

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 20th April, 2005

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### NOTICES OF MOTIONS

#### ESTABLISHMENT OF A SELECTION COMMITTEE

- Mr. Oloo-Aringo:** Mr. Speaker, Sir, I beg to give notice of the following Motion.
- (1) THAT, this House resolves to establish a Select Committee to be designated the Committee of Selection, which shall consist of a Chairman and a Vice-Chairman and thirteen other Members who shall be appointed by the House at the commencement of every Parliament as follows:-
- (a) Six Members of the party or coalition of parties that form the Government, two of whom shall be women.
  - (b) Five senior Members of the party or parties that form the Opposition, one of whom shall be a woman.
  - (c) A Member of the party or coalition of parties that form the Government, but who shall not be a Minister or an Assistant Minister or a Deputy Speaker and who shall be the Chair.
  - (d) The most senior Member of the parties that form

the Opposition who shall be the

Vice-Chair.

- (e) One Member each from the Government and from the Opposition who shall be 40 years of age or below.
- (2) In the absence of the Chairman and the Vice-Chairman, the Members present will appoint one of its Members to preside over the meetings of the Committee.
- (3) The Members of the Committee of Selection shall serve in the Committee during the life of Parliament.
- (4) The Committee of Selection shall consider the list as submitted by political parties and shall discuss and agree on the sharing out of slots in Select, Departmental, Housekeeping and *ad hoc* Committees and prepare the list of the Members to compose the Committees for appointment by the House.
- (5) In placement of Members to various Committees, the Committee of Selection will ensure that the process is all-inclusive and equitably distributed

among the political parties; that every hon. Member shall be designated to serve in, at least, one Committee; and that the professional, academic and special skills possessed by hon. Members shall be considered in the compilation of the list of the membership of the Committee.

- (6) The Committee of Selection shall be appointed at the first sitting of the first Session of Parliament and shall present for appointment by the House a list of designation of all Committees in the first ten sitting days after its appointment.
- (7) Hon. Members who are aggrieved regarding their placement shall appeal to a Board of Appeal, which shall comprise the Leader of Government Business, the Leader of Official Opposition, the Government Chief Whip and the Chief Whip of the Opposition.
- (8) That a Member absenting himself or herself from three or more consecutive meetings of a Committee without the permission of the Chairperson may be discharged and shall be replaced by the nominating party.
- (9) A majority of the hon. Members of the Committee shall constitute a quorum.

*(Applause)*

**Mr. Speaker:** Where does that leave multipartism? Anyway, let us proceed.

A BILL TO AMEND SECTION 4(2)(A)  
AND (B) OF THE CDF ACT

**Mr. Sambu:** Mr. Speaker, Sir, I beg to give notice of the following Motion.  
THAT, this House do grant leave for the introduction of a Bill to amend Section 4(2)(a) and (b) of the Constituency Development Fund Act, No.10 of 2003, to increase the percentage of the annual allocation to the Fund from an amount of money equal to not less than 2.5 per cent of all the Government ordinary revenues collected in every financial year to 15 per cent of all the Government ordinary revenue collected in every financial year and any money accruing to or received by the National Committee from any other source, and for matters connected therewith and incidental thereto.

*(Applause)*

**Mr. Speaker:** Order! There should be order in this House. Were you listening to Motions or you were making it impossible to hear what was being said? You should listen to what hon. Sambu and other hon. Members are saying. Until they finish, you cannot applaud.

A SPORTS LOTTERY FUND BILL

**Mr. Salat:** Mr. Speaker, Sir, I beg to give notice of the following Motion.  
THAT, in view of the Government's commitment towards the development of sports in the country; aware of the great potential of supporting talent this country can produce; this House do grant leave to introduce a Bill entitled the Sports Lottery Fund Bill to provide for the general development and sustenance of sports facilities and programmes in the country as well as to provide adequate remuneration to those Kenyans representing the country in the various sporting events.

REVISION OF CIVIL SERVICE  
CODE OF REGULATIONS

**Dr. Khalwale:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, given the Government's stated policy of zero-tolerance to corruption; noting that many scandals of corruption continue to be exposed within the Civil Service; this House urges the Government to revise the Code of Regulations governing the discipline in the civil service and the procedures to be followed in cases of breach of discipline so as to prohibit civil servants from engaging in trade, accepting a directorship of a company or any public body being connected with or having any direct or indirect interest in such a company, or engaging in any commercial or agricultural undertaking as a measure of fighting corruption.

*(Applause)*

INTRODUCTION OF A COMMUNITY  
SOCIAL ENTERPRISE BILL

**Dr. Ojiambo:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, cognisant of the fact that the poor, especially women and other vulnerable groups suffer marginalization in their struggle to have access to economic resources owing to the inequitable legal regimes currently in place; further aware that there is need to encourage investment and to promote enterprise in rural and urban areas targeting these vulnerable groups, this House urges the Government to introduce a Community Social Enterprise Bill in order to provide entrepreneurial skills and financial support to these socially excluded groups.

*(Applause)*

ORAL ANSWERS TO QUESTIONS

*Question No.247*

REHABILITATION OF COMMUNITIES  
AFFECTED BY SHIFTA WAR

**Mr. Bahari:** asked the Minister, Office of the President.

- (a) whether he is aware that during the Shifta war, the security forces committed atrocities against innocent people in Northern Kenya; and,
- (b) what action the Government will take to rehabilitate the affected communities, particularly in Isiolo, who were reduced to destitutes as a result of "a" above.

**The Assistant Minister, Office of the President (Mr. M. Kariuki):** Mr. Speaker, Sir, I beg to reply.

(a) No specific or formal claims have been brought up to the attention of the Government concerning the alleged atrocities on innocent civilians during the said Shifta War.

(b) I am not aware of communities in Isiolo having been reduced to destitution as a result of the Shifta War. However, Isiolo and other parts of Northern Kenya are integrated into the national fold through various arid lands development programmes. All the relevant Government Ministries and departments are represented at the district level and are implementing various sectoral programmes and projects. Under the Arid Lands Resource Management Development Project (ALRMP II), for instance, whose objective is to enhance food security and reduce livelihood vulnerability in drought-prone and marginalized communities, Isiolo District is allocated a total of Kshs518,088,331

between the financial year 2004/2005 to 2006/2007.

**Mr. Bahari:** Mr. Speaker, Sir, this is a very serious Question, and it is a matter which is very much known in the history of the Republic of Kenya. Recently, the Commission that this Government appointed under the chairmanship of Prof. Mutua went round the country and this matter, amongst other institutions, was reported to that commission. How come the Assistant Minister is now not aware of this issue when, in addition to that, innocent Kenyans were put in concentration camps by the same Government at that particular time under the guise of fighting Shiftas?

**Mr. M. Kariuki:** Mr. Speaker, Sir, I am aware that the Government set up a commission to investigate past abuses of human rights. I am also aware that they received reports regarding the various incidents that are being alluded to. That commission was under the Ministry of Justice and Constitutional Affairs, and I believe that, with time, action will be taken on the recommendations made in that report. I am not, however, in a position to say when that will take place, because that decision falls under another docket altogether.

I would only like to say that, the Government is determined to tackle past discrimination and marginalization. That is why during his recent visit to North Eastern Province, his Excellency the President did, in fact, launch an agenda for that particular region, and that includes Northern Kenya, including Isiolo, Marsabit and Moyale Districts.

**Mr. Leshore:** During that time, many communities within Isiolo and the surrounding areas like Samburu and Marsabit were really affected, and the then governments of Kenyatta, Moi and even the NARC Government have not taken any action to try and solve that issue about state of those displaced people or give them facilities so that their children could go to school or even get job opportunities. What action is the Assistant Minister and the NARC Government taking to ensure that those people are going to be good citizens of this country?

**Mr. M. Kariuki:** I quite agree that both the Kenyatta and Moi Governments did nothing about that particular region. But I think the NARC Government has started on a high note by the President launching the programme to ensure that northern Kenya and North Eastern Province are not forgotten. We have a task force that is looking into the plight of displaced people arising out of the tribal clashes. If there are any particular individuals who have not gone back to their homes because of insecurity, that matter should be brought to our attention and the task force will be able to make a recommendation to the Government.

**Mr. Speaker:** Last question, Mr. Bahari.

**Mr. Bahari:** The world over, when a government commits such atrocities, for example, like in Germany and Japan, it has been the role of the Government to ensure that those communities are rehabilitated through a deliberate effort. Once that report is laid on the Table, could the Assistant Minister undertake to ensure that those communities are given special considerations?

**Mr. M. Kariuki:** I have said previously that we are not aware yet, but we are aware of a report that has been made regarding human rights abuses. So, action is going to be taken on that report. I do not know whether we are going to have a peace and reconciliation commission or a system of compensation. Once the facts have been verified, appropriate action will be taken.

Thank you, Mr. Speaker, Sir.

*Question No.235*

OPERATION OF "SHYLOCKS" WITHIN  
LEGAL FRAMEWORK

**Mr. Serut** asked the Minister for Finance.

(a) whether he could inform the House under what legal framework moneylenders,

commonly known as "shylocks" operate;

(b) whether he could further inform the House whether these lenders pay taxes to the Government; and,

(c) under what authority do the "shylocks" use courts and the police to collect debts when customers default on payment?

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

(a) The Moneylenders' Act was repealed several years ago and, therefore, there is no legal framework for such kind of moneylenders known as "shylocks".

(b) I am not aware of businesses registered in the names of moneylenders as "shylocks". However, any income arising from business activities is subject to income tax, whether the business is licensed or not. This principle applies to moneylenders, therefore, when the taxman catches up with them, they cannot argue that they are not licensed.

(c) Since I am not aware of the existence of "shylocks", the issue of using courts and the police to collect debts when customers default on payment does not arise.

**Mr. Serut:** Mr. Speaker, Sir, moneylenders live among us. In fact, they conduct their business among us both in rural and urban centres. These people are known to fleece those who are looking for money by charging exorbitant interest of up to 30 per cent per month. Could the Assistant Minister now tell Kenyans that shylocks are not licensed and, therefore, the police should not harass innocent Kenyans by arresting and taking them to court when they default in making payments?

**Mr. Katuku:** Mr. Speaker, Sir, I would like to repeat what I said in my written response that shylocks are not licensed. However, you will find situations where shylocks may write agreements with the people who are borrowing, for example, "I have lent you Kshs30,000 which you will pay at the end of the month." So, if you do not pay up and the shylock goes to the police, because this money was given to you under a certain agreement, the police must come in. However, these people are smart. As you may be aware, we recently passed a law on the formation of the Kenya Anti Corruption Authority (KACA), which has powers to investigate such kinds of characters.

So, I would like to urge hon. Members to report such matters to KACA. If somebody has an income which he or she cannot account, the KACA can question that income and request you to account for it.

**Mr. Manoti:** Mr. Speaker, Sir, this is Mr. Manoti---

**Mr. Speaker:** Order, Mr. Manoti! The Chair has not called you. However, you may now proceed!

**Mr. Manoti:** Mr. Speaker, Sir, the issue of shylocks is very serious. We have even seen people having the roofs of their houses carried away by a group which lends that money out.

Mr. Speaker, Sir, according to this system, there is no limit to the interest charged. We have seen people borrowing, for example, Kshs50,000 and they end up paying Kshs200,000. Could the Assistant Minister, although this is not covered under the Banking Act, declare that this business is illegal and it should not continue?

**Mr. Katuku:** Mr. Speaker, Sir, I sympathise with the hon. Member if the roof of his house was taken away! However, on a more serious note, I would like to repeat that this is illegal trade. It is not allowed under any law. There is no framework for the same and anybody involved in this business is contravening the laws of Kenya and is bound to be arrested, prosecuted and even tax collected from him or her.

**Mr. Weya:** Mr. Speaker, Sir, I do not know in which country this Assistant Minister lives in. However, if you check the daily newspapers, in the classified section, there is a section that says: "We give loans against houses, cars and shares."

Could he instruct newspapers to stop advertising for these people? They are lending money to only Kenyan citizens at a rate of up to 30 per cent. Could these people be arrested because they

advertise in newspapers everyday?

**Mr. Katuku:** Mr. Speaker, Sir, I do not know what the hon. Member is talking about. However, if he can make any form of complaint to the KACA, or the police giving specifics, they will be able to arrest those people.

**Mr. Speaker:** Last question, Mr. Serut!

**Mr. Serut:** Mr. Speaker, Sir, some of the customers to these shylocks are police officers and civil servants. I am shocked to hear the Assistant Minister say that he is not aware of their existence.

Mr. Speaker, Sir, I would like to ask him to go to Kapsokwony in Mount Elgon District where shylocks have offices. Several people were even arrested last year, locked up and taken to jail.

**Mr. Katuku:** Mr. Speaker, Sir, I appreciate the information given by the hon. Member. I will act accordingly.

**Mr. Speaker:** Next Question, Mr. Muiruri!

*Question No.183*

REPAIR OF THIKA-MANGU-KAMWANGI-GAKOE-NAKURU ROAD

**Mr. Muiruri** asked the Minister for Roads and Public Works:-

(a) if he is aware that Road C66 (Thika-Mangu-Kamwangi-Gakoe-Nakuru flyover) is in a deplorable state; and,

(b) if the answer to "a" above, is in the affirmative, what measures he is taking to ensure the road is repaired.

**The Assistant Minister for Roads and Public Works** (Eng. Toro): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the road is in a deplorable condition.

(b) The road requires major rehabilitation as a long term measure and the Ministry is looking for funds to carry out the works.

In the meantime, we will continue maintaining the road through grading, bush clearing and pothole patching. A sum of Kshs2,375,000 has been allocated for these works in the current financial year. **Mr. Muiruri:** Mr. Speaker, Sir, the answer given by the Assistant Minister is totally inadequate in the sense that this is a very important road. The people of Kitui, Nyeri and Meru use this road to get to the Rift Valley. This road passes between Thika through my constituency up to Naivasha flyover bridge. The road is more than 100 kilometres long. The Question--

**Mr. Speaker:** Order, Mr. Muiruri! The importance of the road is not in question. What is in question, and that is what you must ask the Assistant Minister, is the state of the repair; whether they are actually doing it or not!

**Mr. Muiruri:** Mr. Speaker, Sir, I think you are in love with interrupting me. I was coming to that. The Kshs2,375,000 allocated for a road which is more than 100 kilometres is peanuts.

Mr. Speaker, Sir, could the Assistant Minister ensure that he has allocated enough funds in the coming financial year to make the road permanently durable by making sure it is all tarmacked?

**Eng. Toro:** Mr. Speaker, Sir, that is what I said. The Ministry is looking for funds to rehabilitate the road totally because it requires major works. Allocation of the money that has been done is in cognisance of the fact that there are so many roads, especially tarmacked roads in similar condition. We have to keep on trying to maintain them in a motorable condition. It is not possible to give one road a lot of money and neglect the others. Mr. Speaker, Sir, I may bring to the notice of the hon. Member that the road is actually 70 kilometres and not 100 kilometres.

**Capt. Nakitare:** Mr. Speaker, Sir, I appreciate the answer given by the Assistant Minister.

However, the state of road repair is substandard in this country. What is the Assistant Minister doing especially to the road that was tarmacked very recently at Endebes along the ADC farm where the Ministry of Roads and Public Works sent their staff to fix potholes, but they just abandoned the works even before completing them?

**Eng. Toro:** Mr. Speaker, Sir, I am not in a position to comment about that road because I do not have the figures and facts. However, I would like to point out that we are looking into improvement of the standard of repair and maintenance as an engineering aspect, so that when we do pothole patching, we do them to last a bit longer than they are now. We are working on this.

**Mr. Speaker:** Last question, Mr. Muiruri!

**Mr. Muiruri:** Mr. Speaker, Sir, it is the NARC Government's commitment to build roads in this country. It is also on record that the previous KANU Government did not construct one single road in my constituency.

As a supporter of the NARC Government, could the Assistant Minister promise to allocate enough funds for that particular road?

**Hon. Members:** How? How? *Enda huko!*

**Mr. Speaker:** What is going on? Mr. Assistant Minister, please, proceed!

**Eng. Toro:** Mr. Speaker, Sir, I am happy to hear that the hon. Member is a supporter of the NARC Government. The criteria that is used in the maintenance of roads is: We are, first of all, giving priority to the once tarmacked roads, which are now neglected and in total disrepair. Those kind of roads are very many and if timely maintenance is done, they would be in a good condition. Huge amounts of money are being used to repair those countrywide. We have got to start somewhere.

Mr. Speaker, Sir, once we repair the roads to last longer than before, we will rehabilitate all the other roads and construct new roads.

**Mr. Speaker:** Next Question, Mr. Kimeto!

*Question No.041*

#### DEATH GRATUITY FOR MR. JOHN CHEPKWONY ROTICH'S WIDOWS

**Mr. Kimeto** asked the Minister for Education, Science and Technology:-

(a) whether he is aware that Mr. John Chepkwony Rotich, TSC No.69643, died on 26th, June, 2003; and,

(b) when the widows of the deceased, Mrs. Pauline

Chebet Rotich and Mrs. Selina C. Rotich will get the death gratuity and pension of their late husband.

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

(a) I am aware that the late John Chepkwony Rotich died on 30th June, 2003 and not 26th, June, 2003.

(b) The late Chepkwony Rotich's death gratuity and final dues are being processed by the TSC. In order to speed up the process and forward the same to the Director of Pensions for further action and final payment, the next of kin is advised to co-operate urgently by authorising the TSC to deduct salary over-payment of Kshs7,625 accumulated by the same Rotich. Otherwise, we have no objection.

**Mr. Kimeto:** Mr. Speaker, Sir, since I am the representative of those people, could I ask the Assistant Minister to deduct that Kshs7,625, and then send the balance to the widows?

**Dr. Mwiria:** Mr. Speaker, Sir, although we are very much in a society of oral tradition, that is not how the TSC operates. I think Mr. Kimeto should write to the TSC and prove that he is the next of kin and authorise the deduction of the same amount.

**Mr. Karaba:** Mr. Speaker, Sir, the Assistant Minister and the hon. Member have differed on

the date that the teacher died. However, it means they are aware that the teacher died. Has that teacher been replaced?

**Dr. Mwiria:** Mr. Speaker, Sir, Mr. Karaba brought that to our notice that, in fact, the hon. Member who claims to be the next of kin did not even know when the teacher died. Mr. Speaker, Sir, last week, we talked about the need to replace teachers who die immediately. We are considering that as a policy, so that we do not have to wait for a year before replacing teachers. But the late teacher has not been replaced. We need to have that policy.

**Mr. Speaker:** Last question, Mr. Kimeto!

**Mr. Kimeto:** Mr. Speaker, Sir, the Assistant Minister has said that I am the next of kin to the teacher who died. That is not true. I am the representative of those people as their Member of Parliament. Could the Assistant Minister, through my directive as their hon. Member, deduct that over-payment and send the balance to the widows?

*(Laughter)*

**Dr. Mwiria:** Mr. Speaker, Sir, never mind the size of Mr. Kimeto, but he is too small to direct to me! I suggest that he writes a letter to the TSC. I cannot act on his directive! Who the hell is he? He should write a letter to the TSC!

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to start talking about "hell"? Is that parliamentary? He should withdraw that word!

**Mr. Speaker:** Order, hon. Members! This is an honourable House. We use honourable language in the House. Mr. Assistant Minister, you have no right to use offensive language in the House. So, will you withdraw the offensive language!

**Hon. Members:** Out! Out!

**Dr. Mwiria:** Mr. Speaker, Sir, let me say that I was provoked by Mr. Kimeto, who was giving directives! I do apologise. Actually, we did not receive any training on language. Nevertheless, I am sorry that I uttered those words. The important thing is that---

**Hon. Members:** Withdraw!

**Dr. Mwiria:** What is the difference between apologising and withdrawing?

**Mr. Speaker:** Order, Mr. Assistant Minister! I order both the withdrawal and apology! If you do not want---

*(Loud consultations)*

Order, hon. Members! Does it mean that in this House, hon. Members cannot keep quiet for two seconds? You must keep quiet when I am speaking!

**[Mr. Speaker]**

Now, Mr. Assistant Minister, if you do not know the import of the two words, I wish to tell you and the House. "Withdrawing" means you have taken away from the record and the purview of this House, those offensive words. "Apologising" is the demonstration on your part to the House of your state of being sorry for having uttered offensive words. So, you must proceed and do both!

*(Laughter)*

**Dr. Mwiria:** Mr. Speaker, Sir, I am sorry. It is just that I am a victim of a culture that taught me that to apologise is a sign of weakness. However, I apologise and withdraw.

*(Applause)*



**Mr. Speaker:** Very well! We thank the Assistant Minister for obeying the Chair. The Chair would like to comfort him that, it is not a sign of weakness to apologise when you are wrong. Indeed, it is a sign of strength and courage.

Next Question, Mr. Wycliffe Osundwa!

*Question No.101*

REPAYMENT OF LOANS BY MUHORONI AND  
MIWANI SUGAR COMPANIES

**Mr. Osundwa** asked the Minister for Agriculture how much money has been loaned to Muhoroni and Miwani sugar companies by the Kenya Sugar Board for factory rehabilitation and how much has since been repaid.

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

The Kenya Sugar Board has loaned Kshs100,910,098.65 to Muhoroni and Kshs324,287,523.35 to Miwani sugar companies for factory rehabilitation. No repayments have been made by the two companies to date.

**Mr. Osundwa:** Mr. Speaker, Sir, those two companies, having received Kshs1.3 billion, have been under receivership for quite a number of years. Could the Minister tell this House where the receiver managers of those companies have been banking that money since nothing has been repaid? Where has the money gone?

**Mr. Kirwa:** Mr. Speaker, Sir, I cannot specifically say where the money has gone. However, I know that the receiver managers have been doing certain works, including rehabilitation of boilers and some other undertakings within the factories.

**Mr. Angwenyi:** Mr. Speaker, Sir, this country has given the responsibility of safeguarding the resources of the sugar industry to this Minister. However, the Minister is telling us that he does not know where the money goes! Who on earth will know where those repayments go? Could the Minister tell this House how those factories are going to repay Kshs1.3 billion?

**Mr. Kirwa:** Mr. Speaker, Sir, we have done slightly more than what the hon. Member is saying. For the past one year, we have done three things. One is that we have done tax audit.

Mr. Speaker, Sir, secondly, we have done financial audit, and thirdly, we have done technical audit to ascertain the state of affairs of these companies. We have also carried out appraisals to see if these two receivers are necessary within the two factories.

The final decision will be taken once we finalise the Inter-Ministerial Report involving my Ministry and that of Finance, for the purpose of taking back operations of the two factories.

**Mr. Speaker:** Mr. Osundwa, please, ask the last question!

**Mr. Osundwa:** Mr. Speaker, Sir, with your indulgence, I wish to donate my time to Prof. Olweny.

**Mr. Speaker:** By all means!

Prof. Olweny, proceed!

**Prof. Olweny:** Thank you, Mr. Speaker, Sir. I would like to ask the Minister to lay on the Table, the breakdown of how this money was spent and who the contractors were.

**Mr. Kirwa:** Mr. Speaker, Sir, I will be glad to do so. However, it will take a lot of time of this House. Therefore, I will lay on the Table, the annex that shows the expenditure, totalling the amount stated. I wish to present it before this House.

**Ms. Mbarire:** Mr. Speaker, Sir, I rise to ask Question 141, although I do not have a written

response.

*Question No.141*

MEASURES TO TAP SPORTING  
POTENTIAL IN THE YOUTH

**Ms. Mbarire** asked the Minister for Gender, Sports, Culture and Social Services:-

(a) whether he is aware that there is a lot of untapped sporting potential in the youth from primary school level onwards; and,

(b) what plans he is making to tap this unexploited potential.

**The Minister for Gender, Sports, Culture and Social Services** (Mr. Ochilo-Ayacko):

Thank you, Mr. Speaker, Sir. The information I have is that the response was sent to the House. I am sorry if the hon. Member does not have it.

I will proceed to answer.

(a) I am aware that there is a lot of untapped sporting potential in youths from primary school level onwards.

(b) To tap this unexploited talent, my Ministry has implemented certain strategies. Among them is the establishment of the Stadia Management Board, whose main function is to maintain, acquire and put up sporting facilities. Secondly, we are in touch with donors and we have been asking them to support youth programmes and initiatives, the same way they are doing for Mathare Youth Group. Thirdly we are providing sports equipment to certain organised groups in rural areas. Fourthly, we are trying to give cash rewards to sports people.

There is a Sports Bill that will soon find its way into this House. Finally, there is a Sessional Paper that is awaiting debate in this House. In the Sessional Paper, there are several prepositions. We are asking for more resources for sports. We are also asking that educational curriculums include sporting in schools. We are proposing that we invest more in coaches and sporting facilities.

We know that part of the problem in our schools is the free primary education programme, which has outlawed all levies. Formerly, there were levies which were used to promote sports in primary schools.

**Ms. Mbarire:** Thank you, Mr. Speaker, Sir. I thank the Minister for that answer. Although he has said that there are plans which are under way to address this issue, at the moment, my concern is where he has established institutions with management boards which have been looking into this issue. How do they identify young people who have sporting potential?

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, I am sorry that the hon. Member did not get me very well. I said that we have established a Stadia Management Board, whose main function is to develop and maintain stadia in the country. It has started work with the acquisition of Nyayo Stadium and Moi International Sports Centre, Kasarani.

Mr. Speaker, Sir, the board is also in the process of acquiring, improving and maintaining the Embu, Ruringu, and Eldoret Stadia. The improvement of these facilities will avail facilities to both the young and mature sports people for training.

**Prof. Oniang'o:** Mr. Speaker, Sir, even before we come to stadia management, sporting talent needs to be identified very early, especially in schools. Could the Minister tell us what collaborative arrangements he has with the Ministry of Education, Science and Technology to make sure that various sporting talents are identified at the right age?

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, there is a committee comprising of my Ministry, that of Education, Science and Technology and that of Local Government, which is trying to look at these plans. However, as regards curriculum in schools, that lies in the exclusive purview of the Ministry of

Education, Science and Technology. We are trying to consult. What we have as a constraint are resources and if we do not invest in something, we cannot reap anything out of it. That is what is happening now.

**Ms. Mbarire:** Mr. Speaker, Sir, I think the Minister needs to put more effort in this field because we promised young people that we would create jobs for them. Mr. Minister, you need not create white-collar-jobs. If you give the young people a chance to realise their full potential in sports, you are better off than giving them white-collar-jobs. Mr. Minister, do you know that one of the biggest problems we have is that we lack a national youth policy? That is why it is taking your Ministry long to realise that there are many young people languishing in villages, yet they have skills which can earn them money.

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, the formulation of the youth policy that will culminate in the constitution of the youth council is away from the sporting issue. The route being taken regarding this issue is that there are provincial youth conferences which are being held. One has taken place in Kisumu. We hope that in December this year, we will have the final one, then we can constitute the youth council, although that is not the issue at hand. We want to invest very heavily in sports, and the rewards are obvious. We are in serious consultation with the Ministry of Finance. We hope we will be given additional funds. With additional funding, we hope that all our sporting young persons will smile all the way to attain gold medals.

### QUESTIONS BY PRIVATE NOTICE

#### DEFERMENT OF QUESTIONS DUE TO MINISTERS' ABSENCE

**Mr. Kingi:** Mr. Speaker, Sir, I beg to ask the following Question by Private Notice.

(a) Is the Leader of Government Business aware that many Questions are deferred due to the absence of Ministers in this House?

(b) Is he further aware that the assurances made to the House by Ministers during Question Time are not serious undertakings and hence many issues remain unresolved?

(c) What action is he taking to ensure that Questions are answered as scheduled in the Order Paper and that the Ministers fulfil their undertakings to the House?

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that some Questions are deferred due to absence of Ministers, and hon. Members who also do not come to ask them.

(b) I am very satisfied with the assurances given to this House by Ministers; that, they will solve the issues raised.

(c) The response to Parliamentary Questions is a priority matter by the Government. In this case, Ministers and Assistant Ministers are sensitised on the need to reply to Questions promptly.

**Mr. Kingi:** Mr. Speaker, Sir, in part "c" of his answer, the Leader of Government Business wants to assure us that Ministers have been sensitised and, therefore, they know their role. However, in part "a" of his answer he concedes that yes, some Questions are deferred due to the absence of Ministers. If the Ministers have been sensitised and they know their role, how come Questions are still being deferred due to their absence?

Secondly, can the Leader of Government Business assure this House that from now on, no more Questions will be deferred in this House because Ministers are supposed to conduct their business in a collective way?

**Mr. Awori:** Mr. Speaker, Sir, the performance this afternoon indicates that the sensitisation

has gone home because all the Questions have been answered.

*(Applause)*

**Mr. Oloo-Aringo:** Mr. Speaker, Sir, I did not want to intervene in this Question but you have expressed concern particularly when Ministers do not show up to answer Questions which means they do not give priority to this House and yet, first and foremost, we are Members of Parliament. Any other position is a privilege and we want Ministers to understand that so that they can take this House very seriously in future.

**Mr. Speaker:** Well, that is a comment and not a question.

**Mr. Oloo-Aringo:** Mr. Speaker, Sir, I really wanted to comment more than questioning because---

**Mr. Speaker:** Order, Mr. Oloo-Aringo! There are no comments in Questions but my comment to you is that there has been a definite improvement.

*(Applause)*

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I am interested in part "b" of the Question. About five years ago, four pupils lost their lives in open tanks in primary schools which had been constructed by the Ministry of Health in conjunction with UNICEF. The Minister for Education, Science and Technology then informed the House that the water tanks had been sealed and to date they have not been sealed. That shows how the Ministers are not serious in answering Questions.

Mr. Speaker, Sir, could the Leader of Government Business assure the House that the undertakings which are going to be given by the Ministers are actually going to be fulfilled?

**Mr. Awori:** Mr. Speaker, Sir, four years ago I was not the Leader of Government Business. The current Minister for Education, Science and Technology was the Leader of Government Business four years ago and he did not give the undertaking.

**Hon. Members:** Why?

**Mr. Awori:** Mr. Speaker, Sir, when the current Minister for Education, Science and Technology gives an undertaking, he fulfils it.

**Mr. Owino:** On a point of order, Mr. Speaker, Sir. Would it be in order for the Leader of Government Business to set up a committee to follow up whatever we decide here in the House?

**Mr. Speaker:** That is a good supplementary question but it is not a point of order.

*(Applause)*

**Mr. Kingi:** Mr. Speaker, Sir, my Question is not based on issues that took place four years ago. It is based on current issues. We have asked Questions here about our constituencies and promises have been made but not fulfilled. We can give endless examples.

What is the Leader of Government Business doing to ensure that the promises made here are fulfilled?

**Mr. Awori:** Mr. Speaker, Sir, the forum in which all Ministers come together is the Cabinet. During the next Cabinet meeting I will ensure that once Ministers give their undertakings they follow them up.

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

(a) Is the Minister aware that essential services and health programmes by the Ministry of Health, Kakamega, have come to a halt due to failure by the PGH, Kakamega, to remit part of the cost-sharing money to the MOH?

(b) What immediate steps will the Minister take to ensure that the MOH, Kakamega, is given his share of cost-sharing funds by the PGH so that he can provide essential services to the district?

**The Assistant Minister for Health (Dr. Kuti):** Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Kakamega Provincial General Hospital (PGH) has not been remitting 15 per cent of its total collection to the MOH, Kakamega, as is required by guiding principles of the cost-sharing programme.

However, essential services and health programmes by the Ministry of Health have not come to a halt. The MOH, Kakamega, has financial resources from the Treasury and other sources which are being utilised for provision of these essential services.

(b) The current management of Kakamega Provincial General Hospital has been able to significantly improve on management and efficiency, including revenue collection. The PMO, Western Province, is currently working with the MOH, Kakamega, and the Medical Superintendent to have remittance of arrears of unsubmitted cost-sharing funds to the MOH as soon as possible.

**Dr. Khalwale:** Mr. Speaker, Sir, at the Kakamega Provincial General Hospital, primary health care services by the MOH have come to a halt because of lack of transport. This is happening when the PMO has decided to live 40 kilometres away from the hospital in Maseno and the only vehicle that the MOH would have used is not available. Could the Minister provide a vehicle or direct that the MOH starts living within Kakamega so that, that vehicle remains for the use of primary health care?

**Dr. Kuti:** Mr. Speaker, Sir, the MOH is well funded by the Treasury. For example, a grand total of about Ksh5,124,000 is available to the MOH. However, on the issue of the vehicle, I think the hon. Member should come and consult with us and we will be able to sort it out.

**Dr. Galgalo:** Mr. Speaker, Sir, recently, the Departmental Committee on Health toured several parts of the country including Kakamega District and it is true that the MOH has no transport whatsoever. I think the Assistant Minister can undertake to provide transport to the MOH rather than asking the hon. Member to visit their offices. However, my simple question is: Kakamega Provincial General Hospital has no kitchen as we sit here now and recently the Ministry of Health was engaged with some donors on construction of a 1,500 bed hospital here in Nairobi, when our provincial hospitals are in shambles.

Mr. Speaker, Sir, could he re-negotiate with those donors and put up facilities which are lacking in our provincial general hospitals rather than start building a national hospital since we already have one here?

**Dr. Kuti:** Mr. Speaker, Sir, on the issue of the vehicle, we are negotiating with donors for funds. As soon as we get the funds, we will be able to avail that vehicle.

On the issue of hospitals, Kenyatta National Hospital, as the hon. Member is aware, is a referral hospital which actually is supposed to serve referral cases from all the other hospitals within the country, especially the provincial general hospitals. By building a hospital in Nairobi we are decongesting Kenyatta National Hospital so that it can serve both as a referral and teaching hospital.

**Dr. Khalwale:** Mr. Speaker, Sir, the Assistant Minister has told us that the reason why the money is not being remitted is because it is being used for computerisation in the hospital and rehabilitation. Could the Assistant Minister send a team from the headquarters to see for themselves what I saw when I was at home two days ago, that there is no renovation and computerisation going on? Could he send a team of investigators there?

**Dr. Kuti:** Mr. Speaker, Sir, we undertake to visit the hospital as requested by the hon. Member.

**An hon. Member:** When?

**Mr. Speaker:** Order! Next Question by Mr. Angwenyi!

NON-ADMISSION OF MISS  
KEMUNTO TO KABARNET MTC

**Mr. Angwenyi:** Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that Miss Omburo Everlyne Kemunto who was admitted by Kenya Medical Training College (KMTC) for a certificate course in Community Health Nursing at Kabarnet MTC was turned away on reporting day on Tuesday, 1st March, 2005, without any reason?

(b) Is she further aware that the student had incurred a lot of expenses in preparation for joining the college?

(c) What immediate steps is the Minister taking to ensure that this poor student joins the college?

**The Minister for Health** (Mrs. Ngilu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Miss Omburo Everlyne Kemunto applied for a diploma course in Community Health Nursing, application No.KRCH103465, for which she did not qualify and meet the minimum entry requirements. She was then considered for a certificate course in Community Health Nursing, for which she had the minimum entry requirements. She was consequently selected, but since all the places for enrolled Community Health Nursing had been filled up, she was placed on the waiting list to report at Kabarnet Campus for possible admission on 1st March, 2005. We regret that we did not have any room for her that time.

(b) I am aware that she did incur expenses in preparation.

(c) Since there was an anomaly, we have now put her in the list to be admitted for enrolled Community Health Nursing course during the next intake in September this year.

**Mr. Angwenyi:** Mr. Speaker, Sir, I am shocked to hear that response from the Minister who is concerned with gender issues. Here is a young girl who was admitted in 22nd July, 2004, and told to wait until March, 2005, and later on, she was denied admission. Her letter of admission does not say she is on a waiting list. Therefore, the question of waiting for admission does not arise. Could the Minister order that this girl joins that college immediately?

*(Applause)*

**Mrs. Ngilu:** Mr. Speaker, Sir, it is not possible to get Miss Kemunto to join immediately because she is already too late to join any class. However, she will be admitted in the September intake.

**Dr. Galgalo:** Mr. Speaker, Sir, the issue of intakes to KMTCs has become contentious because the Nursing Council of Kenya seems to have parallel rules other than what the KMTCs are using. Last year, six student nurses who had completed a three-year programme at KMTC, Garissa District, were denied to sit for examinations by the Nursing Council of Kenya, and all their three years had gone to waste. What action is the Minister going to take against the Nursing Council of Kenya which is wasting the lives of so many young Kenyans?

**Mrs. Ngilu:** Mr. Speaker, Sir, that is true about the six cases of the girls. I want to assure the hon. Member that we sorted that one out with the Nursing Council of Kenya and they were actually

registered about a month ago. It is true that the Nursing Council of Kenya has rules which must apply in order that we get qualified trainees. We are trying to harmonise the same with other colleges.

In fact, one problem that we have had is that we found some girls and boys being trained within the polytechnics and elsewhere, and sometimes they do not meet the requirements. They are not registered before they go for the training. At the moment, one of the things that we have done is to ensure that they are registered before they go for their training.

**Dr. Godana:** Mr. Speaker, Sir, I think this raises a serious issue actually with regard to our educational system. There is an underlying assumption that a person who has failed an examination or a certain subject at a particular level is unfit for further training, and yet, what many of these students who may have not met the Form Four qualifications set by the Nursing Council of Kenya, have done after joining the KMTC, proves that they are actually materials for becoming nurses. It is, therefore, utterly wrong to actually deny young Kenyans a chance to excel professionally on the basis that their KCPE or Form Four certificates in particular subjects were not proper.

Mr. Speaker, Sir, could the Minister consider revising the entire system, so that people are not locked out?

**Mrs. Ngilu:** Mr. Speaker, Sir, actually, we have made some exceptions and decided that some areas will never have some young boys and girls to be trained if we do not lower the entry grades slightly, especially in science subjects, namely, chemistry, biology and physics. So, this has been taken into account. But I also want to say that this is very competitive. We usually have only 1,000 positions to admit, and yet, we get about 20,000 applicants every year.

**Mr. Speaker:** Last question by Mr. Angwenyi!

**Mr. Angwenyi:** Mr. Speaker, Sir, it looks like the principal of this college at Kabarnet has got some grudge against a particular community. This is because, last year, again, a student was admitted to this college and she arrived there at 4.05 p.m, and she was sent away. A Minister had to intervene to get her a place at Murang'a MTC. Is this the right person to be a principal of a college where she sends away students from particular areas?

Mr. Speaker, Sir, could the Minister send somebody there who will take care of all Kenyans?

**Mrs. Ngilu:** Mr. Speaker, Sir, I thank the hon. Member for bringing this to my attention. I will investigate and find out whether this is the truth. But I also want to say that, quite honestly, in the past, all the students who were admitted in KMTC had to pay something.

Mr. Speaker, Sir, today, the admission letter is free and it should not be exchanged with any money. So, I think we have done much better than what was done in the past.

*(Applause)*

**Mr. Speaker:** Very well. The next Question is deferred to tomorrow afternoon at the request of the hon. Member.

HAVOC CAUSED BY A WILD  
ANIMAL IN NAKURU

**(Mr. Wamwere)** kumuuliza Waziri wa Utalii na Wanyama wa Pori.

(a) Je, Waziri ana habari kwamba kuna mnyama asiyeleweka ambaye amekuwa akiwaua kondoo wa watu katika eneo la Ngacura huko Subukia katika muda wa wiki mbili zilizopita?

(b) Mnyama huyo ni yupi na Serikali inachukua hatua gani kuhakikisha kwamba imemnasa au kumuua ili asiendelee kuangamiza mifugo katika sehemu hiyo?

*(Question deferred)*

**Mr. Speaker:** That ends Question Time. I am sorry that we are almost nine minutes beyond time. We hope tomorrow will not be as bad as today. I have requests for Ministerial Statements by the Minister for Health and Mr. Kiunjuri.

Proceed, Mrs. Ngilu!

## MINISTERIAL STATEMENTS

### CONDITIONS AT THE NYERI PROVINCIAL GENERAL HOSPITAL

**The Minister for Health** (Mrs. Ngilu): Mr. Speaker, Sir, I wish to issue a Ministerial Statement regarding the Nyeri Provincial General Hospital. I have just heard that the hon. Member of Parliament from that area is planning to demonstrate against what is happening there. So, I want to state the exact situation in that hospital.

Mr. Speaker, Sir, Nyeri Provincial General Hospital is a referral hospital in Central Province. It serves the seven districts in the province. It serves Kiambu, Thika, Maragua, Murang'a, Kirinyaga, Nyeri and Nyandarua districts. The hospital has a large out-patient department which serves between 200 and 300 patients every day. The out-patient services are offered at the general out-patient clinic. There are clinics for eye, ear, nose and throat. There is a clinic for general medicine, obstetrics, paediatrics and surgery. The hospital has 14 wards. Those include a children ward, two eye wards, gynaecology and orthopaedic wards, two female medical wards, a male surgical ward, a high dependency unit and a maternity.

The hospital has three theatres, two general surgical theatres, a maternity theatre and one for eye, ear, nose and throat surgery. It has a total capacity of 393 beds and 80 cots. The hospital admits about 20,000 patients per year. Maternity admits 7,000 patients per year, with 5,000 normal deliveries and 700 caesarian sections in a year. That, therefore, translates into a maternity workload of about 20 admissions and 14 deliveries and three caesarian sections per day. In the theatre, about six major and eight minor operations are done each day.

Mr. Speaker, Sir, we have the following members of staff. We have 19 doctors who are interns, 10 medical officers and 12 consultants. That is the highest number, compared to other provinces. We have four dentists, four pharmacists, 27 clinical officers, 303 nurses, seven radiographers, 28 laboratory staff, eight physiotherapists and 187 others.

Mr. Speaker, Sir, the hospital has a regular water supply, which is not producing very clean water and so, it is destroying our surgical equipment. But, at the moment, the hospital is in the process of sourcing water from a local water authority. The infrastructure in the hospital is in unacceptable standards, except the maternity wing. The maternity block is not too old. It was built in 1980 and has a bed capacity of 90 patients. It has a 100 per cent bed occupancy.

Mr. Speaker, Sir, although that building is relatively new, the wall has numerous cracks. It, therefore, looks dilapidated and dangerous. It is the main source of complaint about the hospital.

Mr. Speaker, Sir, engineers from the Ministry of Roads and Public Works have examined the building and their preliminary results indicate that the building is structurally sound and can be renovated to good standards. We have asked them to give us a report, so that we can put money aside in the next financial year. We have, however, set aside Kshs1.5 million for the work to start immediately.

Mr. Speaker, Sir, a team from the Ministry of Health visited that hospital last Saturday and asked the Ministry of Roads and Public Works to start the work. It is our intention, therefore, to



renovate the whole hospital in the next financial year. The engineers and quantity surveyors are already on the ground.

Mr. Speaker, Sir, with the help of our development partners, some of the renovation work is already under way in other hospitals. For example, we are undertaking some works at the Embu Provincial Hospital in Eastern Province. It can take up some of the workload at Nyeri Provincial Hospital.

Mr. Speaker, Sir, I would like to assure the people in Nyeri that there is no cause for alarm. We are on course and we are going to make the necessary repairs in the hospital.

**Mr. Angwenyi:** Mr. Speaker, Sir, I want to seek---

**Mr. Speaker:** Order, Mr. Angwenyi! Who has given you the Floor? I have always told hon. Members not to appoint themselves to speak! It is the Chair that allocates.

Dr. Galgallo, you are the Shadow Minister for Health!

**Dr. Galgallo:** Mr. Speaker, Sir, Nyeri Provincial Hospital is not the only provincial hospital that is facing difficulties. Now that the Minister is prepared to move full blast and undertake repairs at the Nyeri Provincial General Hospital, what plans does she have to rehabilitate all the other provincial hospitals in the country, so that she is fair to all provinces?

**The Minister for Health (Mrs. Ngilu):** Mr. Speaker, Sir, I am aware that the Ministry of Health will get an extra financial allocation in the 2005/2006 Budget. Therefore, all the hospitals will be rehabilitated.

**Mr. Angwenyi:** Mr. Speaker, Sir, could the Minister also undertake to rehabilitate hospitals like Kisii, Machakos and New Nyanza in the coming financial year? Those hospitals are in the calibre of provincial hospitals!

**The Minister for Health (Mrs. Ngilu):** Mr. Speaker, Sir, in fact, the hon. Member should be saying that I have already started to renovate the Kisii District Hospital. I am saying that all hospitals will be rehabilitated.

**Mr. Speaker:** Final question, Mr. Mwandawiro! Dr. Godana, are you still interested as the Deputy Leader of Official Opposition?

**Mr. Mwandawiro:** Bw. Spika, pengine tunapata matatizo ya kuendesha hospitali zetu kwa sababu tunahitaji pesa nyingi kama nchi zilizoendelea. Je, Waziri anaweza kutembelea Cuba aone vile nchi hiyo, inayofanana na yetu, inavyoendesha hospitali zake?

**Dr. Godana:** Mr. Speaker, Sir, I want to thank the Minister for issuing an elaborate Statement. I went to see an accident victim in Nyeri Provincial General Hospital. I think the problem of that hospital and, indeed, all other district hospitals in this country, is not so much on the infrastructure. It is a problem of management and cleanliness.

Mr. Speaker, Sir, the list of staff she read out shows that the hospital is well staffed and it should deliver services equivalent to Nairobi and Aga Khan hospitals. What is the Minister doing to ensure that people get the worth for their taxes? The staff who manage hospitals should run them like hospitals.

**Mr. Speaker:** Very well! Madam Minister, you can now respond.

**The Minister for Health (Mrs. Ngilu):** Mr. Speaker, Sir, I admit that some hospitals have more health workers than others. In fact, some of our staff prefer to work in certain areas and not others. Last week, I released a report showing that there are people who are paid every month and they are not working. I am going to have that exercise finalised by the end of next month. By June, I will fill all those vacancies. That means we will have about 700 vacancies. But Nyeri Provincial General Hospital caters for a large number of patients that it is operating both like a provincial and a district hospital. That is the reason why it has a large staff complement.

I also agree that, sometimes, it is not the problem of infrastructure. We also experience management problems. We are, once again, training our health workers, so that they can change their attitude towards the people that they treat everyday.

FUNDING OF THE RURAL  
ELECTRIFICATION PROGRAMMES

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, Mr. Sambu requested a Ministerial Statement on the funding of rural electrification programmes. I wish to issue the following Ministerial Statement. The current Government policy on rural electrification gives priority to public establishments such as trading centres, schools, polytechnics, health centres and water projects, in line with the Government's strategy on wealth and employment creation. Any scheme or project that falls outside that policy framework can only be implemented by the Kenya Power and Lighting Company (KPLC), upon full payment of the cost by the beneficiaries as a commercial venture.

Implementation of projects under the Rural Electrification Programme, either funded directly by the Government through budget support, or by our development partners, is based on their priority rankings by the respective District Development Committees (DDCs) and the 1987 Rural Electrification Masterplan currently under review.

Mr. Speaker, Sir, in this respect, a circular letter was sent out to all DCs in May, 2004, asking them to submit to the Ministry of Energy five topmost priority projects per district for funding consideration over the next two to three years. All the districts, except Lamu, Mandera, Kisii Central, Nakuru and Trans Mara, have already complied. However, due to financial resource constraints, and given the high demand for rural electrification, it is not possible to have all the projects submitted by the DDCs implemented in a single financial year.

Given this situation, projects submitted for implementation taking into consideration such factors as the actual cost of the individual projects, its economic viability and population to be served in a particular district, are in consideration.

Be that as it may, it is within the knowledge of this august House that due to budgetary constraints, funds allocation by the Exchequer are always limited and, therefore, only a limited amount of allocation for the rural electrification programme. For this reason, the bulk of funds from the Government consist of the 5 per cent levy on electricity sales, most of which is used to finance operational losses of the existing grid network, and in the Petroleum Development Levy which is used to finance such activities as the Rural Electrification Programme, geothermal resource assessments, oil exploration and renewable energy development.

With regards to donor funding, the availability of funds is usually intermittent and, therefore, cannot be relied upon as the basis for planning for the rural electrification programme. In Nandi District, the undermentioned schemes are programmed for implementation under [different funding sources as shown against individual projects:

<u>Schemes</u>	<u>Investment</u>	<u>Funding</u>	<u>Status</u>
	<u>cost (Kshs)</u>	<u>agency</u>	
Kaptumo Water Supply	2.98 million	GoK	Tender already awarded
Kipkaren Salient Divisional Headquarters	6.07 million	French	On-going
Chebara Market and Secondary			

School,  
Koitabut  
Market and  
Secondary  
School,  
Kamaren  
Secondary  
School            5.49 million        French    On-going

Kaptidil  
Market and  
Secondary  
School,  
Lemok Market,  
Tuiyo  
Market and  
secondary  
school            11.24 million        French    On-going

Kaigat  
Market,  
Lamaiywet  
(Kabula)  
Market,  
Cheptil  
Market and  
Cheptil  
Secondary  
School            15.49 million        French    On-going

Mr. Speaker, Sir, in the case of Mosop Constituency, the schemes currently programmed for implementation under the French Funding Phase II---

**Mr. Speaker:** Mr. Kiunjuri, how long is your Ministerial Statement?

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, I am about to conclude.

In the case of Mosop Constituency, the schemes currently programmed for implementation under the French Funding Phase II to the tune of Kshs27.71 million are: Sangalo Market, Sangalo Secondary School, All Saints Boarding School, Septonok Market, Septonok Water Supply, St. Mathews Boarding School, Kalyet Boarding School, Chepyegons School, Kebulonik Secondary School and Kebulonik Market.

All in all, my Ministry will only consider schemes or projects for funding consideration upon their inclusion in the priority merit list as submitted by the respective DDCs to which all hon. Members of Parliament are members and, therefore, should use such channels to ensure inclusion of their pet projects.

Finally, I would like to urge all hon. Members to participate in their respective DDCs to ensure projects of their choices are always considered for submission to my Ministry.

**Mr. Speaker:** Mr. Kiunjuri, do you have another Ministerial Statement you want to make?

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, I have a short Ministerial Statement I want to issue.

**Mr. Speaker:** Go ahead!

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, the hon. Member for Dujis, Mr. H.M. Mohamed, also requested for a Ministerial Statement concerning the power outages and blackouts in Garissa Town, and I beg to issue the following statement.

Mr. Speaker, Sir, as it is, Garissa Town and its environs are supplied with electricity generated from Garissa Power Station, which has three generators with a combined effective installation capacity of 2.4 megawatts, but which currently generate a total of only 1.9 megawatts relative to peak demands of 1.7 megawatts due to old age of two of the generators. Due to this narrow margin between the actual generation capacity and the maximum demand, load interruption and power outages are inevitable when breakdowns occur or maintenance is being carried out on any of the three generators. To reduce power supply interruptions, the KPLC has intensified maintenance activities of the three generators which involve complete overhaul. The on-going construction work for a new one-megawatt generator by the KenGen, which will cost the Ministry Kshs130 million, will be completed by the end of this month or early next month. On completion, there will be adequate generation capacity to cater for both planned and unplanned machine outages, thus sharply improving the power supply, availability and quality in Garissa Town and its environs as a whole.

Lastly, despite the power rationing, essential and sensitive installations such as the provincial general hospital, the Kenya Army Radar, the Kenya Police Radio Room and the administration were not affected as they had full power supply.

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

**Mr. Speaker:** I want to see the hon. Members who are interested in seeking a clarification so that I can pick one from each side. Of course, I will begin with Mr. Sambu, then Dr. Godana and Mr. H.M. Mohamed.

Yes, Mr. Sambu!

**Mr. Sambu:** Mr. Speaker, Sir, I am satisfied with the Ministerial Statement the Assistant Minister has made.

**Mr. Speaker:** Then I will give one more chance to the Government side. I will give Mr. Wanjala a chance to seek a clarification. I will begin with Dr. Godana!

**Dr. Godana:** Mr. Speaker, Sir, my clarification is a very brief one. Could the Assistant Minister lay on the Table the list of the five projects per district which have been submitted to him and are in the process of being implemented in the next two or three years?

**Mr. H.M. Mohamed:** Thank you, Mr. Speaker, Sir. While I thank the Assistant Minister for the effort he has made to minimise power outages in Garissa Town, I would like to inform him that this town has very old generators. Could he buy new generators for Garissa Town since the existing ones break down now and then and the spares are not available in this country? Those generators were installed in that town many years ago. Could the Assistant Minister buy new generators for Garissa Town as a short-term solution to this problem, and for a long-term solution, could he ensure that the town is connected to the national grid?

**Mr. Wanjala:** Mr. Speaker, Sir, over the weekend I went to Kisumu. We had proposed projects from Busia but they are only going to implement two in one constituency. However, there were about 10 projects in Teso, which is just one district, one constituency and one division. Could he table the list of all the districts in the country and the five projects?

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, it is the duty of hon. Members to participate in their District Development Committees (DDCs) so that when prioritisation is done, they can contribute towards it. We shall respect the list that will come from the DDCs.

Secondly, every hon. Member should know the list of priority ranking that was submitted to us by their respective DDCs. However, if they insist, I am still going to table that list. We shall compile a list of all priority projects given by the districts in two weeks' time.

Mr. Speaker, Sir, finally, on the issue of Garissa, we are installing a one-megawatt machine, which means that they will have a capacity of 3.4 megawatts. Currently, the peak demand is only 1.8 megawatts while the low demand is 0.80 megawatts. This tells us that for the three other machines, one has a capacity of 1.60 megawatts while two have 0.055 megawatts. It, therefore, means that whenever we have one machine serviced, we shall be able to provide them with power without any failure.

**Mr. Twaha:** On a point of order, Mr. Speaker. Sir. Is it in order for the Assistant Minister to imply that hon. Members do not attend DDC meetings when it is the fault of the District Commissioners (DCs') office? They do not furnish us with the circulars in time. When they do it, they do not send a copy to us. Would the Assistant Minister undertake to call the current DC because there was a transition time in May 2004 when one DC was going out and another coming in? He should call him and ask for the list of priority ranking.

**Mr. Speaker:** Order, Mr. Twaha! It is the business of every hon. Member to attend to constituency affairs. How you do it is your own arrangement.

You must liaise with your DC or whoever is in charge. I am sure that the Ministry of Energy is not in charge of DDCs.

Next Order!

## MOTIONS

### ADOPTION OF SESSIONAL PAPER NO.1 ON POLICY FRAMEWORK ON EDUCATION, TRAINING AND RESEARCH

THAT, this House adopts Sessional Paper No.1 of 2005 outlining the Policy Framework on Education, Training and Research laid on the Table of the House on Tuesday 22nd March, 2005.

*(The Minister for Education, Science  
and Technology on 31.3.2005)*

*(Resumption of Debate interrupted  
on 19.4.2005)*

**Mr. Speaker:** Who was on the Floor? Mr. Kimeto was on the Floor. How much time did he have?

**An hon. Member:** He does not know and he is not here!

**Mr. Speaker:** Mr. Kimeto, therefore, is deemed to have completed his time. Yes, Mr. Kembi-Gitura!

**Mr. Kembi-Gitura:** Thank you, Mr. Speaker, Sir. I wish to contribute on the Sessional Paper on Education and make a few observations. I would like to start by congratulating the Ministry of Education, Science and Technology for a job well done in compiling the Sessional Paper. However, I wish to add that in as much as it is a very good Sessional Paper--

*(Loud consultations)*

Please, allow me to resume after hon. Members have settled down.

**Mr. Speaker:** Order, hon. Members! The business of the House is just beginning. We were dealing with matters other than business. Those hon. Members who are not interested in the business of the House should withdraw quietly.

**Mr. Kembi-Gitura:** Thank you, Mr. Speaker, Sir. I want to congratulate the Ministry of Education, Science and Technology for compiling a reasonably well done Sessional Paper. However, I will add that the very good resolutions that have been made in it of how the Ministry proposes to go about its business in improving the education system in this country should be followed to the letter. It should ensure that this is not going to be just another Sessional Paper left to gather dust.

Mr. Speaker, Sir, we now have the free primary education which is the beginning of education in this country, at least, after the nursery school education. Free primary education is the second goal among the millennium goals that we would like to achieve by the year 2015. If we can still achieve it, then we shall have made a very big stride towards the achievement of the millennium goals.

Mr. Speaker, Sir, free primary education, as is common knowledge now, has caused a very big strain in the infrastructure that has been there in the education system in the past. It is my view that in as much as the Ministry is trying or is going to increase or better the free primary education, it should also look into the infrastructure so that the children are able to learn in conducive circumstances. As we all know, the strain that is now there is causing some untold hardships. We appreciate that this could very well be teething problems that are going to be overcome but these are issues that must be dealt with as soon as possible.

We have bursaries in secondary schools and the bursary system has helped tremendously. It has gone to a great length to alleviate poverty or the problems that parents have been experiencing. However, a lot of work must be done, not just by the Ministry of Education, Science and Technology, but particularly, by the Ministry of Planning and National Development. As is common knowledge, statistics are very important and can be manipulated. If we do not have proper statistics in the Ministry of Planning and National Development, then the bursaries, in as far as some are based on poverty indices, there is going to be manipulation and some regions are going to benefit more than would otherwise be the position. My request, therefore, is that the Ministry of Education, Science and Technology should work in very close liaison with the Ministry of Finance, the Ministry of Planning and National Development and all those other Ministries that have to do with planning so that we know exact populations in primary schools and proper poverty indices so that no region benefits to the disadvantage of other areas.

The Sessional Paper recognises the need of involvement by parents and citizens in making the education system work. In my opinion again, I consider that when it comes to the banning of Harambees in our country, it must be borne that this has some problems in the education system. Where parents are not able to make ends meet or where the grants that the Government gives are not able to meet the needs of specific schools, there must be an alternative way of funding. This has worked out in the past when the Harambee system was working. Since Harambees have been abolished, it has made it very difficult for many schools to make ends meet.

I want to propose that Harambees should not be banned in their totality but parents, particularly the Parents-Teachers Associations (PTAs), should be allowed to fund-raise when they find it necessary. This will ensure that they bridge the gap between grants coming from the Government and the needs of specific schools.

Mr. Speaker, Sir, the other matter that I consider to be of great importance, in my opinion, is that the day secondary schools are going to be schools of the future in this country. We have found out that most secondary schools are unworkable, and the Sessional Paper recognises this due to the fact that they are very expensive to run and also the need to recruit students from various parts of the country.

I would like to propose to the Ministry that in trying to create a future for students in this country, they should consider developing more and more day secondary schools so that children have

close access to schools. If we are going to bring up our children to be proper citizens of this country, parental care is more beneficial to children. It is important for children to interact with their parents in the evenings and be able to see how things operate as opposed to some of the negative influences that we find in boarding secondary schools.

Mr. Speaker, Sir, it is my view that even as we strive to have a better education system, boarding secondary schools should be discouraged as much as possible. Day secondary schools should be encouraged because I see them as the real schools of the future and the best way towards a better education system in our country. In the past, we had several middle level colleges. We had youth polytechnics, medical training colleges and other middle level colleges which have now been rendered useless because of the system that is in place.

I want to commend the Ministry of Education, Science and Technology for the vision that it has for this country. Middle level colleges like polytechnics are very important in producing people that would be able to deal with technical issues which will bring faster development in this country. The village polytechnics that we had in our country in the past and which are still there in a few districts played a very major role in creating technical people in this nation.

Mr. Speaker, Sir, like I have always said, no Ministry or arm of Government can work in isolation. For example, it is the duty of the Ministry of Energy to make sure that all trading centres are supplied with electricity so that polytechnics are able to have electricity. This will ensure that the technical subjects that are taught there are practical. This will also enhance the development of the *Jua Kali* industry and make it more useful to this country. The provision of electricity should go hand in hand with the provision of a better education system.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

In rural schools where there is no power you will find that it is not possible to teach computer lessons. Computer lessons are not a privilege any more. They have become an essential component if our children are to compete with others from the rest of the world. When students join university or middle level colleges and they are not computer literate, it almost becomes a waste of time.

Mr. Deputy Speaker, Sir, I also think we need to improve universities in this country. This country is spending on average Kshs16 billion per year on school fees paid to universities outside this country, mainly in Europe and America. If the Ministry of Education, Science and Technology does not consider how it will harness this money so that it does not go out of this country, then we might be doing an exercise in futility.

How do we stop our children from finding it necessary to go and learn in Europe and America? Can we not give them proper or equivalent level of education both in quality and quantity, so that they remain in this country in order to save substantial sums of money which can be used---

**Dr. Manduku:** On a point of order, Mr. Deputy Speaker, Sir. Could I ask that the Mover be called upon to reply, because it looks like everybody is repeating what we have been saying for the last two or three days?

**Mr. Deputy Speaker:** Order! I will consider that in a while.  
Proceed, Mr. Kembi-Gitura!

**Mr. Kembi-Gitura:** Thank you, Mr. Deputy Speaker, Sir.

As regards our universities, until we are able to save the loss of money that is being drained out of here to serve other foreign countries, then you will find that our institutions will remain in the doldrums for very many years.

One way of doing this is to make sure that the Higher Educations Loans Board

(HELB) is able to give loans, not just to the public universities, but also to students that attend private universities, because the idea is to develop quality education. Whether a student is studying at the United States International University (USIU), Daystar University or any of the other private universities, I consider it their right to be assisted by the HELB, because this is a loan that will be repaid in the future.

Having said that, this is a very well done Sessional Paper and if it can be implemented, it will be of great benefit to this country.

I support this Sessional Paper.

**The Minister for Health** (Mrs. Ngilu): Thank you, Mr. Deputy Speaker, Sir. I stand to support this Motion and the Sessional Paper that is before the House by the Ministry of Education, Science and Technology. It has come at the right time.

The first thing that the NARC Government has done is to restore in this country basic needs that would never have been given by the previous Government. I am so happy that having come to power we lived to the expectations of Kenyans. We said that we would give Kenyans free primary education and His Excellency the President has lived to his word.

Mr. Deputy Speaker, Sir, in the past, campaigns were done and pledges were made but nothing was accomplished. This is a great accomplishment for this country. I believe that we can go further than this. I say so because when we give our children eight years of free primary education and we abandon them at a time when they should be going for their secondary school education, you find that our children are now leaving school at the age of 13 years. When a child leaves Standard Eight at the age of 13 years or 14 years, for young girls it is unfortunate that the only option they have, especially if they come from poor homes, is to get married and start families.

Mr. Deputy Speaker, Sir, it is my hope and belief that we can go further than that and ensure that children in this country are given 12 years of mandatory education. We should ensure that at the end of the 12 years, our children get university education.

I do believe that most students who are left out of university admissions, it is not necessarily because they are not qualified. Therefore, it would be right for us to ensure that we have at least a university in every district to start with and immediately.

Mr. Deputy Speaker, Sir, when most of our children leave Form Four they normally go to study in foreign countries. Most of these children sometimes do not even come back. Because of the high cost of living, they end up staying in those countries and sometimes even have to do awkward jobs like working in the kitchens and cleaning toilets. I do not think that is the reason we send our children outside the country.

Our education system needs to take into cognition what used to happen in the past. As the Minister of Health, I am surprised that we have even forgotten to teach our children health education. When we used to go to school in the past, I do remember how we used to be educated on how to take care of ourselves. One of the things that we were taught to do, not regularly but all the time, was that we were expected to wash our hands after visiting the latrine.

In malaria-infested zones children were told to talk with their parents and parents were told to ensure that they cleared any stagnant water and bushes around their homes. As a result, we did not have as many diseases as we have today. It is unfortunate that we realised the importance of HIV/AIDS education rather too late. It is only about five years ago that churches and faith-based organisations would not want to hear of sex education or HIV/AIDS education because they equated this with sex education. I am happy that the Government has put down its foot and it is now educating children.

Mr. Deputy Speaker, Sir, the first cases of HIV/AIDS in Kenya were diagnosed about 20 years ago. If we had started HIV/AIDS education then, today, we would not have a single child with HIV/AIDS. However, we are not too late, and I believe that the school syllabus now covers



HIV/AIDS education. There are other diseases that could be included in the school curriculum.

I have in mind the non-communicable diseases such as cancer. If we educate our people about diseases such as breast cancer, cervix cancer and prostate cancer which affects men, they will detect them early and get treated in good time. They will not have to undergo serious surgery, which may lead to loss of lives.

Mr. Deputy Speaker, Sir, therefore, as we go on, I see education as helping us to change some of our cultures and attitudes towards life. This is going to make better what we do. To date, there are parents who are still scared of their educated children. So, they would not want to go along with them as they learn the new ways of doing things. I know of parents who, once they see their children highly educated, would want to give up the work that they do as parents.

Mr. Deputy Speaker, Sir, it is, therefore, important that regular education goes hand in hand with the education from parents even in the rural areas, so that our children can grow up in an upright manner, guided by certain values and ideals of life.

Mr. Deputy Speaker, Sir, if we do not do so, we could lose a whole generation to what would have been an upright way of bringing up children, where children would be seen to make decisions for themselves and do things that their parents would be unable to talk to them about.

Mr. Deputy Speaker, Sir, I have in mind the way people used to live a long time ago. There was informal education that would be imparted on children by their grand parents. Grand parents used to teach their young grandsons and granddaughters on how to live, including how young men could court women.

The increasing number of rape cases that we have today are as a result of--

**Mr. Muite:** On a point of order, Mr. Deputy Speaker, Sir. It is very interesting listening to the gracious lady from Kitui on how I should teach my son how to court women.

We have been on this matter for a number of days. If you have listened, most of the points which have been made by the previous speakers are being repeated. So, I request that the Mover be called upon to reply.

**Mr. Deputy Speaker:** Well, I tend to agree with the hon. Member that the Motion has been exhaustively debated, but let the Minister continue. When she finishes, I will put the question.

**The Minister for Health** (Mrs. Ngilu): Thank you very much, Mr. Deputy Speaker, Sir. I want to complete the point I was making. It is very important that young men, especially in this country, be taught some good manners. The rape cases that we see today are as a result of them not having been brought up in a manner that would enable them court women, rather than rape every woman and girl they see around in a skirt. That is a very bad habit, especially these days when HIV/AIDS is so prevalent.

So, this Sessional Paper has come at the right time. I wish to support it. Thank you.

**Mr. Deputy Speaker:** Hon. Members, I need to consider this matter. Two hon. Members have already moved that the Mover be called upon to reply. I think it is appropriate that I put the question.

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

**The Assistant Minister for Education, Science and Technology** (Dr. Mwiria): Mr. Deputy Speaker, Sir, I would like to thank all the hon. Members who have contributed to this debate for the very good comments they have made. However, before I proceed, in the spirit of good compromise, I would like to offer Messrs. Odoyo, Tarus and Mwandawiro, three minutes each to make some comments.

**Mr. Deputy Speaker:** Very well! Mr. Odoyo!

**The Assistant Minister for Regional Development Authorities** (Mr. Ooyo): Thank you, Mr. Deputy Speaker, Sir, for acceding to the request by the Assistant Minister.

Education continues to be the leading expense account for the Government of Kenya. I believe, the time is right for us to overhaul the education system. If the proposals contained in the Sessional Paper are implemented, there will be major changes in this country's education system. My appeal is that many a times, we have written very good Sessional Papers and spoken well about them, but when it comes to implementation, we fail completely.

Mr. Deputy Speaker, Sir, I was in the Ministry of Labour and Manpower Development, and I had the opportunity to deal with TIBET, which is the post secondary education, and I support many of the views that have been expressed in the Sessional Paper. Particularly, today, there are so many computer colleges giving high-level international diplomas, which nobody knows what their worth is. The ability to access the quality of these pieces of paper is critical to our future, so that we can compete in the international job market.

With regard to the universities' research capacity, our research has been slanted by the donors and the multinational corporations. We do not have people undertaking independent research, partly because we do not have local people who are prepared to fund research. For example, if you talk about agricultural research and some of the research being done at our universities, the days when you either researched and published or perished seem to be long gone. Many professors have been promoted without having written a single or valuable document in international fora.

Mr. Deputy Speaker, Sir, I commend the Minister, who today is attempting to revolutionise our education system. The training and the research, particularly teacher training, is critical to our future. The education sector has been subjected to many donor constraints. At one time, we had the cost-sharing system, which nearly brought our education system down.

I believe that time is ripe for the ring-fencing that has been happening in the education sector to continue, in addition to what is happening in the health sector. The real indicator of development remains education, health, sanitation, water and infrastructure. We must never forget that education is the lead. Indeed, many Members would not have been in this House today were it not for education.

Mr. Deputy Speaker, Sir, the British system that we inherited, the 7-6-3, which ended up to 16 years, but was replaced by the 8-4-4, also 16 years of education; there have been many complaints. The first is about the previous system which was too much white-collar-jobs oriented and the 8-4-4 system which leaves a large gap between the elite and the generally literate members of society. While literacy continues to be the number one aim of education, we must equally aim to conquer the world in such lead subjects as computer science and technology.

**Mr. Deputy Speaker:** I think your three minutes are over.

**The Assistant Minister for Regional Development Authorities** (Mr. Ooyo): Mr. Deputy Speaker, Sir, the Assistant Minister has given me an additional time, so allow me to proceed.

**Mr. Deputy Speaker:** Order! If it is three minutes, it has to be three minutes, otherwise the Assistant Minister would be taking the power of the Chair to continue with the debate unnecessarily. This is really, time for the Mover to reply.

**The Assistant Minister for Regional Development Authorities** (Mr. Ooyo): Mr. Deputy Speaker, Sir, out of respect for the Chair and your ruling, I beg to support.

**The Assistant Minister for Local Authorities** (Mr. Tarus): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to speak on this Sessional Paper.

Mr. Deputy Speaker, Sir, much has been said by Members while contributing to this Motion. But mine is just to add one very important issue with regard to education. I would like us to see education as a way of investing in our people. The Kenya Government spends quite a lot of resources on education. Our interest is to see how Kenyans today and in the future could be very useful in national development. We cannot improve our economy if we do not lay emphasis on education.

Mr. Deputy Speaker, Sir, while concentrating on the supply side of education, how can we also ensure that we create demand of what we produce through the education sector, so that we do not have wastage of resources? If there is a high return in primary education, how can we make primary school leavers useful to the national economy? Research has shown that when you evaluate returns to investments, the returns are higher at the lower primary and it comes down as we move higher to the university level. This is subject to debate. But do we really see that value out of those who are qualifying in those levels of education? That is why I feel that while addressing the supply side of human capital, we should also lay a lot of emphasis on how to create demand for the same labour so that we do not have wastage.

With those remarks, I beg to support.

**Mr. Mwandawiro:** Asante sana, Bw. Naibu Spika. Nami naomba kwanza kumpa hongera sana Waziri wa Elimu, Sayansi na Teknologia kwa kuwasilisha sera za mapendekezo ya kuboresha elimu ambazo zimekuwa kamilifu kabisa na ambazo zinaonyesha kwa kweli kwamba yeye anatoa kuwa Waziri wa Elimu, Sayansi na Teknologia.

Bw. Naibu Spika, jambo ambalo halikutiliwa maanani zaidi katika hayo mapendekezo ya sera ya elimu ni je, elimu ambayo tunataka kuwapa watoto wetu na Wakenya inabeba maadili gani? Ni kweli, ni muhimu elimu ipatie watu ujuzi wa kushiriki kikamilifu katika maendeleo na katika uzalishaji, sayansi na teknolojia, na katika ufahamu wa mambo halisi ya nchi na duniani kote kwa jumla. Lakini lazima elimu ilenge kujenga binadamu kamilifu; binadamu mwenye maadili ya kiutu na kujitoa kwa uzalendo kupambana, kuboresha na kuacha Kenya ikiwa bora kuliko ilivyo sasa. Tumekosea katika usisitizaji wa maadili na ndio maana tunatoa madaktari wengi lakini wote wanashughulika kwa huduma ya kibinafsi ama wanahamia Afrika Kusini. Maadili ya elimu yetu ni kwamba tunafunza watu kuingia katika ubinafsi badala ya kuhudumia jamii na kubadilisha jamii iwe bora na ya haki na kutilia maanani maadili ya watu wetu kwa jumla.

Jambo la mwisho ni kwamba lazima tufundishe elimu yetu iwe na maadili ya kupunguza pengo kati ya maskini na matajiri. Katika elimu yetu, tuna mfumo ambao watoto kutoka jamaa za matajiri wanapata elimu bora zaidi kuliko wanaotoka jamaa za maskini, na hilo pengo linaendelea kuwa kubwa zaidi.

Kwa hayo machache, ninaomba kuunga mkono.

**The Assistant Minister for Education, Science and Technology (Dr. Mwiria):** Thank you, Mr. Deputy Speaker, Sir. Hon. Katuku was requesting for further three minutes, but I told him we have just donated all the time that would be donated. It is quite clear from your reaction that you are not in the mood to extend that generosity.

Mr. Deputy Speaker, Sir, first of all, I would like to thank hon. Members for their interest in this Sessional Paper as reflected by the very good comments they made. We appreciate this. I would like to assure Members that we are going to incorporate these comments in a revised version of the document, to the extent that, of course, they are feasible. For those Members who have insisted that it is a good idea for them to see a revised document, I think they are perfectly correct. They are entitled to see that their important views have been reflected.

Mr. Deputy Speaker, Sir, I know I have unlimited time, but I want to restrict myself to about 30 minutes, just to ensure that I capture the gist of the points that were made by the Members. The points I would like to emphasise is not everything that has been said, but only those points that may not appear in our documents or that may not appear pretty well as emphasised in the document.

Issues of national unity, moral and ethical values, social responsibilities, science and technology, equity and equality, and so on, are very important values. But as much as we have to teach them in school, it is important for us to realise that we will not get very far if what we teach in school is not reflected in what is happening in the wider society. So, it is okay for us to talk about teaching values of national unity, hard work, discipline, moral values and so on. But if society does not

practise those values, it is too much to ask of the education system.

In other words, I want to say that all of us have a responsibility, and especially the leadership, and people who have been out of school, to ensure that they lead by example, so that what is taught in our schools makes sense in terms of what students see out there. So, what we practise is inevitable. The political environment is very key in determining that. We talk about unity and people are talking about a Luhya President, Kamba President, GEMA President. Even at school, students are seeing this, and it is very difficult to talk about unity under situations where politicians themselves, the same ones who are saying we need national unity, are the first ones to practise values that are contrary to national unity.

We need our children to be confident and democratic. If we were to become autocratic in the way we do our business, it would be very difficult for us to expect schools to be better ambassadors of good values. Therefore, even religious instruction is not the cure. It is not that people are not taught religion. It is good for us to teach religious values, but they in themselves are not adequate. We know that Kenyans are God-fearing people and even those who talk the most against corruption would be the first ones to be corrupt and you find them in church too. So, prayers are not the solution because people pray, and perhaps, too much. The question is: Do we really live by those prayers? Do we really practise what we say? If you are corrupt politician and you go to church and donate Kshs500,000, people in the church will give you so much respect to the extent of asking you to sit on the Front Bench. This has really to do with learning to practise what we preach and ensuring that what we do out there is really a reflection of the things we talk about. So, teaching religion is not enough although it is important.

With regard to the 8-4-4 System, a great deal has been said. In a national conference that was held in November, 2000, it was said that other than the expenses that would be incurred in making changes to the current education system, there would be need to overhaul the whole education system. Changing an education system is not like moving from one house to another. However, the important point that was raised is that content is of paramount importance. Is it possible for us to borrow something from the old system of education? What, from the old system of education, would we like to incorporate in the current system in order to improve it? Let us not forget that the duration in both systems is the same; that is, 16 years. Opportunities abound even for 8-4-4 graduates. It is not difficult for a student who has undergone the 8-4-4 System of education to be admitted in a university in the USA, North America or anywhere in Europe nowadays. Having gone through the 8-4-4 system of education is as good, if not better than the A-Level system. The reason why Kenyans are sending their children to Uganda is not because the quality of education in Uganda is better than ours, rather it is because they want their children to get a second chance in education.

When young people do not pass in the Kenya Certificate of Secondary Education (KCSE) and thereby miss chances in our public universities, they opt to go to Uganda because they can do A-Level and then have added opportunities. I would like to assure this House that the quality of education in Uganda, Tanzania and the entire region is far below what we have in Kenya and that is why you find children from Uganda and Tanzania joining our private schools. If you go to Kajiado District, most of the schools at the border with Tanzania are heavily populated with students from Tanzania.

Mr. Deputy Speaker, Sir, I agree with hon. Members who said that students of the 8-4-4 System can be quite broad-minded. I taught students of the 8-4-4 System and the old system at the university. Honestly speaking, the diversity of the curriculum material the 8-4-4 System students are exposed to is remarkable. It is also a fact that students in this system do not specialise too soon; unlike our time in school when we used to be forced specialise after Form Four. The fact that a student of the 8-4-4 system of education can pursue a wide range of careers is also noteworthy. So, I think, those are important points to consider. As much as we talk too much against the 8-4-4 system, maybe it is

because many of us only know of one system. Let us not also forget that we are condemning a whole generation of Kenyans. People who are actually running the economy of this country today, went through the 8-4-4 System of education. To be honest, I have much more faith in this generation of Kenyans than our generation. If our generation was, indeed, as serious as we would like to believe, then we would not be in the mess we are in now in this country.

With regard to requirements, some hon. Members asked that we be more detailed. This Sessional Paper is just a road map on the policy guideline. There will be a specific action plan that will detail specific activities and programmes to arrive at these broad policies. Even though some hon. Members complained that we did not consult much, I would like to state that there was a lot of consultations before we came up with this document. We started with a big national conference. All hon. Members of Parliament were invited to attend that conference. The process of preparing this document has also taken more than six months because it involved experts. We had to convene meetings with all the stakeholders in the education sector to discuss the draft which has gone through a number of stages. What we are discussing now is part of the consultation process and we are going to include the inputs of hon. Members in this document. That way, the document will be richer than what we have presented here.

Mr. Deputy Speaker, Sir, concerning access and equity in primary and secondary school education, I would like to agree with hon. Members who said that our education system, as it currently is, favours the rich right from pre-primary education to the university. For instance, at the level of primary education we have academies which contribute the largest number of pupils to our national schools. The same students have higher chances of joining our public universities to undertake the degree programmes. It is quite clear that children from poor families will find it difficult to make it as far as education is concerned. The situation today is, in fact, very different from the times hon. Muturi and I went to school. I met him in Kang'aru Boys Secondary School. I am sure he came from some manyatta in a rural or peasant background. If we were to go to school now, it would be very difficult for us to be hon. Members of Parliament, 20 years from now. I think we must confront that fact and begin to deal with it, otherwise, we shall be condemning generations of Kenyans and sometimes, the most talented Kenyans simply because they do not have resources. If the majority of people in this country live below the poverty line, and if intelligence is distributed along those lines, then those who are really intelligent are being left out. This is an issue we must address as we talk about reforming the education system in this country.

Investment in early childhood education is important because the majority of those who can now access early childhood education are children from rich families. I agree with some hon. Members that the sooner we do it the better. It is also important to think of making education compulsory in our country. As if that is not enough, we need to find out ways of implementing that so that those who are disadvantaged do not continue to suffer. I also agree with hon. Members who said that we should incorporate adult education into the basic education programme for the purpose of co-ordination and ensuring that the adult education system is more organised and efficient than it is currently. We need to make it part of the general provision of basic education programmes in this country.

With regard to quality and fair competition, the point that came out clearly is that public schools, compared to the academies, are disadvantaged. It is also true that the remote areas of this country are also disadvantaged. Areas that have, historically, been disadvantaged continue suffering in terms of education. To have fair competition, we therefore, need to do more than what we are already doing in terms of taking care of the necessary resources in ensuring that they are more equitably distributed where that is not the case.

Mr. Deputy Speaker, Sir, a point was made about the need for an all-inclusive education system. I agree that we need to incorporate non-formal schools with the formal school education system to make it possible for those who go through that programme to also benefit from academic

education. From the point of view of equity, infrastructural support is necessary not only for the arid and semi-arid areas, but also for those areas that are thought to be well endowed with resources, but still have some pockets of poverty. In the newly created districts which do not have big national schools, hospitals and so on, we need to ensure that they get good schools. It is with this in mind that the Ministry, in the current five-year plan, is thinking of recommending the construction of 300 primary schools across the country; at least one government sponsored classroom in the more than 7,000 primary schools in the country. The Government will also give support to secondary schools in the country.

Mr. Deputy Speaker, Sir, with regard to national schools, the point that was made was that we need to have at least two centres of excellence in every district. We should have one top girls secondary school and one top boys secondary school. That way, if we manage to have 72 or 140 national schools, we will be able to guarantee some kind of competition even for the most disadvantaged districts.

However, it is not going to make any sense until we insist that a student can go to any school in this country. We should make it possible for a student who comes from Ijara Constituency to go to school in Kisumu or from Coast Province to Alliance High School. If we do not do that, the traditionally well established schools like Alliance High School and Mangu High School will continue to take the best students. We need to distribute the students across the country and ensure that other national schools that will be established are attractive. We should insist that the students should be spread across the country in those newly established national schools.

Mr. Deputy Speaker, Sir, the issue of improving retention of students in schools does not need to be over-emphasised. There is need to provide health facilities, sanitation, water, food programme, where it is necessary, electricity and other facilities that make it possible for children to attend school and to retain those that are already enrolled in schools. Also, in terms of expansion, especially for secondary education, the point has been well taken that we need more day schools. Like one hon. Member said, these schools are the schools of the future. These are schools that you find in most other countries. If we want to expand access and to make our education affordable, then we must forget the idea of boarding schools unless where it is really necessary.

Mr. Deputy Speaker, Sir, however, the reason why parents do not send their children to day schools is because they know that children in day schools do not stand a better chance of joining universities compared to students from well established boarding schools. So, we must find a way of making day schools attractive by making it clear that students from day schools can join universities and can do competitive university programmes, just like students from well established boarding national school.

Mr. Deputy Speaker, Sir, points were also made about the need to experiment with the double-shift system even for secondary schools, especially in towns in terms of other innovations, but also whether or not it is not necessary for us to utilise the institutions that are available now by expanding them. So, if you have a school like Kang'aru where you have plenty of land and space, maybe you should have four or five streams. If we can do that, it may be more efficient than starting more schools all over. Where this is possible, therefore, this was recommended and it should be one of the innovative ways of expanding opportunities.

Mr. Deputy Speaker, Sir, a lot has been said about the bursary programme. We have been complimented for that, but we have also been told that those resources are not adequate. We need to expand them and we are considering this as a Ministry. We are also saying that we must expand the net of potential supporters of this bursary programme, including individual graduates of schools, hon. Members, rich farmers and traders. For example, in Europe and the United States of America, you will find that there are many philanthropists who support education in their respective communities. So, as much as the Government intends to do that, it is critical that we begin to expand that net, so that we

have more partners supporting the bursary programme in this country and then many more students will benefit from the bursary programme.

A point was also made that because of the difficulties involved in moving children from one point of the City to another, especially in Nairobi, we should have a law that requires parents to enrol their children in the nearest school. We should also remember that the reason why parents take their children to Olympic and the other top schools, is because that is where we get the best child in our national examinations. So, as much as we would like to convince parents to do that, it is also important for us to upgrade the standards of all those schools, so that they will also be attractive to the parents. Otherwise, this is going to be a very difficult proposition.

On the issue of school certificates, hon. Musila has been very passionate about this as have been other hon. Members. They have asked whether or not we should continue to retain certificates of poor students, who cannot find any employment or any other opportunity without the certificates. We were even reminded that the law does not allow us to hold certificates beyond five years. We would like to take this recommendation, but before that, we would like to discuss it with the Attorney-General for the way forward. I would like to assure the hon. Members that the point is very well taken. However, this will depend on the discussion that we will have with the Attorney-General.

Mr. Deputy Speaker, Sir, let me talk about bursaries in secondary schools. The reason why we are complaining too much about bursaries not being enough is because secondary education has become unaffordable, not necessarily because of the Ministry's guidelines, but because principals of schools are imposing all sorts of levies. Sometimes back, we were told that uniforms in some places cost up to Kshs20,000. Students are asked for money to buy computers and school buses. Even hon. Members have a duty to ensure that school principals do not go beyond their mandate. We also should educate parents on their rights to learn that they have to continually question some of these decisions, especially if they are members of the Parents- Teachers Association (PTA) or the Board of Governors (BoG). Unless we ensure that, that happens, secondary education will be expensive, not because this is the Government's intention, but because there are people who would like to make some money on the side. It is up to all of us to fight those tendencies in many of the schools that we are associated with.

Mr. Deputy Speaker, Sir, with regard to local components in secondary schools, some hon. Members have said that there are schools like Alliance Boys High School, that are located in their districts that do not admit students from those particular districts, especially because of the competition provided by academies. If we have a quota system whereby students can join national schools on the basis of their grades compared to those from similar schools, then we may be able to avoid this difficulty. I want to propose that if we have, for example, 1,000 opportunities in national schools for the Form One intake and we have 9,000 candidates from academies, if the academies represent only 10 per cent of the total candidates and the public schools represent 90 per cent, then children from the public schools must take 90 per cent of the opportunities and the academies should only take 10 per cent of the opportunities. This is proportionate. In other words, children from academies should compete with others from academies. Otherwise, it is not fair competition to assume that we can just say that what counts is to score over 400 marks to join a national school. A student in Ijara or Mbeere who scores 350 marks could be much better than a student who scores 450 marks from an academy. Therefore, I would like hon. Members to support this policy of proportionate admission.

The advantage with this policy is that we will end up strengthening our public schools. Parents will begin to have faith in public schools because they will realise that students from public schools can join national schools. Even teachers in public schools will begin to have faith. Currently, our teachers are sending their children to academies. For people to have faith in our public schools, it must be clear that students can come from public schools, join national schools and join universities to do whatever

other programmes that those who come from academies do.

