

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 14th April, 2010

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Budget Policy Statement

*(By Mr. Mbau)*

NOTICE OF MOTION

ADOPTION OF BUDGET POLICY STATEMENT

**Mr. Mbau:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, this House adopts the Report of the Budget Committee on the Budget Policy Statement laid on the table of the House today, Wednesday, 14<sup>th</sup> April, 2010.

QUESTIONS BY PRIVATE NOTICE

RELATIONSHIP BETWEEN KPLC AND RURAL ELECTRICITY AUTHORITY

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

(a) What is the relationship between Kenya Power and Lighting Company (KPLC) and Rural Electricity Authority (REA)?

(b) How much money has the Ministry paid to KPLC through the REA since its inception to date?

(b) Could the Minister also provide details of the amount paid as dividend to the major shareholders of KPLC since its privatization?

However, I would like to bring to your notice that I am neither Mr. Evans Akula nor Member of Parliament for Khwisero. Is the Minister in order to refer to me as Mr. Akula in his answer to this Question?

**Mr. Speaker:** At least, the Chair has recognized you as Member for Mumias! I am not aware of that communication between you and the Minister!

*(Laughter)*

**The Assistant Minister for Energy** (Eng. M.M. Mahamud): Mr. Speaker, Sir, I apologize that the written answer here refers to the Member for Khwisero, Mr. Bulima, who I do not think even exists. I think the hon. Member is called Mr. Akula but I apologize. In fact, I have taken up this matter with my Office and I told them that this is serious.

Nevertheless, Mr. Speaker, Sir, I beg to reply.

(a) The REA and the KPLC, although separate entities with different mandates have a working relationship in all rural electrification projects. The REA aims at increasing access and connectivity levels within the rural areas by extending the grid network and offering off-grid solutions considered commercially unviable. Upon completion of projects by REA, they are handed over to the KPLC for operation and maintenance. The KPLC is responsible for procuring power, managing, operating and maintaining the transmission and distribution network and retaining power to customers.

(b) No funds have been paid by my Ministry to the KPLC through the REA to date.

(c) There has been no privatization of the KPLC as mentioned. The fact of the matter is that the KPLC Ltd was incorporated in 1922 as a private company and listed in the Nairobi Stock Exchange (NSE) in 1954. The Government of Kenya bought shares between 1960 and 1975 in order to influence the company's policy so as to diversify power supply to different parts of the country. As documents on the payment of dividends from earlier years up to 1997 had not been computerized and, therefore, been archived, it will take a while to dig out details of the dividends paid prior to this date. However, dividends paid since 1998 have been computerized. Information obtained from the KPLC indicate that between 1998 and 2010, the Government of Kenya being the largest single shareholder has been paid a total sum of Kshs1,075,919,951.90 and with the other six main shareholders receiving a total of Kshs541,482,019.84 as dividends.

**Mr. Washiali:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer given and at the same time appreciate the services that we have received from both the REA and the KPLC. However, what this Question wanted to address was the relationship between the KPLC and REA but it has not been very clear because what forms the biggest cost for new customers for the KPLC when they are connecting is connection charges. In our constituency, you will find that we have had institutions which have applied for power from the KPLC and then at the end of the day, you find that it is the REA who have brought the power up to the institution. How then would the institution now applying for the connection of power pay to the KPLC when it is the REA who have done the real connection?

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, I appreciate the hon. Member's concern but I have mentioned that the REA actually does the work and the actual connectivity to the customers is done by the KPLC. There is no relationship between REA and any customer.

**Mr. Ngugi:** Mr. Speaker, Sir, the Assistant Minister has told us that the KPLC is a private company where the Government is a major shareholder with six other shareholders. The REA is a Government institution investing in electricity. They do the lines, put transformers and once they have finished doing that, they hand over all those assets to the private company called the KPLC. In other words, what REA is doing ---

**Mr. Speaker:** Come to the question!

**Mr. Ngugi:** Mr. Speaker, Sir, in other words what REA is doing is contributing on behalf of the Government to assets of KPLC. Since the Government has contributed through REA to the

assets of the KPLC, what do the other six shareholders and others contribute to the assets of the KPLC for them to get equitable dividends?

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, that is a good question but my comment is that it is true that the Government through REA actually is improving connectivity to electricity supply in the country and that is the purpose for which REA is there and also to do with projects which are off-grid; which are not connected to the main grid. As to what others contribute, I think the KPLC on its own borrows and does a lot of other extension services using funds which are not from the Government. Not all funds which the KPLC has been using all along in terms of distribution network or even improving transfusion lines have been coming from the Government. So the Government does its part and the KPLC, whenever it borrows and the loan portfolio is also paid through collections that they make from other sources.

**Mr. Lessonet:** Mr. Speaker, Sir, the KPLC maintains books of accounts in terms of balance sheets. The Rural Electrification Authority (REA), being a State Parastatal also maintains books of accounts. Equally, the CDF also invests in rural electrification. How do these investments appear in the books of accounts of REA, KPLC and the CDF Board in terms of those assets?

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, I have not looked at those books of accounts. I think that is a different Question that I need to answer when it is asked.

**Dr. Khalwale:** Mr. Speaker, Sir, earlier on in this House, we were given a document which indicated that Transcentury was one of the shareholders of this company. Given that KPLC is a parastatal, in fact, all its vehicles move around with blue number plates. Could the Assistant Minister clearly show us the shareholding, especially in view of the fact that Transcentury seems to crop up everywhere? When a question of impropriety comes up in the House or in the Public Accounts Committee, you see Transcentury showing its head in the background. Could he table in this House a list showing how those dividends were shared? Could he also tell us how Transcentury found itself on board? How much were they paid as dividends?

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, the largest seven shareholders of KPLC are the Kenya Government, which is represented by the Treasury; Barclays Bank of Kenya through various nominees accounts, the NSSF Board of Trustees, Stanbic nominees, the Kenya Commercial Bank, Jubilee Insurance and the NIC Services. As regards Transcentury, according to the books of accounts this year, the annual report of the financial statement for the year ended 30<sup>th</sup> June, 2009; it is listed as number 16 shareholder with 4.69 per cent. The highest share percentage is Kenya Government by 40.421 followed by Barclays Bank by 12.81 per cent and 23 per cent for other shareholders not listed in the accounts. But according to the report that I have here, Transcentury only owns 4.69 per cent. I do not know about the other questions that Dr. Khalwale is talking about.

**Ms. Karua:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that KPLC is a private company when we all know it is a parastatal? The Government has been the only shareholder until recently, about six years ago, when some people bought shares. Could he prove to the House the ownership since inception by showing us the records?

**Mr. Speaker:** Hon. Assistant Minister, that is a valid point of order! You are misleading the House!

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, KPLC is not a private company *per se*. It is a company limited as opposed to most Government parastatals. It is different because it is listed in the Nairobi Stock Exchange.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to make an attempt to explain the difference between a private limited liability company and a corporation without making himself clear when as a fact, Kenyans know that the KPLC is a parastatal whose vehicles move around with blue number plates?

**Mr. Speaker:** Order! Assistant Minister, you need to come out clear on this one!

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, the Member interrupted before I finished. Maybe he was reading my mind. I agree that KPLC is a Government parastatal, but a different parastatal from other parastatals. It is in a different category with other parastatals. There are parastatals which are not listed at the NSE. So, it is different to that extent.

With regard to hon. Karua's question, since inception, I do not have that list, but I have the current shareholding which I read to the House.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. Hon. Members have a lot of interest in this Question. The Government is pumping money to a company where shareholders are being paid dividends. The Assistant Minister has not come out clearly to explain to this House how this is reflected in the books of accounts. Is it a loan to be repaid by these fellows or just money that the Government is pumping in and then paying dividends? Is he in order not to come out clearly on this issue?

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, I had the answer for the Question which was asked by the hon. Member. If the hon. Member wants to know more about the status of KPLC, I request him to file a specific Question and I will answer it.

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

**Mr. Speaker:** Order, hon. Members! Order, hon. Ruto! Hon. Washiali, will you ask the last question!

**Mr. Washiali:** Mr. Speaker, Sir, you will realize that from the Floor there is a lot of reaction and interest in this Question.

**Mr. Speaker:** Proceed and comply with the directions of Mr. Speaker! Ask the last question!

**Mr. Washiali:** Mr. Speaker, Sir, with regard to part "b" of the Question, the Assistant Minister says they have not given any money to the KPLC, yet, we know that they have given a lot of money to REA, which ends up doing what KPLC should be doing. At the same time, instead of clients paying connection fees to REA, which connects power, they are paying to KPLC. Could he clarify this issue?

**Eng. M.M. Mahamud:** Mr. Speaker, Sir, the current arrangement is that procuring, managing and operating power projects is done by KPLC and the customers are paying to them and not REA.

*(Hon. Members stood up in their places)*

**Mr. Speaker:** Order, hon. Members! Hon. Members, I have noticed the interest in this matter. I wish to request the Committee on Energy, Communication and Information to, please, take up this matter and see if they can file a report in the House.

#### LACK OF MAIZE BUYING CENTRES IN MUTOMO DISTRICT

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

(a) Is the Minister aware that as a result of the bumper harvest realized last season in Mutomo and other areas of Ukambani, farmers are unable to sell their produce because there are no maize buying centres in Mutomo District?

(b) Could the Minister urgently establish buying centres in the six divisions of Mutomo, namely, Ikanga, Mutomo, Ikutha, Athi, Kanziko and Mutha centres?

(c) Could the Minister, as a permanent solution, establish NCBP centres in Mutomo and Ikutha?

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

(a) I am aware that some farmers in Mutomo and other areas of Ukambani are unable to deliver their produce to NCPB depots due to the long distances.

(b) My Ministry is holding consultations with the various stakeholders with a view to establish buying centres to facilitate collection of maize.

(c) Establishment of NCPB centres in Mutomo and Ikutha will be considered once there is production of sufficient stocks for sustainability.

**Mr. I. Muoki:** Mr. Speaker, Sir, I am surprised by the Assistant Minister's answer, who is very conversant with what I am asking because he comes from this area. The reason why I had put this Question on Private Notice is because the crop is wasting in the stores and in the *shambas* because of what he has exactly said. If he goes on to consult and maybe comes with a "yes" answer after a long time, this will not help. So, could he urgently establish these buying centres, so that we can harvest the crop, store it and use it when it will be required?

**Mr. Ndambuki:** Mr. Speaker, Sir, I can only ask the hon. Member to identify a central place because we cannot buy the maize from every location, but we can organize it to be done in one particular place in order to help the people of Mutomo.

**Mr. Baiya:** Mr. Speaker, Sir, the country is well aware about the food situation in the country. Just last year, the country spent over Kshs24 billion to import food and here we are telling Kenyans that we cannot buy maize from them and our Strategic Food Reserves are empty. Is this Government really serious about ensuring food security in this country?

**Mr. Ndambuki:** Mr. Speaker, Sir, I did not say that the Government is not buying maize. I only talked about the buying centres. We cannot afford to put a centre in every location in this country, but we can look for central places where people are travelling long distances to deliver their goods.

**Mr. Mbau:** Mr. Speaker, Sir, in view of the various cyclical shortages of foodstuffs, especially grains in the country, what does the Ministry require in terms of knowledge or skills to ensure that there is a policy in place that takes into account moments when we have bumper harvests and times when we have shortages, so that at no time does the country go through what we have gone through in the past because of lack of coordination of policy?

**Mr. Ndambuki:** Mr. Speaker, Sir, my Ministry is a production Ministry. We are not really engaged in buying maize *per se*. But this is being done through a special programme for strategic reserves. That is the only time we come in. We do not buy, but we produce.

**Mr. Speaker:** Last question by the Member for Kitui South!

**Mr. I. Muoki:** Mr. Speaker, Sir, I would like to inform the Assistant Minister that before I put this Question we had consulted as leaders of Mutomo and come up with those centres in the division. In some cases, we have identified the places and, therefore, I can show him so that we can start immediately. How soon will he act? Is it this week or next week? I want him to be very specific so that we can start the process of rescuing that grain which is in the area.

**Mr. Ndambuki:** Mr. Speaker, Sir, before I answer that question, I would like to say that in the entire Eastern Province and parts of Central Province, we are facing a lot of problems because some of the maize which has already been delivered to the National Cereals and Produce Board (NCPB) contains aflatoxins. We have suspended the buying of maize for the time being so that we can have a thorough check and then we will start again. The cause is too much rain and people are not drying their grains properly. They just harvest, put it in *ghalas* and then bring it to the NCPB. So, I am appealing even to hon. Members to tell their people to dry their grains properly before they take them to the NCPB.

## ORAL ANSWERS TO QUESTIONS

### *Question No.095*

#### PAYMENT OF MEDICAL RISK ALLOWANCE SINCE 2002

**Mr. Ethuro** asked the Minister for Medical Services:-

(a) whether he could provide information on the payment of Medical Risk Allowance to all medical professionals by cadre since 2002;

(b) what the establishment status of Plaster Technicians in the country is; and,

(c) why the Government suspended the training of Orthopaedic Technicians in 2001.

Mr. Speaker, Sir, I have not received a written answer and I do not need to prove to anybody why this Question is so critical. Just look at my condition.

**Mr. Speaker:** Yes, you are an exhibit that speaks for itself! Is the Minister for Medical Services not here? We will revisit the Question a little later.

Next Question by the Member for Kinangop!

### *Question No.120*

#### LIST OF CLASSIFIED ROADS IN KINANGOP CONSTITUENCY

**Mr. Ngugi** asked the Minister for Roads:-

(a) whether he could provide a list of all classified roads in Kinangop Constituency; and,  
(b) how much money was allocated for the maintenance of each of these roads in the 2008/2009 and 2009/2010 Financial Years.

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

(a) The classified roads in Kinangop Constituency are hereby listed, but I will table the document because they are many. There are five roads under the Kenya National Highways Authority and 16 roads under the Kenya Rural Roads Authority.

(b) The money allocated for the maintenance of these roads under the Kenya National Highways Authority in 2008/2009 and 2009/2010 was Kshs217,771,000 and Kshs171,967,654 respectively. Further, the allocation under the Kenya Rural Roads Authority in 2008/2009 and 2009/2010 was Kshs29,454,126 and Kshs12,957,500 respectively.

*(Dr. Machage laid the document on the Table)*

**Mr. Ngugi:** Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer, because he has really shown me why Kinangop is underdeveloped. There are very few roads that are classified. But I would want to correct him that Road C67 which is Ol Kalou-Gilgil is nowhere near Kinangop. Likewise, Forest Mugumo, unless it is a road by another name, is nowhere in Kinangop. But nevertheless, is the Assistant Minister aware that the Njabini-Magumo, which is C68 and C67, which is, DB Nakuru-Karati are right now impassable? The one to Karati has been cut off by the rains and has been impassable for the last two months. The one from Magumo to Njabini is full of potholes although it was done only five years ago.

**Dr. Machage:** Mr. Speaker, Sir, indeed, I am aware that C68, Mugumo-Njabini Road is in extremely bad shape. I have raised my concerns on these and actually allocated Kshs2,001,814 that I should be using in the next few days or weeks now that we passed the Supplementary Estimates yesterday.

**Mr. Ngugi:** Mr. Speaker, Sir, I would like to ask the Assistant Minister when the other roads in Kinangop, which are really major roads will be classified. Who is supposed to repair them? Since they are not classified, they do not get allocations from the central Government. When would they be classified so that we could also benefit from the allocations from the Ministry?

**Dr. Machage:** Mr. Speaker, Sir, as I said a few weeks ago in this House, my Ministry is in the process of reclassifying all the roads in the country, including the ones in the hon. Member's Constituency. I think in the next one month or so, we should be able to bring the list of the newly reclassified roads for the hon. Members to observe and identify the current status of their roads as classified. For the unclassified roads, unfortunately, we will not address them as a Ministry, but a special request can be made to my Ministry and I will look at the roads in terms of priority, depending on the purpose that road is used for.

Mr. Speaker: Next Question by the Member for Kandara!

*Question No.145*

LIST OF CULTURAL ARTEFACTS MOVED FROM  
KENYA BY COLONIALISTS/FOREIGNERS

**Mr. James Maina Kamau** asked the Minister of State for National Heritage and Culture:-

(a) whether the National Museums of Kenya (NMK) has a list of cultural artefacts moved from Kenya by former colonialists and other foreigners or in possession of people outside the country and, if so, what the NMK and the Ministry are doing to recover these artefacts, indicating the specific date by which the country expects to have the artefacts returned;

(b) if he could confirm that in 2006, the then Senator Barack Obama promised to support NMK and the Ministry in the identification and return of the artefacts held in the United States; and,

(c) what the Ministry is doing to follow up on the promise, considering that Mr. Obama is now the US President.

**The Minister of State for National Heritage and Culture** (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to reply.

(a) I admit that the NMK does not have a comprehensive list of all the artefacts moved from Kenya by former colonialists, as no documentation was done when they were leaving the country. The only list in our possession is of the artefacts some of the museums and institutions abroad have and not what is in private hands.

Mr. Speaker, Sir, nevertheless, Kenya is a state party to United Nations Educational, Scientific and Cultural Organization (UNESCO) and has been negotiating for the return of the cultural artefacts under the support of the Inter-Government Committee for Promoting the Return of Cultural Property to its countries of origin or its restitution in case of illicit appropriation. It is, therefore, not possible to give specific dates for their return as the Ministry must work under the guidelines of this UNESCO Committee. In addition, the National Museums of Kenya is working with museums abroad to identify what is Kenyan and has put in place modalities for their return upon identification. Towards that end, progress has been made with return of some of the artefacts from the United Kingdom (UK) and, United States of America (USA) in 2007 and 2008 respectfully.

Mr. Speaker, Sir, it is true that the delegation from my Ministry and the National Museums of Kenya visited the USA to recover cultural material, specifically the Kigango which is a sculptured post erected, as part of the Mijikenda ritual, memorizing the spirit of a male who has died.

However, Hampton University in Virginia USA were reluctant and unwilling to release the identified Kigango for repatriation, which prompted my Ministry to conduct the then Senator Barrack Obama's office for assistance. However, I would like to assure the Member of Parliament that the Senator's office was of great assistance and Kigango was eventually released and repatriated to Kenya and has since been returned to the respective family in Kilifi District.

I confirm that my Ministry's officials especially the National Museums of Kenya are working hard to identify any other Kenyan artefacts in the USA, the UK and elsewhere in the world. Also my Ministry with the help of the Ministry of Foreign Affairs has contacted Kenyan embassies abroad requesting them to assist in the identification and location of these artefacts. In case of any difficulties in returning the identified ones to Kenya, we shall seek assistance from the respective governments of the world.

**Mr. James Maina Kamau:** Mr. Speaker, Sir, I would like to appreciate the answer given by the hon. Member but I would like to indicate to this House that there are over 2,000 lying out there, especially in the British Museum. Others are spread across the USA Museum. What are they doing? It looks like it is taking them too long to make sure that those artefacts are brought to Kenya? We need them in Kenya because they are important. They teach our young people what was happening in those days.

**Mr. ole Ntimama:** Mr. Speaker, Sir, as I have said in my answer, we are trying our best and the good team from my Ministry has been visiting some of these countries to try and identify all the artefacts that are there and negotiate their return. So, we are not asleep but doing our best.

**Dr. Khalwale:** Mr. Speaker, Sir, the Minister has told us that the office of the then Senator Obama gave him a lot of assistance. That is very good to hear. Could he tell us what commitment the same office made by way of compensation to this country because those artefacts in those museums have been attracting visitors who were paying to view them? What commitment did they make about compensation and more importantly, the biggest artefact in the USA today that belongs to this country is one Barrack Obama. How does he intend to repatriate himself or part of the money that is realized from all the royalties that he is attracting across the whole world?

**The Assistant Minister for Roads (Dr. Machage):** On a point of order, Mr. Speaker, Sir. Is the hon. Member right to refer to the President of the USA as an artefact?

**Mr. Speaker:** Dr. Khalwale, you are out of order! The President of the USA cannot be classified as an artefact. You should withdraw and apologize.

**Dr. Khalwale:** Mr. Speaker, Sir, as I withdraw and apologize, may I clarify that this was not mischief. In one of the museums in USA---

**Mr. Speaker:** Order, Dr. Khalwale! I have given directions. If you wish, you can quote to the House, perhaps a medical dictionary, but I am certain that the English dictionary will not define the word "artifacts" as including any human being, let alone President Obama.

**Dr. Khalwale:** Mr. Speaker, Sir, most obliged. My withdrawal and apology still stands but I just wanted to clarify that the artefacts that I am referring to indeed exist. It was not the hon. Obama. If you go to the museum in Washington, there is a huge statue not just of Obama alone but also his wife and all the previous presidents of the USA.

**Mr. Speaker:** Order, Dr. Khalwale! If you are referring to a statue then you should have said so but that is not what you said. