; and,

(b) when they will be issued with title deeds.

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

(a) I am aware that the people who were relocated to Shaviringa in Hamisi District from Mbale in Vihiga District in 1991/1992 to pave way for the construction of Vihiga Headquarters and District Hospital have not been issued with title deeds.

(b) Title deeds shall be issued once the process of degazetting the affected part of the forest is done as per the provisions of Section 28 of the Forest Act (2005).

Thank you.

Mr. Chanzu: Mr. Speaker, Sir, it is Vihiga District Headquarters and not Vihiga Headquarters.

It has been 20 years since this was done. The relocation took place in the 1991/1992. This shows how irresponsible the Government is to its citizens. What can the Assistant Minister do to speed up this? Section 28 of the Forest Act is about variation of boundaries or revocation of State or local authority forests. Why has it taken 20 years for this to be done?

Mr. Rai: Mr. Speaker, Sir, when the relocation was being done there was an understanding between the provincial administration and the Forest Department. Up to now, the Forest Department has not done what they were required to do for them to give the land to us so that we process the title deeds. After the gazettelement is done and the matter brought to Parliament for resolution, only then can we now process the issuance of title deeds.

Mr. Olago: On a point of order, Mr. Speaker, Sir. As I understand the answer by the Assistant Minister, he is saying that for this forest to cease to be a Government forest, the Ministry of Forestry and Wildlife through the Kenya Forest Service (KFS) must give a notice in the Kenya Gazette and not the Ministry of Lands. To that extent, therefore, since he is not able to say why it has delayed for 20 years, would it be in order that this Question be directed to the Minister for Forestry and Wildlife?

Mr. Rai: Mr. Speaker, Sir, that should have been the correct Ministry to address this matter because we were just supposed to issue title deeds once the land is made available to us.

Mr. Speaker: What is your reaction on this, Member for Vihiga? Shall we defer it and take it to the Ministry in charge of forestry?

Mr. Chanzu: Mr. Speaker, Sir, I will allow that but I think there must be consultations because the title deeds will ultimately be issued by the Ministry of Lands.

Mr. Rai: Mr. Speaker, Sir, consultations could be done but as late as last week on Thursday when I communicated with the Ministry of Forestry and Wildlife, they said that they want at least another 30 days because the matter is already with the Forest Department in Western Province. They need to resolve the matter so that it comes to Parliament; once it is passed, I can come to settle this issue.

Mr. Speaker: In those circumstances, we will defer Question No.1175 to be directed to the Ministry in charge of forests which will provide leadership on the matter. That Ministry will answer and it may then liaise with the Ministry of Lands as may be necessary. The Question will come again on the Order Paper a month from today.

(Question deferred)

Mr. Rai: Much obliged, Mr. Speaker, Sir. However, it is now the Ministry of Forestry and Wildlife that will answer the Question.

Mr. Speaker: Yes. That is why I said it will be the Ministry to provide leadership. It will answer but you may collaborate with it to ensure that title deeds are issued.

Next Question by the Member for Nyakach!

Question No.1016

VALUE OF ROAD MAINTENANCE EQUIPMENT

Mr. Ochieng asked the Minister for Agriculture:-

(a) to state the value of the road maintenance equipment and machinery which were recently given to Chemelil, Muhoroni and Kibos Sugar companies, and when the equipment was supplied to the sugar companies;

(b) which roads the three factories maintain outside the known nuclear estates using the above equipments considering that the roads within the Sugar Belt in Kisumu County are getting damaged fast due to heavy loads of sugar cane above the recommended tonnage of 30 tonnes; and,

(c) whether he could table partnership agreements, if any, entered between the above firms, the Ministry of Roads and CDF committees of Constituencies in the Sugar Belt within Kisumu County.

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

(a) The total value of machinery and equipment supplied to Muhoroni, Chemelil and Kibos sugar companies between 2007 and 2011 amounts to Kshs311, 130,655.

I hereby table the list of the machinery.

(Mr. Ndambuki laid the document on the Table)

(b) The sugar companies maintain many roads outside the nuclear estate and I hereby table some of the roads done to date. Kibos Sugar Company has not done any road because machinery was received in April 2011.

(Mr. Ndambuki laid the document on the Table)

(c) There are no formal partnership arrangements that have been entered into between sugar companies and stakeholders regarding hire of machinery for road construction to date.

Mr. Ochieng: Mr. Speaker, Sir, could the Assistant Minister explain whether these amounts were given in form of a loan? If they were, what were the terms and conditions?

Mr. Ndambuki: Mr. Speaker, Sir, these were not given in terms of a loan. They were given to the factories to maintain the areas. For example, Muhoroni Sugar Company alone got Kshs87,930,000, Chemelil got Kshs113,200,000 and Kibos Sugar Allied Industries got Kshs110 million.

That is it!

Mr. Yinda: Mr. Speaker, Sir, could the Assistant Minister confirm on what basis Kibos received the money since Kibos is 100 per cent private company.

Mr. Ndambuki: Mr. Speaker, Sir, I would like the hon. Member to repeat that question. I did not hear the last part.

Mr. Speaker: I heard it. He asked; on what basis did Kibos receive the money considering that Kibos is a private company?

Mr. Ndambuki: Mr. Speaker, Sir, even if Kibos is a private company they are run by the Kenya Sugar Board (KSB). They pay the levy which is required and they are entitled to be given assistance.

Mr. Shakeel: Mr. Speaker, Sir, could the Assistant Minister, kindly, tell us whether the vehicles and the road construction equipment that was purchased with this grant is in the name of the Kenya Sugar Board (KSB), and if so, why individual companies have put their own logos and addresses on the machines? Why have they not put the name of the KSB?

Mr. Ndambuki: Mr. Speaker, Sir, once they are given the equipment, then it belongs to the companies. Those companies are the ones which are supposed to maintain it. It belongs to them and, therefore, they are the ones to take care of it.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. The Assistant Minister is not being very clear. He has just said that the equipment belongs to the company. I thought that he earlier on told us that the equipment is the property of the KSB. Can he be very clear? Who owns the machinery?

Mr. Ndambuki: Mr. Speaker, Sir, once equipment is given to the factories, the factories are supposed to maintain it. The equipment belongs to them.

Mr. Ochieng: Mr. Speaker, Sir, is it possible for the Assistant Minister to order the sugar factories that while doing the roads they collaborate with the Constituency Roads Committee?

Mr. Ndambuki: Mr. Speaker, Sir, I can talk to the factories to consult with the Constituency Roads Committee of that area, so that they do not repeat the jobs.

Mr. Speaker: Next Question, Member for Mwala.

Question No.1188

LIST OF BOREHOLES IN MWALA CONSTITUENCY

Mr. D.M. Muoki asked the Minister for Water and Irrigation:-

(a) whether she could provide a list of all boreholes drilled in Mwala Constituency from 2006 to date and state how many of them are still capped;

(b) how much it cost to equip a borehole and when the capped boreholes will be equipped; and,

(c) what other measures the Ministry is taking to alleviate the acute water shortage in Mwala Constituency.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Speaker, Sir, I beg to reply.

(a) The number of boreholes drilled in Mwala Constituency since 2006 to date is 41, out of which 13 boreholes are still capped. Out of these, only six boreholes are suitable for equipping as the rest are either dry or the water is of unacceptable quality. The list is contained in Annex A.

(b) The cost of equipping a borehole varies from Kshs1 million to Kshs6 million, depending on the depth yield of the borehole, the pumping distance and the source of power, among other factors. The suitable boreholes, the majority of which are financed by Japan International Cooperation Agency (JICA), will be equipped in April, 2012 after the tendering process, which is due to commence in January, 2012.

(c) My Ministry has allocated Kshs6 million to Mwala District Water Office in this financial year. The projects to benefit include Siamu Water Project, Mbiuni Water Project, Wamunyu Water Project, Kabauni Water Project and Mbaikini/Nyaani Water Project.

In addition, my Ministry will de-silt three pans, namely, Kavumbu, Kwa Luvai and Kwa Kanailo during the current financial year at a cost of Kshs6 million through the National Water Conservation and Pipeline Corporation.

Mr. D.M. Muoki: Mr. Speaker, Sir, what policy does the Ministry have? Instead of sinking, say ten boreholes, could the Assistant Minister consider coming up with a policy of sinking a number of boreholes for which the Ministry has enough money to equip? Some of those boreholes were sunk more than six years and the people keep on asking why they were sunk.

Mr. Waititu: Mr. Speaker, Sir, I have clearly indicated that we are going to equip the boreholes that have water which is suitable for human consumption in the current financial year. I am sure that we will complete them next year. The tendering process will be completed by April, 2012. The tendering process will start in January.

Mr. Mwangi: Mr. Speaker, Sir, if I got the Assistant Minister right, he said that they sunk 41 boreholes in that area and that only six are viable. Was it cost-effective to drill all those boreholes when the Ministry does not have enough funds to even facilitate the equipping of six boreholes?

Mr. Waititu: Mr. Speaker, Sir, it is true that not all of them are suitable. Some of them have little water, while the salinity level of the water in some of them is very high. So, the water in them is not suitable for human consumption.

Mr. Wambugu: Mr. Speaker, Sir, could the Assistant Minister tell this House how much it cost the Government to sink the 41 boreholes, which do not have any water?

Mr. Waititu: Mr. Speaker, Sir, if I may repeat for clarity, we sunk 41 boreholes. Only 13 of them are still capped that is, not in use. Twenty-five boreholes are in use.

Mr. Speaker: Assistant Minister, the hon. Member asked you how much it cost the Government to sink all the 41 boreholes.

Mr. Waititu: Mr. Speaker, Sir, I am sorry; I do not have the total figure with me here.

Mr. Speaker: Assistant Minister, you should have said so. When you do not have information, you do not have it!

Mr. Waititu: Mr. Speaker, Sir, I do not have the figure for all the boreholes.

Mr. Speaker: Member for Mathioya, you can pursue that matter away from the Floor of the House. You just need figures. The Assistant Minister is directed to give that information to you. So, please, follow up with him. If he does not avail the information to you, you may come and raise it on the Floor of the House again.

Mr. Bahari: Mr. Speaker, Sir, the Member for Mwala has said that some of the boreholes were sunk six years ago. Since these boreholes were meant to serve people, and they have not been serving them for the last six years, why does the Assistant Minister not use the selective tendering process to shorten the implementation period, so that the people of Mwala can benefit from the boreholes?

Mr. Waititu: Mr. Speaker, Sir, some of the boreholes that are not yet operational were sunk by JICA, who are donors, and over whom our Ministry has no control. Therefore, we cannot force them to give out a tender.

Mr. Speaker: Last question, Member for Mwala.

Mr. D.M. Muoki: Mr. Speaker, Sir, when the Minister visited Mwala Constituency in my company in early 2009, she announced allocation of Kshs40 million and Kshs20 million to Wamunyu and Mbiuni Water Projects, respectively. The Assistant Minister is now talking of Kshs6 million for more than the number of projects he allocated Kshs60 million. What happened to the Kshs60 million and the Kshs20 million that the Minister announced while in the company of the PS?

Mr. Waititu: Mr. Speaker, Sir, it is true that there was a bigger allocation for this constituency. What I have not told the House is that the Government built a dam in this constituency, and completed it. Everything was ready but some people went to court to stop the use of that dam. So, we are still waiting for the court to give a go-ahead for that dam to be used. I wish the hon. Member could assist our Ministry in getting rid of that case, so that his constituents can start benefitting from the water in that dam.

Mr. D.M. Muoki: On a point of order, Mr. Speaker, Sir. The dam that the Assistant Minister is talking about was built more than 15---

Mr. Speaker: Order, hon. D. Muoki! If you want to raise a point of order, you rise in the place where you are and you say “Point of order!” If you catch my eye, you proceed. Now that you know this, proceed. What is it?

Mr. D.M. Muoki: Mr. Speaker, Sir, the Assistant Minister is misleading the House because the dam he is talking about was sunk more than 20 years ago. I am talking about a pledge the Minister gave to the people of Mwala in 2009 in my presence. Is he in order to mislead the House?

