

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 17<sup>th</sup> May, 2012

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

PETITION

### ADOPTION OF NATIONAL PEACE BUILDING AND CONFLICT MANAGEMENT POLICY

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, as you are aware, the right to petition Parliament is now entrenched in our new Constitution which in Article 119 provides that every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation. Pursuant to Standing Order No.202, I, on behalf of the National Peace Policy Advocacy Network, the National Youth Sector Alliance, *Picha Mtaani* Initiative, Yes Kenya and Power 254 present this Petition which is signed by more than 10,000 Kenyan citizens. The subject matter of the petition is calling for the adoption of the National Peace Building and Conflict Management Policy. It is worded as follows:

“We, the undersigned citizens of Kenya who are members of the National Peace Policy Advocacy Network, National Youth Sector Alliance, Picha Mtaani Initiative, Yes Kenya and Power 254, draw the attention of the House to the following: That aware that peace policy is critical since the signing of the National Accord and Reconciliation Agreement in 2008; that whereas the Government has spearheaded the process of development of a peace policy since 2003, the adoption of the same policy has not seen the light of the day; whereas recognizing that sustainable peace in the country is critical for development and appreciating the fact that the adoption of the policy will guarantee Government commitment to finance and coordinate peace initiatives in one clear direction for impact, we, therefore, humble petitioners pray that the National Assembly facilitates, with the immediate effect, the adoption of the National Peace Building and Conflict Management Policy in order to realize sustainable peace in the country.”

Mr. Deputy Speaker, Sir, as I have indicated, the Petition is signed by more than 10,000 Kenyans. Its initiative is contained in the original National Accord where the two Principals agreed in writing to spearhead peace initiative campaigns throughout the country. These Kenyans are concerned that there has been total failure on the part of the Government to realize this objective has come under this provision of the Constitution and are pleased to present this petition to Parliament, which I do now present.

*(Mr. Imanyara laid the document on the Table)*

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I rise to second that Petition. In seconding it, I want to indicate that---

**Mr. Deputy Speaker:** Is there provision in our Standing Orders for secondment of Petitions?

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I stand guided. I want to indicate that I support---

**Mr. Deputy Speaker:** Order! Mrs. Odhiambo-Mabona, I do not remember you catching the Speaker's eye!

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I presumed that since I was in a red dress, I automatically caught your eyes! I want to stand and support the Petition. I wish to indicate that the policy is long overdue. We, as politicians, tend to give inflammatory statements in public that divide Kenyans. The Bible reminds them, but they forget. So, such a policy document will remind us when we forget because we need one united Kenya even as we go towards elections.

I support.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I rise to support this Petition and to salute these great Kenyans who are reminding this august House and the entire leadership of this country of the noble obligation of promoting peace. I was a negotiator in the National Accord and I know the two Principals agreed to spearhead peace. We have not, as the leadership of the country, spearheaded peace. We need a comprehensive policy on this. We also need to show what actions we are going to resort to in order to bring peace to the country. This is a great reminder that we owe it to ourselves to ensure that Kenya never again slides back to where it was in 2008. It is a wake-up call to the Executive, the Legislature and the Judiciary. We all have a duty, as the three arms of the Government, in promoting peace in Kenya and ensuring that every citizen respects the Constitution and the law.

I support.

**Mr. Deputy Speaker:** Hon. Members, as per the provisions of our Standing Orders, once a Petition is presented and supported, it stands committed to the relevant Departmental Committee. The only issue here is; which one is the relevant Committee? Is it the Committee on Administration and National Security or Committee on Justice and Legal Affairs?

Mr. Imanyara, you are the one who is moving the Petition!

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, it should go to the Ministry of State for Provincial Administration and Internal Security. It is the Committee on Defence and Foreign Relations.

**Mr. Deputy Speaker:** This has got to do with peace and I think that falls under the Office of the President.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Deputy Speaker, Sir. I think it would be joint Committees because national cohesion and integration falls under the Committee on Justice and Legal Affairs. So, it could be joint.

**Mr. Deputy Speaker:** Fair enough! In the circumstances, I direct that this stands committed to the joint Committee on Justice and Legal Affairs and the Committee on Administration and National Security. I hope the Committee understands the rules governing Petitions. Standing Order No.210 (2) states:-

“Whenever a Petition is committed to a department of the Government, the Minister responsible or any other designated Minister shall, in not more than twenty-one calendar days from the time of reading the prayer, respond to the

petitioner by way of a Statement in the House addressed to the petitioner or petitioners.

(3) Whenever a Petition is committed to the National Assembly, the relevant Committee shall, in not more than twenty-one calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House and no debate on or in relation to the report shall be allowed.

(4) The Clerk shall, at the end of every Session, forward Petitions which have been approved by the Speaker and not been presented to the House, to the relevant department of the Government and such department of the Government shall reply to each Petition forwarded in not more that twenty-one calendar days.”

The fourth provision is for the Petitions that have not been committed. But for the purpose of the Petition that is now before us, I think I have read the rules and you have to conform to them.

*(The Petition was committed to the relevant Departmental Committees)*

### **PAPERS LAID**

The following Papers were laid on the Table:-

Report of the Departmental Committee on Transport, Public Works and Housing on the examination of the Annual Estimates of the year 2012/2013 for the following Votes:-

Vote 113 – Ministry of Roads

Vote 114 – Ministry of Transport

Vote 144 – Ministry of Housing

Vote 159 – Ministry of Public Works

*(By Mr. Were)*

Report of the Department Committee on Justice and Legal Affairs on the Budget Estimates of 2012/2013 on votes 117, 125, 126, 163, 134, 203, 201, 165, 168, 169 and 213 being the votes for the Ministry of Justice, National Cohesion and Constitutional Affairs, Vote 117; the State Law Office, Vote 125; Ethics and Anti-Corruption Commission, Vote 134; Witness Protection Agency, Vote 169; Directorate of Public Prosecutions, Vote 163; Commission on Implementation of the Constitution, Vote 165; Kenya National Commission on Human Rights, Vote 201; Commission on Administration of Justice, Vote 213; Independent Electoral and Boundaries Commission, Vote 203 and the Registrar of Political Parties, Vote 168.

*(By Mr. Olago)*

Report of the Departmental Committee on Energy, Communication and Information on annual estimates of 2012/2013 for the Ministry of Energy, Vote 30 and the Ministry of Information and Communications, Vote 32.

*(By Eng. Rege)*

Report of the Departmental Committee on Local Authorities on examination of the estimates of Recurrent and Development Expenditure, 2012/2013 for Vote 112, Ministry of Local Government and Vote 157, Ministry of Nairobi Metropolitan Development.

*(Mr. Sirat)*

## QUESTIONS BY PRIVATE NOTICE

### ASSAULT/EVICTION OF STUDENTS FROM YUSUF HAJI SECONDARY SCHOOL

**Mrs. Shebesh:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice:

(a) Is the Minister aware that 28 students of Yusuf Haji Secondary School, who hail from outside Ijara, but mostly from Galole Constituency, were assaulted and forcefully evicted from the school on 24th March, 2012 and, if so, how many students were injured in the incident?

(b) What measures will the Minister take to ensure that the affected students continue with their studies in the school?

(c) Could the Minister consider compensating all the students whose personal belongings were taken away by fellow students?

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

(a) I am aware that 30 students of Yusuf Haji Secondary School who hail from outside Ijara District were harassed and their personal belongings damaged by their colleague students on Sunday, 18<sup>th</sup> March, 2012 and not 24<sup>th</sup> March, 2012. Two students, Rehema Komaa, the Form III prefect, and Faith Susan were beaten. The former was injured and had to be taken to hospital for treatment. The names of the affected students are attached for the benefit of the hon. Member.

(b) The students affected are back to school by now. This answer was prepared a little earlier. The information I have on the ground is that the students are back in school. The BOG meeting held on 2<sup>nd</sup> April, 2012 recommended the following measures to ensure that the students continue with their normal studies in the school:-

(i) the school administration to identify and interrogate the culprits and recommend appropriate punishment in the second term;

(ii) the BOG was to establish close contact with students, especially during the religious programmes;

(iii) the BOG requested the District Commissioner (DC) of Ijara, who is the District Education Board (DEB) Chairman, and the Officer Commanding Police Division (OCPD) to maintain surveillance within the proximity of the school; this information was conveyed to the students, parents and guardians;

(iv) the Guidance and Counseling Department in the school to continue talking to the students stressing peace and reconciliation.

I also appeal to the local leaders, politicians and administrators to promote national values such as co-existence, unity, integration among different communities living in the area in order to set an example to the students.

The students who were behind the chaos will be surcharged Kshs2,000 each to cater for the damage and losses. This should be paid this term. The information I have is that a few students have already paid. The others will be followed up so that they pay.

**Mrs. Shebesh:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer. In his answer, he has clearly stated the need for peace and reconciliation and the need for the board and the political leadership to come together, so that they can heal the wounds that were created in this school. Could he tell us concretely whether since the school has been reopened these children are back in that particular school or they are in different schools? What is the programme for peace and reconciliation that has been rolled out by the BOG?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the information I have as of today is that they are back to the school. With regard to the steps for reconciliation, I have listed the steps we are taking.

**Mr. Koech:** Mr. Deputy Speaker, Sir, this is a very sad event that took place in this particular school. As a nation, we should encourage co-existence of students themselves in their schools. That is why we encourage the elevation of many schools to a national status. The Assistant Minister has given us the steps that they are taking in this particular school. However, what concrete steps is he taking to ensure that in all our schools within the Republic such a thing will not take place?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, my Ministry is implementing peace education in this country. This has had a great impact. In fact, unrest in schools has gone down. These are just a few cases, but we are following them up. The education programme we have in this country is really helping.

**Mrs. Karua:** Mr. Deputy Speaker, Sir, obviously, whatever peace education the Ministry has is inadequate otherwise we would not have had this incident. Could the Assistant Minister confirm that peace education is part of the curriculum, and if it is not, it is going to be incorporated?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, this is incorporated even in the student leadership. We have come up with a student council leadership which is helping us. It is incorporated in the curriculum.

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, first of all I want to thank the Assistant Minister for that very honest answer. We have just had a petition that was presented by hon. Gitobu Manyara by 10,000 concerned Kenyans on the issue of peace.

Mr. Deputy Speaker, Sir, students in Form I are about 13 or 14 years old. If such students already know that other students are different and they even chase them away from school then that is a worrying trend. What policy does the Ministry have in place for ethnic integration, so that students in high schools stop looking at each other from an ethnic perspective?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I have listed what we are doing. We have also introduced peace education, which has been incorporated into the curriculum. I really do not know what else we have to do apart from incorporating this in our curriculum.

**Mr. Deputy Speaker:** Prof. Olweny, the question, if I got it right, and I do not know how you are going to do it, is that ethnic integration basically means integrating the ethnic communities. How you do it, maybe, she has a better idea. It could be through intermarriage!

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, it is not just through national schools. I went to a non-national school and a national school too. In my time, both the national schools and non-national schools were integrated. So, some of us went to school in the face of

Kenya. Currently, most of the schools have one community. If you go to a school you will find that it only has, say, Luos. In others you will find that it only has Kikuyus. When I went to school I did so with Kikuyus, Luyias, and so on. That is why some of us are less ethnic than the people we see. When I was 13 years old I did not know people's tribes. Why are 13 year olds telling others of tribes?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, that is done through our intakes. District schools are mainly local. However, with regard to county schools we have a formula of 40:40: 20, that is, 40 students from the district, 40 students from the county and 20 students from the rest of the country. That helps in integration. In our national schools, we take students equally from across the counties. Counties contribute equally to the national schools in terms of intake.

**Mr. Deputy Speaker:** Last supplementary question on the same, Mrs. Rachel Shebesh!

**Mrs. Shebesh:** Mr. Deputy Speaker, Sir, can I donate it to hon. Charles Kilonzo?

**Mr. Deputy Speaker:** Proceed, hon. Charles Kilonzo. You have a right to that.

**Mr. C. Kilonzo:** Thank you for the donation; thank you, Mr. Deputy Speaker, Sir for allowing it.

I think the question here is about integration. If it is only about national schools and provincial schools or county schools, it is not good enough. The problem is that you will find people who went to school with members of their community from Form I to Form VI. This makes people to be very tribal. That is why you find some Ministers, when they are told to make appointments the only thing they can think about is their own community. The question here is: What is the Assistant Minister doing, other than the use of national and provincial schools, to ensure that even district schools and other schools have integration? We all neighbour people of other communities.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, even certain districts are multiethnic and that helps in integration. Even some leaders in Parliament here insist that their district schools should serve only their districts.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. You heard the Assistant Minister say that he has done the best he can and there is nothing more he can do. The Assistant Minister ought to know that there is a National Cohesion and Integration Act. Section 62 of that Act states that any person who utters words which hurt the feelings of others and which encourage contempt, hatred, hostility, violence or discrimination against the person or group on the basis of ethnicity or race commits an offence and shall be liable on conviction to a fine not exceeding Kshs1 million or imprisonment for a term not exceeding five years or both. In the circumstances, is it in order for the Assistant Minister to say that he does not know that the law exists?

**Mr. Deputy Speaker:** I did not hear the Assistant Minister say that he does not know that the law exists, unless it escaped my attention.

Next Question by hon. Chachu!

#### NON-IMPLEMENTATION OF MARSABIT DISTRICT SECURITY COMMITTEE RESOLUTIONS

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

(a) Is the Minister aware that the larger Marsabit District Security Committee held a meeting on 13<sup>th</sup> December, 2011 at Malkona and that its resolutions have not been implemented to date?

(b) Is the Minister further aware that due to failure by Government to recover the camels stolen by members of the Samburu community of Loiyangalani District from the Gabra community there has been tension between the two communities?

(c) Could the Minister provide details on the resolutions made by the District Security Committee meeting of 13/12/2011 and also state when the Government will recover the stolen camels?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, indeed, I discussed this issue with the hon. Member. We agreed that we defer it. We agreed that we prevail upon the Chair to allow us to defer it for the next two weeks because there is some information that we wanted, but we were unable to get it. I am, therefore, pleading with the Chair that I answer this Question after two weeks from today.

**Mr. Deputy Speaker:** This is a Question by Private Notice; normally it is one of an urgent nature. In this case, clearly, the urgency is indicated. There is a problem which if not addressed early enough, it might escalate and communities might fight. So, when you ask for two weeks---

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, there is some information which we wanted to gather first. By rushing it, I will be doing a disservice not only to Parliament, but also to the nation. That is why we agreed between ourselves that we prevail upon the Chair. We are just requesting the Chair, as a formality, to allow us to answer this in two weeks' time.

**Mr. Deputy Speaker:** Are you comfortable with two weeks, hon. Chachu?

**Mr. Chachu:** Mr. Deputy Speaker, Sir, my community has waited for six months for justice to prevail. We can wait for two more weeks.

**Mr. Deputy Speaker:** The Chair directs that this Question be listed on the Order Paper exactly two weeks from today.

Next Question by Dr. Khalwale!

UPSURGE OF INSECURITY IN NANDI CENTRAL FOLLOWING  
APPOINT OF CHIEF OF KIMINDA LOCATION

**(Dr. Khalwale)** to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that due to the controversy surrounding the appointment of the Chief of Kiminda Location in Nandi Central, the rate of crime has been escalating at a very alarming rate?

(b) What is the Minister doing to restore normalcy in the area?

**Mr. Deputy Speaker:** Where is hon. Dr. Khalwale? Is he out of the Chamber on official parliamentary business? No, he is not. The Question is, therefore, dropped.

*(Question dropped)*

SUBMISSION OF DETAILS ON KQ RIGHTS ISSUE

**Mr. M’Mithiaru:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) What is the Government’s stake in the just concluded Kenya Airways Rights Issue and who were the transaction advisors or sponsoring stockbrokers?

(b) Is the submission of Provisional Allotment Letter (PAL) in a public placement like Kenya Airways Rights issue a separate service from the advisory services provided by transactions advisors?

(c) What is the procedure of selecting stockbrokers for the submission of the Provisional Allotment Letter and does the Provisional Allotment Letter service attract a commission, and if so, how much will be paid to the submitting stockbroker(s)?

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

(a) The Government of Kenya holds 23 per cent of the total issued capital in Kenya Airways. In the just concluded rights issue, the following organizations comprised the full advisory team: the lead transaction stockbroker, CFC, Stanbic Bank Limited and CFC, Stanbic Financial Services Limited; the lead sponsoring stockbroker, Standard Investment Bank Limited; co-sponsoring stockbrokers, Kestrel Capital East African Limited, Kenya, Kestrel Stocks and Securities Limited, Uganda, Orbit Securities Company Limited, Tanzania; receiving bank, Kenya Commercial Bank Limited; lead legal advisors, Hamilton Harrison and Matthews Advocates. Other legal advisers are Mikono and Company Advocates, Tanzania; Kampala Associated Advocates, Uganda; and Clyde and Company International. The underwriters were City Global Markets Ltd. The reporting accountants were PriceWaterhouseCoopers. The share register and data processing consultants were Custody and Register Services Ltd. The advertising and marketing was carried out by ScanAd Kenya Ltd. Public relations were handled by Ogilvy Public Relations. The full list of advisors is also shown on another page in the main reports here.

(b) The submission of Provisional Allotment Letter, that is PAL, is done through authorized selling agents depending on the mandate of the lead advisory. Where the lead advisory is also an authorized selling agent, the lead advisory could submit the PALs. But in the case of KQ, the mandate of the lead advisory did not include submission of the PALs. The mandate for submission of the PALs was with the lead sponsoring brokers who were competitively appointed by KQ.

