

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 3rd October, 2007

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker  
(Mr. Poghisio) in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.446*

#### IRREGULAR ALLOCATION OF MOLO POLICE STATION LAND TO PRIVATE DEVELOPER

**The Temporary Deputy Speaker** (Mr. Poghisio): The Member for Molo is not here! Let us give him a few more minutes!

Hon. Members, the Question by the Member for Samburu West is deferred until tomorrow.

*Question No. 051*

#### ESTABLISHMENT OF DROUGHT CONTINGENCY FUND

*(Question deferred)*

Next Question by the Member for Nakuru Town!

*Question No.468*

#### LIST OF GOVERNMENT/DONOR-FUNDED WATER PROJECTS IN NAKURU TOWN

**Mr. Mirugi** asked the Minister for Water and Irrigation:-

(a) whether he could list water projects funded either by the Government or other development agencies in the 2006/2007 and 2007/2008 financial years in Nakuru Town;

(b) whether he could also confirm that the African Development Bank (ADB), the GTZ and the Japan International Development Agency (JICA) had pledged \$20 million, \$5 million and \$8 million respectively to fund water projects in Nakuru Town prior to the year 2000; and,

(c) if the answer to (b) above is in the affirmative, whether he could table

the agreement documents signed by both the Kenya Government and those institutions and explain what is causing the delay in releasing the funds.

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Mr. Temporary Deputy Speaker, Sir, on behalf of the Minister for Water and Irrigation, I beg to reply.

(a) Rehabilitation and augmentation of Nakuru Water Supply and Sewerage Project is being undertaken through funding from the Government and the ADB. The rehabilitation and augmentation works commenced in the last Financial Year, 2006/2007, and are scheduled to be completed by mid 2009.

(b) There were no pledges for funding of water projects in Nakuru Town by the ADB, GTZ and JICA prior to 2000. However, the GTZ provided funds for institutional capacity building for commercialisation of water services in Nakuru Town in line with the water policy.

(c) The Government requested funding from the ADB for rehabilitation and augmentation of water supply and sewerage facilities in Nakuru and other towns and rural areas within the Rift Valley Water Services Board area in the year 2002. The Bank appraised the project in the year 2004 and subsequently the Government signed a loans and grant agreement with the Bank in September, 2004 for a total of Kshs1.9 billion. Part of the funds have already been released and the implementation of those works is going on.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Mirugi:** Mr. Temporary Deputy Speaker, Sir, I would like to thank His Excellency the Vice-President for the answer. My question is: How much water will this project add to the water system of the town upon completion? Is there a targeted cubic metres capacity that we should expect once this project is complete?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, Nakuru Town receives an average of 35,000 cubic metres of water per day from various sources - including the greater Nakuru East Water Supply - against a demand of 65,000 cubic metres per day. Therefore, there is a shortfall of 30,000 cubic metres per day, thus necessitating water rationing in the town. The amount of cubic metres of water that will be added to the supply will meet the current demand of 65,000 cubic metres of water per day.

**Mr. Waithaka:** Mr. Temporary Deputy Speaker, Sir, the Vice-President and Minister for Home Affairs has said that the money was actually allocated to service areas which are served by the Rift Valley Water Services Board. One of the towns around Nakuru, which may not be in the Rift Valley, but which is in the source of the water for Nakuru, namely the River Marewa and Konoike Dam, is called Murungaru; there is also Miharati Trading Centre. When are those towns, as per the agreement, going to be supplied with water? They fall within the catchment area of this major supply to Nakuru Town.

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, once the project is fully operational, and the outlying areas which fall within the catchment area make a request, they will be connected to the water line.

**Mr. Ndolo:** Mr. Temporary Deputy Speaker, Sir, most of the water projects in urban areas have had a lot of problems since water services were privatised. Could the Vice-President and Minister for Home Affairs tell the House what mechanisms have been put in place to make sure that the problem is solved? Currently, the problem is even worse than before. There is scarcity of water. People do not get water.

**The Temporary Deputy Speaker (Mr. Poghio):** Ask the question!

**Mr. Ndolo:** What is the Ministry going to do to make sure that the projects that have been funded are going to properly serve the people who are in urban areas?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, as the questioner rightly puts it, water services in urban areas have been privatised. I know, for instance, that in Nairobi, the intake at

Gatanga is being expanded, and water will be coming. So, what needs to be done is improvement of the services of the private companies. What appears to be scarcity of water is, really, efficient working of the private organisations as opposed to the past when people used to syphon water illegally. This is no longer happening. The intention is for the private companies to ensure that all parts of urban areas, including Nairobi, are properly served and given water.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Mukiri:** Mr. Temporary Deputy Speaker, Sir, that funding was also supposed to benefit part of my constituency. Three towns namely, Njoro, Molo and Elburgon were earmarked for that funding. That money was promised to us sometimes in the year 2000. But up to today, nothing has been going on, on the ground. When we request for information, we are told that donors have added more conditionalities. I have heard from the Vice-President and Minister for Home Affairs that they have released part of the funding. Could I know how much money has been released? What conditionalities are still pending, so that we can access that funding?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, the current information that is available concerns Nakuru District for the financial years, 2006/2007 and 2007/2008.

In the last financial year, a total of Kshs12.5 million was spent in the district as follows:-

The construction of rural water supplies at a cost of Kshs7.5 million and the construction of Naivasha Sewerage at a cost of Kshs5 million.

In the current financial year, a total of Kshs77.9 million has been allocated in the larger Nakuru District for the following activities:-

The construction of rural water supplies at a cost of Kshs32.5 million. The construction of urban water supplies at a cost of Kshs16 million. The construction of a sewerage system at a cost of Kshs6 million. The construction of dams and pans at a cost of Kshs74.4 million

and the construction of ground water structures at a cost of Kshs6 million. All that amounts to Kshs77.9 million. I cannot vouch whether Molo District was included in that expenditure.

**The Temporary Deputy Speaker (Mr. Poghiso):** Last question, Mr. Mirugi!

**Mr. Mirugi:** Mr. Temporary Deputy Speaker, Sir, could I request the Vice-President and Minister for Home Affairs to make an assurance to Nakuru Town residents, through you, that once that project is complete, the issue of water rationing will be a thing of the past? He mentioned that the capacity that we have right now is 35,000 cubic metres, and the requirement is 65,000 cubic meters. He also said that once that project is completed, it will meet the demand. Could he make that assurance now?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, it is difficult to give that assurance. But once the scheme is complete, the demand, which is 65,000 cubic metres per day, will be supplied. I am sure that, if my friend could tell the people in Nakuru Town that, he will be assured of coming back!

**The Temporary Deputy Speaker (Mr. Poghiso):** That was not the Question! Hon. Members, let us now revisit the Question by the hon. Member for Molo Constituency!

**Mr. Mukiri:** Mr. Temporary Deputy Speaker, Sir, let me, first of all, apologise for coming in late. I was held up in a traffic jam!

**The Temporary Deputy Speaker (Mr. Poghiso):** Mr. Mukiri, could you use the microphone?

**Mr. Mukiri:** Mr. Temporary Deputy Speaker, Sir, I was just apologising for coming late. I was held up in a traffic jam. I hope that, one of these fine days, we will be able to fix that problem. Nevertheless, let me ask my Question!

IRREGULAR ALLOCATION OF MOLO  
POLICE STATION LAND TO  
PRIVATE DEVELOPER

**Mr. Mukiri** asked the Minister for Lands:-

- (a) under what circumstances was land belonging to Molo Police Station allocated to a private developer; and,
- (b) what remedial measures he is taking to deal with the anomaly.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, on behalf of the Minister for Lands, I beg to reply.

(a) I am not aware of any allocation to a private developer of land belonging to Molo Police Station.

(b) Given the response I have given in part (a) above, further action does not apply.

**Mr. Mukiri:** Mr. Temporary Deputy Speaker, Sir, this is the second time I am asking this Question. It is unfortunate that I do not have the HANSARD for the previous time when I asked this Question.

Previously, the Ministry of Lands had promised to solve that issue because somebody had already taken some land. He is almost blocking the Molo Police Station. I am now surprised to hear from the Government that it cannot see something that the public in Molo can see for itself! Could the Minister for Lands undertake to visit that particular place? That is because even inside the police station, there are some beacons. That shows that part of the land that belongs to the police station has been allocated to some people. Could he undertake to come and see for himself physically, so that he can be aware?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, indeed, I will ask the Minister to personally go and check. But the information that we have shows that in the approved Molo Development Plan No.33 of 1964, the land was earmarked for a police station. It measures 1.3 hectares and it is still intact. The land is clearly marked blue on the plan indicated. It is shown as a public utility land. That can be seen in the Ministry of Lands and even in the police station. The claim that has come from the Police Department that part of the land belonging to the police station has been allocated to a private developer has not been substantiated by any documentary evidence. But as the hon. Member has requested, the best way is for the Minister to actually go and see for himself. If, indeed, there are beacons in the 1.3 hectares, then action will, naturally, be taken.

**Mr. Ndolo:** Mr. Temporary Deputy Speaker, Sir, nowadays, land grabbing is not only in Molo District. Here in Nairobi, it is a common thing which is going on right now. Just last week, around Mombasa Road, the police were protecting somebody who had grabbed public land. What is the Ministry doing to make sure that the police, who are collaborating with land grabbers here in Nairobi, desist from doing so? That is a serious matter. If we are going to allow that, all the public land in Nairobi will be finished by the land grabbers!

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, that is quite a serious matter that has been brought forward by the hon. Member for Makadara Constituency. Even though I am not the Minister for Lands, I feel very strongly that the police should never be used to protect any land grabber. I would like the hon. Member to give me the details of the public land that has been grabbed so that action can be taken immediately! I mean today and not even tomorrow!

**Mr. Karaba:** Mr. Temporary Deputy Speaker, Sir, the issue of grabbing land by individuals in Kenya is a very serious matter that we should all condemn. There are very many public utilities which have been grabbed. Some time back, there was a repossession exercise that was going on - I think that was last year but one. What happened to that repossession exercise? If

it is still in force, when will the Ndung'u Report be tabled in this House? I think it is the one that sought to address all these problems.

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, somehow, we must cure Kenyans of land "grabiossis". It is serious. However, we actually need the details.

With regard to when the Ndung'u Report will be tabled in this House, again, this is in the domain of the Minister for Lands, and I will convey the information to him so that it can be tabled here and discussed. With regard to the process of recovering land, I think it entirely depends on various Ministries. As far as the Office of the Vice-President and Ministry of Home Affairs is concerned, which I happen to be responsible for, we are continuing with the recovery of prison land that had been grabbed by individuals. We are almost completing the exercise.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! The manner in which the Question is framed will elicit the kind of answer you get. The Question is: "Under what circumstances was this land allocated"? The Vice-President and Minister for Home Affairs said, "It was not allocated". You create a difficulty in the Minister to answer anything further than that. I am saying this to the Questioner because when he put his Question forth, it kind of reached a dead end. This is as a result of the way the Question was asked.

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, the relevant Ministry has failed to bring to the House the Ndung'u Report. The repossession of land is not going on as was recommended by the same Report. The Government has failed to bring to this House the Ndung'u Report which has findings about land that was grabbed a long time ago. The Report also recommends repossession of the grabbed land.

In Maragua Constituency, we know of land that was grabbed. We went there, as members of the public, to repossess it. Could the Government, through His Excellency the Vice-President and Minister for Home Affairs, consider granting permission to the people of Molo, who already know that this particular piece of land belongs to the public, but has now been grabbed? Could the Government consider allowing the public to repossess the land? Apparently, the Government has been unable to disclose the findings of the Ndung'u Report. So that the public can take back what belongs to it, could the Government consider allowing the people of Molo to repossess this grabbed piece of land? This is because the land is physically---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Mbau! Are you asking a question or answering it? You are asking a question and then following it with "because". You are answering the same question you have asked. You have already asked your question. Will the Vice-President and Minister for Home Affairs answer that?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, I can only reiterate what I said earlier on; that the Minister for Lands will visit Molo to corroborate what has already been stated. If he finds out that, indeed, the land has been grabbed, then it will be repossessed. I do not think there is necessity for the people of Molo to do that. The Minister himself will do it.

**The Temporary Deputy Speaker** (Mr. Poghisio): It is also ironical that members of the public should now go and help the police to repossess their own land. That is very interesting.

**Mr. Waithaka:** Mr. Temporary Deputy Speaker, Sir, let me follow up the issue from where Mr. Mbau left it. One of the biggest problems we have is that even if we advise this Government about the grabbing of public land, no action seems to be forthcoming. For example, in my constituency, we have even given documentary evidence to the Government and the Ministry of Education. Somebody by the name of Mr. David Kamau Ndirangu has actually grabbed---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Waithaka! Let us not use this House to settle scores with anybody. I have not asked you to name anybody. Just explain to us the situation!

**Mr. Waithaka:** Mr. Temporary Deputy Speaker, Sir, I am not settling scores, but this has

also been said in this House. I will, however, not go that direction.

Mr. Temporary Deputy Speaker, Sir, somebody has actually grabbed land and obtained a title deed for a school called Ragia Primary School. We have given the document to the Ministry of Education to try and repossess this land. The school is actually holding the piece of land, but somebody is holding the title deed. The Government cannot assist even in reverting the position and have the title reverted to the school, which also had its own title deed which was---

**The Temporary Deputy Speaker** (Mr. Poghismo): Order, Mr. Waithaka! Are you asking a question or you are narrating a story?

**Mr. Waithaka:** Mr. Temporary Deputy Speaker, Sir, I am asking a question. Arising from what Mr. Mbau was saying, we are worried that the Government is not taking immediate action when we raise these issues. That is why Mr. Mbau was trying to insist--- If the Government cannot take action after being given the documentary evidence, could the public be asked to go and deal with this matter? That is really our concern. The problem is actually about the Government failing to table the Ndung'u Report in this House and to take action.

**The Temporary Deputy Speaker** (Mr. Poghismo): Order, Mr. Waithaka! You have turned this Question Time into a debate!

**Mr. Waithaka:** Mr. Temporary Deputy Speaker, Sir, the Vice-President and Minister for Home Affairs said that his Ministry is in the process of repossessing land which was grabbed. What about the other Ministries? As the Leader of Government Business, has he advised the other Ministries to do the same as his Ministry?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, I will collect the HANSARD, photocopy and circulate it to various Ministries with instructions that from now on they must start the exercise of repossession of any land within their Ministries, which was grabbed by land grabbers.

**The Temporary Deputy Speaker** (Mr. Poghismo): Last question, Member for Molo Constituency!

**Mr. Mukiri:** Mr. Temporary Deputy Speaker, Sir, you have just heard what the Vice-President and Minister for Home Affairs has said; that he will instruct Ministries to repossess land which was grabbed. However, the answer to this Question is a true attestation that the Ndung'u Report is as dead as a dodo. It cannot help us. The sooner the Minister makes that as a public declaration---

This land was mentioned in the Ndung'u Report. I remember that the hon. Maina Kamanda, when he was the Assistant Minister for Local Government, visited this place and assured the people of Molo that no construction would go on. He told us that the Government was serious in implementing the Ndung'u Report. However, all of a sudden, this developer has come and he has started developing the property. In fact, he has said that the Ndung'u Report does not exist! Could we know from the Government if we should forget about the Ndung'u Report because private developers have already taken over now and yet the Government keeps on telling us that they are going to implement the Report? Could we know so that we can forget all about these reforms?

**Mr. Awori:** Mr. Temporary Deputy Speaker, Sir, the HANSARD will bear me out. I have already answered that question. I do not know why I should repeat my answer again.

**The Temporary Deputy Speaker** (Mr. Poghismo): That is the end of Question Time.

**Mr. Lesrima:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to apologise for coming late to ask my Question.

**The Temporary Deputy Speaker** (Mr. Poghismo): Mr. Lesrima, I had actually ruled on your Question; that it be deferred until tomorrow. So, you will ask your Question tomorrow.

**Mr. Lesrima:** Much obliged, Mr. Temporary Deputy Speaker, Sir.

**MOTIONS****A BILL TO AMEND THE HELB ACT**

THAT, in view of the inequitable and unstructured distribution of loans managed by the Higher Education Loans Board (HELB) for students in institutions of higher learning; aware that the funds distribution has tended to favour students from urban areas and highly populated regions of this country; cognizant of the need to provide all young persons with equal opportunities to acquire knowledge and specialized skills; this House do grant leave for the introduction of a Bill for an Act of Parliament to amend the Higher Education Loans Board Act, Cap.213A of the Laws of Kenya, to provide for a decentralized Constituency Higher Education Loans Scheme (CHELS) to ensure equitable distribution of loans' funds at the constituency level to students in both regular and parallel programmes studying in public and private universities and for matters incidental thereto and connected therewith.

*(Prof. Mango on 26.9.2007)*

*(Resumption of debate interrupted  
on 26.9.2007)*

**The Temporary Deputy Speaker** (Mr. Poghiso): The last speaker on this Motion concluded. So, we are ready for anyone who is interested to contribute. By the way, this is a very important Motion by Prof. Christine Mango.

I give the Floor to the hon. Member for Kerugoya-Kutus!

**Mr. Karaba:** Mr. Temporary Deputy Speaker, Sir, this is a very important motion. It has come to this House for deliberations and I fully support it. I wish to give the following suggestions. The Higher Education Loans Board (HELB) was established to save students who cannot afford to pay fees, particularly in our public and private universities. This Motion has come at the right time. That is because free primary education has already been initiated from Standard I up to Standard VIII. We have also been promised that next year, we will have free secondary education from Form I to Form IV. If that happens next year, we will have very many students proceeding to the universities. Some may not access university education because they could not sit for Kenya Certificate of Secondary Education examinations due to lack of fees. But the fact that it would be free education come next year, we are going to see an increase of students proceeding to the universities in 2008.

So, that calls for the Government and the Ministry of Education to think of ways and means of expanding the capacity at the universities because what we have right now may not be adequate. Of late, we have seen many Kenyan students moving towards the West - that is Uganda - for further education, particularly for university education. I have in mind a university called Kampala International University. Three quarters of students in that university are from Kenya. Many other universities in Uganda have also been dominated by Kenyan students. That is just because they cannot afford to get university places here in Kenya because of lack of space.

Many students will qualify to join universities next year because of free secondary education. Many students will fail to join universities because of lack of fees. This Motion has, therefore, come at the right time. If it were not for the spirit of this Motion, many students who will complete Form IV this year may not join universities because of lack of fees. So, if HELB, the way

it is designed here, could continue helping and assisting students who cannot afford to pay fees because of their families poor financial background, it would be very good.

Mr. Temporary Deputy Speaker, Sir, the Higher Education Loans Board (HELB) is located at the 16th, 17th and 18th Floors of Anniversary Towers. Many students do not even know where that building is located. That building should be located at a more centralised location so that, majority of students can access it. I have in mind students who come from North Rift, North Eastern and Coast provinces. Those students have never been to their provincial capitals. They do not know where HELB offices are located. After signing the HELB loan forms, they have to bring them all the way to Nairobi to be processed. Those loans are to be processed within a timed framework. So, in most cases, many students are late to apply for those loans. The money is not even enough. They end up spending a lot of money travelling to and from Nairobi to check whether they have been allocated any money.

So, Mr. Temporary Deputy Speaker, Sir, once the Motion is passed - and I believe it will be passed - it will help students who had no time to come to Nairobi. It will help students who have no money to continue with university education. It will help students who do not even know how to access those funds. I support the spirit of this Motion. If HELB programmes could be decentralised to the constituencies - or even the district level - students could know how to get that money. That way, they will be seen as equals in terms of university education.

Those loans should be extended to students who are unable to pay their fees. Of late, so long as you are able to obtain the forms, you can apply for those loans. That is disadvantageous to students from poor backgrounds because they cannot access the information. Those loans should not be given out to students who know where those forms are. We need more information about that department. The only way we can do it is to decentralise HELB. That is the spirit of this Motion.

Mr. Temporary Deputy Speaker, Sir, HELB loans are given to students in public universities. They are not given to students who attend private universities. There are some discrepancies. Private students are not given the same amount as those in public universities. The maximum a student in public university can get is Kshs65,000 per year. A student in private university can get a maximum of Kshs35,000. It is anticipated that those who attend private universities can afford to pay their fees. That is not the case. Majority of students in private universities cannot meet the requirements of public universities. The degree choices is also a great hinderance in the sense that some of the students may want to do a degree of their choice. If that degree of their choice is not offered by a university, the student would enrol in a private university. So, private universities, therefore, should not be seen as a way of discouraging students to get HELB loans. They help the students to access the degrees of their choice. That is also noted when the HELB money is given. I am, therefore, suggesting that even students in Module II Programme should be considered for HELB loans. We are going to consider students who would like to pursue degrees of their own choice.