Mr. Speaker: Mr. Assistant Minister, what happened to the pledge that you made in 2009?

Mr. Waititu: Mr. Speaker, Sir, I know he is actually not referring to me as a person, but he is referring to the Minister---

Mr. Speaker: He is referring to the Ministry!

Mr. Waititu: Mr. Speaker, Sir, I will follow up the matter with her in the Ministry and find out what happened with that pledge. However, during this financial year, we have set aside Kshs6 million to be spent on water project in his constituency. We will also be carrying other projects---

Mr. Speaker: Order, Mr. Assistant Minister! Obviously, there is a serious breach. If a Minister makes a commitment, an undertaking or pledge, whatever you want to describe it as, it does not matter that the Minister in charge of your Ministry is a lady and that you are a man. What is important is that you both serve under that Ministry and you must honour any commitment that you make to the public, and more so, in public. So, I want to compel you to proceed and honour that commitment if you made it. You will report back to the House four weeks from today. This matter will appear on the Order Paper.

Mr. Waititu: I am most obliged, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Member for Bura.

Question No.1223

ISSUANCE OF NATIONAL IDENTITY CARDS

Dr. Nuh asked the Minister of State for Immigration and Registration of Persons:-

(a) how long it takes a Kenyan to obtain a new National Identity Card or replacement of a lost one upon application,

(b) when the forms bearing serial numbers: 2276151157, 2264792765, 2253246922, 2269263157, 2272603401, 2260975963, 2264804604, 2277590052, 2273990196, 2296464536, 2261300711 and 2271853683 were received at the Registration of Persons headquarters and whether he could provide particulars of the applicants, including their respective names, age, place and date of application and home district as well as the respective stages of the application; and,

(c) when the identity cards will be ready.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Speaker, Sir, I beg to reply.

(a) The timelines for processing identity cards is spelt out in our service charter. In Nairobi area, it takes 17 days and other areas 26 days. In border and ASAL areas, it takes 38 days. However, of late the Ministry has been experiencing challenges to meet these deadlines due to lack of production materials which we have since corrected. So, the delays will not be experienced any longer.

(b) I was given a list of 12 serial numbers of applicants. On the following serial numbers, I think my brother has the list so I can just say---

Mr. Speaker: Order, Mr. Minister! Are the serial numbers the same as listed?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Yes, Mr. Speaker, Sir. Of these serial numbers, six have already been issued and delivered to the applicants. So, the other six have not been delivered for different reasons.

One of them applied at the age of 45 years. When applying he said that he had first registered and that this was just a replacement of first registration. So, when it is a replacement we do not ask you too many questions. However, when we checked the records we found that he had not registered. He is called Mr. Shuriye Adan Godana. So, for that reason, we asked him to go back and register afresh.

The second one Mr. Sugow Aden Godana also registered at 47 years though he should have registered at 18 years. He applied in Garsen. He also said that he had---

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

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): This is the answer first.

Mr. Speaker: What is it, Dr. Nuh?

Dr. Nuh: Mr. Speaker, Sir, is the Minister in order to mislead on the same answer he gave because this is a case of replacement. He cannot tell us that someone was asking to be registered at the age of 47 years. The person was asking for a replacement of an identity card. So, is he in order to mislead on this own answer?

Mr. Speaker: Very well, Member for Bura. But try and listen to the answer first. It is possible that the Minister, in fact, was going to supply that information which you are now asking on a point of order even before you raise the point of order.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Speaker, Sir, actually, the first applicant said that he was replacing his identity card. The second one, Mr. Sugow, also said the same. However, when we checked our data base, we did not find any evidence that he had registered before. So, we asked him to apply afresh.

On the third one, Zainab Omar Abdi who registered at the age of 32 years, it was returned only because of poor quality of fingerprints and we asked her to do another application where fingerprints would be taken properly. In fact, these problems will not be there soon because now we will be taking fingerprints electronically.

The fourth one in this list, Khalif Kulo Yusuf, also from Garsen applied at 26 years. He also said that he had applied earlier and that he was replacing his identity card. However, on looking at the database, we found that he had not registered before. So, we asked him to reapply.

The last two that is Serial No. 2261300711 and No.2253246922, we were unable to trace from our database. It could be misplacement and we have asked them to reapply.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. Is the Minister in order not to answer part “b” of the Question which asks that the date of application be stated in the answer? The date that we have on this answer is the date applications were received at the headquarters. This is very key given the information he has given concerning timelines.

Mr. Speaker: I am not so certain though, but let the Minister respond.

Mr. Kajwang: Mr. Speaker, Sir, I think I understand his question. His question is that we have not put the date on which the application was made which would be a little earlier than the date it was received at the headquarters. I am sorry about that. I think it is very approximate to the date it was received. If you can see some were received in 2010; in fact, most of them. One was in 2009. I am sorry about that.

Mr. Speaker: Very well. At least the information is there now.

Dr. Nuh: Mr. Speaker, Sir, I am really disturbed that at the time we are going for elections, Kenyans have to undergo a rigorous process of obtaining an identity card. There are several inconsistencies in the answer given by the Minister. In fact, I shared it with him off this House. Allow me to table this document in respect of Sugow Aden Godana which he says is the person who was re-applying for a lost identity card. He says that they have sent the file back because they were unable to trace his earlier registration. I made a call just a few minutes ago from the precincts of this House and the information I have from the customer service of the registration bureau is that the registration of this individual is still in progress. I shared this information with him. I made several calls and I want to highlight them. They are indicated on the form that I will table. It is the application form itself. I called on 22nd December, 2010 the second time. I called again on 6th May, 2011. I called a few minutes ago and this is now close to one year and a half and the information I am still getting is that the application is still in progress and here he says that they have returned the file because they were unable to trace the data.

(Dr. Nuh laid the documents on the Table)

In that light, I would like to ask whether the Minister is comfortable with the answer that he has given to this House that it is the accurate information.

Mr. Speaker: Minister, that seems to be a fair challenge!

Mr. Kajwang: Mr. Speaker, Sir, he shared with me about the customer service information that we relay through SMS. The information he got from the automatic answer is that we are still going on with registration or the process is still ongoing.

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

Mr. Speaker: Just let us hear the Minister, Member for Bura!

Mr. Kajwang: Mr. Speaker, Sir, I made a commitment to the Member and told him that if our SMS is not updated, then I must take it very seriously with my officers.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. It is not an automatic SMS answer. I called the individuals at the customer service. I talked to some individuals who logged onto their computers. So, it is not about an SMS or a malfunction of a system.

Mr. Speaker: Minister, still a fair challenge. He has got names of the officers that he talked to at customer service.

Mr. Kajwang: Mr. Speaker, Sir, the officers that he called must have looked at the information that is on the screen. If that information has not been updated, then whoever---

Mr. Speaker: Minister, do you not think perhaps you just need time to look at this matter? From the documents the Member for Bura has tabled, he received an answer that this application was under process on 16th March, 2010. Today, 1st November, 2011, he is receiving the same answer as he received more than a year ago, that this matter is under process. Maybe you need to do a little more. I do not think this helps you.

Mr. Kajwang: Mr. Speaker, Sir, I will respond to your challenge and say that on these six matters where there is some misunderstanding on the information, I will take it up with my brother. I will give him exactly 14 days and if we will not have sorted it out, then he can come back and raise the issue.

Mr. Duale: On a point of order, Mr. Speaker, Sir. It is not about the six names, it is about the whole nation. The Minister has said that in Nairobi, it takes 17 days, in other areas it takes 26 days and at the border, it takes 38 days. This afternoon, I have called the National Bureau of Registration with regard to the serial number ending with 922, the application of Munila Muamin Ahmed. According to the customer service, her application was received on 2nd November, 2010. The Minister has said that the information cannot be traced. This is about inefficiency. We want this matter to be investigated which is not only in Garsen and Tana River, but in the whole country. We cannot tell Kenyans that it will take 17, 26 or 38 days to get an identity card when it is taking two years. Again, the Minister is telling the nation that he cannot trace the information. Is he in order?

Mr. Affey: On a point or order, Mr. Speaker, Sir. It is evident that Questions have to come here for the Minister perhaps to act with very clear disconnect between him and his officers. Just joining my two colleagues, from Bura, Iddris Abdi Digale, this is a replacement of an identity card which the Minister has said that it takes 16 days in Nairobi, requested for a replacement of an identity card in Nairobi at the Kariokor Registration Centre in the first week of August and now we are in the first week of November. It has taken four months and the Minister has said that it takes only 20 days in Nairobi. It is almost 130 days ago. This is from the same constituency and it looks like there is something the Minister needs to do deeper than coming here to defend his Ministry when there is a lot to be done there.

I want to table this document and ask the Minister to consider this person. This is a driver who has missed more than five jobs.

Mr. Speaker: Order, hon. Affey! You realize that you stood on a point of order and what you have prosecuted so far, I am afraid, does not pass the test. So, I disallow that one because you stood on a point of order.

Ms. Karua: Mr. Speaker, Sir, the answer the Minister has given displays inefficiency in the Ministry. If it takes 17 days to get an identity card in Nairobi and we know these days the same Ministry is issuing a passport in one day, could the Minister tell the House what is so difficult about an identity card? Why does it take close to three weeks instead of one day to get an identity card? How is he going to accelerate the issuance of identity cards to the millions of youths who are not yet registered and who will need to exercise their right to vote?

Mr. Kajwang: Mr. Speaker, Sir, I will start with the last question. We are trying to accelerate this. Right now, we are doing mobile registration and I am sure every Member of Parliament knows this. We are trying hard. In fact, there is sufficient funding for it and I am pleased that the Treasury has supported us. The production capacity which was very low and we almost closed for a whole year has resumed. We are producing almost 60,000 identity cards per day. That is proceeding well and I do not think we will have backlogs by January next year. So, the youths should not have a problem. But we cannot issue identity cards in one day for reasons that we need a lot of information on identity cards that we really do not need on passports. When applying for a passport, you come with an identity card and your birth certificate. So, it is easier, but on identity cards, there is primary information that we check because of the infiltration also of persons who are not necessarily Kenyans. So, it takes a little time, but we have tried to reduce it to these levels. The complaint is not that it takes 38 days, but that it takes more than 38 days, one or two years.

I want to agree with Dr. Nuh and hon. Affey that there are areas where the officers have neglected their duty and we have to just check with them. So, we will give ourselves 14 days and I will give a proper answer.

Dr. Nuh: Mr. Speaker, Sir, with your indulgence, allow me to table a second document.

Mr. Speaker: Proceed.

Dr. Nuh: Mr. Speaker, Sir, it is of Ruth Mwamburi who has just been admitted to Kenyatta University from my constituency. Accompanied with a letter from the university, she applied for an identity card because she cannot even access the Higher Education Loans Board (HELB) to pursue her education. The form was registered at the headquarters on 1st August, 2011. It is now more than 100 days since she applied yet the Minister says it takes 38 days to obtain an identity card in ASAL areas. This student cannot access HELB to pursue a career because she does not have an identity card. Allow me to table that document.

(Dr. Nuh laid the document on the Table)

In the light of the inaccuracies that are appearing in the Minister's answer on the days that it would take a Kenyan to obtain an identity card and the fact that there is so much disconnect in his answers, could he undertake to ensure that all these persons get their identity documents in the next 14 days? I would request that you defer the Question so that the Minister can come and give a proper answer to this House, with your indulgence.

Mr. Speaker: Let me hear the Minister first and then I will direct.

Mr. Kajwang: Mr. Speaker, Sir, first on the young lady who has been admitted to university, I must regret that she has not obtained her identity card. But I think it is because of the lack of materials which we have now started producing. I am sure she will get her identity card soon. I want to deal with it individually because it is a matter that needs urgency. On the request that my brother made lastly, I want to deal with each and every one of these cases personally in depth, so that when I come back in 14 days or any date that Mr. Speaker may fix, then I will have answers why so and so has not obtained an identity card.

Mr. Speaker: Very well! Order, hon. Members! I will want to give the Minister 21 days from today to ensure that he takes the requisite action on all the cases inclusive of cases that may not have been raised now such as the one by the Member for Laisamis. I can see he is very anxious. Then, Minister, at that point, we will let the Question come back again on the Order Paper, but just for you to deal with that aspect to confirm that these cases have been attended to. Indeed, if they are attended to earlier, then we will not bring it again on the Order Paper. That ought to be that clear.

Mr. Lekuton: On a point of order, Mr. Speaker, Sir. Could you then allow me to officially table this document from a small village called Mbagas in Laisamis, where 91 people got waiting cards and for the last six years---

Mr. Speaker: Order, hon. Lekuton! As a matter of fact, I have recognised you and I have in my directions said that the Minister should take care of all those cases, including your cases. You cannot do better than that!

Mr. Lekuton: Thank you, Mr. Speaker, Sir and I table.

(Mr. Lekuton laid the documents on the Table)

Mr. Speaker: Very well.

Mr. Kajwang: Mr. Speaker, Sir, may I just request the hon. Members that if you have any matter that is burning, you do not have to wait until you ask it. I could deal with it the way I have dealt with hon. Affey's matters. Thank you very much.

(Question deferred)

Mr. Speaker: Very well, hon. Members. That brings us to the end of Question Time, and we have taken a bit long. Hon. Members, note that we will be endeavouring to finish Question Time by 3.30 p.m.; we will be making that effort so seriously. We may have to cut some of you short, but we have been instructed to do that.

Next Order!

POINTS OF ORDER

Mr. Speaker: Since one or two hon. Members are required elsewhere in a committee meeting, I will allow requests to come first, beginning with hon. Karua, and then we will take statements which are ready for delivery.

ACID ATTACK ON MS. FARIDA RASHID

Ms. Karua: On a point of order, Mr. Speaker, Sir. I beg to ask for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security regarding an incident on 24th October this year at Sai Rock Hotel, Mombasa, where the Prime Minister was having a stakeholders' forum. As a lady known as Farida Rashid was leaving the forum, acid was thrown at her by some youths.

I would like the Minister to tell this House why arrests of those known youths have not taken place. Two, he should tell us why these people who assaulted and harmed this lady are being let to go scot free and whether this incident is related to an earlier

incident where bodyguards of a prominent local Mombasa politician fired at demonstrators, killing one of them and whether the investigations in that case have brought in anything.

Mr. Speaker, Sir, the Minister may also wish to confirm that Farida, at that forum, had asked the Government to step up war against drugs. The residents and this lady are worried that Mombasa has been taken over by cartels, and he should tell the House whether he and the police are ready to uphold the rights of the residents of Mombasa, and crack down on drug peddlers.

Mr. Speaker: Deputy Leader of Government Business, maybe you want to give an indication since those matters appear very grave.

The Minister for Transport (Mr. Kimunya): Yes, indeed, Mr. Speaker, Sir. The matter is very serious, and I will communicate to the Minister of State for Provincial Administration and Internal Security and we can have a response by Thursday next week. I am aware that the Assistant Minister in the Ministry of State for Provincial Administration and Internal Security is away, and the Minister is also very busy on these other matters in the neighbourhood. So, I will urge that we hold this until Thursday next week, when the Assistant Minister will be back. I appreciate the urgency of the matter, but I would like them to be here to give the appropriate response.

Mr. Speaker: Ms. Karua, do you accept that?

Ms. Karua: Mr. Speaker, Sir, Thursday this week will be appropriate. These people are still at large. The lady is living under threat and so are the other residents. The matter is serious and I plead for Thursday this week. The Minister may be away but he has an Assistant Minister. The Government does not cease to work.

Mr. Speaker: Very well. I know the Assistant Minister is away; in fact, we received a letter to that effect. The most we can do by way of compromise is allow the Ministry seven days from Today. So, it will have to be delivered on Tuesday next week at 2.30 p.m.

Ms. Karua: I am most obliged, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Duale.

FATE OF SECONDARY SCHOOL STUDENTS IN DROUGHT-STRICKEN AREAS

Mr. Duale: On a point of Order, Mr. Speaker, Sir. Fourteen days ago, I sought a Ministerial Statement from the Minister for Education on the fate of secondary school students who cannot raise school fees due to drought that has hit their areas. Last Thursday the Minister was engaged and was expected to give the statement today. I need your direction on that.

Mr. Speaker: Fair enough. Mr. Assistant Minister, are you ready with that statement?

The Assistant Minister for Education (Mr. Mwatela): Yes, Mr. Speaker, Sir.

Mr. Speaker: Then just hold your horse and we will take it this afternoon. We want to take the Minister for Medical Services. I think he has a statement under Standing Order No.76.

PERSONAL STATEMENT

UNLOCKING OF PROF. ANYANG-NYONGO'S POST OFFICE BOX

The Minister for Medical Services (Prof. Anyang-Nyong'o): Mr. Speaker, Sir, I would like to make a Personal Statement in the House.

On 19th October this year at around 11.20 a.m., in the morning, one of my personal assistants in my private office, Mr. Justus Okoth, went to collect letters from the Post Office, Box No.57103-00200, which is located at City Square here in the City. Mr. Okoth noticed that the lock was loose and informed the person who was at Counter 7. He was told to get a letter from the owner who is myself. Since I was not around, he told my personal assistant, Mr. Peter Nyagaya, who wrote the letter and gave it to him. On the 24th October, 2011, the same Okoth went to the post office armed with a copy of the letter and a copy of my identification card. He processed the letter at the counter which is located above the post office where they put letters. They looked at all the documents at the post office and told the young man to proceed to open Box No.57103-00200 at City Square. When he opened the box, he found that a strange person had already opened the box and was putting the letters in a bag. He asked this fellow who he was and why he was opening that box number which was not his, and which belonged to me. The fellow told him that his name was Duncan Mwangi and that he had been sent by a lady called Catherine. When my assistant called the security people who investigate these matters at the post office, he said the same thing that he had been sent by a Ms. Catherine. They waited for Catherine who never turned up. At about 3.00 p.m. a tall man came and confronted my assistant. When the matter was unravelled by the police officer, whose name was Migwi John, of force No.52604, they told my assistant that they had been sent by the Deputy OCPD to pick my assistant and the man who had opened my post office box and take them to the Central Police Station.

Mr. Speaker, Sir, a Mr. Bandika, who was in charge, called the Deputy OCPD and then told my assistant to proceed to the police station. While all this was happening, nothing else was done in terms of recording a statement at the police station, and it appeared to my assistant that the people at the OCPD's office were in the process of covering up this very important matter, of somebody else opening my post office box at City Square. When they reached the OCPD's office, he was told that the information was needed by a Mr. Macharia from the National Security Intelligence Service (NSIS). That was when a Mr. Bandika told my assistant that the whole story about why this guy was caught at the post office box with the keys was a matter that they could not handle. I was informed of that incident by my assistant personally, because I was abroad on 25th October. I would like the police and officers in charge to take up this matter very seriously, because we knew those tactics during the repressive or previous regime, and I would not like them to occur again. It is known that if the NSIS wants information from anybody these days it is much better to tap phones or emails. We communicate more by phones and emails. So, when they go to the post office box, the only thing I can conclude is that somebody wanted to get one of the letters and put a letter bomb, which is very lethal. As we know, we live at a time when bombs are scaring things and that incident, where the police have refused to take statements from my assistant and personal assistant

and yet the person was caught red-handed taking letters from my post office box, is something very serious and I want it to go on record.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well! It will rest there. The Assistant Minister for Education, you may now deliver your Statement. How long will you last?

The Assistant Minister, Ministry of Education (Mr. Mwatela): Mr. Speaker, Sir, the actual reading will take at most about ten minutes.

Mr. Speaker: Ten minutes is a long time. Try and do it in seven minutes, beginning now!

MINISTERIAL STATEMENTS

FATE OF SECONDARY SCHOOL STUDENTS IN DROUGHT-STRICKEN AREAS

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I wish to respond to hon. Duale's question on the fate of secondary schools students in Arid and Semi-arid Lands (ASALs) and drought hit areas.

Mr. Speaker, Sir, first and foremost, I wish to state that the need to have drought mitigation measures to assist secondary schools in ASALs was informed by the drought and resultant famine that was declared a national disaster by His Excellency the President. Following the Presidential Declaration, the Treasury and Ministry of Education held a joint meeting to address the challenges in managing the secondary schools in those areas. The two Ministries agreed that a total of Kshs10.985 billion was required to address the food shortage in the country. In addition, the Ministry required an extra Kshs2.020 billion towards the school feeding programme, both in primary and secondary schools.

Mr. Speaker, Sir, following consultation between my Ministry and the Ministry of Finance, it was agreed that Kshs1.075 billion be reallocated from within the Ministry's budget, while the balance of Kshs945 million would be sourced from other Ministries through the Treasury. I wish to confirm that my Ministry has already reallocated the said funds - that is, Kshs1.075 billion - within the Ministry's budget, and which the Treasury has approved. My Ministry has already prepared the schedules for disbursements to schools, but the Treasury has not released the funds.

Mr. Speaker, Sir, having given the background of the level of preparation of the Ministry in response to the drought mitigation measures for secondary schools in ASALs and other drought affected areas, I wish to address myself to the issues raised by the hon. Member as follows:-

First, the Ministry has proposed to spend a total of Kshs203,999,808 towards drought mitigation to assist secondary schools in ASALs and drought-hit areas. The Ministry has prepared a schedule for disbursement of the stated amounts and has proposed an allocation of Kshs608 per student based on the total enrolment in each school.

Mr. Speaker, Sir, I am not aware that headteachers are sending students home for lack of fees. However, there could be some cases where headteachers have sent students home for lack of fees, especially where parents have not honoured their agreed modalities

on how to clear fees with the principals, or have not made any arrangements at all. The circular directing headteachers not to send students home is being done and should reach the schools by the end of the week.

Mr. Speaker, Sir, I wish to clarify to the House that secondary education in this country is subsidized by the Government through a free day secondary education policy, since its inception in 2008. The policy requires parents to supplement the Government subsidy in financing education by paying the boarding fees in boarding schools, uniforms, development levy, projects and lunch programmes, especially in day schools. The Ministry has communicated this to schools through a circular, Reference No.MOE/G1/91 dated 8th January, 2009. In addition, the parents and school managers have been informed through public fora like Parents Teachers Association (PTA) annual meetings and District and Provincial Education Day to make adequate arrangements with headteachers on the modalities of paying fees by installment or material form; that is supply of goods to the schools and so on.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, I am, therefore, requesting hon. Members to assist my Ministry to create awareness among parents in their constituencies on the need to honour their obligations to pay fees, particularly boarding fees for their children, to supplement the Government subsidies. As earlier stated, the Ministry has not remitted money meant for drought mitigation purpose to schools, but is prepared to do so as soon as it receives money from Treasury.

Mr. Deputy Speaker, Sir, I would like to inform the House that the Ministry disbursed last free day secondary education grants, being the third tranche for 2011, to all schools in the country at a rate of Kshs2,044 per student, to subsidize fees paid by students. In addition, those most affected by drought in 2011 were identified by the District Education Boards (DEBs) for improvement of infrastructure.

Mr. Deputy Speaker, Sir, finally, I wish to inform the House that the Ministry has other programmes that assist in enhancing access, participation and retention in secondary schools, including those in ASALs and other drought-hit areas. That is meant to reduce the burden on parents. Those programmes include ASALs grants, laboratory equipment grants, infrastructure grants, constituency bursary grants and the Economic Stimulus Programme.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Yes, hon. Affey!

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. I was the one who had requested for that Statement and I think that I should take the first chance

Mr. Deputy Speaker: Order, hon. Duale! Proceed, hon. Affey!

Mr. Affey: Mr. Deputy Speaker, Sir, the Assistant Minister's Statement falls short of the expectations of the people who live in ASALs. We are talking about a part of this country which had three years of continuous drought, which made the Government to announce it as a national disaster. That means that there was no expectation on the part of the Government for parents from those areas to pay fees for children in those schools.