(c) There is no procedure for appointing stock brokers to handle PALs because it is the responsibility of each shareholder to pick an authorized selling agent through whom to submit and process the PAL. Shareholders do not pay any commission to authorized selling agents. Brokers’ commission is regulated under the Capital Markets Authority (CMA) regulations. This is in the Fifth Schedule and Section (b) of the Capital Markets and Licensing Requirements and General Regulation 2002.

Thank you, Mr. Deputy Speaker.

**Mr. M’Mithiaru:** Thank you, Mr. Deputy Speaker, Sir. I also thank the Assistant Minister for attempting to answer this Question.

But the way the answer is crafted, it brings in some confusion in that the Government holds 23 per cent of the shares in KQ. The KQ who were issuing this rights issue had to appoint their own transaction advisors. On taking up the rights issue, the Government had to go through a broker. This broker must be chosen competitively by the Government. What he has not said is that, that broker either has been paid or will be paid about Kshs100 million. So, there is no way



the Government can go through a broker silently yet they knew the colossal amount of money that is involved in terms of the commission. So, the Government single handedly went silently through a broker who now passed the rights issue for onward transmission to KQ.

So, is he in order to say that there is no procedure when the Public Procurement and Disposal Act clearly says that any activity by the Government must go through the procurement process?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the Government was not involved in any procurement. The share issue was the KQ share issue. The Government is only a shareholder. It is the KQ which gave a lead transaction advisor the authority to draw all the documents, including the terms of references for the stockbrokers.

Mr. Deputy Speaker, Sir, it is the KQ which was the lead broker in this particular manner and KQ was only given their own share to pay. In this particular respect, the Kenya Government does not pay a single cent to these brokers. The contract is signed between the broker and the KQ. It is them who pay those brokers 1.5 per cent. It is not Government of Kenya procurement---

**Mr. M'Mithiaru:** On a point of order, Mr. Deputy Speaker, Sir. I asked in my question whether the two activities are separate. The Assistant Minister admitted and said that the lead advisory did not include submission of the PAL. This means there were two activities. One activity belongs to the KQ and the other one belongs to the shareholder. So, is he in order to say that the transaction advisor is also the one to carry out the other role?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the lead sponsoring stockbroker was only dealing with the PALs of the main shareholders; that is, the KQ and KLM. All the other prospective shareholders were going through the registered stockbrokers in the market in the normal manner. But it is only these two, in the terms drawn by KQ, where this lead sponsoring stockbroker was going through. They were chosen by the KQ. The terms of reference were drawn by this lead transaction stockbroker. Those terms of reference is what stated what they were supposed to do and how they were going to be paid. I have said that they were paid 1.5 per cent of the value of the stocks. In respect to the Kenya Government, this translates to about Kshs71 million.

Thank you, Mr. Deputy Speaker, Sir.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I have heard the Assistant Minister say it is the KQ that paid. The Government, being a shareholder, it becomes a matter of concern to Kenyans because the Government is in it. Is he satisfied that KQ practised good governance when they single sourced in a transaction worth that much money? If not, what is he doing about it as citizens have a stake through the Government?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, it is not true that there was single sourcing. In fact, there was a competitive process by the KQ itself through this transaction advisor. There were five companies which bid for this particular one. These are Kestrel Capital, Dyer & Blair, Standard Investment Bank, Sterling Inc. Bank and African Alliance. Out of these five companies, it was the Standard Investment Bank who won the tender.

**Mr. M'Mithiaru:** On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is not actually differentiating between the two components here. The KQ, although the Government is one of the shareholders, is more or less a private company. They already did their part by appointing the transaction advisors using whatever methods they used. But then our question is directed now to the Government; when they chose a broker and they knew that this broker was to be paid about Kshs100 million, what process did they use to get this broker? I think this is what he is not really trying to differentiate.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the two major shareholders of that company were not supposed, according to terms, to choose their own brokers. They gave away their right through the KQ, to choose these brokers. It is the KQ who chose the brokers and went into a competitive process where five companies participated. These companies were evaluated both financially and technically. It was the Standard Investment Bank which was found to be the best among the five companies. We were not the ones paying. This was money being paid by a private company to an individual with whom they had an agreement.

**Mr. Deputy Speaker:** Last question, hon. M'Mithiaru!

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, now that the Assistant Minister says that there is no method that is being used, it should not be business as usual. It is time that he now realized that the Government, as a shareholder, has a duty to procure its own broker through a competitive process. What steps is he going to take to ensure that in future due process is followed? How much money is the Government paying by way of the rights issue and was it budgeted for or not?

**Mr. Deputy Speaker:** I thought you said that the Government went through a competitive process. Did you not say that, Mr. Assistant Minister?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I said that the Kenya Airways chose this transaction adviser.

**Mr. Deputy Speaker:** Does that also include the Government share or equity in that?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the Government is just a shareholder like any other shareholder, but it is a major shareholder. That is why the KLM and the Government were treated separately. But the rest of the Kenyans who wanted to buy shares went through the registered stockbrokers in the market as usual, through the Nairobi Stock Exchange, and were subjected to the capital---

**Mr. Deputy Speaker:** What is the rationale of that?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, this is contained in the books which were made public; that the Kenya Airways was sourcing for the two principals, but the rest were left for the registered stockbrokers.

**Mr. Deputy Speaker:** Why was one set left with the conventional normal stockbrokers that we have in the country and then treat these two specially, if there is no hanky-panky business?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, we are just one of the shareholders there and this was a decision made by the company; that they were going to treat them that way. As a Government---

**Mr. M'Mithiaru:** On a point of information, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Who do you want to inform?

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, I want to inform the Assistant Minister.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I do not need the information.

**Mr. Deputy Speaker:** Order! The sensitivity of the matter entails that the House is entitled to any technical information by hon. M'Mithiaru, who has a history of working in the banking industry.

Proceed!

**Dr. Oburu:** Mr. Deputy Speaker, Sir, it is my entitlement to accept the information or not.

**Mr. Deputy Speaker:** Proceed and inform the Chair!

**Mr. M’Mithiaru:** Mr. Deputy Speaker, Sir, Kenya Airways do their own procurement and they procured two stockbrokers to be the lead transaction advisers. Once they have done that, they would do the paperwork and then all shareholders would now have to take up their rights issue. The Government as a shareholder has to take up its rights issue and must pass through a broker. If M’Mithiaru is a shareholder, I will use my own method to get a broker who I know will not cheat me. The Government also has to choose a broker. What process did they use to get this broker that the Government chose, and they knew that, that broker would be paid about Kshs100 million? Was it business as usual and they forgot to do it competitively?

**Mr. Mungatana:** On a point of order, Mr. Deputy Speaker, Sir. On the face of it, there is a clear breach of the procurement law, as we know it in this country. It appears that, that broker who was picked by the Government to take up the rights issue did not simply follow the procurement procedure. Would I be in order to request that this matter be referred to the Committee on Finance, Planning and Trade, so that the truth can come out? This is a lot of money. It is an election year and we know that people are cutting deals left, right and centre.

**Mr. Deputy Speaker:** Fair enough! Hon. Members, the Chair is equally not satisfied with the answer given by the Assistant Minister. Given that this is public money and the share held on behalf of the Kenya Government is held on behalf of the people of Kenya, the Chair directs that the Committee on Finance, Planning and Trade moves with speed to investigate the matter and report back to this House in exactly one week. The Question also is to be listed on the Order Paper one week from today!

*(Question deferred)*

## ORAL ANSWERS TO QUESTIONS

*Question No.1159*

### NON-PAYMENT OF DUES TO MOHAMED ABDIKARIM

**Mr. Sirat** asked the Minister for Education:-

(a) why the Ministry has not paid Mr. Mohamed Abdikarim his outstanding salary, housing and medical allowances totalling Kshs.171,838 accumulated in the course of duty as subordinate staff at Wajir Primary School as promised by the Minister to the House on 21<sup>st</sup> January, 2009; and,

(b) when he will be paid.

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

The Ministry has no outstanding salary, housing and medical allowances totalling Kshs171,838 for Mr. Mohamed Abdikarim. A sum of Kshs113,918 being gratuity, was commuted and paid to him upon his retirement. The cheque that was used to pay is No.17140, dated 18<sup>th</sup> June, 2009.

Mr. Speaker, Sir, I wish to table a photocopy of the cheque that was used for this payment. It was payable to Wajir Primary School.

*(Prof. Olweny laid the document on the Table)*

**Mr. Sirat:** Mr. Deputy Speaker, Sir, this Question was asked by my predecessor, hon. Abdirahman Hassan, in January 2009 and the answer given was just the same. The Minister then promised to pay the arrears. However, I could not get a copy of the HANSARD. Has the Ministry paid the money pledged by the Minister on the Floor of the House?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the cheque was written to Wajir Primary School. Can you have a look at the photocopy of the cheque?

*(The Clerk-at-the-Table passed  
over the document to hon. Sirat)*

**Mr. Sirat:** Mr. Deputy Speaker, Sir, the written answer says that the cheque was written in 2008 and the Question was asked in 2009. The Ministry undertook to pay the arrears. Have you paid these arrears?

**Mr. Deputy Speaker:** Can the Chair have the photocopy of the Cheque?

*(The document was handed to the Chair)*

**Prof. Olweny:** Mr. Deputy Speaker, Sir, that piece of paper indicates “2008”. What you see is a typographical error. I said verbally here: “18<sup>th</sup> June, 2009.” Instead of “2009” it was typed “2008.” I have corrected it here.

**Mr. Deputy Speaker:** Indeed, on a very close scrutiny it looks like it is 2009. Do you wish to interrogate the Question any further other than the date of the cheque?

**Mr. Sirat:** Mr. Deputy Speaker, Sir, the Assistant Minister was misleading in his written answer, which said that it was June, 2008. However, I spoke to Mr. Mohamed and he said that he has not received any money. So, could the Assistant Minister take up the issue with the headmaster, whom he addressed the cheque to and ask him to pay the retiree?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, let Mr. Abdikarim go to the school and he will be paid because that is his money. In case they do not pay him, we will order that the head of that school pays him because they have his money there.

**Mr. Deputy Speaker:** Hon. Sirat, I hope that you are satisfied.

**Mr. Sirat:** I am satisfied, Mr. Deputy Speaker, Sir. Thank you.

**Mr. Deputy Speaker:** Order, hon. Members!

## COMMUNICATION FROM THE CHAIR

WELCOME TO MEMBERS OF COMMONWEALTH  
WOMEN PARLIAMENTARIANS STEERING  
COMMITTEE SEATED IN SPEAKER’S ROW

**Mr. Deputy Speaker:** Hon. Members, the Chair has a Communication to make. I would like to introduce to you and welcome Members of the Steering Committee of the Commonwealth Women Parliamentarians (CWP), African Region, an organ of the Commonwealth Parliamentarian Association who are seated at the Speaker’s row.

They are as follows:-

(i) The Rt. Hon. Rebecca Kadaga, MP, Chairperson of the CWP, Africa Region and Speaker of the Parliament of Uganda;

(ii) The hon. Princess Christina D. Alaaga, MP, Nigeria and Vice-Chairperson of the CWP, African Region;

(iii) The hon. Beatrice Shekhulindo, MP, Tanzania and a Sub-regional representative of the CWP; and,

(iv) The hon. Jean Kapata, MP, Zambia, CWP Sub-regional Representative, Central Africa.

They are accompanied by Members of the Commonwealth Parliamentarian Association (CPA), the Secretariat of the CPA, Africa Region, representatives of political parties and other delegates. They are attending and participating at the 2<sup>nd</sup> CWP Conference on promoting political participation of women in East Africa Sub-region.

*(Ms. Karua consulted with Mr. Deputy Speaker)*

Hon. Martha, these are your colleagues. They are being hosted by the National Assembly of Kenya.

*(Applause)*

On behalf of the House and on my own behalf, I wish the delegation a fruitful and happy stay in Kenya.

Thank you again.

I think my Clerks-at-the-Table will have some explanation to make because I notice that there are two Parliamentarians from Seychelles and other lady Parliamentarians from Tanzania and Uganda. Please, stand!

*(The Parliamentarians stood up)*

*(Applause)*

The Madam who is dressed in Muslim attire is also a Parliamentarian! I think she is from Uganda.

Thank you.

Let us move on to the next Question by Mr. Kiuna Joseph

*(Resumption of Oral Answers to Questions)*

*Question No. 1173*

#### REVOCATION OF TITLE DEEDS IN NJORO DISTRICT

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

(a) whether he is aware that farmers in Nessuit, Teret, Kapkembu, Sururu, Likia and Sigotik locations in Njoro District cannot access credit facilities from banking institutions because their title deeds were revoked;

(b) whether he is also aware that the title deeds to Marioshoni, Ngongogeri and Kapsita settlement schemes were also revoked; and,

(c) when the title deeds will be validated so that the farmers can use them as collateral for credit facilities.

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

(a) I am aware that farmers in Nessuit, Teret, Sururu, Likia and Sigotik locations in Njoro District cannot access credit facilities from banking institutions because their title deeds were restricted but not revoked. Kapkembu is not affected since it is situated outside the Mau Forest Complex.

(b) Title deeds to Marioshoni, Ngongogeri and Kapsita settlement schemes are also restricted.

(c) The title deeds will not be validated as all the settlers are on high water catchment areas and biodiversity hot spots.

**Mr. Kiuna:** Thank you, Mr. Deputy Speaker, Sir. While I appreciate the answer given by the Assistant Minister, since he has stated that farmers in Nessuit, Teret, Sururu, Likia and Sigotik locations in Njoro District cannot access banking facilities because their title deeds are restricted but not revoked, when does he intend to lift the restriction so that they can get these services that other Kenyans get freely?

**Mr. Rai:** Mr. Deputy Speaker, Sir, we are currently studying the Report from the Mau taskforce which is dated March, 2009. After that, we will be in a position to tell whether we will revoke the titles or validate them. I would like to table the Report.

*(Mr. Rai laid the document on the Table)*

**Mr. Ruto:** Mr. Deputy Speaker, Sir, the hon. Assistant Minister is misleading the House because his boss, Mr. Orendo, and the Prime Minister himself, have publicly gone on record that they will lift the caveats in Nakuru. It is shocking to hear the Assistant Minister appear to contradict the public statement by both the Prime Minister and the Minister for Lands that they made in that area when they last visited the place. They said that they will lift the caveats. In any case, how can a title deed take care of water? Does the Ministry intend to relocate the people? Tell us!

**Mr. Rai:** Mr. Deputy Speaker, Sir, I am not misleading the House. I am trying to tell the House that these titles are restricted at the moment. This is because we want to study the Report by the Mau taskforce. Once that is completed, we will be in a position to tell the nation whether we will validate or revoke the title deeds.

**Mr. Deputy Speaker:** Revoking or seeking alternative settlement for Kenyans? You cannot just take away somebody's property---

**Mr. Rai:** Mr. Deputy Speaker, Sir, before we reach a stage of saying that we want to revoke, we will be in a position to address the issue of where we will settle these people. However, we have put restrictions at the moment so that, at least, we can go through the Report.

**Ms. Shakila Abdalla:** Thank you, Mr. Deputy Speaker, Sir. It is disturbing to realize that the Ministry issues title deeds and puts restrictions. In Lamu, we received thousands of title deeds recently. Could the Assistant Minister confirm whether those title deeds are valid or not?

**Mr. Rai:** Mr. Deputy Speaker, Sir, what title deeds is she talking about? I would like to know. Where in Lamu? You see Lamu is---

**Ms. Shakila Abdalla:** Pate Island in Lamu *Mheshimiwa. Usikasirike. Pole pole!*

**Mr. Rai:** Mr. Deputy Speaker, Sir, I am not angry.

**Mr. Deputy Speaker:** Lamu is one place where you do not issue title deeds every day. You do it after ten or 15 years and Kenyans follow this. So, you know when they were issued in Pate Island. Just say something.

**Mr. Rai:** Mr. Deputy Speaker, Sir, since she has now named Pate Island, I have said that if a restriction is imposed, there is a study that is being undertaken so that, at least, we can be in a position to know whether the titles which were issued were legal or illegal.

**Mr. Mwaita:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister has said that they are studying a Report of the Mau taskforce which was issued in 2009. Why has it taken the Ministry three years to study the Report and yet they have all qualified staff and the whole Government at their disposal?

**Mr. Rai:** Mr. Deputy Speaker, Sir, you need to be very careful when dealing with human beings. These are mistakes which were made and we want to know whether we can correct them as and when we arrive at a resolution.

**Mr. Mwangi:** Thank you, Mr. Deputy Speaker, Sir. If you listened to the Assistant Minister very carefully, you will realise that he has no concern for these people. This was in 2009, and we are now in 2012 and yet these Kenyans do not know their fate as to whether they will have their title deeds revoked or not. Why can the Assistant Minister and the Government not decide to relocate these Kenyans instead of having them wait for all these years and keep on saying that, that is a water catchment area?

**Mr. Deputy Speaker:** Mr. Assistant Minister, are you prepared to give a definitive time when this Report will be available?

**Mr. Rai:** Mr. Speaker, Sir, my only assurance is that once the National Land Commission is formed, that is about 90 days from now, these issues will be addressed. This is because that Commission will also address the past injustices.

**The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti):** On a point of order, Mr. Deputy Speaker, Sir. I think those people are very lucky since the Government is thinking about them! My Syokimau people were displaced and nobody is thinking about them!

*(Laughter)*

**Mr. Deputy Speaker:** Order! Hon. Wavinya Ndeti, you might be pleased and excited about the humour but the next time you do that, the Chair is going to throw you out of the House!

**Mr. Kigen:** Mr. Deputy Speaker, Sir, concerning the caveat that has been placed on these titles in Bararget and most parts of Mau area, the Government promised sometimes in March last year that the caveats were going to be lifted within three months. Why is it that up to now, you are still promising and pushing it forward? That is going to be in the next 90 days.

**Mr. Rai:** Mr. Deputy Speaker, Sir, if the House actually heard me, I said the National Land Commission will be in place within the next 90 days from now and all these issues which are still pending and which cannot be done by the Ministry at the moment will be addressed by the National Land Commission.

**Mr. Kigen:** On a point of order, Mr. Deputy Speaker, Sir. The Government committed itself last year in March. The Assistant Minister has risen to tell us about a Commission that is coming. Is it in order for him to ignore the commitment he made to the people of Kenya last year and talk about a Commission as a solution to the problem that they brought about?

**Mr. Rai:** Mr. Deputy Speaker, Sir, that issue is already being addressed by the Ministry. That is why I am saying the National Land Commission is actually going to take over most of all these matters which are still pending where we actually need either to lift or put a restriction in these particular issues.

**Mr. Mwiru:** On a point of order, Mr. Deputy Speaker, Sir. These Kenyans were given titles by the Government and the same Government restricted these titles because there was fear that these people were living in a water catchment area. Could the Assistant Minister inform the House whether the Government has also restricted the activities of these people on these areas because they are living in a water catchment area?

**Mr. Rai:** Mr. Deputy Speaker, Sir, at the moment, there are no activities going on there and that is why the titles these people are holding are useless because it is a water catchment area.

**Mr. Kiuna:** Mr. Deputy Speaker, Sir, let it be known that there are some Kenyans who have been suffering all along since 1997. These are people from Mau Forest. They were given this land by the Government and then the same Government came in and decided that they should be evicted. Now, you have formed a task force. I am pleading with the Assistant Minister to come out very clearly and state the Government's position and let us not sacrifice our Kenyans at the expense of political supremacy because these people of Mau are suffering because of political supremacy in our country. Since these people have not got any assistance, what is the Government going to do? Is it going to compensate them for all that duration they have been suffering? Lastly, if they will be evicted, where will the Government take them and yet it has not resettled the post-election violence Internally Displaced Persons (IDPs) still in the camps?

**Mr. Rai:** Mr. Deputy Speaker, Sir, there was an interim co-ordinating secretariat which was established to implement the recommendations of the Government task force report on the conservation of the Mau Forest Complex and once these recommendations have been addressed, we will be in a position to know who to compensate, where to settle these people and what to do with regard to the stay of these people in this particular area.

**Mr. Langat:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead the House that there is a task force that is doing something about the Mau evictees when we know that the task force has not been funded and is not operational?

**Mr. Rai:** Mr. Deputy Speaker, Sir, I said there is a report and there is a secretariat which was actually established to look into the report so that it can at least give the Ministry recommendations as to what is to be done with these people who have been affected.

**Mr. Deputy Speaker:** Next Question by hon. Shakeel!

*Question No.1179*

PROVISION OF PROGRESS REPORT OF BRAND KENYA INITIATIVE

**Mr. Deputy Speaker:** Is hon. Shakeel by any chance out of the Chamber today because of parliamentary business inside or outside the country? His Question is dropped!

*(Question dropped)*

**Mr. Deputy Speaker:** Next Question by hon. Mwau!



*Question No.1536*

CBK'S INACTION AGAINST  
CHARTERHOUSE BANK LIMITED

**Mr. Mwau** asked the Minister for Finance:-

(a) whether he is aware that the Central Bank of Kenya accused Charterhouse Bank Limited of violating the Banking Act in 2006 and yet the bank was let off without being fined and, if so, if he could explain why this happened; and,

(b) whether he could clarify whether or not the manager appointed to manage Charterhouse Bank under S.34 (2) (a) of the Banking Act has continued to operate and manage the bank while the alleged violations persist.

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, for the second time, I am again asking for the indulgence of the House to allow this Question to be answered much later because as I explained the other time, I was not able to deal with it personally because of personal interests. I dealt with this particular issue when I was the Chairman of the Finance, Planning and Trade Committee and tabled the report but now I am in the Government and I am wearing a different hat. It is difficult for me to deal with the issue and hon. Githae who was supposed to answer it has a tragedy which has happened to him. He has lost his son and, therefore, he is not able to come and dispose of this issue today. I am asking that we give him one week to finish the tragedy and then this Question comes on the Order Paper after next week.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. While I give my sympathies to the Minister who would have answered this Question, would it not have been in order if the Assistant Minister answers? I do not think anything has changed substantially having changed from Parliament to the Ministry. I am sure he has a better insight and we are more likely to trust his answer. Considering that this Question has been pending for long, is there no way the Assistant Minister could possibly consider answering it himself and it will be more honest considering that he was also part of the team that investigated this problem?

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, the position of the Ministry is different from the report which we tabled here. Therefore, my conscience---

**Mr. Deputy Speaker:** Order, hon. Assistant Minister! We have had a system up until now up to the promulgation of the Constitution in 2010 in which the Legislature and the Executive reside in the same House in which a Member of Parliament also is a Cabinet Minister. Clearly, if we are going to have a system in which any Member of Parliament who prosecuted or rather scrutinized any issue in any Ministry while a Backbencher, when he becomes a Minister he will say that: "I cannot deal with these things because I had an opportunity to come across the same when I was in a committee as a Backbencher", then very little business will be transacted on the Floor of this House. So, I do not think that you are in any way infringing on any provision of the Standing Orders by standing up again as a Minister and taking a position on this in your capacity as an Assistant Minister for Finance.

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, I take this as a person and my conscience, as I said, does not allow me to answer the Question.

**Mr. Deputy Speaker:** Fair enough! When do you want the Minister to come and deal with it?

**The Assistant Minister for Finance** (Dr. Oburu): After next week, Mr. Deputy Speaker, Sir. Two weeks!

**Mr. Deputy Speaker:** Hon. Mwau, given the tragic situation which we all must register our condolences and sympathies with the Minister for Finance for having lost a son, when will you be ready to have this Question listed on the Order Paper?

**Mr. Mwau:** Mr. Deputy Speaker, Sir, if the Minister will be available next week, then it is okay.

**Mr. Deputy Speaker:** Very well. I order that the Question appears on the Order Paper two weeks from today.

**The Assistant Minister for Finance** (Dr. Oburu): I am much obliged, Mr. Deputy Speaker, Sir.

*(Question deferred)*

*Question 1319*

AWARD OF SCHOLARSHIPS BY JKF

**Mr. Deputy Speaker:** Hon. Members, hon. Ekwe Ethuro is out of the country on parliamentary business. Therefore, I direct that Question No. 1319 be deferred to a day when he will be around.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question, hon. Peter Kiilu!

*Question No.1321*

ILLEGAL SAND HARVESTING  
IN NZAUI/MUKAA DISTRICTS

**Mr. Kiilu** asked the Minister for Environment and Mineral Resources:-

(a) whether he is aware of the illegal sand harvesting in Muangini and Muoni rivers in Nzau and Mukaa districts, which is causing massive degradation, in contravention of Section 9 of the Environmental Management and Coordination Act, Act No. 8 of 1999; and,

(b) what measures he will take to ensure that sand harvesting activities take place only in sites licensed by NEMA.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Murgor): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware of illegal sand harvesting activities in Muangini and Muoni rivers in Nzau and Mukaa districts, in contravention of Section 9 of the Environmental Management and Coordination Act, Act No. 8 of 1999.

(b) Through the National Environment Management Authority (NEMA), the Ministry will take the following measures to ensure that sand harvesting activities take place only in sites licensed by the NEMA:-

(i) urging the local communities in areas where sand is harvested to form riparian resource management associations to assist in environmental conservation efforts along the river channels;

(ii) holding *barazas* to educate the local communities on the dangers and consequences of illegal sand harvesting activities and the need to conserve water resources; and,

(iii) arresting and instituting prosecution against illegal sand transporters.

Mr. Deputy Speaker, Sir, the Ministry has also banned all illegal sand harvesting activities.

Thank you.

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, before I ask my next question, I would like to inform you that the answer that I have been given has not been updated because it is signed by a Minister who is no longer a Member of this House. I wonder whether I should proceed and ask supplementary questions.

**Mr. Deputy Speaker:** Assistant Minister, are you sure that your answer is valid and current, and that it is not very old?

**The Assistant Minister for Environment and Mineral Resources** (Mr. Murgor): Mr. Deputy Speaker, Sir, my answer is current and valid. It is signed by hon. Ali Chirau Mwakwere, EGH, MP; the Minister for Environment and Mineral Resources.

**Mr. Deputy Speaker:** Hon. Kiilu, can you table the answer that you have?

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, the answer that I have been given was signed by the late John Michuki.

*(Mr. Kiilu laid the document on the Table)*

**Mr. Deputy Speaker:** Is this the exact answer that the Minister read, hon. Kiilu?

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, it is the same answer that he has read out.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Murgor): Mr. Deputy Speaker, Sir, mine is signed by the current Minister for Environment and Mineral Resources.

**Mr. Deputy Speaker:** Order, Assistant Minister! The answer that is here with the Chair is signed by none other than the departed hon. John Michuki. The Chair is inclined to believe that this is not a current answer.

Hon. Kiilu, would you wish that the Assistant Minister goes back and comes up with a current answer?

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, we can proceed, if he can bring me a current answer.

**Mr. Deputy Speaker:** Assistant Minister, the Chair has no option but to defer this Question to a week from today in order for you to come back with a current answer because the answer that is with us right now is an answer that was signed by the late Minister, who has not been with us for many months now. That is what has been tabled in the House, which is with the Chair. It is like you people were so lazy that you did not feel like going back to the ground and getting the facts right. Sand harvesting is not a matter that is constant. Sand harvesting is a continuous activity, which leads to environmental degradation and, therefore, the need for your Ministry to be a watchdog in this area is continuous. Clearly, you cannot give an answer that is six months old or one year old and claim that it is as valid as it should be now.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Murgor): Mr. Deputy Speaker, Sir, I will comply but I thought that the hon. Member would be interested in the answer rather than in the person who signed it. At the end of the day, he should be interested in the answer rather than the person who signed it.

**Mr. Deputy Speaker:** Assistant Minister, if this answer was given seven months ago, in which you said “I am aware of illegal sand harvesting activities“ and then you come back today and say “I am aware of illegal sand harvesting activities”, what does that tell about your Ministry? Who is supposed to stop the illegality?

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Is this not a very clear example of how careless Ministers are? Is this not an example of a Minister who is not concerned about his duties? How can he pull from the shelves an answer that is eight months old and bring it here and attempt to defend himself? Would I be in order to request that the Assistant Minister be named? This is because he is arguing and insisting that we take an answer that is obviously irrelevant. It does not even address the current situation. It is obviously signed more than seven months ago, and he dared argue even when the Chair was giving him latitude.

**Mr. Deputy Speaker:** Assistant Minister, under the circumstances, the most prudent thing for you to do is to apologise to the House and go back and come with a current answer. Not only is the answer stale, it reminds us of our beloved brother who passed on. You show a certain level of insensitivity to the dead also. So, how soon can you have a current answer, Assistant Minister? It had better be a different answer from what we already have in our records. How soon can you have the answer ready?

**The Assistant Minister for Environment and Mineral Resources** (Mr. Murgor): Mr. Deputy Speaker, Sir, I could bring the answer tomorrow, if the House would be in session. So, I will bring it as soon as next week.

**Mr. Deputy Speaker:** The Chair directs that this Question be listed on the Order Paper of Wednesday morning.

*(Question deferred)*

*Question No.1400*

REFUSAL BY KFS TO HAND OVER  
MT. KENYA FOREST TO KWS

**Mr. Deputy Speaker:** Hon. Members, hon. Imanyara had to go and seek medical attention. So, this Question is deferred until such a time that he is in a position to prosecute it.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question, hon. Martha Karua!

*Question No.1473*

PROVISION OF WATER TO RESIDENTS  
OF WEST POKOT COUNTY

**Ms. Karua** asked the Minister for Water and Irrigation:-

(a) whether she is aware that women in Kacheliba have to walk for over 20 kilometres in search of water;

(b) whether she could provide details of the water projects undertaken by the Ministry in the entire West Pokot County, particularly in Kacheliba Constituency since 2008; and,

(c) what plans she has to provide water to the residents of Kacheliba and the entire West Pokot County.

**The Minister for Water and Irrigation** (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that women in Kacheliba, like women in many other parts of this country that suffer from water scarcity, walk long distances in search of water.

(b) Since the year 2008, my Ministry has spent Kshs207,901,617 on the construction and rehabilitation of various water projects in the entire West Pokot County including Kacheliba Constituency as highlighted. I have met that requirement.

(c) My Ministry will commence construction of Sioi Dam at an estimated cost Kshs3.5 billion to store 8.5 million cubic meters of water that will benefit over 300,000 people. In the meantime, in this financial year - 2011/2012, my Ministry is implementing various water projects at a cost of Kshs27,100,000 as tabulated also in a table that I have given to her.

**Ms. Karua:** Mr. Deputy Speaker, Sir, while thanking the Minister for that answer I am looking at this and seeing a water supply in Kacheliba Township. I was there recently and there is no supply of portable water in Kacheliba Township. I am also aware that there is no supply of water in Alarei which is also on this list. Could the Minister check and find out what is happening because although the money is allocated, even her colleague the Minister who is the Member for Kacheliba may confirm that there is actually no clean water supply within Kacheliba Town. Could she also confirm the date that Sioi Dam will be built?

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, first and foremost, I want to thank the hon. Member for bringing this to my attention. I do know that she has travelled very widely and certainly she is aware of something that the Minister may not know. However, let me just say here that I will ensure that Kacheliba gets water. What I have done is to provide a water bowser which is being used in that constituency just to ensure that women do not walk long distances. In fact, I want to tell the hon. Member that I have been able to do what she was not able to do and that right now we are ensuring that women do not walk long distances.

Sioi Dam will be constructed because the designs are on course. We will ensure that Kacheliba gets water because we have already allocated resources.

**Mr. Litole:** Mr. Deputy Speaker, Sir, I just want to correct what the Minister has said about Sioi Dam. It is not called "Sioi Dam" but it is called "Muruny Dam" which is about 40 kilometres away from Kapenguria. Kapenguria is part of Sioi.

However, is the Minister, therefore, telling us that Sioi or Muruny Dam will take water to Kacheliba or does she have alternative plans? This is because from Muruny to Kacheliba is 60 kilometres apart. Could the Ministry not have a different alternative? We have many rivers there, for example, Swam. There are other rivers within that area.

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, I want to assure the hon. Member that water for Kacheliba will come from Sioi Dam whether it is 60 kilometres, 40 kilometres or 100 kilometres away. He may not be aware that we take water from longer distances than 40 kilometres. The

water that is being used in Mombasa comes from Malindi. Therefore, the hon. Member can imagine that distance. That is where the water will come from.

**Mr. Litole:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is she in order---

**Mr. Deputy Speaker:** Is the Minister in order and not "is she" in order!

**Mr. Litole:** Mr. Deputy Speaker, Sir, is the Minister in order to talk about the 40 kilometres? I know it is possible to take water from that distance in Ukambani. In this case, River Swam is exactly within Kacheliba. Why can the Government not use the river within Kacheliba to supply it water instead of taking the water from Kacheliba to Alale which is 120 kilometres away? Or, is she therefore, confirming to us that the water can be taken from Muruny to Alale where the DC stays?

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, we are putting this as one of the flagship projects of 2030. We will ensure that Kacheliba gets water. I think the most important thing is for Kacheliba to get water. We have set aside Kshs3.5 billion for this purpose. That is the design that we have in place. So, please let the women of Kacheliba get water whether it will come from the river that is near them or from Sioi Dam. They will get water.

There is also something else that I am sure the engineers took into account, and that is whether the water will be pumped or it will flow through the force of gravity. If water will flow to Kacheliba by the force of gravity, it will be much cheaper for the Kacheliba people. Otherwise, they will get water from this dam.

**Eng. M.M. Ali:** Mr. Deputy Speaker, Sir, while thanking the Minister for efforts made in the Ministry in the provision of water to Kenyans, one such large dam being in Marsabit--- I want to say that there are very many areas such as Sololo and Mandera, those arid areas, where people cover more than the kilometers that have been stated here that the Kacheliba people walk.

However, what efforts has the Ministry made to ensure that Kenyans get enough water, both for domestic and agricultural use? As you very well know, a lot of water is wasted due to surface runoff. Kenyans normally starve not because the soils are not fertile but because of lack of water. What has the Ministry done to ensure that starvation is a thing of the past and that we can upscale irrigation in the country?

**Mrs. Ngilu:** Mr. Deputy Speaker, Sir, just before I answer this question let me answer Mr. Litole because I have just been told by the Minister who is the Member of Parliament for Kacheliba that water will flow by the force of gravity from Sioi Dam and so it will be cheaper. He is very happy although I know he does not carry water on his back like the women of Kacheliba.

*[Mr. Deputy Speaker left the Chair]*

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

Madam Temporary Deputy Speaker, let me just say that the hon. Member has asked about Sololo and other areas. It is true I have not been able to put enough money for Sololo area but it is because the budget is not having enough money for those areas. I agree with the hon. Member that this country should never suffer due to lack of food that we continue to import. We should have more money in the Budget.

However, we have now been allocated more resources for irrigation. In fact, we have about Kshs8.5 billion once again for irrigation in our budget this year and we are looking at all

those areas to ensure that we can have some dams, water and do irrigation. But we are still very far because only about 53 per cent of Kenyans access clean and safe drinking water.

Thank you.

**Mrs. Shebesh:** Madam Temporary Deputy Speaker, I can see the Minister has indicated Kshs3.5 billion which, to me, is the kind of money that can really make a difference to the women in Kacheliba. However, I did not see it as money that has been factored in this year's Budget. This means that the Kshs3.5 billion will have to depend on the goodwill of the next Minister for Water in the next Government who might not be a woman. Could the Minister assure the women of Kacheliba that she will undertake the Kshs3.5 billion project which is the real project that will change their lives during her tenure as Minister for Water?

**Mrs. Ngilu:** Madam Temporary Deputy Speaker, we just need to ensure that the next Government will be run by a woman. So, why not?

**The Temporary Deputy Speaker** (Dr. Laboso): Last question, Ms. Karua.

**Ms. Karua:** Madam Temporary Deputy Speaker, while thanking the Minister for all those answers and agreeing with her that she is able to do more, but basically because when I was in her position I raised the profile of Water from Kshs3 billion to a whopping Kshs24 billion. That is the reason the women of Kacheliba sent me to ask this Question.

I am therefore, telling the Minister, we are very happy that there is consideration for Sioi Dam; but there is River Suam which divides Kapenguria and Kacheliba. It is next to Kacheliba Town. Would she consider using the water from River Suam, which is a permanent river that feeds the Kerio Dam, to make sure that Kacheliba Town gets water? I can see there is a sizeable allocation; could she also make sure that the money allocated is used cost-effectively to give the people of Kacheliba, the entire West Pokot and Kenya as a whole water?

**Mrs. Ngilu:** Yes, Madam Temporary Deputy Speaker, I do agree and appreciate this very much. In fact, I will go back to the drawing board and see what we can do with the river that is near Kacheliba.

Let me also say to the hon. Member that actually the budget, because of the profile of the Ministry she raised, is not Kshs24 billion but Kshs43.5 billion. That is how well women can do.

**The Temporary Deputy Speaker** (Dr. Laboso): Next Question by the Member for Kieni.

*(Loud consultations)*

Order, Lady Members of Parliament!

*Question No.1502*

DELAY IN MOVING DISTRICT HEADQUARTERS  
FROM CHAKA TO NAROMORU

**Mr. Warugongo** asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that Kieni East District residents, after a series of meetings, agreed to move the district headquarters from Chaka to Naromoru;

**The Temporary Deputy Speaker** (Dr. Laboso): Order, Member for Kieni!

**Mr. Warugongo:** Madam Temporary Deputy Speaker, it will take only 30 seconds to finish.

(b) why the gazette of the new headquarters has taken long, hence fueling tension among residents; and,

(c) when the funds to construct the new headquarters will be released.

**The Temporary Deputy Speaker** (Dr. Laboso): You got sympathy from the lady Members for you to read out the Question; otherwise you should have followed procedure. Assistant Minister, please, proceed!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Madam Temporary Deputy Speaker, I beg to reply.

(a) I am aware that leaders met on 13<sup>th</sup> June, 2011, and resolved to move the headquarters from Chaka to Naromoru. The leaders are yet to identify land where the Government can put in place the necessary infrastructure required to operationalize the district headquarters.

(b) In the event that we gazette the district headquarters of Kieni East District as Naromoru now, we risk misleading the residents to non-existing physical offices. Gazette of district headquarters will be considered when the new district headquarters is operationalized.

(c) Release of funds will be considered when land is identified and a request for the necessary funding estimates, made.

**Mr. Warugongo:** Madam Temporary Deputy Speaker, I thank the Assistant Minister for giving that answer. If he had actually requested proof of availability of land for the construction of the new district headquarters, he would have got it. I promise him that we are going to give him the necessary documents from the Ministry of Lands. Why did it take all that long to tell us what he requires, so that he can do his work?

**Mr. Ojode:** Madam Temporary Deputy Speaker, a similar question also goes to him; why has he taken so long without giving us the title deed or telling me that they have already got land in order for me to move my people on site?

**The Temporary Deputy Speaker** (Dr. Laboso): You are asking him a question?

**Mr. Ojode:** Madam Temporary Deputy Speaker, what I am asking is very simple; he should have given us the title deed to show proof that they have identified the land where we are going to construct the new headquarters. To date, there is no proof at all that they have identified land where we can easily do infrastructure. So, I am requesting the Questioner to move with speed, avail the documents in order for us to look for funds, so that the DC can move to site and the construction work can start.

**Mr. Njuguna:** Madam Temporary Deputy Speaker, while thanking the Assistant Minister for the very positive answer he has given, could he indicate to this House what steps he is taking to rein in on the demonstrations that were agitating for the headquarters to be removed from Chaka to Naromoru?

**Mr. Ojode:** Madam Temporary Deputy Speaker, this thing has already been resolved. I would not want to go back to those dark days when there was a group which was opposed to the transfer of the headquarters. We have agreed with the Questioner that he is going to show proof; let us do some infrastructure within Naromoru to enable the DC to work from there.

**Mr. Mwathi:** Madam Temporary Deputy Speaker, I appreciate the answer by the Assistant Minister. Talking about time, there are places like Limuru where we have given him land and identified the site, but even when he has all what he requires, the project has taken too



long. Why is it that the Ministry allocates money that is not enough to complete a district headquarter project? He has not made it usable! For two years now, it is not usable!

**Mr. Ojode:** Madam Temporary Deputy Speaker, generally if we requisition for money from the Treasury for purposes of construction of headquarters--- If we are given half of the amount we requested, I have to distribute it. It is not possible for me to give what I do not have.

Secondly, the Ministry of Public Works advises that if you give a lot of money to one particular project within a period, it might take a long time before they finish it. To avoid those anomalies, we give what we get from the Treasury. If you ask for funds from our headquarters for purposes of building Limuru District Headquarters, we will make sure that the Ministry of Public Works gives us the drawings and estimates. We do not just give money without those consultations. We must get the drawings and the estimates from the Ministry of Public Works. Perhaps, that is why he has a problem.

**Mr. Mwathi:** On a point of order, Madam Temporary Deputy Speaker. My question had two parts and he has done very well on the first one; but he has avoided the second part. The second part was, he has seen this trend. I say this with authority because I have been in the Civil Service and handled projects of the Provincial Administration. If you find you do not have enough money, why is it not possible for you to phase the project, so that the first, second or subsequent phase is usable instead of spreading the money on a large project, all at once?

**Mr. Ojode:** Madam Temporary Deputy Speaker, what he is suggesting is what we are actually doing. That is the actual thing we are doing because we give money to the Ministry of Public Works, then the Ministry of Public Works advertises the works. There are those which are done directly from our offices. If they are being done directly from our offices then we advertise and then a contractor is paid. We give money as and when we get it from the Treasury. Sometimes you can get Authority to Incur Expenditure (AIE) but the actual money is not there and so the contractor will have to wait. We are also going to wait for the Treasury to give us the cheque, the money, and not the AIE.

**Mr. Letimalo:** Madam Temporary Deputy Speaker, given that the residents of Kieni District, after a series of meetings, settled for Naromoru to be the district headquarters, could the Assistant Minister confirm that he unilaterally decided, without the consent of the residents of Kieni District, to make Chaka the district headquarters and not Naromoru as wanted by the people?

**Mr. Ojode:** Madam Temporary Deputy Speaker, no, that is not true!

**Mr. Warugongo:** Madam Temporary Deputy Speaker, I want the Assistant Minister to tell us; if I deliver the documents tomorrow - because I am going to call somebody tonight - could he promise that he will start doing his work on Monday?

**Mr. Ojode:** Madam Temporary Deputy Speaker, I cannot promise something which I have not seen. The Government does not work like that! The Government works on factualism. Let him give us proof that he has land. Let him show us the title deed, we will then instruct the experts to go to the site and then we will start working on the project.

**The Temporary Deputy Speaker** (Dr. Laboso): Thank you, Mr. Assistant Minister. Next Question, the Member for Keiyo South!

*Question No.1512*

DEVELOPMENT OF EARLY WARNING SYSTEM

**Mr. Kiptanui** asked the Minister of State for Provincial Administration and Internal Security:-

- (a) whether he could confirm that the Ministry has developed an early warning system to monitor security ahead of the forthcoming elections; and,
- (b) what the system entails and how effective it is.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Madam Temporary Deputy Speaker, I beg to reply.

(a) I confirm that the Ministry has developed an early warning system to monitor security ahead of the forthcoming elections. The Ministry has been implementing the Inter-Governmental Authority on Development (IGAD) Conflict Early Warning Mechanism (CEWAM) since the year 2003 after the adoption of the CEWAM Protocol by IGAD member states in 2002.

(b) In July, 2010, the Ministry domesticated the IGAD CEWAM unit and established a conflict early warning system to enhance sharing of information between the stakeholders in peace building and conflict management, security agencies and members of the public. This system provides for a subsidized short message service (SMS) short code 108 platform which encourages members of the public to share information related to peace and security from any part of the country. The system is meant to compliment the work of law enforcement agencies and was first piloted during the 2010 Referendum on the current Constitution in partnership with the National Cohesion and Integration Commission (NCIC) and other stakeholders under UWIANO platform for peace. Although the SMS platform code is connected to Safaricom, consultations are underway to have the short code connected to other three telephone service providers which are YU, Airtel as well as Orange. Information received through the SMS 108 from members of the public is analyzed and disseminated to relevant stakeholders, law enforcement agencies and grassroots peace structures for early response. The system is currently being enhanced to monitor conflict as we approach the coming General Elections. In addition, the Ministry has embarked on training administration officers, law enforcement officers, peace committees, chiefs and assistant chiefs in the country on conflict interventions. We are also sensitizing them on the SMS platform to enable them respond and ensure potential conflicts are resolved non-violently.

**Mr. Kiptanui:** Madam Temporary Deputy Speaker, through this system, the Government is able to get its information from various parts of this country. My question to the Assistant Minister is: How do they prove that the information that they receive is genuine and not misleading from other people? Indeed, if they can prove that the information they receive is misleading, what action do they normally take against those people who are misleading the Government?

**Mr. Ojode:** Madam Temporary Deputy Speaker, that is why we have a code; an SMS from 108. So there is no way you can assume that if it does not come from 108, then it is genuine information. So only messages from 108 code will be considered to be genuine.

**Mrs. Shebesh:** Madam Temporary Deputy Speaker, sometimes I am not sure whether to be amused or amazed by the answers that the Assistant Minister gives us. How can a whole Government be depending on SMS service from Kenyans as a way to develop or monitor security in the forthcoming elections when we pass budgets here for billions which are unaccounted for, for the National Security Intelligence Service (NSIS)? Is he serious or is he just answering a Question because he has to answer a Question?

**Mr. Ojode:** Madam Temporary Deputy Speaker, we are very serious and let us also take this matter seriously. We have other agencies also which we are using SMS service in terms of

gathering information. The NSIS can gather information and give that information to the early warning administrators. That does not necessarily mean that their information will not be used. It is used! We have various agencies, not just the NSIS or the early warning mechanism. We have others! It is important for this country to know that we will be monitoring those who want to cause chaos during the elections. It will be easier for us to know because we have the equipment ready now and installed. You will start seeing people being arrested simply because they are sending inciting messages. So those are some of the cases that we want to abolish. We want to do away with the incitement which was evidenced last time when we were going for the elections.

**Mr. M.M. Ali:** Madam Temporary Deputy Speaker, it is very reassuring to hear that the Government is going to be firm and that it is going to be on the look out to ensure that there will be peace and harmony as we await the General Elections. However, I have concerns going by past incidents. Sometimes Government agencies rely on rumours, hearsay and even sometimes on information from people who are politically-correct. What guarantee is the Assistant Minister going to give this House and the nation that the actions purported to be taken are going to be fair, impartial and are seen to be above board as it should be?

**Mr. Ojode:** Madam Temporary Deputy Speaker, let me assure this House that the information which will be passed to us will be genuine. If I send you an incitement message and then you pass it to somebody else, that is how chaos starts. So, that is the reason why we had to purchase an equipment to verify the information which we are getting. Therefore, if you think that the Government will just allow people to behave the way they behaved in 2007, wait and see. Wait and see! We will arrest those who are peddling rumours; those who are giving messages of hate. We are not going to allow that!

**Mr. Gaichuhie:** Madam Temporary Deputy Speaker, after the post-election violence in 2008, it is on record that the Director-General of the National Security Intelligence Service (NSIS) said that he gave information which the Government ignored. Could the Assistant Minister assure this House that this time, he is not going to ignore any information from the NSIS, which is funded by the Government? It is on record that the Government never acted on that information. Could he assure us that he is going to act on any information? If he wants to rely on SMSs and not the NSIS, then he should disband the NSIS.

**Mr. Ojode:** Madam Temporary Deputy Speaker, let me assure this House and the country at large that we will not ignore any information whether it is from my colleagues or from hon. Shebesh. We will take that information and check whether it is true or not. The country belongs to us. We want Kenya to be one. That kind of unity is what we want come 4<sup>th</sup> March, 2013, so that when people go for elections, they elect leaders of their choice. There are several people who have also indicated their interest that they want to be Presidents of this country. So, let us not hate one another simply because we come from different regions.

**Mr. Letimalo:** On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister should not avoid the question. If the monitoring strategy that he is using was effective, how come there was violence after the 2007 general elections? What guarantee is he giving us that the same is not going to be repeated in the forth coming general elections?

**Mr. Ojode:** Madam Temporary Deputy Speaker, we are not going to ignore any kind of information which we will get. After the 2007 chaos, a number of other things have happened. We have even got equipment to know that so and so is speaking. So, we will definitely know who has sent the message and who has said what and where.

**The Temporary Deputy Speaker (Dr. Laboso):** We need to move with speed.

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Speaker, Article 27(4) of the Constitution says that the State shall not discriminate directly or indirectly against any person on any ground. You have heard the Assistant Minister saying very dramatically how he will not spare anyone and when there is hate speech, he will deal with the culprit. The National Cohesion and Integration Commission has already forwarded cases of two Members of Parliament on hate speech, which are not being prosecuted. The Assistant Minister is telling us that he shall arrest people. What assurance is there that he will not violate the Constitution? When we, Members of Parliament, violate the Constitution, the only thing he does is to come here, jump and tell us how he will take action, but when it is ordinary folks, he arrests them. Is he applying double standards?

**Mr. Ojode:** Madam Temporary Deputy Speaker, we will not discriminate against anybody. The Constitution is very clear. The Members should make a mistake and they will see the consequences according to the law.

**Mrs. Odhiambo-Mabona:** On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister has not responded to my question. I asked a very specific question. There are two Members of Parliament whose names have been forwarded for prosecution for hate speech and the Assistant Minister has refused to take action.

**Mr. Ojode:** Madam Temporary Deputy Speaker, you know what my docket entails. I arrest and then take the suspects somewhere else, namely, to court. So, if we have been given the details, I will arrest even tomorrow.

**Mr. Wambugu:** On a point of order, Madam Temporary Deputy Speaker;

**The Temporary Deputy Speaker (Dr. Laboso):** Capt. Wambugu, unless hon. Kiptanui is willing to give you his chance! I have given him the last question. Mr. Kiptanui, are you giving your chance to hon. Wambugu?

**Mr. Kiptanui:** Madam Temporary Deputy Speaker, he is on a point of order.

**Mr. Wambugu:** Madam Temporary Deputy Speaker, the Assistant Minister has told this House that he cannot get any information especially on security matters unless he depends on SMSs from the public. From his written answer, he says that these SMSs will be at a subsidized rate. Why should the Government ask Kenyans to use their money?

**The Temporary Deputy Speaker (Dr. Laboso):** Is it a question or a point of order, hon. Wambugu?

**Mr. Wambugu:** Madam Temporary Deputy Speaker, it was just a point of order, but could he clarify whether the SMSs will be free or at a subsidized rate? How much will it cost the Kenyans?

**Mr. Ojode:** Madam Temporary Deputy Speaker, if you look at the Question, it is not asking whether the SMSs will be free. I am saying that we are now training people in regard to receiving the SMSs. This is something which we are now nurturing. So, at the right time, we will know how much money will be charged.

**Mr. Kiptanui:** Madam Temporary Deputy Speaker, in answering the Question, the Assistant Minister is trying to convince the House that this system is effective. But as we prepare for the elections, many political parties will be holding their grassroots elections. I am aware of one of the parties which held its grassroots elections two months ago and we witnessed a number of chaotic situations in many constituencies in this country. Did the system detect this chaos?

**Mr. Ojode:** Madam Temporary Deputy Speaker, that is the very reason why we have included the chiefs and assistant chiefs. If we do not include them, we would not know what is happening all the way in Ndhiwa or somewhere else in Maji Mazuri. The reason why we have

included the Provincial Administration, especially the chiefs and the assistant chiefs, is to make sure that there is no chaos and if there is, it must be reported for us to take action, and we will take action.

*Question No.1549*

ERADICATION OF CMD/CBSD FROM  
WESTERN/NYANZA PROVINCES

**The Temporary Deputy Speaker** (Dr. Laboso): This Question is going to be deferred because the Member is out on Parliamentary business and it shall appear when he is around for him to ask it.

*(Question deferred)*

**MINISTERIAL STATEMENTS**

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, let us receive Statements and then the requests after.

**The Minister of State for Special Programmes** (Ms. Mathenge): Madam Temporary Deputy Speaker, I was to give a Statement that was requested by hon. Ethuro, but I understand he is out of the country. So, I would like to do it next week.

CRITERIA FOR APPOINTMENT OF 47 COUNTY COMMISSIONERS

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Thank you, Madam Temporary Deputy Speaker.

*(Laughter)*

**The Temporary Deputy Speaker** (Dr. Laboso): You seem to be getting support again from the Members.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I have no idea what is in store, but I can assure them that I am a seasoned person in addressing this issue.

On 15<sup>th</sup> May, 2012, hon. Mungatana, hon. Shebesh, hon. Odhiambo-Maboka and hon. Mbadi stood on a point of order---

*(Laughter)*

Well, you can see the excitement, which I welcome so much.

**Mr. Mbadi:** On a point of order, Madam Temporary Deputy Speaker. The Minister has said that there are some Members who stood on a point of order to seek for a Statement and he mentioned hon. Odhiambo-Maboka. I have never heard of such a name in this Parliament.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, of course, you see, the Member has more benefit

than myself by virtue of regional association. But, of course, I am quite clear to clarify the matter here.

**Mrs. Odhiambo-Mabona:** On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Please, allow the Minister to go on.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, the point of the matter is that she is hon. Odhiambo-Mabona. I hope that is a good trial.

These Members requested that I should make a Ministerial Statement in regard to the appointment of county commissioners by His Excellency the President. I wish to state as follows:-

On 11<sup>th</sup> May, 2012, His Excellency the President deployed 47 officers of the Provincial Administration vide Gazette Notice No.6604 to facilitate specified national Government functions in the 47 counties in preparation for the restructuring of the Provincial Administration anticipated in the Constitution. Those appointments and deployments were prompted by the need to ensure co-ordination of service delivery by the Government following the deployment of officers from the Ministries. The officers were from other Ministries to the counties. That has already been effected.

Madam Temporary Deputy Speaker, the deployed officers are senior members of the provincial administration and, like in all other similar circumstances, the Government considers a variety of criteria. I do not want to emphasize here that the majority of the officers deployed under the title of County Commissioners were effectively re-deployed from the Provincial Administration following the re-organization of the offices of Regional Commissioners. Their deployment does not affect their grades. The deployment of the County Commissioners from officers who were not serving as Regional Commissioners was done with due consideration to seniority, performance records, gender, integrity and regional balance.

Madam Temporary Deputy Speaker, Sir, the County Commissioners will perform the following functions, among others:-

- (a) Co-ordination of the security management as is the case.
- (b) Co-ordination of the National Government function and delivery of services.
- (c) Facilitate conflict management and peace building.
- (d) Collaborate with the Kenyan citizens and foreign nationals.
- (e) Management service in the identifications of persons for registration.
- (f) Promote and enhance national cohesion and integration to foster unity of the nation.
- (g) Co-ordinate the dissemination and implementation of Government policies and programmes.
- (h) Manage and maintain administrative boundaries, security roads and airstrips.
- (i) Facilitate participation of the people in the Government policy formulation and articulation.
- (j) Facilitate alternative dispute resolution initiatives.

With regards to Article 27(6) and (8) of the Constitution, which require State organs to take measures to address gender and inequality, every effort was made, including lowering the requirements for appointment to ensure that more lady officers were considered.

Madam Temporary Deputy Speaker, the Government has not yet commenced the process of restructuring of the provincial administration. That will have to await specific legislation. On the issue of the drafting of the Bill, the process is ongoing and will shortly be presented to the

public for consultation, before it is submitted to the Commission on the Implementation of the Constitution and to this House for debate as required. That is the legislative procedure in the implementation of the Constitution. I hasten, however, to point out that service delivery to Kenyans by the Government cannot be suspended until a legislative framework is put in place. The Government is a creature of the Constitution with a clear mandate, which it can exercise through an administrative arrangement.

Madam Temporary Deputy Speaker, Sir, a close look at the functions assigned to the officers does not in any way interfere with the work of the Transition Authority. In fact, the officers are required to support and facilitate the Transition Authority to carry out its mandate. It is worth reiterating that those officers shall be conducting the business that is reserved by the Constitution to the National Government and they will not interfere in any way with the authority of the incoming county governments.

Madam Temporary Deputy Speaker, in deploying those officers, His Excellency the President exercised administrative authority already vested in him by the current Constitution. It should be remembered that when His Excellency the President gave the State of the Nation Address to Kenyans on 24<sup>th</sup> April, 2012, he directed that deployment of resources, staff and equipment to counties should be completed by August this year. The deployment of County Commissioners by His Excellency the President is a response to that directive.

**Mr. Mbadi:** On a point of order, Madam Temporary Deputy Speaker. You have just heard the Minister say that in carrying out this task, the President exercised his constitutional mandate. I think this House will be entitled to----

*(Mr. Ojode consulted loudly)*

Could you rein in hon. Ojode so that I could be allowed to make my point? If he wants to answer on behalf of the Minister, he can do so.

**The Temporary Deputy Speaker** (Dr. Laboso): Proceed, Mr. Mbadi.

**Mr. Mbadi:** Madam Temporary Deputy Speaker, could the Minister clarify to us, which is that constitutional provision, specifying the exact Article that he is basing his argument on?

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

**Hon. Members:** Point of order! Point of order!

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, allow the Minister to finish the Statement. Then we can seek clarifications.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): I think I have asked about it.

**The Temporary Deputy Speaker** (Dr. Laboso): Just address the point of order!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, His Excellency the President does normally deploy officers. Those are the officers who are not stated right in the Constitution.

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

Madam Temporary Deputy Speaker, I am replying to a point of order! I would like to draw the attention of the hon. Member who has asked this question to the fact that other

Ministries have already deployed officers to the counties within the framework of administration. Why should this one be different in the case of the Provincial Administration?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, we will take five clarifications. So, Minister, please take note. We shall start with hon. Mungatana, hon. Issac Ruto, hon. Fred Kapondi, hon. Dr. Nuh and hon. Gaichuhie, Member for Subukia. Five clarifications and then we shall take a second round.

**Mr. Mungatana:** Thank you, Madam Temporary Deputy Speaker. The Minister, from his Statement, said that they considered seniority, performance, gender and regional balance.

Madam Temporary Deputy Speaker, those were 47 positions. Obviously, in terms of regional balance, they ought to have come from 47 regions. In Tana River County, we have, at least, three senior district commissioners (DCs) who are operating on Job Group P. The clarification I am seeking from the Minister is: Why did the list exclude any person who is born from Tana River County? Why did the Minister decide to marginalize us in those appointments?

*(Prof. Saitoti and Mr. Ojode consulted)*

**Mr. Ruto:** Madam Temporary Deputy Speaker, Sir, I would like the Minister to stop consulting and take notes.

Madam Temporary Deputy Speaker, I want to refer the Minister to Article 238 of the Constitution of Kenya, the Principles of National security which, for a start--- Article 238(b) says:-

“National security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms.”

Madam Temporary Deputy Speaker, if you go down to Article 239 (1), it says:-

“The national security organs are—

- (a) the Kenya Defence Forces;
- (b) the National Intelligence Service; and
- (c) the National Police Service”

It says further down that:-

“A person shall not establish a military, paramilitary, or similar organization that purports to promote and guarantee national security, except as provided for by this Constitution or an Act of Parliament.”

Madam Temporary Deputy Speaker, I forgot to mention Article 238 (d). It says:-

“Recruitment by the national security organs shall reflect the diversity of the Kenyan people in equitable proportions.”

*(Applause)*

Madam Temporary Deputy Speaker, in appointing these so-called “commissioners,” the Minister or the President purported to state that these officers were going to co-ordinate national security or security of some nature. This is not part of the Police Service, neither is it part of the security intelligence; it is not even part of the Kenya Defense Forces. I would like to get clarification from the Minister whether the Government is setting up a paramilitary unit that operates parallel to the constitutional order which clearly states who the security organs are. Could he remove this other business of co-ordinating security?



**Mr. Kapondi:** Madam Temporary Deputy Speaker, I would like the substantive Minister in charge of Provincial Administration and Internal Security to clarify to us whether before either transferring or appointing any civil servant to any position of authority, he has to do any consultation?

**Mr. Mbadi:** Madam Temporary Deputy Speaker, we realize that the title of these officers is “county commissioners”. I would like to know from the Minister whether before these appointments, there was such a position. If there was not, whether that is not in breach of Article 234(2) of the Constitution which says:-

“The Commission shall—

(a) subject to this Constitution and legislation—

(i) establish and abolish offices in the public service;”

Madam Temporary Deputy Speaker, could he also table before this House a sample of one of the letters that were written to these individual Kenyans to show us exactly their title, their terms of reference and what they are supposed to do in terms of their functions? We want to be sure of what exactly they have done.

Madam Temporary Deputy Speaker, you will remember that in the advertisements that went out, it was clearly stated that the President is exercising powers conferred to him by Article 17 of the Sixth Schedule. He now says they are not restructuring, but just deploying.

So, Madam Temporary Deputy Speaker, I would like him to also table one of the letters that was written to these commissioners.

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

**The Temporary Deputy Speaker** (Dr. Laboso): Prof. Saitoti, there was one more request for clarification.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I think the more the questions for clarifications are piled up, the more I will be unable to actually answer them correctly.

**The Temporary Deputy Speaker** (Dr. Laboso): Minister, I said just five clarifications first.

Proceed, Mr. Gaichuhie.

**Mr. Gaichuhie:** Thank you, Madam Temporary Deputy Speaker. I even want to thank the Minister because of deploying the county commissioners. I want to ask him when he will redeploy the Provincial Commissioners (PCs), so that we can come of age. This will also help us forget about the PCs. We do not want to be referred to as Rift Valley Province or Central Province. We want to be called counties.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, let me take the clarifications sought by hon. Mbadi and hon. Gaichuhie together. I think the whole thing has to do with matters of redeployment. I am sure that the hon. Members are aware that we have been having Regional Commissioners. We have over 20 Regional Commissioners in this country.

*(Applause)*

Madam Temporary Deputy Speaker, we have been having those ones. The region we are talking about now is the county. That is basically what we have done; we have redeployed. Absolutely, that is the position!

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

**Hon. Members:** Point of order! Point of order!

**The Temporary Deputy Speaker** (Dr. Laboso): Order! Order, hon. Members! We will have order in this House, hon. Members! Allow the Minister to answer the clarifications.

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

What is your point of order, Mr. Kigen?

**Mr. Kigen:** Thank you, Madam Temporary Deputy Speaker. When the Minister rises to answer the concerns of hon. Members here and starts by misleading the House about the existence of a team called “Regional Commissioners” which was sneaked in not even a year ago into the administration set up for a particular purpose----. Is it in order for him to talk of the existence of the Regional Commissioners as though they have always existed?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I am sure my good friend, hon. Kigen, knows exactly what I have been saying. I think he just wants to put me under fire. So, I will not expand too much on that one.

Madam Temporary Deputy Speaker, there was a point of order that was put forward by hon. Kapondi, namely; as a Minister, do I require to carry out consultations in transferring serving officers under my Ministry? I want to say “no”. All the other Ministers do not consult. This one is not a constitutional deployment; that is why I wanted to be very firm.

Madam Temporary Deputy Speaker, I have also stated here that, indeed, restructuring will start. It was supposed to take five years. It will be carried out within a legislation; in fact, a draft Bill has already been put in place. We will ensure that the *wananchi* who are the stakeholders will debate that draft Bill. It will then be taken to the Commission for the Implementation of the Constitution (CIC) before it comes here for enactment. So, I would like to urge the hon. Members to be patient because this Bill will come here for us to debate it. So, the hon. Member will have the opportunity to give their own input and make the necessary amendments.

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

**Hon. Members:** Point of order! Point of order!

**The Temporary Deputy Speaker** (Dr. Laboso): Order! What is your point of order, hon. Mbadi?

**Mr. Mbadi:** Madam Temporary Deputy Speaker, is it in order for the Minister to mislead this House that what they have done is like a transfer? If you are doing transfers, you transfer a DC from Machakos to be a DC in Suba. However, you cannot take a DC and make him or her a County Commissioner. Is that what you call a transfer? Is it in order for him to mislead this House?

**The Temporary Deputy Speaker** (Dr. Laboso): Minister, that is a valid point of order.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I wish we had the Attorney-General here to make some clarifications for hon. Members to understand. He is very clear in his position that His Excellency the President has the executive power to transfer the officers.

**The Minister for Transport** (Mr. Kimunya): On a point of information, Madam Temporary Deputy Speaker.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Incidentally, Madam Temporary Deputy Speaker, there is point of information here.

**The Temporary Deputy Speaker** (Dr. Laboso): Minister, do you accept to be informed by hon. Kimunya?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): I do accept the information.

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Speaker, I would like to provide the following information to my colleagues---

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

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! Order, hon. Mbadi! Order! The Minister has accepted to be informed, so allow him to be informed!

**The Minister for Transport** (Mr. Kimunya): Madam Temporary Deputy Speaker, thank you for the protection. The hon. Members need not be overexcited on this matter. I would like to inform my colleague that the Executive is still operating under the former Constitution. The powers of the President were saved and the particular paragraph that is relevant to this matter is under Section 24 of the former Constitution. It reads:-

“Subject to this Constitution and any other law, the powers of constituting and abolishing offices for the Republic of Kenya; of making appointments to any such office and terminating any such appointment, shall vest in the President.”

Madam Temporary Deputy Speaker, the President can make those appointments anytime.

**Mr. Midiwo**: On a point of order, Madam Temporary Deputy Speaker. Hon. Kimunya has just said a very sad thing. Even if the President had powers to appoint, he would have, at least, consulted the Prime Minister. But both of them do not have powers to appoint these County Commissioners. This is a relic of the past and an attempt to kill devolution.

**The Temporary Deputy Speaker** (Dr. Laboso): What is your point of order?

**Mr. Midiwo**: Madam Temporary Deputy Speaker, hon. Kimunya is absolutely out of order to misinterpret the Constitution and tell Kenyans that we need to live in the dark past of this country. Kenyans have died for this issue of devolution. Many of these very Members of Parliament want to become Governors. Even the ones supporting do not know what they are playing with.

**The Temporary Deputy Speaker** (Dr. Laboso): I think you have made your point. Allow the Minister to complete answering the questions.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, hon. Ruto wanted to know whether the officers that we have deployed will become a paramilitary group. I want to say: No! Let me state clearly that these are administrators and clearly, as we all know, the District Commissioners (DCs), Provincial Commissioners (PCs), chiefs and so on, are the ones who are used to reconcile the *wananchi* wherever they are. So, exactly what the DCs and District Officers do within the

region, is what these officers who have been deployed are going to do. They have been deployed administratively.

**Mr. Ruto:** On a point of order, Madam Temporary Deputy Speaker. I have referred the Minister to specific provisions of the Constitution of Kenya that clearly define who constitute the security organs of Kenya. He is telling us that his paramilitary group is actually going to coordinate security also. Can you tell us whether that is also within the law, because it says that you will only manage security according to the law? What law is the Minister using?

**The Temporary Deputy Speaker** (Dr. Laboso): What is out of order?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, the current situation is very clear. The hon. Members know that when they have problems, they normally go to talk to the DCs to reconcile the situation and people. They are involved in conflict resolution.

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

Madam Temporary Deputy Speaker, I want to finish, so that they can ask more questions.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, allow the Minister to complete!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I know that we are all becoming very passionate on this matter, but for goodness sake, I would like to appeal to the hon. Members not look at this issue through the mirror of politics. The truth of the matter is that this is a re-deployment. The hon. Members here have never questioned the existence of the regional Commissioners and we have them. These are the ones that we have deployed to continue with their duties.

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

**Hon. Members:** Point of order! Point of order!

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, can we have the last five clarifications from those who have not spoken? We will have hon. Namwamba, hon. Duale, hon. Konchella, hon. A. Abdalla and hon. Millie!

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

Hon. Members, there is a lot of interest in this matter. If you could ask your questions very briefly, we can accommodate more hon. Members.

**Mr. Mbadi:** He has not answered my question!

**The Temporary Deputy Speaker** (Dr. Laboso): The Minister has not answered hon. Mbadi's question.

**Mr. Mungatana:** On a point of order, Madam Temporary Deputy Speaker. The Minister was engaging in other issues, but he did not address the issue that is affecting our county.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I have taken note of what hon. Mungatana has said, but I have also to state that there are several parameters that are normally taken into account. I will be in a position to answer him sometime next week.

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

**Hon. Members:** Point of order! Point of order!

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! If the hon. Members are very interested in this matter, they can bring a Motion to the Floor and we can debate it. This is just a Statement and we cannot spend the whole afternoon on it. I have given you time to ventilate because I realize the importance of this matter.

Can we have the five hon. Members?

**Mr. Namwamba:** Madam Temporary Deputy Speaker, first of all, let me just remind the Minister that this is not a political matter, but a Constitutional matter. It is unfortunate that the Minister is the one attempting to politicize a supremely Constitutional matter; a matter of great Constitutional importance.