Mr. Temporary Deputy Speaker, Sir, this Motion is urging the Government to decentralise HELB and avail loans to students who cannot access the same from Anniversary Towers. I am sure that when this Motion is passed, we will have an increase and fair distribution of that money. That is taxpayers' money. It should be well distributed. We are going to cater for those students who cannot afford to pay fees.

Similarly, instead of HELB loans being given secretly to those who apply, let it be pegged on a grade system. If a student attains "C"+ or "B"- and he is poor, he or she should be given that money without further ado. We should not put very many bottle-necks. We should ensure that our students continue with their studies once they have passed. Let us peg it on degrees that are given by various universities and the performance of students in KCSE examinations. If "C"+ is the



minimum requirement for any student to get to the university, let it be pegged on that grade. If that happens, we are going to cater for parallel degree students, private students and those who attend public universities. That will really boost most of the students who cannot afford to continue with university education.

With those few remarks, I beg to support.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, the Motion talks about inequitable and unstructured distribution of loans as managed by the Higher Education Loans Board (HELB). Whereas I support the spirit of the Motion, I am wondering whether the solution provided is real. Whether you are going to deal with the issue of inequitable distribution or unstructured ways in which the HELB handles the Fund, by devolving it to constituencies, I had rather thought that HELB would run this system from all higher education institutions so that in every higher education institution, and not just universities, we have a department that deals with the HELB. As students join that institution, whether university or polytechnic, that department would deal with the issue. First, we should make sure that higher education institutions are reasonably spread around the country. There is no reason why, in this day and age, we should not have three or four universities in every province in this country.

**The Temporary Deputy Speaker** (Mr. Poghisio): Are you moving an amendment to the Motion in that sense?

**Prof. Anyang'-Nyong'o:** That is for the Mover. I am contributing to the Motion. That would be at the discretion of the Mover. I am not amending it.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! You only have a short time left. So, you had better finish making your contribution.

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, finally, the issue with the HELB is the problem of the recoverability of the loans. The solution lies in compelling all employers, not just those who are in the public sector but also in the private sector, to treat the recovery of HELB loans as part and parcel of statutorily deductions. If, indeed, every employer, when employing somebody, had a section in their contract that says that if this person has a loan, it must be statutory deducted, that would solve the problem of money not being paid back to the HELB. The money would then be re-distributed to more students. We are having problems now because there is no recoverability. That money cannot be used equitably to cater for other students. So, my contribution is to emphasise the fact that there is, indeed, a problem with the HELB and the manner in which the money is being distributed. The observation made by the hon. Member is correct. I doubt very much that the solution that is being provided; decentralising the HELB funds to constituencies will really solve the problem. We must look at this issue very carefully. If you multiply centres of distribution without literally enhancing the resource you are distributing, you will not achieve much because recoverability will still be a problem. Very soon, you will find that these multiple centres of distributing the loan will have very little to distribute.

Mr. Temporary Deputy Speaker, Sir, I beg to contribute and not necessarily to support.

**The Temporary Deputy Speaker** (Mr. Poghisio): Well, we have passed that! You cannot make a decision as to which side to take?

**Prof. Anyang'-Nyong'o:** Mr. Temporary Deputy Speaker, Sir, I would have proposed an amendment!

**The Temporary Deputy Speaker** (Mr. Poghisio): I think it is now time for the Government Responder to speak.

**The Assistant Minister for Education** (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir for allowing me to respond to this Motion. I would like to say, at the outset, that I oppose the idea of decentralising the HELB loans for a number of reasons.

First of all, I will give you a bit of the history of the loan system which was established in

1995 by an Act of Parliament. The loan system was established with the broad objective of granting support to Kenyan students in higher education institutions both locally and abroad. The beneficiaries are students in public and chartered private universities. The support is based on their level of financial need. In this connection, the HELB has come up with a criteria; a measurement and an instrument that detects the extent of need that goes back all the way to the schools where the students collect the forms which are signed by people who know them, including local administrators and other people in the local community. The form is again very closely scrutinised by the HELB because the universities have also to give supporting information on the students.

It is not true that only a few students from urban areas and areas which are densely populated get the loans. As a matter of fact, all students are eligible to apply for funding. As we have shown, virtually, 98 per cent of the students who apply for the loans are able to receive it. They come from across the broad cross-section of Kenya. As I said, the distribution, with a margin of error here there, is based on a very transparent criteria and issues like gender, religion, social background, among other information, is evaluated as long as it is relevant. So, in other words, you cannot be discriminated against because of your religion, or because you come from a certain region or because of your gender or because you have other physical disadvantages, for instance, if you are physically challenged.