Now, I am sure that you have a data of the affected children. Could you tell the country, if you have done your homework – which I suspect your officers might not have done – the number of children that have been affected by that problem?

Mr. Letimalo: Thank you, Mr. Deputy Speaker, Sir. Given that the Government had committed itself to waive school fees for students in districts that were hit by drought, and that the information was communicated to the House by none other than the Right hon. Prime Minister, why did the Government have to wait until students were chased away from schools, given the fact that there is no way that boarding schools could maintain students unless school fees was paid? Why did the Government take that long? Could he also assure us that the money will be paid immediately? He cannot tell us that we will wait for another one week.

Mr. Koech: Thank you Mr. Deputy Speaker, Sir. I am surprised by the answer from the Assistant Minister. I was in the House when the Government committed itself, through the Right hon. Prime Minister, and said that students in affected areas would not be sent home because of fees. Our understanding and that of the principals was that the Government had set aside some money that would be taken to those schools so that students continue learning. I am one of those people who thanked the Government for that. Surprisingly today, the Assistant Minister has turned around and is talking about the obvious Free Primary Education Programme (FPE) money and the subsidized free day secondary schools money.

Assistant Minister, when can we be sure that the statements you make in the House, as the Government, are facts? Could you confirm to this House and to the rest of the nation that now that you made a commitment, you will look for money, as a Government, and send it to those schools which are running into losses?

Mr. Shakeel: Mr. Deputy Speaker, Sir, the Assistant Minister has said that he is waiting for money from the Treasury. That is a very old story. Could he clarify whether the request was made to the Treasury and placed in a budget, whether supplementary or whichever it was? Could he confirm that, that was done and that it is the Treasury that is holding the money or tell us whether he did not make the request, in the first place, in the right format?

Dr. Nuh: Thank you, Mr. Deputy Speaker, Sir. With your indulgence, the documents that have been laid on the Table by the Assistant Minister allege that the disbursements of the monies that were reallocated within the Ministry totalled Kshs203 million. The Assistant Minister said that the Treasury and the Ministry of Education had agreed that the Ministry makes a reallocation of over Kshs1 billion. So, where has the Kshs800 million gone because the Assistant Minister has tabled a record showing Kshs200 million?

Secondly, with your indulgence, the Ministry said that it would communicate to head teachers so that they do not send away students because of fees. That was mentioned three weeks ago when hon. Duale raised this issue under a Ministerial Statement. The Assistant Minister has the audacity to come to this House today and say that the statements will be issued to head teachers in a week's time. Could he confirm that they are unwilling to communicate to head teachers not to send away students because they have no money to give them? Why can he not confess this?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the Assistant Minister said that apart from the grants which were not part of this question, the money that was available was

about Kshs200 million. He said something to the effect that per student, it would break down to Kshs608. Could he confirm that this is absolutely a joke because there cannot be seriousness in this at all? How can Kshs608 sustain anybody in a boarding school? Could he qualify that?

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, first, the issue raised by Mr. Affey on the number of students affected--- By the way, this also includes the students in the area that I represent because I am from an ASAL region. I do not have the exact number but I am willing to get this number.

Mr. Affey: Why can you not give the exact number?

The Assistant Minister for Education (Mr. Mwatela): You have asked for the exact number and I am telling you that I do not have it.

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. This is a very serious matter. I appreciate that the Assistant Minister is from an ASAL region. However, is he in order to mislead the House by saying that they had budgeted when they do not know the exact number? How can you budget for a figure that you do not have? You must have a figure on the basis of which you prepare a budget. So, why are you misleading the country? You are not willing to help. You have defied your own Prime Minister. That has been confirmed.

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, if you gave me half an hour from now, I could give you the exact number because I do not have the figures here.

With regard to money to schools by hon. Letimalo, I think there is confusion as to the first disbursement that was also mentioned by Dr. Nuh. I said that the Ministry of Education has reallocated Kshs1.075 billion from its own budget towards the drought mitigation course. However, as a first stretch, we have proposed to spend Kshs203 million which is what you see in the document I have tabled. So, that was not exhaustive. When you talk about Kshs608 being a joke, we can feed children with--- Remember we are talking about each school receiving Kshs200,000 or Kshs150,000. That can buy a few sacks of maize. Remember we are talking about drought mitigation. This is not the main subsidy to schools. This is an addition to the regular allocation to schools and not something that is specific or the only item given to schools. It is an addition.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House when it was none other than the Prime Minister who clearly stated that fees would be waived? So, when the Prime Minister said that school fees would be waived, did that mean that there were subsidies? Where was the rest going to come from? Why is the Assistant Minister misleading the House?

Mr. Deputy Speaker: Hon. Assistant Minister, are you sure you are talking about the fees?

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, yes. The issue of drought mitigation is something that was agreed by my Ministry together with the Treasury although the Treasury has not been forthcoming. The issue of removal of fees is not an undertaking by my Ministry.

Mr. Letimalo: On a point of order, Mr. Deputy Speaker, Sir. I do not think we should be treated to these kind of stories. Now that the Government had committed itself and considering that students are suffering, they should know what they will do with the students until the money is given out. Is it possible that this statement is redirected to the

Deputy Prime Minister and Minister for Finance so that he can tell us whether they have money or not?

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. It is clear that the Assistant Minister is not ready to answer this question. I had brought to your attention the fact that we raised it through a Ministerial Statement three weeks ago. The commitment from the Government then was that they would issue directives to head teachers not to send away students, something they have not done. The information he has given is scanty. At times he says that this is a subsidy while at times he says that it is a waiver. Can you direct that this question comes up tomorrow and that the Assistant Minister comes with a satisfactory answer that will satisfy this House?

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. The Minister has just said that his Ministry did not give any commitment, whereas the Prime Minister of this country gave that commitment. Is the Assistant Minister now saying that his Ministry is not subject to the commitment given by the Prime Minister?

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, on the question of sending away students, may I say again that the circular is already out, and that is why I made it clear here that it will be in schools by the end of this week. I think I said that. If you want me to bring the typed circular and table it tomorrow, I will do that, so that students do not stay away from school.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. I had even conferred with his colleague, Prof. Olweny, that we will need a firm proof that at least circulars have been sent to head teachers. It is something that they know. So, it is not again for the Assistant Minister to tell us that they will bring evidence of circulars which have been sent out; they knew that it was an obvious thing that was to be demanded by this House. How else are we going to believe his word if he has no document to table to show that there has been any communication to the head teachers?

Mr. Deputy Speaker: Assistant Minister, can you clarify whether the directive by the Prime Minister--- None other than the Chair was present at the place where the Prime Minister issued a directive that students from the ASALs regions should not be sent away because of school fees. Can you tell us whether that direction actually holds or you have a different position on that?

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, I concur with you that, that is the undertaking given by the Prime Minister, and the instruction that has been given by the circular is exactly that one, that no students should be sent away from school for lack of school fees.

Mr. Deputy Speaker: The direction was given, indeed, many months ago. Assistant Minister, can you clear the fears of the hon. Members here that, indeed, children are being sent away because of lack of school fees?

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, I just said that there could be isolated cases of students being sent away, but may I state again that it is the Ministry's position that no students in ASAL areas should be sent away from school.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House by saying that there are isolated cases when I know that in my own constituency, the two secondary schools sent students home *en masse*, and it had to take my intervention, as the Member of Parliament, and use the Constituencies Development

Fund (CDF) kitty for the students to be back to the schools? Besides, if they have not given any money to the schools, how do they expect the teachers to maintain the students in school? Can the Minister table evidence of any communication or commitment they have made to the schools? Otherwise, he is taking us round in circles.

The Assistant Minister for Education (Mr. Mwatela): Let me just thank Dr. Nuh for using his CDF Kitty to save the situation. I think this requires a concerted effort of everybody. May I just undertake that I will bring the copy of the directive to this House tomorrow?

Mr. Deputy Speaker: That is fair enough. I think that matter rests there. The Minister of State for Defence!

STATEMENT ON KENYA DEFENCE FORCES OPERATION IN
SOMALIA BY PRESIDENT OF SOMALIA

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, last week, hon. Mungatana raised a concern about the statement made by the President of Somalia on the operation that is going on inside Somalia territory, and whether our troops will be fought both by the Transitional Federal Government (TFG) and the *Al Shabaab*. The *Al Shabaab*, obviously, will be fighting back because we are fighting with them, but it will not happen that the TFG will fight the Kenya Defence Forces (KDF), because we are together in this war and our job was to assist them in the front; we are assisting them. So, we do not anticipate that there will be any problem.

Mr. Deputy Speaker, Sir, you will recall that yesterday, the hon. Prime Minister of Somalia, led a high-powered delegation came to Nairobi and both our Prime Minister and myself met them. We had a very fruitful discussion. He has said in his statement that he had come here with the consent of the President of Somalia, and that there will be no problem; we are together in this war.

Thank you very much, Mr. Deputy Speaker, Sir.

(Applause)

Mr. Mungatana: Mr. Deputy Speaker, Sir, the clarification we needed was a clear statement that there was, probably, misquoting or something different, because from what we hear it was none other than the President himself who seemed to have given a different position. Can the Minister clarify that, in fact, that is not the position, and that what he is saying is the current position?

Thank you, Mr. Deputy Speaker, Sir.

The Minister of State for Defence (Mr. Haji): Mr. Deputy Speaker, Sir, there is what is being reported in the Press. We have not received any official communication to the effect that Sheikh Shariff was against the engagement of our troops in Somalia. This can be attested by the fact that he sent his Prime Minister and a number of Ministers to come and confirm that they are with us in this war.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: That is fair enough. That is clear now.
Next Order!

MOTIONS

ADOPTION OF REPORT ON APPOINTMENT OF MOI TEACHING/REFERRAL HOSPITAL CEO

THAT, this House adopts the report of the Departmental Committee on Health on appointment of Chief Executive Officer, Moi Teaching and Referral Hospital laid on the Table of the House on Thursday August 4th 2011.

(Dr. Monda on 25.10.2011)

(Resumption of the Debate interrupted on 25.10. 2011)

Dr. Monda, you still have almost an hour; you have 53 more minutes. It depends on how much time you want, but you have 53 minutes.

Dr. Monda: I thank you, Mr. Deputy Speaker, Sir. I had spent seven minutes on 25th of October in moving the Motion.

Mr. Deputy Speaker, Sir, I have already highlighted that Moi Teaching and Referral Hospital is the second largest hospital in the country and it serves almost a half of the country as a referral hospital in the western region of Kenya. The matter that we are alluding to came to the House through the hon. Member of Parliament for Mosop, hon. David Koech, on the 9th of May, 2011. The hon. Member for Mosop wanted to know how the process of appointing the CEO of this hospital had been handled.

In seeking a Ministerial Statement from the Minister for Medical Services, the Member requested the Minister to show how the process was carried out.

Mr. Deputy Speaker, Sir, we took evidence from various players; from hon. David Koech, the Minister for Medical Services hon. Prof. Anyang'-Nyong'o and the Board of the hospital itself. I want to highlight that according to the law and the legal notice creating the Moi Teaching and Referral Hospital, the appointing authority of the Chief Executive Officer (CEO) is the President. In taking evidence from the Minister, in his statement he indicated that throughout the entire period that the hospital has operated as a State corporation, there has been only one CEO, Prof. Harun Arap Mengich. So far, he has had five appointments to serve as the head of the hospital. Prof. Mengich was first appointed as the Director of the hospital and Principal of the College of Health Sciences on 1st July, 1999. This was for a period of three years.

Mr. Deputy Speaker, Sir, thereafter, the appointment of Prof. Mengich was extended by the then President, His Excellency Daniel Arap Moi for a further period of five years as a second appointment. The Minister informed the Committee further that Prof. Mengich served as the Director of the hospital for a third time between 7th March, 2007 and 6th May 2008. This was an interim appointment by the hospital board through the Chairman, pending advice from the Ministry on the way forward. At the request of the board, the Minister renewed Prof. Mengich's contract for a further period of three years with effect from 7th March, 2007. This was the fourth appointment for Prof. Mengich.