Madam Temporary Deputy Speaker, the Minister is attempting to say that the recent positions were created administratively and it is part, in the words of hon. Kimunya, of the usual Executive duties of the President. The political and administrative unit called “the county” did not exist in the old Constitution. It is a new unit established by way of the new Constitution. It is a unit whose management - political governance and administration – is contemplated in the Constitution. Let me remind the Minister that Article 17 of the Sixth Schedule to the Constitution, which makes reference to the restructuring of the Provincial Administration, is the Article that the Minister and President are attempting to actually misuse. Indeed, I want to challenge the Minister. If this matter was, indeed, above board, why has it been done hurriedly and is shrouded in secrecy? Why is the Government not willing to let this matter be put to the legislative test by allowing the law to come to this Floor first? The Minister must be ruled out of order for attempting to mislead this House and engage in cheap political semantics.

**The Temporary Deputy Speaker** (Dr. Laboso): Let us take the next clarification by hon. Duale!

**Mr. Duale:** Madam Temporary Deputy Speaker, the Constitution is very clear that there are two levels; the national level and county level. The presence of the national level will be felt up to the grassroots. Just like the Minister for Education and Teachers Service Commission did, could the Minister confirm to the nation and this House that all that he did was within his mandate under the Constitution; to reshuffle, promote, demote and sack officers?

**Mr. Konchella:** On a point of order, Madam Temporary Deputy Speaker. I want my colleagues to differentiate between a constitutional matter and matters of national security. This is in the interest of the people of Kenya and not what people are thinking here. It is not a constitutional matter but an administrative matter and a governance matter where the President has power under the Constitution, to govern this country. It is, indeed, an executive authority of the President to exercise authority vested in the Constitution to protect the Kenyan people. The Kenyan people know that the Provincial Administration is the only organ---

**The Temporary Deputy Speaker** (Dr. Laboso): What clarification are you seeking?

**Mr. Konchella:** Madam Temporary Deputy Speaker, Sir, I am expressing my views and I congratulate the Minister and the President for what they have done because they have done it to protect the people of Kenya.

**An hon. Member:** How long will you talk?

**Mr. Konchella:** I am here for as long as possible.

**The Temporary Deputy Speaker** (Dr. Laboso): Continue hon. Konchella!

**Mr. Konchella:** Madam Temporary Deputy Speaker, I thank the Minister for doing the good job. Continue protecting the people of Kenya from people who do not understand. The country cannot live in a vacuum. The security situation cannot be left in a vacuum.

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Member! You have made your point. Who was seeking the last clarification? Was it hon. Jakoyo?

**Ms. Amina Abdalla:** It was me!

**The Temporary Deputy Speaker** (Dr. Laboso): I am sorry it was hon. Amina. Order, Mr. Jakoyo!

**Ms. Amina Abdalla:** Thank you, Madam Temporary Deputy Speaker. I know that I am dressed in black such that you can confuse me for hon. Jakoyo.

*(Laughter)*

Having said that, I would like to thank the Minister for clarifying that these are not new posts and that they are deployments. Those were issues that were affecting the question of consultation and the question of vetting. However, there is one issue that was raised that I think had some merit and I would like to seek a clarification from the Minister.

The Minister has said that this redeployment has focused on senior members of the Provincial Administration who were at a certain Job Group but I did not get the Job Group. However, my clarification is this: This list has 23 per cent members of the female gender. Is it that they do not have female members of the Provincial Administration at that Job Group or above that they could not redeploy more females?

Secondly, I want to know the composition of the Ministry and whether the 30 per cent in the overall picture is covered so that I can entertain the only valid issue that has been raised on these appointments.

**The Minister for State for Provincial Administration and Internal Security** (Prof. Saitoti): Let me answer those first otherwise I will forget!

**The Temporary Deputy Speaker** (Dr. Laboso): Do not forget! You are supposed to be noting them down, hon. Minister!

**Mrs. Odhimbo-Mabona:** Thank you, Madam Temporary Deputy Speaker. If you look at the definition of the word “deployment”, you will find that it includes the word “formation.” Having said that, I would like to tell the Minister that what was done was new because deployment means formation. I would like to indicate that the Constitution includes consultation with the Prime Minister. We moved away from the old Constitution because of these Executive powers that were being abused that we are seeing in force now.

Having done things unconstitutionally; within his unconstitutional act, could the Minister clarify why the following were not considered who are more senior than the ones that he appointed? They are Benard Kinyua, John Kutswa, Joseph Chepching, Ali Muktar and Zaverino Mabeya Mogaka. Why did the Minister not consider the women who are under-secretaries and are qualified? Is it because he thinks that women’s role in this country is to serve tea and to be flower girls, which we are not and we will not allow?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Member, you have made your point.

**Mr. Midiwo:** Madam Temporary Deputy Speaker, I am just picking the cue from hon. Millie. This thing is a mess. It is to me because I believe in constitutionality. This thing will not work but it is good that we are debating. I would like to ask the criteria---

**Mr. Konchella:** On a point of order, Madam Temporary Deputy Speaker.

**Mr. Midiwo:** I am on a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker (Dr. Laboso):** You are not on a point of order. You are contributing!

**Mr. Midiwo:** Contributions are points of order, Madam Temporary Deputy Speaker.

**Mr. Konchella:** Madam Temporary Deputy Speaker, could hon. Midiwo, who is my very good friend differentiate between devolution and national security because there will be no devolution without security? It will be meaningless!

**Mr. Midiwo:** Madam Temporary Deputy Speaker, I cannot respond to that because it is below me. I cannot do that.

**Ms. Amina Abdalla:** On a point of order, Madam Temporary Deputy Speaker. Is it in order for hon. Jakoyo to declare, because that is what I heard him say, that this will not work? What powers does he have for it not to work? We need to know why it will not work. Is it the Judiciary or the police? We need to know.

**Mr. Midiwo:** Madam Temporary Deputy Speaker, let me inform my friend, Amina that we will say “no” with the people. We will say “no” and it works. This is not a joke. Let me say this.

**Mrs. Shebesh:** On a point of order, Madam Temporary Deputy Speaker. We are going round in circles. Is it in order that the Ministerial Statement that was requested for, which has all the questions that we are asking now--- The request was; give us the qualifications and the names of the people who applied. Why has the Minister ignored this and yet we have allowed him to continue? He has not answered the Ministerial Statement that he was requested to give. I also want to state that we will not accept these people in Nairobi. This is on record.

**Hon. Members:** Aah!

**Mr. Midiwo:** Madam Temporary Deputy Speaker, let me continue.

**Ms. Amina Abdalla:** Madam Temporary Deputy Speaker, I need him to clarify those threats.

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

**The Temporary Deputy Speaker (Dr. Laboso):** Order, hon. Members! Order, hon. Kiuna! Hon. Members, this is a debating Chamber and not a market place. Could you please conduct yourselves with decency? Allow the Minister to respond. You may have divergent views but all of you will be heard. Hear each other with respect. Hon. Members, allow Jakoyo to complete seeking his clarification.

**Ms. Chepchumba:** On a point of order, Madam Temporary Deputy Speaker.

**Mr. Langat:** On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker (Dr. Laboso):** Order, Peris and Langat!

**Mr. Midiwo:** Madam Temporary Deputy Speaker, I was saying that I was picking the cue or the line of questioning taken by hon. Millie. There is an acting DC called Esther Maina who has been given this job because she has a relationship with somebody in the Office of the President. Could the Minister clarify why---

**Hon. Members:** On a point of order!

**The Temporary Deputy Speaker (Dr. Laboso):** Order hon. Members! Order, hon. Fred Kapondi! Hon. Members are we going to debate in decency or are we going to have shouting matches? If we continue in this vein, we will have the whole lot of you out of this Chamber!

**Mr. Kiuna:** On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! He is finishing seeking his clarification. You will get an opportunity to say your bit!

**Mr. Midiwo:** Could the Minister clarify why---

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Midiwo, hasten to complete seeking your clarification.

**Mr. Midiwo:** Madam Temporary Deputy Speaker, I am hastening but these noisemakers are not letting me finish. Could the Minister clarify the criterion used? Was it that somebody had to be somebody's girlfriend to qualify or was it that somebody had to have a blood relation to qualify? What was the criterion and why was there no consultation with the Office of the Prime Minister as the law requires?

**Mr. Langat:** On a point of order, Madam Temporary Deputy Speaker. You have been very kind and lenient to hon. Jakoyo Midiwo. He has mentioned some words which to all of us are not parliamentary. Could he tell us why he has insinuated some improper motives on some lady by saying that she has a relationship with somebody in the Office of the President? Secondly, we have been issued with a lot of threats here by hon. Midiwo and hon. Shebesh that these things will not happen. Under what authority are they talking from?

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

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! We cannot continue in this fashion. In the way we are going, we are not even transacting any business because of shouting and screaming from all hon. Members. Let us finish this matter! Hon. Minister, please take each question at a time and summarise so that we can finish.

Hon. Members, let us respect the time and allow the Minister to answer those questions.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I will do exactly that. First of all, I want to repeat what I said that the appointments of these people is actually a deployment of serving officers who are officers in the Provincial Administration and also the officers who are already today serving as Regional Commissioners. This deployment was done in the same way as officers have also been deployed administratively to other Ministries. This is purely administrative and His Excellency the President has exercised his own right in the Constitution to be able to carry out his administrative deployments administratively.

**Mr. Ogindo:** On a point of order, Madam Temporary Deputy Speaker. The days of Executive fiat are long gone. Article 3 of the Constitution says: "Every person has an obligation to respect, uphold and defend this Constitution." Part II says: "Any attempt to establish a Government otherwise than in compliance with the Constitution is unlawful." What is being attempted by the move executed by the President is an attempt to undermine the devolved Government. Is the Minister in order to continue to say that the President acted legally and constitutionally without indicating the constitutional provisions under which the President acted?

**The Temporary Deputy Speaker** (Dr. Laboso): I think that point is clear.

**Mrs. Shebesh:** Madam Temporary Deputy Speaker, again, I want to bring us back to what I believe we are not addressing in this House. A few months ago, I brought this Question when the President attempted this the first time to deploy County Commissioners. I brought the Question here and the Minister of State for Public Service told us on this Floor that County Commissioners will not be deployed until we pass the Transitional Authority Bill. It is on record



on HANSARD. It is the commitment given by the Government on this Floor. The same County Commissioners have now been deployed. What has changed in this Government that is different from what we were told by hon. Dalmas Otieno?

**Mr. Kiuna:** On a point of order, Madam Temporary Deputy Speaker. Will I be in order to seek your indulgence and guidance whether the way we are debating we are moving in the right direction whereby you can see some hon. Members mentioning that some other people who are not in this House have relationships with other people and yet you have not intervened? We need your guidance and intervention before we proceed.

**Mr. Mbadi:** On a point of order, Madam Temporary Deputy Speaker. You heard the hon. Minister say categorically that all these people who have been made County Commissioners were actually Regional Commissioners and we can produce the HANSARD. Could he tell us where this Eunice Kimani was as a Regional Commissioner?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I think the hon. Member, first of all, did not hear me quite clearly. I said that the deployment of the officers to these positions---

**Mr. Kiuna:** On a point of order, Madam Temporary Deputy Speaker. Why can you not just answer my question because I need your guidance before we proceed?

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Kiuna, your sentiments have been taken. Proceed, hon. Minister!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Madam Temporary Deputy Speaker, I wanted to make that clarification that the deployment has affected Regional Commissioners because they were in regions in the counties and including a number of senior officials in the Ministry. But the other thing that I want to say here is that the whole thing is deployment. I also want to draw the attention of the hon. Members that there are a number of provisions in the old Constitution which have so far actually been saved and one of them is Section 24. If I may read it, it says as follows: "Subject to this Constitution and any other law, the powers of constituting and abolishing offices for the Republic of Kenya or making appointment to any such office and terminating any such appointment shall vest in the President." He, therefore, has acted administratively on that. Therefore, all these arguments if I may say so, they are all vesting onto whether this is the restructuring which has taken place or not. I have been very explicit in my own Ministerial Statement by saying the restructuring is going to start as soon as I bring the Bill here. It is already worked out.

*[The Temporary Deputy Speaker  
(Dr. Laboso) left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

**Mr. Namwamba:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order really to continue taking us round and round in circles repeating the same misleading posturing? Would I be in order to ask the Minister that once he brings this Bill in compliance with Article 17 of the Sixth Schedule to restructure the Provincial Administration, should this House decide to restructure the Provincial Administration in a manner fundamentally different from this quote and quote administrative action that I believe the President has been misadvised to take, what do you intend to do with these 47 people that you have appointed recently? We must accept that

this is a coup in the counties that is intended to defile devolution even before it takes off. We cannot allow the Minister to continue misleading this House and the country when he knows very well that this is part of the game of the people who have resisted this transformation. They opposed the new Constitution. They opposed devolution. They do not believe in new Kenya. This is a challenge for those of us who stand for a new Kenya to stand up for the Constitution.

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

**Mr. Deputy Speaker:** What is your point of order, hon. Mbadi?

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

**Mr. Deputy Speaker:** Order! Order, hon. Members! Hon. Mbadi is on the Floor.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, the Minister just read to us Section 24 of the former Constitution and purports to imply that it has been saved in the new Constitution. I want to take hon. Members to Section 3(2) of the Sixth Schedule of the new Constitution, under which extension of application of some provisions of the former Constitution is provided for. In the Sixth Schedule, we have the list of the Sections of the former Constitution that are saved as Sections 30 to 40, 43 to 46 and 48 to 58. I have not seen anywhere where Section 24 of the former Constitution is saved, unless the Minister has another “constitution”.

Mr. Deputy Speaker, Sir, I had initially asked the Minister to tell me. Article 234 of the Constitution is not suspended, and it gives the power to set up offices to the Public Service Commission, and not to the President. This executive hangover by the President should go. The Minister should not mislead this House. Section 24 of the former Constitution, which gave the President those powers, has been done away with. We are living in a new Kenya. If the Minister wants to be the President of this Republic, he should kindly read the Constitution. Otherwise, he will find that he has problems with the law. So, could the Minister clarify to us where Section 24 of the former Constitution has been saved in the new Constitution?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, it is clear that the reference to Section 24 of the former Constitution having been saved in the new Constitution is not true. However, I cannot retract the fact that these appointments---

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

**Mr. Deputy Speaker:** Order! Order, hon. Members! Allow him to finish what he is saying.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, with regard to my reference to Section 24 of the former Constitution, which I invoked, I would like to say clearly that I withdraw that one but the key thing is that those officers have been deployed administratively by the President using his executive powers. I stated here that this is not the restructuring of the Provincial Administration, as envisaged in the new Constitution. The deployment was done because other Ministries have already deployed officers in the counties. Those of us who mean well should ask themselves how come this argument does not cover those officers from the other Ministries who have been deployed in the counties. We cannot afford to be discriminatory here. It is against the Constitution.

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

**Mr. Deputy Speaker:** Order! Order, hon. Members! The Chair is looking at the clock. Let us have a few more points of order and close this debate.

**Mr. Namwamba:** On a point of order, Mr. Deputy Speaker, Sir. It is fundamental that the Minister has withdrawn the constitutional provision in the relic we call the “former Constitution” that he has relied on persistently and consistently to anchor his entire argument, aided by hon. Kimunya. Would I, therefore, be in order to ask the Minister to withdraw this entire fraud – because that is what it is – since it is based on the wrong premise? Since he has admitted expressly that his whole argument was based on a section of the former Constitution which was not saved in the new Constitution, this whole house of cards collapses spectacularly; could he do this with a similar spectacular posture?

**Mr. Deputy Speaker:** Minister, can you take two or three more clarification requests, so that you can respond to them all at once?

Hon. Members, let us, first of all, understand the rules of debate in this House. This is reaction to a Ministerial Statement which has been delivered by the Minister. It is not an open debate. Therefore, you have to indicate your areas of contention, so that the Chair can be in a position to give direction on this matter.

Proceed, hon. Kilimo!

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): Mr. Deputy Speaker, Sir, would I be in order to ask that we expunge from the HANSARD the issues addressed in this House relating to Esther Maina? Why was she mentioned in bad light yet she is not in this House to defend herself? People said many bad things about her. Some people said that she is a girlfriend of somebody. I think we are out of order.

**Mr. Deputy Speaker:** Fair enough, hon. Kilimo! Your point of order has been heard.

**Mrs. Shebesh:** On a point of order, Mr. Deputy Speaker, Sir. In supporting my colleague, I have said countless times that the purpose of the Statement we sought from the Minister is so that he can give us details, details which he has not given us and hence the speculation. Can the Minister simply, therefore, table a list of the 47 appointees, showing the dates of their appointments, the position that each one of them held previously as well as their grades, so that we can know that the parameter that the Ministry has used in making the appointments, which they said is seniority; is something that can be relied upon in this House or whether he will be forced again to withdraw that particular part, like he withdrew his reference to the constitutional basis upon which they have been arguing?

**Mr. Chachu:** On a point of order, Mr. Deputy Speaker, Sir. I need your guidance. The whole concept of consultation under the National Reconciliation Accord is being taken out of context. Could a duly elected President of the Republic of Kenya, who is an executive President, make administrative decisions in his office without the necessary consultations? Could he even make administrative decisions in his office without consultation?