With regard to the most remote parts of the country, in fact, I would say per applicant, these areas benefit more than the highly densely populated parts of this country. Virtually, all students from the remote parts of this country get loans. As evidenced from one student from North Eastern Province who wrote a letter recently, following a debate we had last Wednesday, in *The Standard* newspaper of 28th September, he indicated that he collected data about university students from the North Eastern Province. I, occasionally, get students coming to my office, who give me information about students who have missed out on the loan distribution by HELB. He found out that, virtually, all students in university from that region got loans. Virtually, all students from that part of the country got loans. Their complaint was much more with the bursary allocation and the CDF resources that are given out in the constituencies. Their argument was that, in most cases in many of the constituencies, if you are politically-connected to the politicians or you are well-off in some way because you supported someone, you are able to get that money whether or not you need it, as opposed to what the students found to be the actual evidence with regard to university loans.

Mr. Temporary Deputy Speaker, Sir, in discussing this issue, on whether or not members of certain communities get more loans than others, it is important to point out that there are rich and poor people everywhere. If you go to the slums of Mathare in Nairobi, you will find that there are more people there than they could be in North Eastern Province or Baringo, among other places. So, poverty has got much less to do with numbers as opposed to the socio-economic background of the students and the kinds of occupation available to those who live in those communities. Therefore, it is expected that there would be more needy cases in the slums of Nairobi. Likewise in Kiambu, Kabete or Nyeri; areas of this country which are thought to be well-off, there are many poor people and poor students. There are more poor people there than those in Tigania, where I come from, because of the environment. We would expect that more students from those areas would get support. That has absolutely nothing to do with the fact that those areas are may be being favoured. We should be talking more about proportions. What proportions of the poor from those communities have been able to get support and is the situation the same in terms of numbers across the country?

Much has been said about the way forward. I think the way forward is not to decentralise. First, we have to evaluate whether the HELB has become cost-efficient in terms of management. This has taken time. Through time, we have got to a point where we can now say that the management of the loans fund is much more cost-efficient. Therefore, to begin revolving it again

and to start new structures is to take away money that would be used to support needy students.

So, starting new structures is okay if they lead to some cost savings. But if real structures lead to taking money away from those who should benefit from those loans, then there is a problem, and that is exactly what would happen. In any case, there is no guarantee against some abuse. The more you decentralise little resources, the more we are likely to fight cases of abuse. The example of the bursaries has been given; there have been complaints. Obviously, this is not so across the whole country. It is not every constituency that has this problem. But there are problems in a significant number of constituencies.

Mr. Temporary Deputy Speaker, Sir, this is also the case with the Constituencies Development Fund (CDF) resources. Again, there have been complaints. The point I am making is that decentralisation does not always lead to more efficiency. In fact, it can lead to inefficiency, lack of transparency and use of other criteria for determining who benefits as opposed to the transparency that is now almost being achieved through the Higher Education Loans Board (HELB).

If only hon. Members were arguing for some form of affirmative action; if we were saying, because in remote areas, very few students get a C+ grade, which is required to go to university as opposed to those in the more advantaged and densely-populated areas, which have had a longer history of formal education, where many students get higher grades like B, then those students cannot compete. This is so because of the kind of schools they go to and the grades they achieve. What we should be talking about is coming up with an affirmative action programme, in terms of specifically targeting those communities. We should say that if you have a C+ grade from those communities--- If we are saying you need a B grade from other areas where schools are much more developed to go to university, then a C+ grade from disadvantaged areas should be guaranteed a university place. If you do that, you will have more students from those areas going to university and, therefore, benefitting from university loans. I think that should be the argument.

The argument should be much more about what we can do to get more of those students to go to universities, because loan allocations are proportionate to the numbers, and whoever qualifies and goes to the university gets them. But fewer students from remote parts of this country, and even from some slum communities, make it to the university. They are fewer in terms of absolute numbers. Therefore, the aim should be to see how we can increase those numbers because if we get them, then loans will be available to them.

Secondly, we need to look for other sources of support. Government support has been there for some time. Quite a bit of money has been disbursed through the Government, but it is not enough because of other demands, especially the demand for primary and secondary school education and other needs in the education system, in particular salaries for teachers.

So, what possibilities exist for us to ask beneficiaries of university education like private companies to also put in money as a way of giving back by supporting students, because they happen to be the biggest beneficiaries of university education? Why do we not look for a way of getting them to contribute through some form of taxation in support of the loan system? This would increase the amount of money available. Fortunately, already we have some contributions from some private sector players. The East African Breweries Limited (EABL) has a loans scheme; it offers bursaries to university students. There are also the Equity Bank, the Barclays Bank of Kenya and the Ratansi Foundation. There are a number of organisations that provide this kind of support. But we need to go to others, who have the potential to support university education, especially in view of the fact that they are the biggest beneficiaries of this education.

Mr. Temporary Deputy Speaker, Sir, there are also individual Kenyans who can start programmes for supporting university students. If you look at the philanthropic organisations that are supporting university education in this country, many of them are external. The only indigenous

one is the Ratansi Foundation, started by Mr. Ratansi, a Kenyan of Asian origin. The other day, Mr. Joe Wanjui started a foundation, but there are many more Kenyans with so much money that they can use to support students. So, we should encourage them to also start foundations and give them an incentive through tax breaks, which is the case in many countries of this world. The Rockefeller and the Ford Foundations were started by individuals who had money, but the government gave them tax exemptions, because they put money in the hands of the poor. There are not enough Kenyans who are using their money to support Kenyans in secondary schools and universities. There are many who have the ability to do that. So, we have to go out to many of these rich, but mean people, and get them to put back money to communities that have made it possible for them to make this money.

I would also like to say that we all need to get much more involved, as hon. Members, in terms of mobilisation of resources, by participating in making sure that the resources that are available are transparently allocated, and that many of the poor students in our own communities benefit. Even from our own resources, as hon. Members, the CDF and others, we should put some money aside to supplement the resources that are available from the Government.

We also have a problem because university education continues to be more expensive than it is in, say, India. The example of Uganda has been mentioned, but we should be careful about the kind of university education we are talking about. There has been expansion to the extent that--- If we expand universities, and do not centralise them in cities, and are away from where the majority of people live, you expect that education to be expensive. This is why, for example, we are saying that one of the reasons why university education is seen to be expensive, and out of reach of many, and why we have few students coming in, is because of this tying of admission to bed space. If we opened up universities and brought them closer to the people, so that we have a major university in Kajiado, North Eastern Province and strengthen the universities that we are establishing in the coast region and in other provinces across the country, where students can easily go to university, even as day scholars, I think university education would be less expensive. It would also be less necessary for us to talk so much about HELB money not being adequate, and being concentrated in the hands of those who come from the more densely-populated areas and urban centres. This is because universities will be devolved. It is not enough to just devolve the money, but I think we need to devolve the institutions themselves, so that they are closer to the people, and so that we have more Kenyans benefiting from university education. This should be done simultaneously with the lowering of the grades to ensure that all those who have a minimum grade have a chance to go to the university. In this way, we will be increasing the pool of those who can benefit from that facility.

Mr. Temporary Deputy Speaker, Sir, a point was made by Prof. Anyang'-Nyong'o on the extent of recoveries. One of the biggest problems, and this is an area that we need to improve on, is loan recovery. There are many university graduates out there who do not want to pay back. The other day a university started an alumni association. There are many beneficiaries of the University of Nairobi (UON) who do not even want to contribute to supporting it, yet doing this is, again, a tradition all over. This tradition of the alumni supporting their former universities and secondary schools will make a difference in terms of improving the quality of those institutions. But beneficiaries of those institutions, about 80 per cent of them, have no interest in their former institutions. I do not know whether Africans and Kenyans are generally selfish by nature, so that you forget whoever your benefactor was. I think we need to get into the tradition of realising that, if I have benefitted from high school education, I have a responsibility to give money so that others can benefit as I did. This also applies to universities. Some of these rich people, who have graduated from universities, should go beyond libraries to support other infrastructure in the universities as a way of reducing the cost of university education and, more importantly, to pay

back. This has been the biggest problem for HELB.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! That kind of consultation is very loud!

Proceed, Dr. Mwiria!

**The Assistant Minister for Education** (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I was at the point where I was saying that we Kenyans, who are privileged, should put much money in education. If politicians, for example, put in as much money in university education, by supporting students with loans, as they put in *barazas* during campaigns, the handouts that we give out--- If we gave as much to a cause that is more organised, I think we can see more benefits than when you spend money on causes that bring nothing except just votes for yourself.

I was talking about recovery, and I was going to point out that in 2002/2003, Kshs1.2 billion was given out; in 2005/2006, Kshs1.8 billion was given out and in 2006/2007, Kshs1.8 billion was given out, but the recovery has barely been over Kshs2 billion for all those years! So, it is a very serious situation.

Mr. Temporary Deputy Speaker, Sir, I realize that my time is up but I---

With those few remarks, I would like to object to the part about decentralizing because of the expenses involved. It does not solve any problem.

**The Temporary Deputy Speaker** (Mr. Poghisio): Well, I will now call upon the Mover to reply.

**Prof. Mango:** Thank you, Mr. Temporary Deputy Speaker, Sir.

First of all, I would like to take this opportunity to thank my fellow colleagues who have contributed to this Motion. The spirit of the Motion was that there is need to amend the Higher Education Loans Board Act, Chapter 213(A) to allow for the introduction of the Constituency Higher Education Loans Scheme (CHELS) so that we can ensure that all students who qualify from all corners of the country can access the loans.

Mr. Temporary Deputy Speaker, Sir, the reason why I am calling for that is that, the Joint Admissions Board (JAB) cut-off points have been rising every year. One time, it had reached "A"-. Now, many areas in the country do not have good learning facilities. They cannot raise a single student with "A" or "A"- to qualify for university education. If we decentralize HELB, a student with a grade of "C"+ from such an area would qualify. He or she would be considered by the Constituency Committee and given the money to pursue university education. What the Assistant Minister is saying is that we should lower the cut-off points. But then, even when we lower the grades, they will go through the computer. The computer cannot see the face of a student from the community which does not have good learning facilities. So, as much as lowering the grade is good, but let us lower the grade and leave it to the community. The community knows who is an orphan. It knows the student who went through a school that had no electricity; the student was studying by using a small kerosene lamp at night. He or she could not read for many hours because of lack of electricity; the student was confined to reading during daylight. There are many areas in Kenya where there is no electricity in secondary schools. Those areas include the constituency that I represent. It is not the worst of them all.