The fifth and final appointment for Prof. Mengich took effect from 7th March, 2010 for a period of one year. The Minister approved this fifth appointment, a one year extension from March 2010 to March 2011 to allow for a smooth transition as, indeed, the board was then new. The letter giving extension to Prof. Mengich stated clearly that this was a final appointment of one year to allow for Prof. Mengich to hand over to a new CEO.

The Minister further informed the Committee that the board of the hospital, in consultation with the Ministry, advertised the position of the CEO of the hospital on 24th September, 2010 in the local dailies. A total of 11 applicants were received out of which six applicants who met the minimum requirements were shortlisted. The shortlisted candidates included Prof. Harun Mengich. Only four candidates turned up for the interviews held on 10th February, 2011. Out of the four candidates interviewed only two scored 70 per cent and above. The breakdown of the scores for the above candidates was given by the Minister as follows:-

1. Dr. Fatuma Some - 58 per cent.
2. Prof. Fabian Esmæ - 71 per cent.
3. Dr. Otieno Omolo - 57 per cent.
4. Prof. Harun Mengich - 81 per cent.

According to the Minister, on the basis of the results, the board recommended that Prof. Mengich be appointed for another period of three years notwithstanding the fact that the one year extension granted to him earlier had been made conditional to the board empowering a new CEO to succeed Prof. Mengich.

Mr. Deputy Speaker, Sir, on the consideration of the results of the interviews and recommendations of the board, the Minister noted critical anomalies regarding the recruitment as follows - This is the Minister speaking - "There were anomalies in the appointment or recommendation for appointment of Prof. Mengich to be the CEO of this hospital". One of the anomalies noted by the Minister was that the position attracted a very limited number of applications up to the final interview. He, therefore, considered the process not to have been competitive enough.

The Minister indicated that among the candidates recommended by the board, Prof. Mengich, had served the institution since it was established. The Ministry headquarters was still of the view that the hospital required a fresh CEO to steer the institution to greater heights of development and service delivery in line with the reforms that the Ministry was implementing.

Mr. Deputy Speaker, Sir, indeed, it was for the reason that when he gave the one year extension as Minister, it was with the express understanding that the board and the CEO would look for a successor. Therefore, the Minister was of the view that Prof. Mengich was in his final term since the extension was so indicating that Prof. Mengich would be serving the last term.

The Minister further indicated that there are a number of current developments and activities going on in that hospital that have a bearing on the appointment of the new director of the hospital as follows: The hospital was facing serious financial constraints that made it unable to meet its obligations. This is despite the hospital's budget having almost doubled in the last six years. The main reason behind this constraint has been employment of staff beyond approved establishment of 2,700. The hospital, as it were, at this time had employed staff of over 3,000 having an excess of over 300 members of staff

beyond its staff establishment. This number is besides the 220 staff members who were serving the hospital on casual or locum engagement.

Secondly, the Kenya National Audit Office (KENAO) was undertaking a forensic systems audit at the hospital. It was yet to complete its report. In addition, the Ministry at the request of the Board of Management had invited the Efficiency Monitoring Unit (EMU) to assist the hospital identify inefficiencies in the systems and thus make appropriate improvements.

Third, the Kenya Anti-Corruption Commission (KACC) was investigating allegations against Prof. Mengich relating to abuse of office, nepotism and staff contract matters among other concerns.

Mr. Deputy Speaker, Sir, I want to indicate that besides what the Minister indicated or gave us as evidence to the Committee, he appeared again before the Committee on 5th July, 2011 and informed us further that Prof. Mengich had served as a CEO since 1998 until the time he was being interviewed for a second time. That is a period of 13 years of service to the hospital. He further indicated that there was a decision to extend Prof. Mengitich's term by one year to allow the Board to recruit a new director. He also indicated that he felt that the recruitment process was not properly handled as the sitting CEO went ahead to apply, after which he was interviewed and the Board went ahead to shortlist him. Only four candidates were interviewed as indicated earlier.

As I move on, I want to indicate that after the Minister gave evidence to the Committee, we had a chance to take evidence from the Chairperson of the Board of the Moi Referral and Teaching Hospital, Eldoret. Appearing before the Committee on 14th July, 2011, the Chairperson of the Board, Prof. Ruth Oniang'o, together with her full Board, informed the Committee that, having been assented as the Board Chairperson, she only took over towards the end of 2010. During that time, the Board was not comfortable with the manner in which the hospital was being run by the Management. This necessitated a thorough process of hiring a CEO.

Mr. Deputy Speaker, Sir, the Chairperson of the Board of the hospital said that the management had kept the Board in the dark as to the imminent expiry of the extension of the term of and retirement of the hospital's CEO, Prof. Mengich. The Board, therefore, resolved to advertise the position. Secondly, the Chairperson had advised the CEO of the hospital not to apply for the position since she felt that the hospital needed new and agile leadership. Prof. Mengich had served for a long uninterrupted period, and may not have injected any new management prudence required at the hospital.

The Chairperson further told the Committee that the Hospital Board advertised the position of the Director on 17th and 24th September, 2010 in the local dailies. A total of 11 applicants had applied. Only four candidates turned up for the interviews conducted by the Board on 10th February, 2011. The Minister for Medical Services had advised the Board to nominate three or four candidates from whom one would be appointed. One of the candidates, a Prof. Kimaiyo, withdrew while another, a Dr. Kibosia, failed to attend the interview without notice. The breakdown of the scores for the four candidates is as I had given earlier.

Mr. Deputy Speaker, Sir, the Chairperson of the Board further indicated that she forwarded the list of the four interviewed applicants to the Minister for Medical Services, through a letter dated 14th February, 2011, recommending that Prof. Mengich be appointed for another period of three years. In her letter to the Minister, she also

conveyed that the then CEO, Prof. Mengich, wanted to continue and that the position did not attract enough applicants. In her letter, she recommended to the Minister that the current CEO – Prof. Mengich – continues for one more last term of three years. This is despite the fact that the same Chairperson had earlier advised Prof. Mengich not to apply for this position. So, her letter to the Minister contradicted the same position showing a shift of opinion each time.

During that time, the Board wanted Prof. Mengich to continue so that they could develop a succession plan, which would see the entry of a new CEO in three year's time. On receipt of the list, and after consulting the Board, the Minister for Medical Services advised the Board to re-advertise the position in order to attract more candidates and allow for the process to be competitive. Consequently, the Board put a third advertisement in the dailies on 31st May, 2011. Unlike the first advertisement of 17th September, 2010, which carried an age limit of 45-55 years, the second and third advertisements did not ask for age limit. The first one did but the following two did not. This was after the Board was advised by the Ministry, according to the Chairperson of the Hospital Board, that the requirement for age limit may be construed to discriminate against certain individuals, which is against the Constitution.

Mr. Deputy Speaker, Sir, the Chairperson of the Hospital Board further indicated that, following the advertisement, the Board received applications from 12 people and they shortlisted five for interviews. Dr. Kibosia, who had applied and was shortlisted in the first time, but who failed to turn up for interview, also applied. The Chairperson disqualified Dr. Kibosia on the grounds that he did not honour his initial opportunity for an interview. The interview was set for 13th July but as at now, the Board has not interviewed the candidates due to related court cases. According to the Chairperson of the Hospital Board, the process of hiring CEO is highly polarised and did not attract many suitable candidates nationwide probably due to the political intrigues that have characterised the entire process and the effects of the 2007 post-election violence in the region.

Having heard from the various witnesses, the Committee observed that from the onset, the running of the hospital appeared to be polarised. Previous incidents where the public and civic leaders had attempted to evict members of the Management and the Board from the premises were reported. The Board cited that it was even becoming difficult for them to hold meetings without armed security. The Committee asserts that this must not be allowed to continue, and that the Government should put in place measures to ensure that the hospital runs smoothly, and that the security of every person serving at the hospital is not threatened.

Mr. Deputy Speaker, Sir, secondly, the Committee observed that it appeared that the process of appointment of the CEO of Moi Teaching and Referral Hospital, Eldoret, was, initially, unclear to the Board and the parent Ministry. This is evident given the epic pronouncements made during the process and the correspondence between the Board with the Office of the Prime Minister and that of the Minister for Medical Services. We have annexed these correspondences and Annex II in the Report. The letter from the Office of the Prime Minister, signed by the Permanent Secretary, conveyed that the Prime Minister had publicly endorsed the appointment of Prof. Mengich during a visit to the Rift Valley.

The letter requested the Minister for Medical Services to endorse the renewal of the candidate's contract. In his reply, the Minister for Medical Services brought to the attention of the Prime Minister the legal requirement that the appointment should be made by the President and sought his guidance on the matter. He clarified to the Prime Minister that, at first, he had not been fully aware of the requirement.

Mr. Deputy Speaker, Sir, thirdly, the Committee observed that the Chairperson of the Board did not make the process any better. During an appearance before the Committee, she indicated that the Hospital Board was opposed to the re-appointment of Prof. Mengich since the hospital needed a new and agile leadership.

Mr. Deputy Speaker, Sir, however, when she forwarded the names of the candidates to the Minister of Medical Services, she not only recommended the candidate for appointment, but also indicated that she for the last three years allowed the Board and management to develop a succession plan. Contradicting positions by the chair of the Board compounded the uncertainty in the process of appointment.

It appears that the re-advertisement and the amendment to alter the age limit may not have been made in good faith and was made to accommodate a particular candidate. The Committee learnt that the first advertisement was made on 17th September and contained an age limit of 45 to 55 years. Later, allegedly on the advice of the Ministry, their advert was amended to remove the age limit by way of another advert of 24th September, 2011. However, this second advert did not indicate that it superseded the earlier one. While the Minister for Medical Services indicated that the age limit for head of State corporations heads is 60 years, the Board and the Ministry contravened on the reasons given for the alteration to remove the age limit. The second advert also may have compounded the confusion.

Mr. Deputy Speaker, Sir, as I have indicated earlier, while it is prudent for the Board to undertake due diligence and integrity qualifications on its employees, including the chief executive officers. It was unfair for the board to site the allegations forwarded by the Kenya Anti-Corruption Commission concerning Prof. Mengich since they were not verified. In addition, the said information was withheld by the Chairperson of the Board at the time of confirming the nominations during full board meeting on 11th February, 2011. It is, therefore, unfair for them to withhold that information and then use it against the candidates when the controversy arose.

The Committee held that such integrity tests should be carried out indiscriminately, verified, and if possible, candidates given opportunity to respond to any allegations.

Mr. Deputy Speaker, Sir, we further observed that it appears that the entire process of sourcing, profiling and nominating the candidates for the post of the CEO was flawed for amongst other reasons, from the onset, the confusion demonstrated, prejudices by the Board on the applicants. The initial advertisement indicated the age limit. This is another controversial area which was later withdrawn.

Mr. Deputy Speaker, Sir, as I head to conclude, the Moi Teaching and Referral Hospital Order as contained in the Legal Notice No.78 of 1998 is self-lacking. First, it provides that the Director of Moi Teaching and Referral Hospital shall also be a principal, College of Health Science, Moi University.

The chairperson of the University Council informed the Committee when he appeared together with the full board that the university does not have and has not had a

college by that title. The office only exists in law. It does not in a legal notice and, therefore, has not been in practice. The nearest to that as informed by the chairperson of the University Council is the School of Medicine, Dentistry and Health Sciences.

Secondly, the said order and its parent statute is the State Corporations Act, Cap.446, are both deficient in that they do not provide for the process of appointing the CEO.

Mr. Deputy Speaker, Sir, it will need to be noted that without mandatory presidential appointment, the process of appointing the CEO cannot be complete and that is what the process ought to have been. The Ministry, the Board and other departments can only guide and supplement the process.

Finally, it was clear to the Committee that the extension of the terms of contract for the previous CEO; that is, Prof. Mengich, were not done by the President. This being the case, the validity of such previous tenure remains questionable; that is, the third, fourth and fifth extensions or renewals were not in accordance with the law.