Mr. Deputy Speaker, Sir, if we do that, we will get some kind of equity and we will ensure that locals will be able to join national schools, including those that are located in their communities. We must decide whether a school is national or local. If we have a national school, then it must admit students nationally, but they should be many of them, so that there will be many opportunities as opposed to the current situation whereby we have to fight for places in only ten or 12 schools in this country.

Many hon. Members spoke about the need to refocus our curriculum to teach the values that we spoke about, namely, democratic values and confidence. Again, as much as we must do this in schools, the wider society must reflect on this.

Mr. Deputy Speaker, Sir, on diversification, again the point was made that academic knowledge is not the only knowledge. Just because you are a very good book-worm and you managed to get your way into university to study Law or Engineering does not mean that you are better than that student who is talented in sports, music or drama. Regarding the issue of creating employment, some hon. Members have said, we must also give opportunities to those kind of talents.

For example, we found out that in Europe and America, people who are talented in music, drama or sports can be much more successful than people who have too many degrees. So, we should also consider this as being important and, therefore, not just talk about it. We should examine and reward those students and establish institutions like music, sports and drama academies, where persons with those talents can have an opportunity to proceed and further their own type of education.

Hon. Members also made another point on the need to ensure that whatever we do must be in tandem with demand. There is demand for a lot of skills that are not necessarily taught in school and that, sometimes, we are teaching much more and repeating things that are not necessarily on demand. So, the curriculum should, once again, be geared to reflecting those needs.

Indigenous cultures, folklore, discipline and character development are, once again, important issues. Sometimes we promote western values through our education system, and these values are all over, even in this Parliament in the way Mr. Speaker dresses when sitting up there or in the kind of robes judges wear. It is also in the mannerisms, the way we behave, and in our kind of democracy that is not necessarily of consensus building. These are values that are also influencing very much what is happening and, as much as we value it, I think the best situation is where you have a hybrid of what we borrow from the West mixed with what we borrow from our traditional values; all that must be reflected in what we do and what we teach in our education institutions.

Mr. Deputy Speaker, Sir, other skills are also important, for instance, conflict resolution, mannerisms, health, environment and some of the points that the Minister for Health was making, among other points such as continued education which will enable you to upgrade your skills from time to time.

Regarding the examination system, hon. Members made it very clear that, sometimes, by just testing or doing examinations at the end of eight years and, hence, deciding the fate of a pupil on the basis of just one exam is problematic. Therefore, proposals were made on the need to also include internal assessments, as is the case everywhere else, to test other things and to do more than just one examination. These are good ideas, but sometimes, the reason why we have such a system is because of the practical situation we have. To what extent can we trust teachers to objectively evaluate their own pupils and students when we have stiff competition for scarce resources? So, as much as we would like to take up some of those ideas, it is important to begin thinking of ways on how we can actually implement them without jeopardizing some of the values that we stood up for very strongly, especially values of meritocracy and ensuring that only the very best benefit from our system.

We have been accused of not doing enough with regard to cheating in examinations. I think we have to be a little more rigorous on this issue and suggestions were made as to how we can



improve the situation. Examinations should not be made to eliminate like what used to happen in the colonial system in which the Common Entrance Examination, the Kenya Advanced Primary Examination and the KJSE did. All those examinations were much more meant to eliminate than to evaluate competence, and we must be careful not to fall into that danger, especially by expanding opportunities that are available to those that are graduating from our education institutions.

Regarding continuous training on merit, only the very best educational professionals should be managing schools. We should also improve their remuneration packages so that we attract and retain them in schools. This also applies to those who are managing schools at the district and provincial levels and not just at the school level.

Once again, we should put more emphasis on science, mathematics and Information Communication Technology (ICT). Some hon. Members suggested that we should have a crash programme because many of our schools lack key teachers in physics, mathematics and other science subjects, including ICT.

Many hon. Members complained that many diploma colleges are a big joke because they were converted into technical diploma colleges without the necessary infrastructure and teachers. Therefore, we need to rehabilitate and equip them. We also need to recruit qualified teachers for them. In terms of recruitment of teachers, a point was made about the need to decentralize, where necessary, but not to punish those people who come from other areas and who might decide to teach in places, and there should be no discrimination. More teachers should be trained, especially on the basis of need, targeting those areas that have a scarcity. In terms of the entry grades for teacher training colleges depending on region, hon. Members have said here that the "C" grade might not be practical for all regions. For some regions, it might be alright to require grade "B" to be the entrance grade for teacher training colleges. But in other places, maybe, a "C- (minus)" would be much more relevant. But once again, we have to ask ourselves questions about whether or not the teachers who come out of those institutions are well prepared to prepare our own children and even those from disadvantaged communities who compete with those others from the rest of the country where they may have qualified teachers. So, these are important decisions in terms of the long term educational development of even the disadvantaged communities.

Hon. Members have raised the issue of recruiting enough teachers both in this week and last week. The other issue is one of not over-concentrating teachers in towns, especially women teachers and that we should, therefore, do something in terms of ensuring that Nairobi, Nakuru or Mombasa are not any more advantaged than any other areas, just because well connected people are working in those towns. Another issue is that of encouraging cost-sharing, and hon. Members have said that if parents have to pay for the teachers, and if that is the price they have to pay for quality education, then they should be allowed to recruit those teachers. I would like to say that the Ministry has not changed its policy in that regard. On the issue of provision of relevant human and physical resources and strengthening of institutions that support the Ministry of Education, Science and Technology, including the Kenya Institute of Education (KIE), once again, we do not need to over-emphasize that issue.

Mr. Deputy Speaker, Sir, in addition to having two centres of excellence in every district, it has been recommended that we should review what has been happening to schools that were performing well before, for example, Machakos Boys High School, Kitui High School, Kangaru School, St. Marys Yala, Nkubu High School, Kisii High School and so on; they are all over the country. The Ministry is already doing this and we just want to find out what is happening to schools which are very well resourced, and they are not doing as well as even district schools. After that, we would like to ensure that if it is a management problem, which we believe forms 80 per cent of the reason, then, we have to reduce this problem and have managers who can manage those schools appropriately, because those schools will help us expand opportunities and good quality of education.

But we are not going to sacrifice the schools just because we have school managers who are not supposed to be managing those kind of schools.

Regarding the school calendar, an hon. Member suggested here that we should abolish visiting days. I do not know if that will be too cruel, but I think we should leave it to schools to discuss it with parents. But we must discourage the excesses that the hon. Member was talking about, especially where there are parents who go to schools with a catering unit from some kind of a catering facility in front of all those children. That showoff or arrogance may not fair very well for those who are not equally advantaged. In the same breadth, we must appreciate why school uniforms are used in schools; because some children would be much better dressed than teachers, and this could demoralize those who do not have the ability to procure that kind of expensive uniforms. But if having school uniform makes education expensive, I think we should consider whether or not we should retain it.

The issue of harmonization of allowances for hardship areas was well taken. I want to mention quickly the issue of university and middle level college education. I think hon. Members have said that middle level colleges are, more or less, not being given their rightful place and that, many of them have been destroyed. We shall, therefore, increase the vote allocation made to those institutions so that we can strengthen and co-ordinate them better in order to offer flexible programmes. That will make village polytechnics more attractive, not only because they will have equipment, but also because graduates who will come out of them will be able to find employment because they have been well prepared for the job market. We should also emphasize training of skills all the way as well as providing bursaries to students in those institutions. But once again, we must make it very clear that, if many of our graduates from technical institutions have no jobs, it is not so much because they do not have the skills, but it is because the economy has not been growing at the same pace to accommodate those graduates. So, as much as education has a role to play, much will depend on what we do as a country in terms of expanding employment opportunities. Therefore, national economic growth should be our first priority, even before we talk about political possessions, power and so on. Let us have a great economy because then, we would be resolving a lot of the problems related to unemployment and poverty. If less talking can help, then we better do something about that.

Mr. Deputy Speaker, Sir, on the issue of expanding opportunities in our universities, it was made clear that we have institutions that we can expand and, therefore, we should concentrate our resources to make sure that, for example, the University of Nairobi can accommodate many more students than it currently has. We should, therefore, involve the private sector and provide incentives to make this possible.

We should depoliticise that function because not all parts of this country will have presidents. When we set up universities, this must not be on the basis of ethnicity. It must be clear that there is a need and that there will be demand. We should really democratize or decentralize location of institutions. If we can have university campuses in every district, the better for this country. But at least, in every province, it will be useful to have a university institution, so that we bring universities closer to the people. Even the whole idea of day scholars, which is the case in many parts of the world, can help expand opportunities. It will be much easier for students to be day scholars if it is possible for them to attend a university that is not too far away from where they live. Therefore, the point of decentralizing and ensuring that we take as many universities to the people as we can was very well taken, so long as we retain the character of our institutions.

Mr. Deputy Speaker, Sir, as much as we expand, we should also worry about the disadvantage of doing so. Therefore, we should do everything possible to ensure that those who are economically disadvantaged have access to loans and other types of support. The physically challenged should also have facilities in institutions to make it possible for them to enjoy their participation in university education.

The Higher Education Loans Board (HELB) should be expanded to cater for students in

private institutions because eventually they will have to pay. We need to put in place mechanisms to ensure that we are able to recover what we have rent out, so that other students can also benefit.

Mr. Deputy Speaker, Sir, on the issue of recruiting professors, the point that Mr. M. Kariuki made about requiring much more from our professors and researchers was well taken. It should be appreciated that in the last 30 years there were many people who were promoted to professorship when they did not deserve it. Also, there were people who were promoted to head schools and other institutions when they did not deserve it. Personally, I have been saying maybe we should review those qualifications. Like with principals of schools, we should retain the best. We have very qualified professors in our institutions, but we have many that have benefited from political connections. We should ask questions about whether or not we are doing enough to ask of them to contribute in commensurate to the rewards that they get from society. We cannot expect them to do much in the area of research if we do not have research boards in our universities.

Mr. Deputy Speaker, Sir, it is, therefore, gratifying that in the last Session we passed a Motion to support our research institutions. We, as a Ministry, are planning to have a budget item that will support research in our institutions, so that we do not blame our professors for not doing research when we are not facilitating them to do so.

Mr. Deputy Speaker, Sir, with regard to academics again, we should put in place relevant incentives so that we retain our best academics, so that we do not lose them to industries and universities overseas. Whatever we can, not just on salaries, but in terms of the work environment, we should ensure that they have good offices, computer facilities, telephone lines and a duty free facility, among others. This is the only way we can retain the best brains in our universities. We get more from them that we can quantify.

On the same vein, we should try, therefore, to attract those that are outside this country to come back to this country. However, it must be clear to them that the environment they are coming to, is attractive enough for them.

Mr. Deputy Speaker, Sir, on the relevance of university education again, we were told to ensure that universities tie what they teach to market demands. Therefore, it might be necessary for us to train more dentists and doctors and so on to relate to employment levels. That point was well taken. That is if we have to involve our academics in policy formulation to ensure that what we do in Government and universities is more relevant. We should link knowledge to global opportunities. Our graduates should not just look at this market. They should look at the markets outside this country. Our universities and other training institutions should reflect this possibility.

Also, the university calendar needs to be reviewed to ensure that students do not have to wait for a year or two before joining universities and that students do not have to spend five to six years pursuing an undergraduate degree programme. However, for this we have to ask for the co-operation of our students who sometimes cause the closures that lead to this delay.

Mr. Deputy Speaker, Sir, on the management of our learning institutions, we were warned about over-emphasising the religious factor. Several hon. Members of Parliament asked: "What is it about Catholics, Methodists or Muslims that makes them sponsors just by name, when they are doing nothing to contribute in the resources for those schools except causing confusion?" They just want to know who will be in the board of governors or who will be the principal of a school. I know the Kisii's have a serious problem with this, as is the case everywhere. We must be very clear that this is a secular State.

Mr. Deputy Speaker, Sir, as much as we believe in God, and we must go to church and teach religion, religious people have no business determining the governance of our education institutions, especially when this governance has nothing to do with serious learning. So, I would like to ask for the co-operation of hon. Members of Parliament in this issue because it will be quite a battle for us to ensure that really those institutions will not fight back if we leave out religious organisations to have

influence in their management. Strengthening counselling and guidance was an important point. There are girl schools that are managed by men because we do not have enough women. The reason why we should have women as role models for discipline and so on is important.

Mr. Deputy Speaker, Sir, in terms of reviewing qualifications of current school managers, we have 4,500 secondary schools. There are many Kenyans who believe that maybe not more than 1,000 of them are well managed. There are many good schools in this country such as Kangaru and Ngovu secondary schools in Eastern Province, and St. Mary's Yala in Nyanza Province. However, I think there is a problem with the people who are managing our institutions. I made this point as early as June, 2003 that maybe we should advertise all the positions of principals in this country. If we do so, we will retain the good ones. If they could do that with the Judiciary, what is so difficult about advertising positions of principals of schools? We have to decide, do we want to risk the lives and education of hundreds of thousands of Kenyans because we have to retain about 500 incompetent principals of schools? Therefore, we appreciate the point that was made by hon. Members that it is necessary to review qualifications of all sitting principals. If necessary, re-advertise these positions and have the good principals retained. This is related to the point about delocalizing headship of schools, the District Education Officers (DEOs), Provincial Education Officers (PEOs) and principals of schools. On the provincial and national schools, we should delocalize management of those schools. In this regard, again, we will call upon the co-operation of hon. Members of Parliament. For example, I do not mind a Digo managing a school in my constituency if he or she will make our students pass exams. It is the same also with religion. I recently attended a board of governors meeting in a Catholic school. So, I asked the parents and students: "If we had a Muslim as principal to head this school and the students are passing examinations and joining universities and, on the other hand, we have a Catholic because this is a catholic school, and our children are failing, who would we prefer?" They all said the Muslim. So, the issue should not be whether or not the school head comes from our home area or whether they are from a certain church denomination. It is whether or not they are performing. That is what we really should empathise.

Mr. Deputy Speaker, Sir, sometimes even hon. Members of Parliament have been accused of politicising this whole business by trying to protect certain incompetent principals. Therefore, if we decide to go out, it all depends on the co-operation of all hon. Members to ensure that policy is implemented.

The point which was made about the Ministry of Education, Science and Technology stamping its authority on non-formal schools that are basically money making institutions or illegal schools that have no certificates and are operating, especially private schools that are really just cheating parents out of their money will be looked into. Other issues that will be looked into include, fee ceilings to ensure that schools or principals do not charge more than they should, no politicization and ensuring that we have more young people as heads of schools. It is now very difficult for anybody to be a head of school unless one is about 50 years old. If we want to have people who are dynamic, who can take risks, and who have the ability to stay in schools longer, we should open up these positions to younger people between 30 years and 45 years of age. Likewise, some issues were raised on the time we spend in managing our institutions. We should be very careful to ensure that, that time is not used by principals of schools and education administrators to run their own businesses, as opposed to running schools.

Many questions were raised about the boards of governors. Many hon. Members emphasised that we need quality members. If you are a member of a primary school committee, you better have, at least, secondary school education. The pupils in primary schools are hoping to go to secondary schools. If you are going to be a member of a board in a secondary school, it is good that you have university education. Those students are aspiring to go to universities. Of course, we will have other members. In that group, let us have accountants. They can monitor the way money is spent. Let us

have architects because they can help to design school buildings. I do not think we shall compromise on that. Quality of leadership is important. That is so not just because education is important, but when you are educated, you have the confidence to question the school principal. Many of our Parents-Teachers Association and board members cannot do that now.

In addition to that, it strengthens the participation of other stakeholders, apart from those we are saying should be incorporated. The reason why our students are so timid--- Somebody said that if you go to public schools, the students are very timid. But if you go to private schools, students are very courageous and confident. That is as a result of the way they are treated by school principals. They treat them like they do not count. The management of schools is very autocratic. Until we democratise the management of institutions, we cannot expect our young people in those schools to be confident and democratic. Therefore, we must give them a say in determining what should happen in those schools. Let the students be represented. They do not have to be that many. We have schools like Starehe Boys Centre where they have student parliaments. In those parliaments, headmasters and board members can listen to students from time to time. It is not too much to ask that our students should have a say in the way their schools are governed. That happens everywhere else. But in systems where you still think that you know everything because you are a principal or a man or woman in a position of authority, that does not happen. That is not good for our schools. No wonder, there are so many strikes. If students are represented and listened to, then it is possible to identify some of the problems that lead to strikes.

A point was made about the need to review the Education Act, the University Act and other Acts to harmonise them with the ideals that have been stipulated in this Sessional Paper. On strengthening the inspection of schools, we have been told that very little is happening!

Mr. Deputy Speaker, Sir, although we have provided vehicles and motorbikes, much more can be done. We have taken that very seriously. We will ensure that our inspectors are effective and disciplined, so that they can instil discipline on the institutions that they inspect.

Mr. Deputy Speaker, Sir, again, we will do everything possible to improve the efficiency of the Teachers Service Commission (TSC) and other administrative organs of the Ministry. We will process the applications for registration of schools very quickly. We will also quicken the registration of boards of governors. Essentially, any requests that come to the Ministry, districts, provinces and the TSC will be taken care of quickly and efficiently. Other people have said that the Ministry of Education, Science and Technology is a bit too large. It is a Ministry that takes up 50 per cent of the national Recurrent Budget.

Mr. Deputy Speaker, Sir, in many other countries, there are, at least, two Ministries. There is a Ministry of Basic Education and a Ministry of Higher Education, Science and Technology. As hon. Members, we keep on asking the Government to increase the budget of the Ministry of Education, Science and Technology all the time, not remembering that there are other Ministries. I think that point was also taken. But all that can be done is to recommend that the Ministry is a bit too large. On title deeds for parcels of land in our schools, we need to do everything to ensure that schools have title deeds. We should also quicken the registration of schools.

Finally, on financing, we have asked for a great deal from the Ministry. However, we also need water, roads and electricity. We are still aware that the Ministry of Education, Science and Technology is taking too much of what is available. Therefore, as much as we must enlarge our budget, it is important to realise that, unless we expand our partnerships, very little is going to be accomplished. We must accept cost-sharing and the use of Constituency Development Fund (CDF) money. We should go to donor organisations to expand that kitty, so that we could implement many things. The resources available from the Government are not enough. However, there are other areas where we need support from the Government.

In addition to that, we need to be realistic with regard to our demands. I do not think we should demand things as if we are in the old days when--- Who said: "Let there be light and there was

light?" I do not think it is possible for the Ministry or the Government to provide everything. It is very difficult. Therefore, we really need to be very realistic as hon. Members. We have asked for a great deal. But what is implementable, given the resources that are available, and given that we have to spend those resources across other Ministries, will be implemented?

Mr. Deputy Speaker, Sir, on the issue of introducing incentives for the private sector, the point is well taken. If our children can attend private academies and primary schools, they can also attend private secondary schools and universities. We must give them incentives in terms of taxation. Basically, we would like to make it possible for them to feel that they are appreciated with regard to the role that they are playing in terms of expanding education opportunities in this country. So, all the way from primary, secondary and university, a whole range of incentives are possible.

On the efficient management of resources that are available, again, even as the Ministry of Education, Science and Technology and other Ministries, if the money that is going to secondary schools as bursaries and loans is well managed--

Mr. Deputy Speaker, Sir, I believe there is room to manage those resources better. We can, therefore, extend their reach to many more deserving cases than the current beneficiaries. Therefore, we are doing something in terms of transparency of our plans, allocations of the budgets and ensuring that, within the education sub-sectors, there is some kind of equity.

It is all right for us to ask that the kitty should be explained. But it must be well co-ordinated. If, as a Government, we are asking for resources from Non-Governmental Organisations (NGOs) and the donor community, we must insist that those resources are well co-ordinated to avoid duplication. We should ensure that the same projects are not done by different donors. That way, if we have a donation of books from the Department of Foreign Investments and Development (DFID), the World Bank do not do the same. That co-ordination is important to ensure that all the resources that are available for education from NGOs and the donor community are channelled properly to achieve maximum benefits.

Mr. Deputy Speaker, Sir, many of the ideas that were suggested can only be implemented across the Ministries. There is need for inter-ministerial collaboration to implement programmes that cut across the Ministries. I agree with hon. Members who said that the real test of this Sessional Paper will be its implementation. There have been many reports and Sessional Papers before this one. I think this Parliament and the Government will be judged on the extent it will implement this Sessional Paper. All of us have a role to play to ensure that there is some success.

Mr. Deputy Speaker, Sir, we also need to concentrate on the economy. Without a stable economy, all the demands that we are making cannot be fulfilled. We also need to be courageous to make change possible. Many of these ideas call for a great deal of courage and taking risks. If we are not prepared to do that, then we might as well not talk about all this. We must have courage and be honest. As long as we believe that it is going to make a difference in terms of improving educational standards in this country, we will do it.

Finally, if we make some good proposals, we have a duty to insist that they should be reflected in the revised Sessional Paper. I would like to thank hon. Members for their contributions. I have highlighted some of the issues that did not come out very strongly from the Paper. I hope the revised version will be much more acceptable to hon. Members.

With those few remarks, I beg to move.

*(Question put and agreed to)*

ADOPTION OF REPORT ON  
APPOINTMENT OF

DR. J.K. ROTICH  
AS KACC DEPUTY DIRECTOR

**Mr. Muite:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-  
THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the appointment of Dr. J.K Rotich as Deputy Director of Kenya Anti-Corruption Commission laid on the Table of the House on 22nd March, 2005.

I am sure that hon. Members have had the opportunity of studying the report in full. In the interest of time, I propose not to take this august House through the entire report. Allow me to, however, highlight a number of issues in the report.

Mr. Deputy Speaker, Sir, before I do so, I would like to begin by paying tribute to hon. Members of the Committee, for their dedication in this task.

The hon. Members are:-

Hon. W. Bifwoli, MP,  
Hon. J. M. Omingo, MP,  
Hon. M. Mukiri, MP,  
Hon. Ms. C. Mbarire, MP,  
Hon. M. Cheboi, MP,  
Hon. G. Ndambuki, MP,  
Hon. A. Abdalla, MP,  
Hon. J. Choge, MP,  
Hon. Dr. E. W. Kibunguchy, MP,  
Hon. P. O. Owidi, MP,  
Hon. K. O. Marende, MP,

and myself as the Chairman.

Let me also pay tribute to the staff of the Clerk's Office for the support which they have given to the Committee. You will notice that at the bottom of the third page of the report, attention is drawn to the fact that the Committee has 12 hon. Members instead of 11. This is a matter that the Committee has referred to the Office of the Clerk of the National Assembly for resolution. The name of hon. Omingo was laid on the Table of this House as a Member of the Committee when it had been fully constituted and had 11 Members. The matter is being sorted out by the Office of the Clerk of the National Assembly.

Paragraph 20 on page four sets out the background of this matter. I would like to refer to it. On 5th August, 2004, the House approved the appointment of the director and four assistant directors to the Kenya Anti-Corruption Commission (KACC). Despite this House's approval of the director and the four deputy directors, His Excellency the President did not appoint Dr. Rotich to the position of Assistant Director, Finance and Administration.

Mr. Deputy Speaker, Sir, on 7th October, 2004, hon. Franklin Bett raised a Question by Private Notice, seeking an explanation from the Minister for Justice and Constitutional Affairs, as to why Dr. Rotich was not gazetted as an Assistant Director of KACC.

Mr. Speaker then directed the Committee in charge of Administration of Justice and Legal Affairs to get to the bottom of the issue; "The Committee should first of all, find out what ways the House will be satisfied that a person is picked for appointment to an office before we give our stamp of approval.

*[Mr. Deputy Speaker left the Chair]*

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

Secondly, if we as a House, any other person or an authority make a mistake, what is the avenue for redress and how do we go about it? On this basis, I will ask the Committee to proceed. Let us have answers to the future avenues." This is a quotation from the HANSARD, from a Speech by the Speaker.

Mr. Temporary Deputy Speaker, Sir, it is clear from what the Speaker said, that there are two interrelated and important issues. First, there is the aspect of Mr. Speaker's directive which touches on the power of this House to appoint persons to certain positions that are provided for in certain statutes.

In other words, Parliament is concerned with both its statutory powers and how to exercise those powers, to the exclusion of any intruding force that in turn erodes the powers and prestige of this House. It also addresses the constitutional doctrine of separation of powers, so that each arm of the Government exercises its powers according to the law.

Secondly, Mr. Speaker was concerned about the enforcement and redress mechanism of Parliament when another arm of Government disregards its authority, and as to what happens when an authority, despite the exercise of certain powers by Parliament negates, ignores or acts contrary to the same, thereby painting a picture of a toothless or impotent Parliament.

Mr. Temporary Deputy Speaker, Sir, is rightly concerned with the Constitutional role of the House and its watchdog role too. Both aspects explained by Mr. Speaker have enormous effects on the balance of power between the various arms of the Government. The effect of a blatant usurpation of Parliamentary authority by the Executive and the non-commitant effect it has on limited Government that adheres to the rule of law, as opposed to personal rule. These various interrelated issues are well captured by Mr. Speaker when he replied to Dr. Khalwale by saying; "the Committee should look into the whole issue of vetting and approval by the House of persons to whom this House is empowered to approve." What happens about the question that follows next when the House has approved an appointment and the appointing authority has declined to so appoint? The matter was then referred to the Committee on Administration of Justice and Legal Affairs on 7th October, 2004 for appropriate deliberations and report to this House. The Committee decided to deliberate on the matter as referred to it in two phases.

Mr. Temporary Deputy Speaker, Sir, first, was the issue of Dr. Rotich and secondly, the whole issue of Parliamentary vetting and approval of appointment, when the law requires this House to vet or approve such appointments? This report, therefore, relates to the issue of Dr. Rotich. A further report on the second phase will be made to this House after the Committee concludes its investigations on the matter. I would like to inform this House that the Committee on Administration of Justice and Legal Affairs, on the second issue held a retreat in Mombasa, which was sponsored by SUNY together with USAID. We are developing and are in the final stages of concluding a manual to guide this House on the issue of approvals. The USAID and SUNY have also extended an invitation to the Committee to travel to the United States of America (USA) and study how the Senate goes about approving appointments.

Mr. Temporary Deputy Speaker, Sir, Paragraph 3 records the deliberations of the Committee and I do not need to go through that. It goes on up to paragraph 8. However, on paragraph 9, I would like to draw the attention of this august House to the observation that: "The Committee reiterates that the advisory board was an independent body under the Act, hence was directly answerable to the National Assembly and should not take advice from or allow the Ministry of Justice and Constitutional Affairs to interfere in its deliberations".

A proper appreciation of both the law and the policy behind the Act leads to the inescapable conclusion that what the Act did was deliberate; it was not by accident. The powers that were given to



the board was deliberate and it was not by accident. Parliament was informed by the fact that considering the history of the Emperor President who appoints all and fires all, the need to have such safeguards for institutions that check the power of Government was important.

Mr. Temporary Deputy Speaker, Sir, so, both the spirit and the law and even the policy framework mean that the powers of the President in relation to these two institutions were not only taken away but were statutorily designed to be domesticated. In addition, Parliament was given the central role in this Act, indeed the focal point in relation to these three organs. It was precisely to insulate the advisory board and the commission that the Act took the operations of these two institutions outside the axis and orbit of the presidential realm. The inability to appreciate the historical genesis and statutory intent of the Act underlines the Government's bad policies in relation to every step it took in this Act. It is clear from the views the Committee received from the advisory board that all the rules and regulations touching on the recruitment of the director and his four assistants were clearly adhered to and the Committee finds no fault and was of the view that the law was adhered to by the advisory board.

Paragraph 3.20 sets out a record of the meetings we had with the former Chairman of the Kenya Anti-Corruption Authority (KACA), I do not need to take the House through that except to draw attention from the discussions we had on page 13 "J", that from the meetings it appeared that hon. Amos Kimunya was a dark horse behind the process to thwart the appointment of Dr. Rotich. The legal position is that the Kenya Anti-Corruption and Economic Crimes Act, 2003 is a revolutionary piece of law that creates two independent bodies, the advisory board and the commission. Both organs are answerable only to Parliament and the President has no executive role over the said organs. Members of the board are not Government appointees and are actually nominated under the Act by the various professional bodies set out in the Act. The Government has no role at all and this seems not to be appreciated by the authorities.

Mr. Temporary Deputy Speaker, Sir, the House will remember that, in fact, the various institutions that nominated members to the advisory board did so. Their names came here, they were approved by Parliament and they were all gazetted. Once it was constituted, we handed this power to the advisory board to advertise and recruit the director and deputy director. They did so and they brought those names here and we passed them. Hon Members may wish to contrast that position with, for example, the Kenya National Commission for Human Rights where this House is the one actually that advertised and recruited its members but there, the President was given by this House in the Act of Parliament, a little discretion. The House forwarded 12 names to the President from which he was to drop three and appoint nine. There is no such discretion in the KACA Act.

Once the National Assembly ratifies the appointments, the President's role is purely ceremonial and formal, namely to appoint. The Act provides that "the President shall appoint".

Again, the House, with the hon. Members, may wish to consult the position, for example, once a person is elected MP for Mwingi South, he cannot start participating in the deliberations of the House before Mr. Speaker has sworn him. But does it lie in the mouth of Mr. Speaker to say "I am not going to swear you because I have received information?" No! If there are any allegations once you are elected, the Speaker has no option. His role is ceremonial and formal to swear the Member.

*(Applause)*

If there are any allegations an election petition is to be filed and those issues are to be gone into. So, the President did not have those powers. There is no provision allowing His Excellency the President not to appoint the recommended candidate. The appointment ought to have been made and then a tribunal established to look into the substance of the allegations raised against Dr. Rotich. Parliament conferred Executive powers on the board as it is mandated to do under Section 23(2) of the

Constitution.

Mr. Temporary Deputy Speaker, Sir, I will be coming to this section later, but Section 25 of the Constitution does not apply to the present scenario at all as it allows tenure of office to be held under any other law. Sub-section 2 refers to offices in the Public Service, National Youth Service (NYS) or any other service like that. The KACA directors under the Act are not members of the Public Service. Section 11 of the KACA Act specifically provides that the State Corporations Act shall not apply to KACA. In the premise, the President clearly acted contrary to the law and his actions or omissions are wholly unjustified.

Mr. Temporary Deputy Speaker, Sir, on paragraph 3.22, observations, "following this meeting the Committee was of the view that the Anti-Corruption and Economic Crimes Act, 2003 does not fall under the purview of Section 23 and 25 of the Constitution". The Act gave the advisory board enormous powers. The advisory board has the sole and exclusive power to hire and fire all the chief officers of the Commission. This in turn entails the obvious, namely, that no other entity including the President has powers on issues that are exclusively within the domain of the advisory board. This is well captured in the First Schedule of the Act which is promulgated pursuant to Section 8 of the Act. It sets out the qualifications that should guide the advisory board and implicit in these requirements are two derogatory issues. One, that the board must strictly adhere to the statutory qualifications of candidates *et cetera*. Second, once it does so, then the other organs that have complementary roles including Parliament should not deviate from the recommendations of the board in such a manner as to suggest that they can override the board on its statutory functions.

Further, on the Firing Act, Section 5 of the Schedule sets out in elaborate details the procedure for removal because the director and the deputy director are given statutory security of tenure. Again this monopolistic aspect clearly means that the advisory board has the sole powers on this aspect of its mandate, that is, to set up the tribunal in order to investigate. Nowhere does the Act give the President a substantive right that allows him to shape the composition of the Commission in the manner he did by refusing to appoint Dr. Rotich.

Mr. Temporary Deputy Speaker, Sir, the third and inescapable inference is that the President sent a poignant signal that no one who he is uncomfortable with will assume a senior position in the Commission and no matter what the law is, the President must have the final say.

Mr. Temporary Deputy Speaker, Sir, further, the Committee observed that the Anti-Corruption and Economic Crimes Act 2003 gives independent and executive powers to the Anti-Corruption Advisory Board to recruit and recommend appointees to Anti-Corruption Commission. In doing this, the board acts independently in fulfilment of its statutory duty. This independence was deliberate. Parliament wanted to create institutions that fight corruption without any regard to the comfort or discomfort of the Executive arm of the Government.

*(Applause)*

Parliament intended to have institutions that are so independent and that they only report to it. The Act is one of new statutes designed specifically to take Executive power from the President and share it between Parliament and the new institutions Parliament creates.

The Act does not give the President any powers to refuse to make appointments that have been approved by the National Assembly. Such refusal is not even remotely contemplated in the Act. The President's role is ceremonial in that, once the candidates pass through the envisaged stages, the President simply provides the *coup de grace* and appoints them religiously as he is mandated to do by an Act of Parliament.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, the Committee was of the view that by refusing to appoint Dr. Rotich, the President acted in violation of the Constitution and law. The rule of law is in danger. Dictatorship begins when the rule of law is replaced with personal rules. Hon. Members may wish to reflect, for example, on the Consensus Act which we passed. It says that, once the Draft Constitution goes through this Parliament unto the referendum and the Kenyan people vote "yes" for the Constitution, the language in the Act is that, "the President shall proclaim that to be the new Constitution." Is it, therefore, being suggested that this House and the Kenyan people by majority approve a new Constitution and then the President says he is not going to proclaim it? That role is purely ceremonial. To act otherwise, is to act contrary to the law.

*(Applause)*

Paragraphs 3(iii), 3(iv) and 3(v) set out the frustrations the Committee had in seeking to have audience with the Minister for Justice and Constitutional Affairs, the Attorney-General and Mr. Amos Kimunya who declined repeated invitations to come to the Committee.

Paragraph 3(vi) spells out the way forward. It says: "The statutory framework and the institutional building capacity which Parliament has made in relation to the Advisory Board and the Kenya Anti-Corruption Commission (KACC) are undermined by the President's refusal to appoint Dr. Rotich." A little reading of the statute makes its meaning very clear. There is no room for ambiguity. It further reads: "The President simply does not have the statutory powers to refuse or scuttle the process once the nomination of the candidates is recommended by the Advisory Board, and approved by this august House." The Act creates three inter-related steps that address how the requirement of the Director and Assistant Directors should be conducted. The fundamental base is provided by the role played by the Board. The Board is given statutory guidelines on how to conduct this process. The candidates to be appointed as Director and Assistant Directors must be qualified in Law, Public Administration, Finance and Fraud Investigation. These are basic minimums the candidates must satisfy. Once the Advisory Board recommends, Parliament takes over the process to see whether the candidates recommended are qualified under the Act. If so, Parliament approves the recommendation. If not, Parliament would return the candidates back to the Board.