Mr. Temporary Deputy Speaker, Sir, when we talk about qualifications, the constituency will take into account the fact that, a "C"+ in Butula could be equivalent to a "B"+ in Nairobi. Those are the sentiments that can only be taken care of by different constituencies. They would take into account the circumstances prevailing in their areas.

Mr. Temporary Deputy Speaker, Sir, the Fund needs to be increased to take care of as many

Kenyan as possible. There is need for equity because, according to the figures from HELB, there is a lot of lop-sided allocations. A student from the furthest corner of Kenya may not know that HELB exists. But if it is at the constituency level, the student will know that it exists. Many students miss out! For example, I have a student in my constituency who did his exams in Kisii. He had overall "A"-. He never even applied to JAB, leave alone the HELB. Therefore, at the constituency level, it is easier for the student to know what is available.

Mr. Temporary Deputy Speaker, Sir, "C"+ is the confirmed qualifying mark. But many students who attain that grade are left out. But because of the JAB cut-off points, they never qualify for those loans and yet, they might be the best students in that secondary school. Those who are left out have nowhere to seek redress. Therefore, it is only through decentralization that such students could be taken care of.

Mr. Temporary Deputy Speaker, Sir, since it is a loan which is repaid with interest, Africans should get sufficient loans.

**The Temporary Deputy Speaker** (Mr. Poghio): Order, Prof. Mango! This is actually time for you to respond.

**Prof. Mango:** Yes, Mr. Temporary Deputy Speaker, Sir. I am responding!

Mr. Temporary Deputy Speaker, Sir, I would like to wind up by saying that the recovery needs---

**The Temporary Deputy Speaker** (Mr. Poghio): Order, Prof. Mango! I am not asking you to wind up or anything like that. Your time is still there. You still have some more time. I am just saying that in the time of responding, you should respond to what others have already talked about. You should not restart contributing to the debate.

**Prof. Mango:** Thank you, Mr. Temporary Deputy Speaker, Sir. I am just responding to what the Assistant Minister said. He said that "C"+ should be recognized. But, there are very many Kenyans who qualify with a "C"+ and when they are entered into a computer, the "C"+ from Butula is not recognized. A "C"+ at the constituency level may be recognized by the people and, therefore, the student may be considered for a loan. But if we leave it to the computer to decide, many students from many areas may be left out because of the number of students with "C"+ and, therefore, do not merit as much as they would merit in their own situations.

Mr. Temporary Deputy Speaker, Sir, the gender issue also needs to be addressed. That is because in Kenya, the reason why many women lag behind is because they do not get into institutions of higher learning. The proportion is very small. Therefore, at their own local levels, they would be considered and their numbers increased.

Mr. Temporary Deputy Speaker, Sir, I take this opportunity to thank all those who have contributed to this Motion. I call upon the Ministry to reconsider its stand. Education is the only gift we can give to our children. The resources available must be equitably distributed, so that all Kenyan children can access education. They will build this nation as qualified human resource and ensure the industrialization of this country.

Mr. Temporary Deputy Speaker, Sir, this Motion has come in the spirit of affirmative action for all Kenyans to access education; affirmative action for gender equity and affirmative action to spread the benefits of this nation to all Kenyans.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Poghio): Next Order!

THAT, in view of the importance of sports to the image of the nation, cognizant of the fact that there is no legislation regulating the orderly conduct of sports; this House do grant leave to introduce a Bill for an Act of Parliament entitled The Sports Bill to promote and regulate all sporting activities in the country and for matters connected therewith and incidental thereto.

**The Temporary Deputy Chairman** (Mr. Poghisio): Mr. Ochilo-Ayacko, is not here! His Motion is dropped!

*(Motion dropped)*

Next Order!

APPOINTMENT OF COMMISSION ON SOCIAL  
/ECONOMIC/ENVIRONMENTAL IMPACT OF EPAS

THAT, aware that negotiations on Economic Partnership Agreement (EPA) between the European Union and African, Caribbean and Pacific (ACP) states of which Kenya is a member, were launched in September 2002 and noting that these negotiations were based on signed Cotonou Partnership Agreement, concerned that the spirit in which Phase one of EPA negotiations were launched has been undermined by the intransigence of the European Union and further concerned that the proposed contents of the EPA would among others lead to de-industrialization of Kenya thus undermining this country's revenue base and subverting our regional integration efforts; this House urges the Government to set up a Commission to carry out independent assessment of potential social, economic and environmental impacts of EPAs and the report of the said Commission be tabled in this House within six months after its establishment.

**The Temporary Deputy Speaker** (Mr. Poghisio): Dr. Adhu is not here. Motion dropped!

*(Motion dropped)*

Next Order!

UPGRADING OF RETIREMENT  
PACKAGE FOR TEACHERS

THAT, being aware of the plight of retired teachers in the country and their pathetic retirement benefits and while noting that the state of the country has achieved remarkable economic growth in the last couple of years enabling it to improve not only the salaries of serving teachers, but also of retirement benefits of those retiring presently; this House urges the Government to consider upgrading the retirement packages for all the teachers who retired prior to the introduction of the improved benefits.

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. G.G. Kariuki is not here? Motion dropped!

*(Motion dropped)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Poghisio): Hon. Members, there being no other Business, the House stands adjourned until this afternoon, at 2.30 p.m.

The House rose at 10.15 p.m.