Mr. Deputy Speaker, Sir, as a Committee, we did the following recommendations:

1. Without prejudice to the cases in court, this House urges His Excellency the President to move with speed and initiate a proper process of appointing the Chief Executive Officer of the Moi Teaching and Referral Hospital.

The Board should competitively recruit a professional human resource firm to shortlist the candidates and submit their names to the board for interview. The board should therefore, forward the names to the parent Ministry for onward transmission to the President to appoint a CEO from amongst the names submitted.

2. We recommended that in order to stem the current stalemate, the House urges the Government to complete the process within three months.

3. This House urges all leaders, including political leaders, to refrain from making public pronouncements related to appointment of the CEO of Moi Teaching and Referral Hospital outside the precincts of the National Assembly until the process of appointing a new CEO is complete.

4. The Minister initiates the process of amendment of the Moi Teaching and Referral Hospital Order as contained in Legal Notice 78 of 12th June, 1998 and amended by Moi Teaching and Referral Hospital Order No.2002 in Legal Notice No.56 of 19th April, 2002 to conform to the process obtaining in other State Corporations on the appointment and tenure of the CEO.

It is clear here that the appointment of the chair of the Moi Teaching and Referral Hospital lasts three years, but the rest of the members of the board life run for five years. These are some of the issues the Committee intended to have addressed by the House and the Government after this Report is adopted.

The amendments should also focus on deleting provisions that require that the CEO of the hospital also be the principal of the College of Health Sciences at the Moi University.

The final recommendation is that the Attorney-General initiates the proposed amendments to the State Corporations Act, Cap.446, to harmonise the process of appointing chief executive officers of State corporations. The proposal should be contained in the next Miscellaneous (Amendment) Bill for consideration by the House.

This Report was considered by the Committee on 28th July, 2011 and the resolution to adopt this Report was reached unanimously on 2nd August, 2011 in a

meeting attended by majority of the members of the Committee. It is our hope as a Departmental Committee on Health that this Report will guide and inform the House on the questions and the process of the appointment of the Chief Executive Officer, Moi Teaching and Referral Hospital.

I present and commend this Report to the House for consideration and adoption. Thank you.

Mr. Deputy Speaker, Sir, I ask Dr. Eseli to second.

Dr. Eseli: Thank you, Mr. Deputy Speaker, Sir. I wish to thank the Chairman of the Committee for giving me this chance to second this Motion on the Report of the Committee on the appointment of the CEO of the Moi Teaching and Referral Hospital in Eldoret.

It must be noted that the Moi Teaching and Referral Hospital, Eldoret, serves a very wide catchment area which includes most of the western part of Kenya, the North Rift and all the way up to Turkana. In its current establishment, it is smaller than what is expected of it. It needs to be expanded and various other things to be done so that it can cater for these people. As a nation, we have failed to plan for our growing population. That is why we do not have adequate referral centres and adequate quality medical services. This, therefore, has been a major relief to the Kenyatta National Hospital, so that many patients end up at the Moi Teaching and Referral Hospital without having to come all the way to Nairobi.

Mr. Deputy Speaker, Sir, however, the problems that are bedeviling the Moi Teaching and Referral Hospital are also partly the making of this House in the sense that from the time we tabled this Report, it has taken the House Business Committee a very long time to schedule it for debate. Meanwhile the Moi Referral Hospital has continued to suffer to the extent that before the acting CEO was appointed, the hospital was virtually on its knees. It is imperative to note that the issue of the appointment of the CEO of the Moi Referral Hospital came up at a very emotive period when we were also looking at appointments of other CEOs in the country. The issue had become emotive, sometimes bearing some ethnic overtones whenever we discuss the appointments of CEOs of various bodies in the country. This was not just about the Ministry of Medical Services, but it had affected several other Ministries where other CEOs had been appointed. In the process, we have ended up sort of ethicizing very highly qualified professionals of this country such that whenever they are appointed, it carries an ethnic overtone which is very unfortunate especially for a hospital of the stature of the Moi Referral Hospital, Eldoret.

The main problem with the appointment of the CEO of the Moi Teaching and Referral Hospital is the statute that set it up, namely, the Legal Notice No.78 of 1998. It is so flawed that unless one is careful, you can easily tread on thin ground. It states specifically that the appointing authority for the CEO of the Moi Teaching and Referral Hospital is the President of the Republic of Kenya. In that case then, any other appointments that are made by any other person other than the President will be null and void. Given the Coalition agreement, it means that the appointment has to be done by the President in consultation with the Prime Minister. I think that had not been looked at by the Board of the Hospital by the time the Ministry put in place the process of appointing the CEO. That is what has created the problem.

Mr. Deputy Speaker, Sir, as our conclusion says, we have recommended that we need to request that the President, therefore, holds urgent consultations with the Prime Minister and appoints a substantive CEO of the Moi Teaching and Referral Hospital, Eldoret. The statute is so flawed that the Chair of the Board serves for three years while members of the Board serve for five years. It is an intricate thing that needs to be unpacked in the sense that when they state that the CEO of Moi Teaching and Referral Hospital should also be the principal of the College of Health Sciences of Moi University, Moi University does not have a college of health sciences. It has something similar but of a different name and does not have a principal. Already, that makes the statute so difficult to implement. So, we would urge that this statute be urgently amended and brought in line with the other statutes on hiring of CEOs in this country.

Perhaps, it would be very important to note that some of the problems that bedevil this hospital could be traced back to the clashes after the last general election in the sense that on advertising for the CEO, the applications that are received are so few. The Board appears to think that this could be because many people are scared of applying for a job there. The Board felt that they were unable to source the right material for that hospital. It is an unfortunate situation. The Board that is tasked with national cohesion should step in very urgently and ensure that this does not happen to this hospital which serves a multi-ethnic population that covers most of Western and major parts of the Rift Valley provinces. This is a multi-ethnic population. It will be unfortunate if ethnicity was attached to the appointment of the CEO of the Moi Teaching and Referral Hospital.

Mr. Deputy Speaker, Sir, on the same process, it has come to pass that the issue of the appointment of the CEO of the Moi Teaching and Referral Hospital has also gone into the public domain with the present political debate that goes on at public rallies, a political mood that I consider very toxic to this nation. Unfortunately, it is also starting to permeate into the appointment of the CEO. That is why there should be no further delay. The President and the Prime Minister should not delay any further. If they cannot do it themselves, then they should task the Ministry of Medical Services to urgently undertake the appointment of the CEO. They need to consult and appoint a CEO urgently, so that we can diffuse the situation that threatens one of the premium medical providers in this country. Unless we do that, Kenyatta National Hospital alone will not cope with the kind of work load that we have and the fact that the Ministry of Medical Services has not been adequately funded to ensure that provincial hospitals can perform the task of referral centres as they were destined to do.

So long as the funding is not there for provincial hospitals, then centres like the Moi Teaching and Referral Hospital, the Kenyatta National Hospital and the Russia Hospital in Kisumu become very key to health care in this country. Unless the two principals move expeditiously and get this problem over, then we will continue facing a problem in health care in this country.

I would like to end by stating that it was not for the Committee to determine the suitability of the candidates. I do not consider that to be the mandate of the Committee. What we had been asked to do was not to decide the suitability of the candidates, but rather to look at the method of appointment and whether the methodology was correct and tallied with the statute that set up the hospital. In that, the Committee has fulfilled its mandate. We have not tried to look at the suitability or otherwise of the candidates who were involved in the recruitment, but rather to look at the methodology and give views

that will help us move forward. The role of a Committee, apart from the oversight role, should also be facilitative to ensure that the respective Ministries can move forward without acrimony, so that we can work in cohesion to ensure that many of these things happen and we do not delay too much and end up with a situation like what we ended up with at the Moi Teaching and Referral Hospital.

With those few remarks, I wish to second the Motion.

(Question proposed)

Mr. Shakeel: Thank you, Mr. Deputy Speaker, Sir. It is a tragedy in Kenya that we are always in this situation. There is an old saying which says that if it is not broken, do not fix it. I am still at a loss to understand why a person like Prof. Mengech, who has served that institution for a number of years and served it well, should not have been considered on the basis only of some alleged corruption. Was he charged in court? Was he made aware of it? He has run that organisation, to my knowledge, professionally. Organisations like this--- Where institutions are not set up well--- That is the case in all hospitals, provincial and district in this country. We do not have institutionalized hospitals. Unfortunately the person who is the leader determines the success or failure of a hospital.

Prof. Mengech has been there and he left. We do not know how he did that, but the hospital has gone from bad to worse. It is about time now that maybe the professor is an old man and does not need to continue, but what efforts are being made to institutionalize hospital management?

Mr. Deputy Speaker, Sir, all over the world, hospitals are no longer run by doctors. Hospitals are run by health administrators. They are professionals. You do not need surgeons and professional doctors to be walking all over and making sure that the grass is cut and that our human resources are well utilized. Big hospitals fail because of lack of proper management. So, although the Committee has looked at the issue of the modalities, I would have wanted to hear from it that there must be steps to institutionalize all these health facilities in a way that they will no longer depend on a particular person but on controls.

In the same breath, I would like to bring out another point. The Kenyatta National Hospital (KNH) has had its problems, but over the past several years, there was a Dr. Micheni and he did very well. He institutionalized systems, worked hard and left a system working. That system is working even without Dr. Micheni. My concern is how come in service organizations which are very critical to the running of this country--- We are more concerned about ethnicity and people than who is the right person to run that hospital? My own humble submission is that the KNH was run well by Dr. Micheni. Why did he have to go? My own humble opinion is that Moi Teaching and Referral Hospital (MTRH) was run well, but perhaps Prof. Mengech had to go as well. But I do not think you need to hound a person in order to get him out, so that you can bring in somebody. I do not want to even begin to suggest how a person like Dr. Kibosia , who is a prisons officer, will be able to run a hospital. What we needed is a hospital administrator.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say that Dr. Kibosia a prisons officer, yet he is a trained medical officer?

Mr. Shakeel: Mr. Deputy Speaker, Sir, I did not suggest that he was not a doctor. There are lots of doctors. There are some sitting here behind me. It does not mean that you are trained to run an institution like the MTRH. You may not be trained to run that hospital if you have the background of running an institution like the prisons. I think that is my point. I think that one thing is very important. Let us not personalize these issues like the running of hospitals. They are nobody's property but property of the people of Kenya, and we have a right to be treated there without any politics.

Thank you very much.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Thank you, Mr. Deputy Speaker, Sir. I appreciate the report of the Departmental Committee on Health. However, I wish they had indicated to this honourable House how many patients are treated at MTRH. MTRH is the saviour of many people in the North Rift. Given that this area was bedeviled by cattle rustling and many accidents of guns, this hospital has saved many lives in Turkana and Western Province.

Mr. Deputy Speaker, Sir, coming to the Report of the Committee, they rightly indicated that Legal Notice No.78 of 1998 established the mode of appointment of the Chief Executive Officer (CEO) of MTRH. That means it is the President who does it; since we already have Dr. Kibosia--- I want to put the records right. When he was in prisons, he was not managing them. He was in charge of the medical unit of prisons, and he is also a qualified doctor. Dr. Kibosia has a track record, and it is known. He was the Director of the Medical Training College (MTC). He was also the Director of KNH. He has managed the Prisons Medical Department well. I appreciate that he has been put in an acting capacity, but now I am requesting that using this legal notice, Dr. Kibosia should be confirmed in that position, because the longer we wait, the more people will suffer. We appreciate what Prof. Mengech has done for 13 years, but in life there comes a time when people have to move on. Since he has moved on, I ask on the Floor of this House that Dr. Kibosia be confirmed.

Thank you and I support.

Mr. Koech: Mr. Deputy Speaker, Sir, I wish to move an amendment to this Motion, that it be amended by deleting the full stop at the end of the figure 2011 and adding the following words: "Subject to deletion of all the words appearing after the abbreviation MTRH on the specific recommendation under paragraph 18(1) on page 23 of the Report and inserting the following words: "And the current board be dissolved and a new board appointed in place thereof."