The third step is that, once Parliament has approved, it forwards the candidates to the President for appointment. The operative words in the Act are that, "the President shall appoint." The word "shall" is a mandatory order and it leaves no room for discretion on the person so ordered by a statute enacted by Parliament. Therefore, the President's refusal or declining to appoint Dr. Rotich was a clear violation of the law. He must have been advised that he had such powers. The Attorney-General has gone public and hedged the President's action on Executive powers. But does the President have Executive powers to override the Executive powers of Parliament when it acts pursuant to a statute it promulgates? A careful analysis of Sections 23 to 26 brings out fear about the issues at hand, and what the President can do to rest it.

Mr. Temporary Deputy Speaker, Sir, Section 23(i), which is reproduced on page 21, provides that the Executive authority of the Government of Kenya shall vest in the President as subject to this Constitution, and may be exercised by him either directly or through officers subordinate to him. There is Sub-Section (ii) to Section 23(i) which vests that Executive authority. Hon. Members will see that Sub-section (ii) says:-

"Nothing in this section (Section 23) shall prevent Parliament from conferring functions on persons or authorities other than the President."

*(Applause)*

When Parliament enacted the Kenya Anti-Corruption Authority (KACA) Act and conferred the Executive authority on the Advisory Board and this House regarding those appointments, Parliament was exercising its Executive authority stemming from Section 23, Sub-section (ii).

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, Section 24, which is set out on page 22, says:-  
"Subject to this Constitution and any other written law, the powers of constituting and abolishing the offices of the republic of Kenya, of making appointment to such offices and terminating any such appointment shall vest in the President, subject to this Constitution or any other written law."

The KACA Act is such other written law, taking that power from the President to the House.

Mr. Temporary Deputy Speaker, Sir, Section 25 is set out on page 23. It reads:-

"It is quite clear that the Director and Deputy Directors in the Advisory Board are not members of the Public Service Commission."

For a President to create and abolish offices, he has to give way where there is a statute that addresses the creation and abolition of such offices. His power in that regard relate only to the instances where the same is not addressed.

Mr. Temporary Deputy Speaker, Sir, regarding the checks and balances between the Presidency and Parliament, it is a fundamental issue. In any democratic dispensation, an orderly inter-face between those important institutions and a delicate balance between the two, is very important as, indeed, the hallmark of a stable and democratic State. It is Parliament that exercised a power pursuant to a statute and the President, perhaps, due to unfortunate legal advice, acted quite clearly in violation of the law.

Mr. Temporary Deputy Speaker, Sir, the Committee is not even recommending that Dr. Rotich must take over and continue as Deputy Director in charge of finance. What the Committee is recommending is that the President should perform his ceremonial role and appoint Dr. Rotich.

Then a tribunal is appointed immediately to investigate whether the allegations that were being made were well founded.

Mr. Temporary Deputy Speaker, Sir, whatever the information the Government had, and which it took to the President to reject the appointment of Dr. Rotich, it had it even when this House was debating the approval of Dr. Rotich. Why did the Government fail to disclose that information to this House? Was it because they wanted to have the names passed and approved as a package because they were very eager to have the approval of one particular individual?

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, the Government works in good faith. It did not act in good faith when it refused to disclose that information to this House. This House cannot be turned into a tribunal to investigate whatever allegations the Government may wish to make against Dr. Rotich. He is not a member of this House to defend himself. The President is not a tribunal. So, he cannot act unilaterally on the basis of allegations. There is no indication that Dr. Rotich was given any opportunity to defend himself before the President. The law conceptualises a tribunal where Dr. Rotich will appear and if he is found guilty, he does not assume his position and vice versa.

This is a fundamental constitutional issue and I urge hon. Members to adopt this Report so that we can pass a resolution that the President performs his ceremonial part and appoints Dr. Rotich and then a tribunal will be set up to investigate him. The rule of law is very important. We have moved away from personal rule. Let us not go back to those dark days. Let us also not subject any

Kenyan to mob justice.

Mr. Temporary Deputy Speaker, Sir, I beg to move. Mr. Muturi will second this Motion.

**Mr. Muturi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this Motion. From the outset, I want to congratulate the hon. Members of the Committee on Administration of Justice and Legal Affairs for a job well done.

Mr. Temporary Deputy Speaker, Sir, it has been said time and again, and we said it even this morning that it is time we looked at issues from the perspectives that have nothing to do with partisan interests. We have been told, and it is in this Report, that some of the organisations which form the Kenya Anti-Corruption Commission Advisory Board are the Institute of Certified Public Accountants (ICPA) which is represented by a member. We are also told, in this Report, that it is the ICPA which at some later stage started raising objections as to the suitability of Dr. Rotich.

Mr. Temporary Deputy Speaker, Sir, it is clear from this Report that the Kenya Anti-Corruption Commission Advisory Board investigated those allegations which for record sake, were that Dr. Rotich had not taken out a practising certificate as a member of the ICPA. This House must have faith in its Committees. The Committee on Administration of Justice and Legal Affairs was informed that investigations were carried out and this is found in the Report.

After investigations, it was found that those allegations were not only trivial but also frivolous. Therefore, this Committee dismissed them with the contempt they deserved. As if that was not enough, some hon. Members on the Government side were still not satisfied. Much later when the names had already been submitted to this House, allegations started that Dr. Rotich may have committed certain crimes which were never disclosed. It is in the report! However, the Government, through the relevant Ministry, which I believe in this case, is the Ministry of Justice and Constitutional Affairs, chose, for whatever reason, to keep that information or the gist of those allegations away from this House when we were debating those appointments. It turns out that Mr. Kimunya, who is himself a past chairman of the Institute of Certified Public Accountants, is the person described here as the "dark force" by the allegations of non-registration by Dr. Rotich.

What are we to make as a House of the behaviour by the Minister?

*(Messrs. Mwenje and Kamanda  
consulted loudly)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members!

**Hon. Members:** Mr. Mwenje out!

**Capt. Nakitare:** We have two committees in this House!

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Capt. Nakitare! Who gave you the opportunity to speak? Let us consult in low tones and allow the hon. Member to be heard.

Proceed, Mr. Muturi!

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, we learnt that Mr. Kimunya, who is purported to engineer the allegations about non-registration on the lack of a practising certificate by Dr. Rotich, as the person behind all the problems that bedevil this process. He was invited to a Committee of this House, but it is on record in this report that Mr. Kimunya did not even have the courtesy to respond or even send an apology as to his inability to appear before the Committee and shed more light as to the reasons, if any, for his opposition to the appointment of Dr. Rotich. What are we to conclude? It must be the inescapable conclusion by this House that Mr. Kimunya had nothing plausible to tell the Committee and, indeed, must have only been motivated by malice or other devious considerations in his opposition to the appointment of Dr. Rotich to the Board.

We also have it on record here that the Minister for Justice and Constitutional Affairs was also invited by the Committee. He is the one who brought a Motion that tabled the five names of the

directors to be appointed. Surely, he must have been the person who had the information as to why anybody or authority would oppose the appointment of Dr. Rotich. What does the Minister do upon invitation? He also, like his colleague, Mr. Kimunya, does not appear before the Committee.

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

I can see that he is getting agitated but he will hear more of this!

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to impute improper motives on the Minister for Justice and Constitutional Affairs, by saying that I disobeyed the request to appear before this Committee when he knows very well that I gave reasons which were accepted by the Committee? I did not attend because there was no proper notice given to me and the Committee decided to proceed. Is the hon. Member in order to impute this improper motive?

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, I am speaking nothing but the truth. Page 18 of the Report, Paragraph 3.30 states:-

"Meeting with the Minister for Justice and Constitutional Affairs".

This is a Report of a Committee of this House and it is wrong for the Minister to dispute it. The Minister was summoned to appear before the board on 26th October, 2004. He did not attend nor did he send an apology. Another meeting was scheduled for Friday, 19th November, 2004, which the Minister also failed to attend but sent apologies. This is an important matter. The Committee could not be expected, especially, fully aware that everybody was going for the Christmas festivities, to wait for the Minister endlessly.

Mr. Temporary Deputy Speaker, Sir, to think otherwise would be to expect the Committee to be subservient to the Minister. It is a Committee of this House and the Minister is an hon. Member of this House. This is a very weighty matter. It touches on the exercise of powers by the President.

**The Minister for Justice and Constitutional Affairs** (Mr. Murungi): On a point of information, Mr. Temporary Deputy Speaker, Sir.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, he is incapable of doing that. If he wants to inform me---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Muturi! You know better than that. It is up to you to accept or decline the information, but I do not think there is an hon. Member who is incapable of giving information. Otherwise, he would not be a Member of this House. It is up to you to allow or disallow him.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, the Minister would be at liberty to give that information to the House when he gets the opportunity to contribute to the Report. Of course, it will be captured as part of the deliberations of the House regarding this debate. Therefore, there is no need for him to intervene at this stage purportedly to inform me.

Mr. Temporary Deputy Speaker, Sir, this is a weighty matter because it touches on the exercise by the President of powers granted to him under the law. Indeed, it is instructive to observe that both the Minister for Justice and Constitutional Affairs as well as the Attorney-General who is the Principal Legal Advisor to the Government never made appearances before the Committee, for whatever reasons, yet here are important legal matters which were before the Committee. These matters were referred to the Committee by this House because of the very sensitivity of the actions by the President. It is no wonder that the Committee concludes that the President acted outside his powers.

It is important for us to observe and note that some assumptions appear to have been made and, indeed, the Committee has captured them in its report. They include among other things the purported opinion by the Attorney-General regarding the powers of the President to hire and fire.

Mr. Temporary Deputy Speaker, Sir, I want to thank this Committee for having expounded on the relevant provisions of the Constitution regarding the powers of the President in hiring and firing officers in the public service. As a Parliament, we felt that in enacting the Anti-Corruption and Economic Crimes Act, 2003, there was need to remove those powers of the President to hire or fire officers under this Commission. We deliberated and insulated those officers. In doing so, as espoused in the Report, we acted within the clear provisions of the Constitution in wanting to share out the Executive power with the President in ensuring those appointments.

Mr. Temporary Deputy Speaker, Sir, there is a crucial issue here. As the Speaker ruled from the Chair, we referred this matter to the Committee, because we were entering into new prelims uncharted before in this country. We appreciated that it was going to be increasingly important to involve Parliament, as the people's representatives, in making certain critical decisions affecting the lives of many Kenyans. It cannot, therefore, be said that by refusing to appoint Dr. Rotich, whom this House had already nominated and recommended to the President for appointment, the President acted within the law.

Mr. Temporary Deputy Speaker, Sir, every now and then, when we make contributions regarding matters of constitutional nature, we are told that we should wait for the enactment of a new Constitution. When some of these things are said, one would expect that they are being [Mr. Muturi] said to people who do not live in this country. It is as if the new Constitution, if and when it comes into being, will be a magic document. Well, we are calling it a Constitution, only that it will be a new Constitution. We have the current Constitution. What guarantee do we have that those with Executive authority will obey the new Constitution when they are not obeying the current Constitution?

Mr. Temporary Deputy Speaker, Sir, Parliament, as the people's watchdog and representative, has a role to check the excesses of the Executive. I feel constrained to state that the reasons for refusal by the President to appoint Dr. Rotich are far from convincing. Of course, officially, we have not been given any reasons, but as pointed out by the Mover, Mr. Muite, it is clear to all of us that even as we debated the Report of the names of the people to be appointed, the Government knew very well that they had no intentions whatsoever, to appoint Dr. Rotich. Why do I say so? It is because, in this Report, we are being told that the people who ought to have told the President: "Under this new law, which you assented, you do not have any powers to refuse to appoint Dr. Rotich", did not do so. One of them is the Minister for Justice and Constitutional Affairs and the other is the Attorney-General. They must have been in possession of some information regarding allegations of whatever nature that may have been made against any of the five candidates whose appointment this House endorsed. We find it difficult not to conclude that there must have been some reasons why the names were rushed through.

Mr. Temporary Deputy Speaker, Sir, on that particular day, both the Minister for Justice and Constitutional Affairs and Mr. Kimunya were in this House. They, in fact, played an active part in ensuring that we passed the Motion. We, indeed, went into Division.

So, the allusion that perhaps the Government had an intention of ensuring that the name, or names, of a certain person, or certain persons, were endorsed is valid. The two Ministers were fully aware that they were not going to allow the President to appoint Dr. Rotich.

Mr. Temporary Deputy Speaker, Sir, it has come to a time when this House must be taken seriously. If the Minister for Justice and Constitutional Affairs or the Attorney-General, for whatever reason, felt that the Anti-Corruption and Economic Crimes Act was too onerous on the President, they are at liberty to test the resolve of the House by bringing amendments to the Clauses, especially the use of word "shall", with regard to the exercise of the powers to appoint by the President. They will see for themselves the resolve of this House to begin checking the Executive in the manner that we have been mandated by our electors.

Mr. Temporary Deputy Speaker, Sir, currently, there is a published Statute Law Miscellaneous

(Amendment) Bill. Therefore, my advice to the Minister and the Attorney-General is gravitas. They know if they want they can do so. But I want to assure them that this House intends to have that law, with regard to the powers of the President to appoint, remain as it is.

In conclusion, therefore, I want to agree with the recommendations in this Report which find that the reasons advanced by the President are perhaps based on poor quality legal advice and/or inadequate legal advice by those that are mandated to advise the President regarding his powers under the law, or indeed, are capricious. On both scales, the reasons must be rejected by this House. I agree that Dr. Rotich should be appointed.

Mr. Temporary Deputy Speaker, Sir, if, indeed, there is merit in the allegations levelled against him, let the due process of law be followed by appointing a tribunal to investigate the truthfulness or otherwise of those allegations. Otherwise, I support that the President acted outside his powers and, therefore, Dr. Rotich should be appointed as director.

With those few remarks, I beg to second.

*(Question proposed)*

**The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs** (Prof. Kibwana): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion which, I believe, is likely to lay very important rules for our country in terms of Parliamentary vetting of nominees from either an advisory board, a commission or the President, and so on.

Mr. Temporary Deputy Speaker, Sir, I think, it is very important to say right from the onset that the President, in his decision to deny Dr. Rotich appointment, did not act within the law.

*(Applause)*

Hon. Muite and hon. Muturi clearly stated that the law is categorical. After the Advisory Board has issued out names, there is only one way of vetting; that is Parliament through its relevant Committee and the voting process by hon. Members of this House. After that has taken place, the President shall simply approve the particular name forwarded by this House. Although I was also involved in that process when I was in the Office of the President, and even if I had information that a particular appointment had a problem, I think the President could morally reject an appointment approved by Parliament, but legally he could not be right. That is why hon. Members are saying that the right recourse in this situation is to appoint Dr. Rotich and then move on to another process which will look at Dr. Rotich's credibility. That way, the President's moral position will be vindicated or otherwise.

There is rule of law, but let us not forget that the law is an ass. Whatever the law says, in a democratic State, it must be done. Fortunately or unfortunately this is a country that is governed by laws. However, there will be a problem if a Parliamentary Committee does not have the right information and in the event makes a mistake. What do you do in such a situation? That is an issue that we need to discuss so that we are able to know what action we should take if a Parliamentary Committee or the Kenya Anti-Corruption Authority makes a mistake.

Mr. Temporary Deputy Speaker, Sir, it is also important that mistakes are not made because if that becomes the case, then we shall be saddled with appointments which are not proper. That is one of the issues that the Departmental Committee on Administration of Justice and Legal Affairs and other Committees that are involved in the vetting process must discuss and enlighten us on. If a parliamentary process is flawed in terms of vetting, then there should be a way of correcting the mistake. If, for example, the law says: "If the President thinks that there is a problem with a certain recommendation, then he can take it back to the relevant Parliamentary Committee with



recommendations for reconsideration", that would be a good process. However, as hon. Muturi said, the law ought to be changed so that if the President realises that there is a mistake, in order to save the country, he should refer the matter back to the relevant Parliamentary Committee. Unfortunately, as it is now, that is not the law. The Draft Constitution gives provisions on how to vet various positions and that is why it is very important that we establish the jurisprudence of vetting appointees. That is the only way we will be certain that we are not making mistakes.

Mr. Temporary Deputy Speaker, Sir, I believe the parliamentary process was [flawed and the President made a mistake too. So, we really need to be very careful and impassionate when discussing how to deal with the vetting process so that we do not make mistakes.

With regard to the vetting process for KACA appointments, I believe that the decisions of the Executive needs to be scrutinised by the relevant Parliamentary Committee. So, we cannot give leeway to the Executive to choose who to sit on the Board of KACA. The moment we do that then we shall have defeated--

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just wondering whether it is in order for a Member of the Cabinet to say that the President made a mistake. Prof. Kibwana is in the same Cabinet.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! Hon. Members seated on the Front Bench, when you are here, first and foremost, you are Members of Parliament. Hon. Members are at liberty to give their views on any subject. I do not believe that Prof. Kibwana said that the President made a mistake. He only said that it is possible, under the current law, for the President to make mistakes with regard to the way he handles reports from Parliamentary Committees.

Mr. Temporary Deputy Speaker, Sir, Prof. Kibwana you will have 25 minutes next time we resume.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow Thursday, 21st April, 2005, at 2.30 p.m.

The House rose at 6.30 p.m.