**Mr. Kigen:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Yes, hon. Kigen, and then the Minister will respond.

**Mr. Kigen:** Mr. Deputy Speaker, Sir, further to what hon. Shebesh has said, could the Minister possibly give us the details as we are asking of him in terms of whether all the regions of this country are well represented in those appointments? From the list of the County Commissioners that has been given to us, you will find that some regions have been left out. Can

he indicate the region that each of the appointees comes from and the reasons as to why some regions were left out?

**Mr. Njuguna:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Members to issue dangerous threats from the Floor of this House to the incoming County Commissioners, as stated by hon. Shebesh?

**Ms. Amina Abdalla:** On a point of order, Mr. Deputy Speaker, Sir. I would like to add to what the Member for Lari has said because we are abusing our privileges in this House to issue threats and mention adversely people who cannot defend themselves in this House. Some of it amounts to hate speech. Why would we, in a list of 47 people, pick on only one woman? Do we not have other examples? At the end of the day---

**Mrs. Odhiambo Mabona:** Point of order! Point of order!

**Ms. Amina Abdalla:** Millie, you speak here 27 times in a day, which is more than the number of times that anybody else in this House speaks. So, if I stand here, let me speak.

**Mr. Deputy Speaker:** Order! Order! Hon. Amina, address the Chair.

**An hon. Member:** On a point of order, Mr. Deputy Speaker, Sir.

**Ms. Amina Abdalla:** Mr. Deputy Speaker, Sir, let me conclude my point of order because it is on a point that Millie had raised this afternoon. She indicated that some people in this House are untouchable, and that they are not going to be taken to court for hate speech. You are untouchable here because the privileges that you enjoy cannot allow anybody to take you to court for hate speech. So, if you are untouchable when you are in this House, it is important that you respect that status of being untouchable.

**Mrs. Odhiambo-Mabona:** Point of order! Point of order!

**Mr. Deputy Speaker:** Order, Mrs. Odhiambo-Mabona! Time and again, I have told you when you want to exercise your rights in this House, do it within the provisions of the Standing Orders. The Chair is on his feet. Very calmly and without shouting very loudly, you can rise on a point of order. You do not have to reply to somebody else who is on a point of order. Whatever the content of that point of order is, you will have your moment. This is not a high school. This is a dignified august House! Let us all conduct ourselves in a dignified manner.

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

Order, Mr. Kimunya! Any other hon. Member who stands on his feet when the Chair is on his feet will face the very---

*(Laughter)*

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

Hon. Kiuna, you are ordered to remain out of the House for the remainder of the day!  
Hon. Kiuna, you are a stranger in the House!

**An hon. Member:** Yes, let us go!

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Deputy Speaker, Sir!

**Mr. Deputy Speaker:** Mrs. Odhiambo-Mabona, how do you transact business when there is a stranger in the House?

*(Mr. Kiuna withdrew from the Chamber)*

Hon. Members, if in exercise of my authority as the Chair, and in the protection of the dignity of this House, I will be forced to send all of you out, I will do it very gladly and with a lot of pleasure.

*(Applause)*

The hon. Minister will reply and once he has done that, the Chair will give direction. After that, the matter will be concluded.

Proceed, Mr. Minister!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, if I may seek your indulgence, Mr. Kimunya has intimated to me that there is some information he wants to give to me and I am happy. We are arguing in a transparent manner and nobody---

**Mr. Deputy Speaker:** Order! Is the Chair to rule on that?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I was only saying that in due course, we will be seeking your permission---

**Mr. Deputy Speaker:** Prof. Saitoti, indeed, I found you in this House in 1992 when I first came to Parliament. You had been here, God knows whether it was for one or two terms before that. You understand very well that when a fellow Minister is supposed to give information, he rises on a point of information and he seeks the Chair's concurrence on that and the concurrence of the Member who is on the Floor. Could you proceed? He can only seek to inform you when you are contributing on the Floor.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, he can do that but I wanted to be fairly transparent that that has been intimated to me and he is not out of order. But---

**The Minister for Transport** (Mr. Kimunya): On a point of information, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Do you wish to be informed by hon. Kimunya?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): I do, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Proceed, Mr. Kimunya and inform your colleague!

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I wish to inform my colleague the following, which information I had given and was challenged. I just want to clarify for the benefit of the entire House that, indeed, the information that I had given to him was valid and that the new Constitution reads as follows. This is important for us so that we do not have a problem. It says:-

“Sections 30 to 40; 43 to 46 and 48 to 58 of the former Constitution, the provisions of the former Constitution concerning the Executive - and then it goes on - and the provisions of former Constitution concerning the Executive---“

If you look at the former Constitution, you will find that the Executive is in Chapter 2. It starts from Section 4 all the way to Section 29. So, all those are saved. It is just for the record of the House that, indeed, I did not mislead the House. I gave the right information and the Minister relied on the right information, hence we are all covered.

Thank you.

**Mr. Deputy Speaker:** The Chair would like to seek--- Do we have in the old Constitution a provision on the Provincial Administration; that is District Commissioners (DCs), Provincial Commissioners (PCs) and District Officers (DOs)?

**Hon. Members:** No!

**Mr. Deputy Speaker:** Do we have a provision of County Commissioners in the current Constitution?

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, the clause that I did read--- Section 25(2) says:-

“Office in the service of the Republic of Kenya means office in or membership of the Public Service, the Armed Forces, the National Youth Service and any other force or service established in the Republic of Kenya.”

So, indeed, the entire public administration, all the people working under the Office of the President public administration are civil servants working within the public service and hence are covered within that framework.

**Mr. Deputy Speaker:** Hon. Members, I would like the hon. Minister to conclude---

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to rise on a point of information and then continue to contribute and continue even to mislead the House when he knows Articles 238 and 239 of the Constitution are not suspended to give way for the impunity that he wants to justify using the old Constitution?

**Mr. Deputy Speaker:** Hon. Minister, can you conclude and then I give direction?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Thank you, Mr. Deputy Speaker---

**Mr. Deputy Speaker:** Hon. Minister, we will take one final point of order from hon. Namwamba. This will be the final point of order!

**Mr. Namwamba:** On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the Minister that as he makes the concluding remarks, may he read to this House and the people of Kenya the 47 names that have been appointed for the so-called County Commissioner positions? He should mention those names, their ranking, their regional extraction, their qualifications and the positions they held before they were appointed to this position? Could that list be read to this House for public consumption right now before he concludes?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I intended to table the names. Once I table them, the hon. Members will be at liberty to examine them. I have all the names and the county to which they have been deployed. I also have their current station and their job groups. The document also depicts their age, their home county and their academic qualifications. Therefore, I want to table it now.

*(Prof. Saitoti laid the document on the Table)*

Mr. Deputy Speaker, Sir, the other thing that I would like to talk about is the historical problem that we have faced. There is no doubt that within the Civil Service there has been a problem when it came to gender issues. The Ministry of State for Provincial Administration and Internal Security has suffered from that historical problem in the sense that the officers we have were all recruited by the Public Service Commission.

That initial recruitment was not incidentally the appointment by the Ministry. Again, because of our historical trend, indeed, the women have received a raw deal. Essentially, therefore, as the officers in the Provincial Administration who are properly trained in various areas when promotions come, they normally come for the serving officers in the Provincial Administration who have demonstrated their capacity in the field; that, of course, has meant that women have received a raw deal. We have done the best we could to ensure we are able to recruit more and more ladies. However, because of the progression, you will find, therefore, that we do have a pyramidal scenario. At a much lower base, the gender part of it is being met, as we are doing in the case of chiefs and assistant chiefs.

Mr. Deputy Speaker, Sir, in the particular deployment of these officers as county officers, I did everything possible to tell my officers, let us look for the ladies wherever we can. We did so. Many of them, I have to say, were in much lower grades. The one we were able to get, we even had to bend much lower just as much as we had to bend in the marginal areas to be able to get these officers to the positions they are in.

I want to tell you this, when you come to the regional commissioners and county commissioners, first of all, it is important to understand that within the entire Provincial Administration, we have had a table scenario over the fact that in the case of males, because of the historical problem, they comprise 78.8 per cent. That was the scenario. In the case of the females, they constitute 21.2 per cent.

In fact, I want to also tell you that when you come to the District Commissioners (DCs), who are substantive and acting, male are 90.7 per cent and women 9.3 per cent. I have to state this. It is a pyramidal situation. Much lower, the gender balance is almost coming to the position stipulated by the Constitution but as you go higher, that has now been the situation. Now, because---

**Hon. Members:** On a point of order, Mr. Deputy Speaker, Sir.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I wish I could be allowed to explain the reason.

We had to appoint people from the pool that we already had. I have explained the point we have---

**Mrs. Shebesh:** On a point of order, Mr. Deputy Speaker, Sir. I contributed to asking for the Ministerial Statement, and I pointed that out, knowing that there could be the issue that he is going to talk about; this is the issue of secretaries and under-secretaries within the Ministry. I want to ask you to state categorically, if you were to appoint using seniority, are there no women today who are under-secretaries or secretaries, and who could have been appointed? This is the grade that the Government in doing postings.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, my own response to that question is simple; you can have somebody who is a Permanent Secretary but may not have the required experience for, leave alone a DC even a DO, because this is a special job.

**Mr. Namwamba:** On a point of order, Mr. Deputy Speaker, Sir. I was just listening to the Minister reading out the list of compliance, whether it is gender or various qualifications. I had asked this earlier: Would I be in order to ask the Minister to just amplify a little further whether these appointments do fulfill the requirement of Article 232 of the Constitution, which sets values and principles of public service? This is in the public services.

Among the values of public service, just to refresh the Minister's mind, is representation of Kenyan's diverse communities and affording adequate and equal opportunities for

appointment, training and advancement at all levels of the public service of men and women, the members of all ethnic groups and persons with disabilities.

Mr. Deputy Speaker, Sir, would I be in order to request the Minister to explain to this House how far these 47 appointments meet these requirements of values and principles of public service, especially with regard to representation of the face of Kenya, which, in terms of regional balancing, is a constitutional principle? Could you go over that list and confirm to this House whether those 47 people do represent the face of Kenya and meet the requirement of ethnic, regional balancing and diversity of Kenyan communities? Am I in order to ask the Minister to do that?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I still want to go back to the kind of the personnel that we need to be appointed to the various positions. As much as possible, consideration was given to the issue of gender and the regional distribution. There are some areas in terms of community, again because of historical marginalization, many people from some communities were not appointed to positions in the Provincial Administration. Even appointments as DOs became a problem. It was only at much later time that we gave a great deal of thought to ensuring that we do reach out to those who have historically been marginalized. The unfortunate thing is that when we looked for this officer to be deployed to this key position, we could not get sufficient numbers because they have not been exposed to the proper training.

**Hon. Members:** On a point of order, Mr. Deputy Speaker, Sir! On a point of order, Mr. Deputy Speaker, Sir!

**Mr. Deputy Speaker:** Order! Order! You will enrich your own point of order. You will be in a position to be more critical if you allow the Minister to conclude that bit. The moment you are unhappy with one sentence and rise on a point of order--- Wait until he concludes and then rise on your point of order. The Chair will give a direction on this because we have taken almost two hours on the matter.

Please, conclude

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I have given a historical account. It is not the creation of the Minister or this Government. This has been the historical situation. I myself, of course, come from an area where it was impossible at one time to even get a DO.

Therefore, the commitment I am giving here is that we are doing as much as possible to see to it that those who have been historically marginalized will be given more opportunities to join the Provincial Administration; they can be trained, so that when it comes to promotions, there will be no a problem. This is the key thing here. I want to say that it is not only in the Ministry of State for Provincial Administration and Internal Security that has implemented the Constitution and said it is not possible to fill positions immediately. We have the same problem in the police, the armed forces; the only thing we have to do is make a lot of efforts to ensure that there are more people from marginalized areas who can be appointed to positions.

I want to end by saying that I have been at great pains to say that these people have been redeployed. They are officers serving in the Ministry deployed just as other Ministries have done. The Ministry of Education, the Ministry of State for Public Service and other Ministries have done it. What amazes me is that none of the Members here lashing at my own Ministry ever thinks in terms of the other Ministries. We have done nothing at all except what other Ministries have done.

The all act has been purely administrative. I conclude.



*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Clearly the Chair has heard the clarifications of the Minister. The Chair has heard the clarifications advanced by the Minister. The Chair has also equally heard the sentiments and concerns that were raised by hon. Members; Back-benchers. There are two areas in the opinion of the Chair that need a serious indulgence. One, in a bid to conform to the Constitution and this is what the Chair has said time and again, you cannot have a situation in which you have 9 per cent of the female gender in any appointments like the one we have done today.

*(Applause)*

Two, the section on the exercise of the Executive authority was superseded by the National Accord. The National Accord and I want to read the Schedule for you and the extent to which this applies is a matter that the Chair will have to give a comprehensive ruling. It actually says: “Whereas the Chair has heard that there has not been sufficient consultation between the principals on this, the Chair’s hands are tied because it says in the Constitution and the National Accord which actually superseded the section on the exercise of the Executive authority prior to that.” And it talks about real power sharing and voided.

*(Applause)*

Order! There is a limit in the opinion of the Chair; the extent to which as much as possible the Chair or Parliament itself has certain displeasures on a matter like this. The Parliament will have a displeasure of throwing out something like that if there was a provision in the Constitution that says like the Commissions, it must be ratified by Parliament. Indeed, I do not see where that is. Nonetheless, even if there is a certain element of non-concurrence with the Constitution or the Statutes we have in the country, there are other avenues to seek redress but given that the matter is now on the Floor of the House, the Chair will give a comprehensive Communication from the Chair on this but I want to tell hon. Members that you do not expect magic in this. The authority of the Chair is limited in certain aspects.

*(Loud consultations)*

Order! I will have pleasure again in throwing out Messrs. Ogingo and Ojode even if we have a few more minutes before the rise of the House.

In any case, the Chair is going to give a comprehensive Communication from the Chair on Wednesday morning next week.

Next Order!

*(Loud consultations)*

**Ms. Amina Abdalla:** On a point of order, Mr. Deputy Speaker, Sir. I am a bit confused because it is my understanding that the Chair is blind. The Chair only is able to respond to issues raised on the Floor of the House. I did not hear any hon. Member asking you for a ruling on this matter.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! The sensitivity, the passion and the interest that is generated and expressed by all, it is important for this matter for the House to play its role and not allow Kenyans to have the wrong impression. Hon. Members, for the benefit of all of you and I am ready to certain provisions of the National Accord, we have a responsibility as a House to integrate this country, unite this country, to show the right direction to Kenyans and not to leave certain matters in abeyance for the public to be fed with information that is not necessarily of some help. But I have also gone further to say that there are certain matters that the Chair has got its own limitations on and these are the areas that in any case that the Chair is going to make a ruling on.

Next Order! Mr. Kimunya, can you proceed and give your programme?

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

Order! Not on the same!

BUSINESS FOR THE WEEK COMMENCING 22<sup>ND</sup> MAY, 2012

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I wish to make a Statement pursuant to the provisions of Standing Order No.36(4) on Business for next week.

Next week, we expect the House to debate the following two Bills that are currently at their Second Reading stage: The Kenya School of Law Bill, Bill No.51 of 2011 and The Judicature (Amendment) Bill, Bill No.60 of 2011. On Motions, the House has scheduled debate on the Motion to extend the period prescribed in respect of the enactment of the Public Financial Management Bill, 2012 and the Memorandum by His Excellency the President on the County Governments Bill, 2012 for a period of five months commencing 27<sup>th</sup> February, 2012. Indeed, on this, I would like to see the same passion that we have shown in support of devolution. I would like to see hon. Members here so that we can extend the time to enact these two Bills which are very critical for the realization of devolution in this country: The Public Finance Management Bill and the County Governments Bill.

The House will also be considering debate on the parties sponsored Motion by Mr. Pesa to the Office of the Prime Minister urging the Government to pay dues owed to retired teachers without further delay.

Finally, the House Business Committee will meet on Tuesday, 22<sup>nd</sup> May at the rise of the House to consider business for the rest of the week.

Thank you!

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** On the same?

**Mrs. Odhiambo-Mabona:** No! Mr. Mwathi had a Ministerial Statement he was seeking. Proceed, Mr. Mwathi!

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** On what?

**Mrs. Odhiambo-Mabona:** On the business of the House

**Mr. Deputy Speaker:** What point of order would you have on the business of the House? That is the prerogative of the House Business Committee.

**Mrs. Odhiambo-Mabona:** I want to interrogate it!

**Mr. Deputy Speaker:** How do you interrogate the business?

**Mrs. Odhiambo-Mabona:** I did it before, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! If you did it before, it was wrong. Whoever allowed you to do it was wrong there. There is the House Business Committee that determines that. Proceed, Mr. Mwathi!

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

Mr. Mwathi is seeking a Ministerial Statement. Can you allow him to do it?

## **POINTS OF ORDER**

### **CROSS-BORDER LIVESTOCK RUSTLING**

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, this is pursuant to your ruling yesterday that I seek for this Ministerial Statement and which I wish to do now. I seek this Ministerial Statement from the Ministry of State for Provincial Administration and Internal Security in regard to cross-border livestock rustling. This is informed by the fact that there have been occasional clashes between people living in Kajiado North, Narok North and Limuru constituencies due to livestock rustling. The unfortunate event has resulted in the death of one resident of Limuru Constituency. In the Statement, I would like the Minister to clarify the following:-

(i) How many cases of livestock theft have been brought to the attention of the security agents, the action taken thereafter and how many people have been apprehended and prosecuted so far?