Mr. Deputy Speaker, Sir, as I move this amendment, I, first of all, want to thank this House, and specifically---

Mr. Deputy Speaker: Order! For the benefit of the records of the House, MTRH but is MRTH, which means Moi Referral and Teaching Hospital. So, just clarify that bit.

Mr. Koech: Mr. Deputy Speaker, Sir, I have noted that there is a problem there. It is supposed to be MTRH. Those are the specific words that I have used and that should be the case. I am sorry.

Mr. Deputy Speaker: Fair enough; proceed.

Mr. Koech: Mr. Deputy Speaker, Sir, in moving this amendment, I want to start by sincerely thanking this House and, more specifically, the Speaker, for directing that the Committee on Health looks at this issue, so that it can come up with very elaborate recommendations.

Mr. Deputy Speaker, Sir, page 3 of the Report states that the House was not satisfied with the Minister's response on the Floor of the House. I want to put the record straight. The Ministerial Statement was requested by me. The Minister issued the Statement and the Chair directed immediately that the issue be handled by the Committee. So, it is not true that the House was not satisfied. I believe that the House was not going to be satisfied.

Mr. Deputy Speaker, Sir, I want to state that one thing that has come out in this Report is that Moi Teaching and Referral Hospital (MTRH) is not a referral hospital of Eldoret Town, Nandi County or Uasin Gishu County. It is a referral hospital like Kenyatta National Hospital, which is serving the western part of Kenya, including Lodwar, Western Province, Nyanza Province and even up to Southern Sudan. I want to sincerely thank the Committee for inviting me to appear before it and, therefore, shed some light on some of the critical issues that were raised.

Mr. Deputy Speaker, Sir, if you look at the Report, you will agree with me that the Committee observed certain things. First, the Board of that very important hospital is not working in unity. Some members are suggesting this and others are suggesting that. When they were summoned to appear before the Committee, not all members of the Board appeared. For a very important referral hospital, we expect the Board to speak with one voice, walk together and ensure that there is harmony in the hospital.

Mr. Deputy Speaker, Sir, secondly, when you look at the Chairlady's statements, truthfully, you cannot---

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for my good friend, hon. Koech, who is the Chairman of the Committee on Education, Research and Technology, to claim that the Board must speak with one voice, when even the Minister himself and the Vice-President are speaking at cross purposes on the same issue?

Mr. Koech: Mr. Deputy Speaker, Sir, my good friend knows that, that is the direction we are praying for; where Kenya is united and speaks with one voice for the success of this country. I was very categorical and specific that in that institution, which is taking care of the lives of Kenyans, we need unity and direction by the Board members.

Mr. Deputy Speaker, Sir, you have looked at the Report and it indicates that the Chairlady or the Board, itself, advised the incumbent Chief Executive Officer (CEO) not to apply. But the same Board allowed the same CEO to apply and went further to interview him. In the interview, if you look at page 11, they gave Prof. Mengich 81 per cent and Prof. Fabian Esemai, 71 per cent - a difference of ten points. That made it either very clear or even confusing to the Minister to choose number two. Is that a Board that really stands the test of time? The Board told that person not to apply and yet, it accepted his application. I would have expected them to reject that application at that stage. That is the serious problem that we have at the MTRH. They even wrote a letter to the Minister to appoint and yet, again, they said they did not.

Mr. Deputy Speaker, Sir, there are some reservations that the Chairlady indicated. I want to quote a letter that was written on 7th October, 2010, addressed to the Rt. hon. Prime Minister, and copied to the Minister for Medical Services. It is signed by hon. Prof. Ruth Oniang'o, Chairperson of the Board and Said Kaitai, Vice-Chairperson of the Board. In this letter, the same Chairlady who claims to have advised the CEO not to

apply is requesting the Rt. hon. Prime Minister to extend the tenure of Prof. Mengich as the Director. I will not address myself as to who should be the CEO because, in the recommendations, it has been made very clear. I want the following part deleted from the Report which is:

“That without prejudice to the case in court, this House urges His Excellency the President to move with speed and initiate a proper process of appointing the Chief Executive Officer of Moi Teaching and Referral Hospital.”

Mr. Deputy Speaker, Sir, I want to believe that, that should be the case. I want to indicate again here that this issue of acting will never give one room to act professionally and firmly. We need to make sure that a CEO is appointed, whether it is Dr. Kibosia or any other person. We want to remove the word “acting.” We hope the President will act on that.

Mr. Deputy Speaker, Sir, in this same letter that was written by the same Chairlady, who claimed that there were issues with the CEO, writes the following in paragraph two:-

“I have always known of Prof. Mengich’s extremely successful work, both as a founding Dean, Faculty of Health Sciences in Moi University and now, as the Chief Executive Officer, Moi Teaching and Referral Hospital. It is largely because of his personal efforts and exceptional ability to source for, engage and maintain international partnerships that Moi Teaching and Referral Hospital has grown in leaps and bounds ever since its gazettelement.”

Mr. Deputy Speaker, Sir, that is from the Chairlady, herself. Some of the fears that she has indicated here have come to be true. Again, on page two, she claims:-

“It is instructive to note that Indiana University and other collaborating North American Universities were largely sourced by Prof. Mengich through personal reliable contacts such as Prof. Mamlin and Prof. James Lemons. Such individuals value honesty, transparency, efficiency and effectiveness, all of which, Prof. Mengich has continuously exhibited.”

Mr. Deputy Speaker, Sir, those are the words of the chairlady. Down there, the letter reads:-

“I kindly request you to give Prof. Mengich a new term. This is because the donors might easily withhold their funds until they fully understand and engage any other new person.”

Mr. Deputy Speaker, Sir, that fear is what we have come to learn. It is actually happening. The donors are now observing from a distance.

Mr. Deputy Speaker, Sir, lastly, she indicated:-

“The listed projects are worth well over Kshs15 billion for the next one year alone. Given the trust that donors have in his leadership, it is important that you consider extending his term.”

Mr. Deputy Speaker, Sir, that is from the Chairlady. With that kind of information which, of course, time has come to pass, Moi University, as we speak today, is on its knees. I want to thank the Minister for appointing an acting CEO in the name of Dr. Kibosia. We want to be told openly that, as we speak, MTRH does not have the funding and that, in the last one month, patients are being turned away from the hospital. A referral hospital is now turning away patients to district hospitals and dispensaries.

Mr. Deputy Speaker, Sir, I want to plead with the House that we want MTRH to perform the way it was performing previously. I really want to plead with the Membership of this House that, for purposes of unity, togetherness and working for the betterment of that institution, to support this amendment because clearly, as indicated in this letter, which I wish to table, the Board did not take a position and a firm decision. Records that were given to us recently when we visited the place indicated that MTRH is now making more money from mortuary fees than patients who are being treated. That is not the direction we want this country to take. We hope that the new CEO will give us new hope. We hope and believe that the hope will change and that all of us will work together to support this course. I wish to move the amendment and to request hon. Boaz Kaino to second.

Mr. Kaino: Thank you Mr. Deputy Speaker, Sir, for the opportunity you have given me. I stand here to second this amendment. While seconding the amendment, I will be very brief and touch on two things. The Moi Teaching and Referral Hospital is not a village hospital. It is not even a provincial hospital, but a national hospital that serves almost half of the population of Kenya. We have taken issues regarding this hospital very lightly. The Government has very little interest in this hospital. That is why it has left it the way it is; being run even by rats. The hospital was completely run down and the only creatures you would meet on the corridors were rats. That means that we have let down human beings.

As I speak now, many people have died due to the carelessness of the Ministry and the Government. The Minister should establish how many people have died since the CEO, Prof. Mengich, left the hospital. There is no medicine neither is there water. The sanitation there has been run down and there is completely nothing. We support this Motion with amendment because of all those issues.

The amendment intends to clean the place and give the Minister an opportunity to recruit new people knowing and bearing in mind the suffering of Kenyans. The people in Western Kenya have suffered a lot. We are also Kenyans and we need to be assisted. This issue now rests with the Minister and the two principals.

Mr. Deputy Speaker, Sir, as we wait for the implementation of the new Constitution, let the Minister take charge now and ensure that the board, that is in place, will not be compromised by politics, clanism and tribalism. That hospital serves many people in western Kenya, Bungoma and even from Kisumu. People go to the referral hospital. However, how many people have died? Their souls and blood rests in the hands of the two principals because they have never acted and yet people have died. May God rest their souls in eternal peace!

Mr. Deputy Speaker, Sir, let me thank the Minister for appointing Dr. Kibosia in an acting capacity. I hope that he will be confirmed. Why do I say this? This man was in Nakuru Provincial General Hospital and brought it up to be the cleanest hospital in the Republic. He was then taken to the Kenyatta National Hospital, KMTC, and the Prisons. He also transformed all of them and they are the cleanest institutions in the Republic. He had not gone to cage prisoners but to care about their health.

Mr. Temporary Deputy Speaker, Sir, as I wind up, while supporting the amendment, let me thank God because we know that in future, there will be no Minister who will come in under political affiliations and Kenyans will be served properly. That is where the hope of Kenyans stands. Next time, we will have a Minister who is a

professional medical person with no affiliations at all. We will have some direction instead of being controlled by political leadership.

With those few remarks, I hope that this House will approve this amendment so that the problems at the Moi Teaching and Referral Hospital can end and that Kenyans will enjoy the medical services provided by that facility.

*(Question of the first part of the amendment,
the words to be left out be left out proposed)*

Mr. Ethuro: Mr. Deputy Speaker, Sir, let me thank you for giving me an opportunity. I just want to make a few comments. One, Moi Teaching and Referral Hospital has a catchment area, including the entire North Rift, where I come from; 500 kilometers away.

Mr. Deputy Speaker, Sir, I want to support this particular amendment for one simple reason, that somebody must take responsibility.

(Applause)

In the first instance, Mr. Deputy Speaker, Sir, the Board must take responsibility for failing to do its work. I would also like my good Minister, the Professor, to take responsibility for the loss in this particular hospital.

(Applause)

Mr. Deputy Speaker, Sir, we cannot play politics; we cannot display sheer incompetence or feign ignorance with people's lives. I have had occasions when five of my people were referred to this particular hospital and I had to make personal interventions for them to be treated. They had already been referred there from Lodwar District Hospital. They went to the referral facility and they were not attended to for months, even after being given appointments. I was a bit against this amendment, but on the basis of that issue, somebody must take responsibility.

Mr. Deputy Speaker, Sir, we must also take responsibility as a House. This particular matter was raised by hon. Koech as early as May this year. We are debating this matter now after people have made protestations, and when the hospital is on its knees. Where is the sense of urgency? Where is the sense of handling medical problems with the desire to resolve them? We are being told that the hospital is generating more money from the morgue than from the services rendered in the wards. What is that telling us? It is telling us that because of failure to provide services, everybody who is going as a patient to the hospital is literally going to the morgue as a corpse!

Mr. Deputy Speaker, Sir, I think the Minister owes this country a duty. He is my good friend, and I expected him to do better than this! Seriously, things must change. Decisions must be made decisively and promptly. That is the requirement of the new Constitution and in the way we manage our public resources and public affairs. It also means that we must take decisions, whether wrong or not, Minister! A decision must be made.

Mr. Deputy Speaker, Sir, I want to say that the process of the appointment must be legal. Since there was a bad practice when we allowed people to do things they way they wanted, we must now revert to the legal procedure, which means we must appoint the new CEO. I want to support my good friend, Dr. Kibosia, but acting is not enough. The due process must be followed. Go back, let Dr. Kibosia apply; let Dr. Mengich apply, let whoever wants to be the CEO apply, and then let the President make the appointment. Then, the CEO must be, as a legal requirement, become the principal officer of the institution. Is that too much to ask from my good friend, the professor?

Mr. Deputy Speaker, Sir, I support the Motion as amended.

Mr. Muthama: Mhe Naibu Spika, nashukuru kwa nafasi hii ili nichangie Hoja hii. Ninamwomba Waziri wa Matibabu katika nchi yetu asikie kilio cha Wakenya. Sauti ya mwananchi ni sauti ya kiongozi, na sauti ya kiongozi ni sauti ya Mungu.

Bw. Naibu Spika, nimefurahishwa na wenzangu ambao wamechangia Hoja hii kwa sababu hawajazungumzia mambo ya ukabila. Hawazungumzii mtu awe wa sehemu fulani. Ninafurahi kwa sababu wanasema kwamba hata kama mtu anatoka pembe gani ya nchi hii, kama ana uwezo, anastahili kupewa nafasi kuongoza kituo kile cha matibabu.

Ningetaka Waziri aelewe kwamba wakati anaulizwa kuvunja Bodi ilioko kwa sasa ni jambo limefikiriwa kwani wanaochangia sio wendawazimu. Wanaochangia ni watu ambao wanaitakia nchi hii mema. Imedhihirishwa hapa kwamba hasa wanaotoka karibu na ile hospitali wameweza kushuhudia na kuona kwamba kweli kumetokea mambo ambayo hayawezi kukubalika katika uongozi wa hospitali hiyo. Ni aibu na ninashindwa kutaja jina la mtu. Lakini aliyeteuliwa kama Kaimu Mkurugenzi wa hospitali ile, Waziri afahamu kwamba tumetoka kwa mipango ya zamani tulipokuwa tunasema kwamba mtu fulani anateuliwa kupitia mlango wa nyumba. Waziri ni mtu amepigania mabadiliko katika nchi hii na yale yanahitajika kufanyika aliyapigania yeye mwenyewe.

Bw. Naibu Spika, awali ni mmoja tu. Lakini tunataka Wakenya watume maombi yao ili wahojiwe kwa kazi ya Mkurugenzi wa hospitali hiyo. Baada ya kuhojiwa, tunataka Bodi iwasilishe majina ya watu watatu kwa Rais ili amteue mkurugenzi wa hospitali hiyo. Hatutaki jambo hili lilete kasheshe. Ninamuuliza Waziri afanye jambo hilo kwa haraka ili awapatie Wakenya mwongozo wa kuenda mbele. Hii ni mojawapo wa kielelezo ambacho kitaweza kufuatwa baadaye. Ikiwa Waziri hatafaulu kwa jambo hili, basi litatumika katika Wizara nyingine na tutahama katika mabadiliko ya Katiba mpya na kuenda kwa mambo ya zamani. Tutaanza tena kujiuliza kama tunafanya kazi kulingana na Katiba mpya ama Katiba ya zamani. Kwa hivyo, tukubali watu watume maombi yao kwa Bodi ili tupate uongozi mpya katika hospitali hiyo. Ukifanya hivyo, tutakupa heshima kubwa na Wizara yako itaheshimika.

Kama kumetokea maafa ya watu na imeweza kuthibitishwa, ni jambo gani lingine linangojewa na kutarajiwa kuzungumziwa? Ningetaka Kenya iwe nchi inayoongozwa na Katiba na Katiba ijaribu kutumiwa inavyowezekana ili tuweze kuondoka katika mambo ya kulaumiana, kukashifiana na kujionyesha kwamba hatuna kazi ambaoyo tunaweza kufanya.

Kwa hayo machache, ninaunga mkono.

*(Question of the first part of the amendment
that the words to be left out be left out, put and agreed to)*

(Question of the second part of the amendment that the word to be inserted in place thereof be inserted, put and agreed to)

(Question of the Motion as amended proposed)

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I would like to thank the Committee, which has been very thorough and will, definitely, go a long way in helping us improve the performance at Moi Teaching and Referral Hospital and, indeed, in undertaking the reforms we have proposed.

I would like to begin by pointing out a few misunderstandings, firstly, with regard to what the Report says about the advertisements at the hospital. In the first advertisement, we said that the age bracket was to be between 45 and 55 years but in the second advertisement, we removed the age bracket. This was as a result of legal advice. First, the retirement age for civil servants is 60 years. So, you cannot advertise and restrict the age of applicants to between 45 and 55 years. You can easily be taken to court on that score. Secondly, it is generally understood that when it comes to a CEO appointed on non-executive basis, the issue of age limit does not really arise, because they are not civil servants. They are non-executive persons. So, we advised the hospital accordingly, as is, indeed, is constitutionally required.

Mr. Deputy Speaker, Sir, secondly, when it comes to Government regulations, there is a very clear regulation from the Office of the President, circulated to all Ministries, that in the appointment of CEOs for parastatals, if a Board wants to renew the terms of the existing CEO, all the Board needs to do is write to the parent Ministry seeking the concurrence of the Ministry for renewal of the term of the CEO. The Ministry, therefore, can either reject or accept the recommendations of the Board. However, when it comes to advertising a position of the CEO, a sitting CEO is not allowed to apply. I have drawn this to the attention of all the parastatals under my Ministry.

In both Moi Teaching and Referral Hospital and Kenyatta National Hospital (KNH), in the first round, the Boards got it wrong. Indeed, in the case of KNH, when they came up with the names, including that of the then CEO, I rejected the list in the same manner, and told KNH to re-advertise the position because the regulations do not allow a sitting CEO to apply. I advertised the position in the case of Moi Teaching and Referral Hospital. Apparently, when I did that, all hell broke loose.

Mr. Deputy Speaker, Sir, we must be very honest here. I was following Government regulations but other people out there, who knew better, were shouting on top of their voices and compelling me to re-appoint the CEO, who should not have applied for that position in the first place. It was for that reason that I stood my ground because I knew that I was on the right side of the law. Further, we discovered, in the course of the recruitment of the CEO for Moi Teaching and Referral Hospital that the Legal Notice establishing the institution was very peculiar. It was not in line with the State Corporations Act, and was completely out of keeping with all other procedures for State Corporations under my Ministry.

Unfortunately, I must apologise that this information came to me rather late, because I had always assumed that the Legal Notice for Moi Teaching and Referral Hospital was like the others. When we discovered this anomaly, we brought it to the

notice of the Prime Minister, as the supervisor and co-ordinator of Government functions. We also wrote to the State Law Office requesting that office to remedy this anomaly. Unfortunately, by the time we wrote to the State Law Office, people had gone to court, and the State Law Office advised that we should wait until the court cases were cleared before we amended, or straightened the Legal Notice that established Moi Teaching and Referral Hospital.

Mr. Deputy Speaker, Sir, I am, therefore, very grateful to the Committee because it has recommended exactly what we had written to the State Law Office about on 13th September. We had already started advising the Attorney-General's Office to change the Legal Notice to be in line with both the State Corporations Act and the procedures and regulations affecting all other parastatals. So, I completely welcome the recommendation by the Committee because it is in line with exactly what we have recommended to the Attorney-General's Office. That means that when the law is properly put in place, it may not be necessary for the President to appoint both the CEO and the chairman. This is because the procedure is that the President appoints the chairman of the board in all parastatals and the Minister appoints the CEO with advice of the board.

So, I do hope that when the law is straightened, the running of the Moi Teaching and Referral Hospital will be in line with procedures in the Government and that we will not have this misunderstanding any more.

Mr. Deputy Speaker, Sir, having said that, I do share the concerns of the House and the Committee that we should have a CEO who will no longer be acting, but will be occupying that position substantially as soon as possible.

We are caught between the egg and the chicken. Which comes first? Do we regularize the law first, so that the CEO is appointed properly? Or do we ask the two principals to appoint the CEO and then do the law? I think that is a discussion that we will have to have with the Executive arm of the Government, with both the President and the Prime Minister, so that we solve this problem, once and for all.

I would like to tell the House that we are up to the task. All the homework has been done. The draft law amending the Moi Teaching and Referral Hospital is ready. We have communicated it to the Attorney-General's Chambers. The Attorney-General Chambers just said that they cannot take any action until those cases in court are cleared. So, it is a matter that we seek advice from the State Law Office as well as the two principals on how to proceed. But we are concerned just as much as the Committee and the House is concerned that we act expeditiously.

Thirdly, I do appreciate the amendment because if you read the litany of events, particularly when I was away from the country from December last year up to March, the board did take certain decisions that put the hospital in a lot of problems. The chairman of the board, as my dear friend Koech has said, wrote very contradictory letters. I have shared this with the Committee. I was very pained with this because I would rather have confidence in the chairman of the board. But these contradictory signals made it very difficult for us to act in unison both as the Ministry and the board. So, I do welcome the recommendations by the Committee and I will oblige.

Fourthly, I would like to say that the situation at Moi Teaching and Referral Hospital is not that bad. We have a much more serious situation in the Ministry. We have a serious situation in the Ministry where the Ministry as a whole is really cash starved. If we have another kind of crisis like we had recently with the banks and so on, we will find

out that we do not have the means to treat the people. Kenyatta National Hospital is stretched to the limit where even the medicine that is used for burns that had a stock at KEMSA have completely been exhausted. We do not have any stocks any more.

We have drawn the attention of the Treasury. We have prepared a further strategic document that shows that over the next five years from now unless Kshs85 billion is pumped into the health sector as a whole, it will grind to a standstill. Much more seriously, of immediate concern, given the fact that the shilling has been playing *kwasa kwasa* with us *vis-a-viz* the dollar, going up and down; now it is up there, KEMSA as a supplying agency is completely on its knees, because the drugs that were ordered given the previous value of the shilling, we have lost about 40 per cent of that value. If we cannot import the drugs in the next couple of months we will have a crisis in all our hospitals, not just at Moi Teaching and Referral Hospital.

The Moi Teaching and Referral Hospital had a crisis at a certain point as I started pointing out in 2008 because the financial management of the hospital left a lot to be desired and we have evidence to that effect. My concern was that we should put proper financial management capacity in the hospital to make sure that the money is properly managed, so that the hospital, like the Kenyatta National Hospital, can survive even under difficult times. This is information that as a Minister, I have in the files. I am in a position to speak with authority *vis-a-vis* the management of the Moi Teaching and Referral Hospital than anybody else.

Let me also emphasize the following fact that indeed, it is important every now and again that the management is changed even when somebody is doing well. That is why presidents are given two terms and are not allowed to renew those terms because in the running of major organizations, a time comes when somebody must be in a position to see beyond the organization and bring innovation. But when you have stayed for too long, it is very difficult to bring innovation. So, I appreciate the concerns of the Members but as a Minister, I found it very important that the management be changed at the Moi Teaching and Referral Hospital for the good of that institution notwithstanding the individual who was there.

Secondly, it is not the truth that donors are abandoning the Moi Teaching and Referral Hospital. That is not true at all. The facts are that a few months ago, a donor took there some very expensive equipment under the acting directorship or CEO of Dr. Omar. As a Minister, I am in touch with all these organizations. Our concern is that that hospital be run properly, transparently and accountably, and as the House says, with a Board that knows what it is doing and that gives proper advice to the Ministry. So, we are reading from the same page. I would not like at any one point this matter to be personalized in any way.

Further, let us use language with discretion. If we use excessive language with regard to the Moi Teaching and Referral Hospital, even the people that will go there may be scared. I would like us to shy away from exaggerations. For example, with due respect to my friend, I do not think that when you go to the Moi Teaching and Referral Hospital, Eldoret, you meet rats on the way. I do not think so. Many people who have been there have not reported this. If we paint such a grim picture of our institutions, that is not really true.

Mr. Nyamai: On a point of order, Mr. Deputy Speaker, Sir. Judging from the mood of the House, could I request that the Mover be called upon to reply?

*(Question, that the Mover be now called upon to
reply put and agreed to)*

Dr. Monda: Mr. Deputy Speaker, Sir, I want to thank all the Members who have taken their time to support this Motion. I thank the Minister too for concurring with the Report and the Committee.

With those remarks, I beg to move.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

That, this House adopts the Report of the Departmental Committee on Health on the appointment of the Chief Executive Officer of the Moi Teaching and Referral Hospital laid on the Table of the House on Thursday August the 4th, 2011 subject to deletion of all the words appearing after the abbreviation MTRH on the specific recommendations under paragraph 18 (i) on page 23 of the Report and inserting the following words, “and the current Board be dissolved and a new Board appointed in place thereof.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Wednesday 2nd November, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.