(ii) Why the theft of livestock has continued unabated while there are security agents in both Kajiado and Limuru constituencies as well as Narok North Constituency?

(iii) How many livestock have been stolen between the months of January and May this year, 2012?

(iv) The Minister should give reasons as to why the Provincial Administration in Ewaso Kedong has declined to facilitate the return of several herds of goats and cattle stolen from Ndeiya, Limuru, even after the community has promised to do so.

(v) The Minister should clarify the measures he will take to ensure that livestock theft which may result in ethnic conflict between the peoples of the three constituencies is eliminated and does not recur in future.

**Mr. Deputy Speaker:** Minister, can you give an undertaking on that very serious matter that essentially needs very urgent attention? When will the Ministerial Statement be available?

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, we can have it on Wednesday next week in the afternoon.

**Mr. Deputy Speaker:** It is so directed!

### **CONSTRUCTION OF MAU-SUMMIT AND KERICHO-NYAMASARIA ROADS**

**Mr. Lagat:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Roads regarding the construction of Mau Summit-Kericho and Kericho-Nyamasaria roads. In the Statement, the Minister should clarify the following issues:-

- (i) Which contractors were awarded each of these two roads?
- (ii) What was the contract value for each of the roads and how much has been paid to the contractors to date?
- (iii) What were the commencement and completion dates for the two roads?
- (iv) What is the status of the construction works as at now?
- (v) Which other roads have been awarded to the same contractors or contractor and have they successfully completed those other roads?

**Mr. Midiwo:** On a point or order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** On the same?

**Mr. Midiwo:** No, a different matter.

**Mr. Deputy Speaker:** The Members are seeking for Ministerial Statements!

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, I will communicate to the Minister for Roads. The Member should expect an answer by Thursday next week.

**Mr. Deputy Speaker:** Thursday next week!

#### STATUS OF MATHARE YOUTH SPORTS ASSOCIATION

**Mrs. Shebesh:** On a point of order, Mr. Deputy Speaker, Sir. I would like to request for a Ministerial Statement of Youth Affairs and Sports to explain the current status of the Mathare Youth Sports Association (MYSA) and specifically who the board members of MYSA are and how many times they have met in the last one year. He should give the details of a report commissioned by their donor, namely, Strom Foundation, who has subsequently withdrawn their funding, which confirms cases of sexual defilement, age cheating and corruption. Thirdly, what has the Ministry done with the negative publicity this story has generated for our country in Norway where the feature of the same has been broadcast in their media?

**Mr. Deputy Speaker:** Minister, can you give an undertaking of the same also for the Minister of Youth Affairs and Sports?

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, that sounds a very straightforward matter. We will have that on Wednesday morning.

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

#### MOTIONS

##### APPOINTMENT OF MEMBERS TO COMMITTEES

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of Standing Order No. 159 and 176, the following Members be appointed to serve in the Select Committees stated here below:-

- (i) Defence & Foreign Relations Committee

Hon. Yusuf Hassan Abdi, MP to replace Hon. Eugene Wamalwa, MP who has since been appointed a Cabinet Minister.

(ii) Justice and Legal Affairs Committee

Hon. Yusuf Hassan Abdi, MP to replace Hon. Eugene Wamalwa, MP who has since been appointed a Cabinet Minister.

(iii) Labour and Social Welfare Committee

(a) Hon. Najib Balala, MP to replace Hon. Adan Keynan, MP who has since resigned from the Committee.

(b) Hon. Charles Nyamai MP to replace Hon. Gideon Konchella, MP who has since resigned from the Committee.

(i) Local Authorities and Funds Accounts Committee

Hon. Harun Mwau, MP to replace Hon. Jamleck Kamau, MP who has since been appointed a Cabinet Minister.

(ii) Speaker's Committee

(a) Hon. Robinson Githae, MP to replace Hon. Uhuru Kenyatta, MP.

(b) Hon. Charles Nyamai, MP to replace Hon. Peter Kenneth, MP.

These changes have been necessitated by appointments to the Cabinet and resignations by Members. They have been processed through the usual process of the Whips. They have discussed within themselves and submitted the same to the House Business Committee, which has looked at the names and approved them for them to be brought to this House for approval. I hereby submit the same for this House to approve.

With those words, I beg to move. I ask hon. Muthama to second the Motion.

**Mr. Muthama** seconded.

*(Question proposed)*

*(Question put and agreed to)*

ADOPTION OF REPORT ON VETTING  
OF NOMINEES TO IPOB

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees to the Independent Policing Oversight Board laid on the Table of the House on Wednesday 18th April, 2012.

*(Mr. Kapondi on 19.4.2012)*

*(Resumption of Debate interrupted  
on 19.4.2012)*

**Mr. Deputy Speaker:** Chairperson of the Departmental Committee on Administration and National Security, could you move the Motion?

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, last time before I was interrupted, I had moved half way and I want to proceed.

Mr. Deputy Speaker, Sir, in conducting the vetting process of members and the Chair of IPOB, the Committee examined the candidates guided by the criteria set out in the Public Appointments Act, 2011, on criteria for vetting of the nominees for appointment to public office by the National Assembly.

Mr. Deputy Speaker, Sir, that criteria requires the nominees to disclose information on their personal and professional life, including their political affiliation, tax compliance---

**Mr. Deputy Speaker:** Order, Chairman! The Chair has observed a certain typographical error in this Motion. The Motion reads:-

“THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees to the Independent Policing Oversight Board. It should be Police Oversight Board, but it says Policing Oversight Board---

**An hon. Member:** Microphone!

**Mr. Deputy Speaker:** Hon. Members, the Chair, as I have said, I have observed a certain typing error in this Motion. It is on the way it is worded. It is important that Members get it right. The Motion now reads on the Order Paper:-

“THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees to the Independent Policing Oversight Board laid on the Table of the House on Wednesday, 18th April, 2012.”

It is not “policing”. It should be “Police Oversight Board”. That is how it should read.

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, I stand guided.

**Mr. Deputy Speaker:** We want the HANSARD to reflect that because somebody can contest! The whole meaning changes when you say “policing” instead of saying “the police”. Proceed!

**Mr. Kapondi:** Correct, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Proceed!

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, having considered and deliberated on the nominations to the Board of the Independent Police Oversight Authority, the Committee made the following recommendations:-

1. THAT, pursuant to Section 2, Subclause 6 of the Independent Police Oversight Authority Act, 2011, this House approves the appointment of Mr. Macharia Njeru to the post of Chairperson of the Independent Police Oversight Board.
2. THAT, pursuant to Section 11, Subclause 6 of the Independent Police Oversight Authority Act, 2011, that this House approves the appointment of Mr. Mbugua Tom Kagwe, Ms. Fatuma Ali Saman, Ms. Jedida Pilale Ntoyayi, Ms. Grace Babara Madoka, Mr. Vincent Kibet Kiptoo, Ms. Rose Awuor Bala and Ms. Jane Njeri Njoki Onyango to be members of the Independent Police Oversight Board.

Mr. Deputy Speaker, Sir, I beg to move. I will ask hon. Kiilu to second.

**Mr. Kiilu:** Mr. Deputy Speaker, Sir, I second.

*(Question proposed)*

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I rise to support this Report by the Committee and, more specifically, first of all, to thank the Committee for the work they have done. During the vetting, they went through all the nominees.

I also want to underscore the importance of this Committee. We actually need to have that oversight board so that people can start looking at all the complaints that have been leveled against the police. That is a very critical body that was identified by the people. It was important to create that oversight authority. We do hope that the men and women that we are assigning that responsibility will note what Kenyans have been yearning for and curb the excesses that we have seen in terms of the exercise of police powers and authority. People have a place to ventilate. Even the police officers between themselves have a place where they can go and sort out their issues, so that people do not resort to using might to do so.

Mr. Deputy Speaker, Sir, I do not want to belabor the point. I believe the Committee has done a good job and we want to thank them for that.

I support.

**Mr. Chachu:** Mr. Deputy Speaker, Sir, I do support the Report. I will want to thank the Committee for doing a very good job. I think they spent a lot of time vetting Kenyans who applied for those jobs. I believe that we have the right Kenyans for the right jobs.

Mr. Deputy Speaker, Sir, that Board is very important in terms of the oversight role that it will play in the whole sector of our internal security. It is for the first time that such a body, under the new constitutional dispensation, has been formed. I do think that Kenyans will have justice and will have an Authority that will ensure that justice is done. The police will be under scrutiny if they will not play their role as per the Constitution.

I support.

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I support. In supporting the Report, I will be very brief. I want to indicate that even though I may not know many of those people who have been appointed, I know two of them. The Chairman, Mr. Macharia, was in my class and has worked a lot on the issues of police reforms.

All that I want to encourage is that they should have a temptation that, having worked with the police, they will be biased towards the police. They should look out for the citizens. I know Ms. Rose who has worked in the children sector. I hope she will actually look out for the children interests in the Oversight Board.

With those few remarks, I support.

**Mrs. Shebesh:** Mr. Deputy Speaker, Sir, I want to support and just indicate to the Government that, if four women could be found to the Police Oversight Board, how can you not find many women to be District Commissioners? I do not know what you trying to do. It is a big joke.

There are women who the Committee has overlooked in terms of where they are married or where they came from. They have been put on the basis of merit and whether they can do the work. I am recommending highly to other Committees and in the other work that we do here that we should not put women in tribal cocoons. That is because we are married elsewhere and our children are of mixed ethnicity.

**Mr. Muthama:** Mr. Deputy Speaker, Sir, I also rise to support the Report of this Committee that was led by the Chair.

Mr. Deputy Speaker, Sir, I want to offer my special congratulations to the Chairman and his Committee for a fantastic job that they did. Looking at those names and the way the names were presented here, it eliminates and does away with those tribal lines, which we see, every now and then, being drawn in this House.

Mr. Deputy Speaker, Sir, the Chairman has done a good job. The positions are with Kenyans and we must trust Kenyans when they are being offered positions. We should not try to

deal with everything on a regional basis and communities. A Kenyan who has been offered a job has been offered a job as a Kenyan. We must support that position and allow Kenyans to serve. I do not want to see those who do not have the opportunity to come and defend their names here, who are children of other mothers and fathers in this country----

Mr. Deputy Speaker, Sir, names of people who have got children and families are being actually despised and scandalized on the Floor of this House. It is good to show that, truly, even if there is a Kenyan who has done wrong, we find a way of counseling that person; we find a way of strengthening that person up. That is because no one can say he or she is 100 per cent perfect. No one can stand up to say that. All of us here have our own weakness and problems. If Kenyans can start criticizing us, they will start with the gratuity that we are passing in this House for ourselves. We will not be able to walk in the streets of this city. So, let us show respect, recognize other Kenyans and support them when they are being given positions.

Thank you.

**Mr. Njuguna:** Thank you, Mr. Deputy Speaker, Sir. In supporting this Board, I want to indicate that the required reforms in the Police Force will be engineered by this Committee. Time and again, we have noted unnecessary harassment, bribe-taking and the most corrupt force in this country.

With credible leadership by the Chairman, Mr. Macharia, who has served in various Committees, we hope that the interest and desires of the Kenyans will be addressed by the new Board.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support.

**Mr. Langat:** Thank you very much, Mr. Deputy Speaker, Sir. I beg to support.

This Board must start their business very soon. We want to see those police officers who abused their powers during the 2007/2008 Post-Election Violence action taken against them. We also want action to be taken against those police officers who killed innocent Kenyans during that period. This is because we lost our beloved ones; mothers, children and fathers. We want them to be accountable of their actions.

Mr. Deputy Speaker, Sir, I beg to support.

**Mr. Namwamba:** Bw. Naibu Spika, mabadiliko katika Idara ya Polisi na usalama kwa ujumla ni swala moja ambalo lilikuwa swala nyeti na sugu. Swala hili liliwapelekea Wakenya wengi kupigania mabadiliko ya kikatiba katika nchi hii.

Ninaunga mkono Ripoti hii kwa sababu huu ni mwanzo wa safari ya kubadilisha sura ya Idara Ya Polisi. Ni safari ya kupiga msasa idara hii ili ipate sura mpya. Tuondoke kwenye zile siku ambazo askari walikuwa na tabia ya kuwanyanyasa wananchi bila ya sababu yeyote na kuingia katika mwamko mpya. Hapo zamani ukitoka kujivinjari na ukutane na askari, swali lilikuwa ni hili: “Wewe unatoka wapi?” Mengi ya maswali yao hayakustahili kuulizwa kwa sababu hawakuwa na heshima kwa mwananchi.

Bw. Naibu Spika, ninaiomba Bodi hii kuleta mabadiliko mwafaka katika idara hii. Kwa mfano, kumekuwa na tetesi kali ya kuwa usimamizi wa idara ya usalama huegemea upande mmoja wa taifa au baadhi ya maofisa wakuu wanatoka sehemu au kabila fulani. Tunataka kuona sura ya Kenya katika usimamizi wa idara ya polisi. Ninataka Bodi hii itilie maanani swala hili ili kuwe na usawa katika usimamizi wa idara hii. Hatutaki kusikia usemi kama ule wa Waziri wa Usalama, mhe. Profesa George Saitoti, kuwa hawezi kupata watu ambao wanaweza kusimamia idara ya polisi kutoka makabila fulani katika taifa hili. Nimeshangaa kusikia hatuwezi kupata watu ambao wanaweza kusimamia idara ya polisi kutoka kwa Mijikenda, Ndorobo na makabila mengine ya taifa hili.



Kwa hivyo, tunatarajia mabadiliko halisi na ambayo yatahakikisha kwamba Idara ya Polisi na usalama kwa ujumla katika taifa hili itakuwa na sura mpya. Wakenya wanataka kuona mabadiliko halisi. Sisi kama chama cha ODM; chama cha mabadiliko na chama cha Katiba, tungependa kuona mabadiliko haya yakidhihirika kwa hali na mali na kwa kila njia, hasa katika maeneo yote 47 ya taifa hili.

*(Applause)*

Kwa hayo machache, Bw. Naibu Spika, ninaunga mkono.

**Mr. M.M Ali:** On a point of order, Mr. Deputy Speaker, Sir. Of course, I support the Motion, but judging from the mood of the House, will I be in order to request that the Mover be called upon to reply?

*(Applause)*

**Mr. Deputy Speaker:** There is no counter and so, Chairperson, can you say a few words and then we conclude?

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, I want to take this opportunity to thank the hon. Members for their very positive contribution, realizing how important this Board is. It is long overdue and we should have had it like yesterday because it is for the good of this country.

Mr. Deputy Speaker, Sir, once again, thank you so much. Let us keep up the spirit to serve this great country.

**Mr. Deputy Speaker:** Hon. Members, the Chair will, again, vary its previous direction on the title. The Chair was wondering whether “policing” was the right word and consulted with the Clerks-at-the-Table, who did not quite help at that time and said that it should be “police.” But now I realize that it is actually “policing.” So, the title was right from the beginning and I am going to put the right Question, because the most important thing in passing of pieces of legislation is actually the Question itself.

*(Question put and agreed to)*

Next Order!

ADOPTION OF REPORT ON VETTING OF NOMINEES  
TO NATIONAL POLICE SERVICE COMMISSION

**Mr. Namwamba:** On a point of order, Mr. Deputy Speaker, Sir. With due respect, I want to seek the indulgence of the Chair before this important Motion is moved, to call attention to some issues which, I believe, raise concerns of legality and, therefore, constitutionality, arising from this Report that is the subject of this Motion.

Mr. Deputy Speaker, Sir, I do this under Standing Order No.47(3)(b) which reads:

“If the Speaker is of the opinion that any proposed Motion is contrary to the Constitution without expressly proposing appropriate amendment of the Constitution, the Speaker may direct either that, the Motion is inadmissible, or that notice of it cannot be given without such alteration as the Speaker may approve.”

Mr. Deputy Speaker, Sir, this is a Report of a Committee of this House, which has been prepared in accordance with requirements of a statute enacted by this House.

**Mr. Deputy Speaker:** You are contesting the constitutionality of the Motion before the House?

**Mr. Namwamba:** Mr. Deputy Speaker, Sir, I am contesting the legality and, therefore, constitutionality of the Motion.

**Mr. Deputy Speaker:** The tradition is that you wait until it is moved and seconded. It then becomes the property of the House and you can rise on that.

**Mr. Namwamba:** Mr. Deputy Speaker, Sir, I stand guided, but we also do have precedent, which I intended to make reference to, where the Chair has previously been able to rule on a Motion that had not been moved after the tabling of the Report.

**Mr. Deputy Speaker:** This Chair would choose to do it when it becomes the property of the House.

**Mr. Namwamba:** Respectively, most obliged, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Can you move the Motion? You have less than a minute just to start moving it.

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees to the National Police Service Commission laid on the Table of the House on Tuesday 15th May, 2012.

Mr. Deputy Speaker, Sir, the Committee was tasked to the vetting of nominees to the National Police Service Commission by the House. The matter of police reforms has been in the minds of Kenyans for a long time. There has been clamour from many quarters to change and improve the dented image of the police force and in this regard, the Constitution made radical proposals to overhaul the operations and management of the police force.

Mr. Deputy Speaker, Sir, Article 243---

**Mr. Deputy Speaker:** Order! Hon. Kapondi, you will have 59 minutes more to conclude moving the Motion when the House reconvenes next.

## ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, this House now stands adjourned until Tuesday, 22<sup>nd</sup> May, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.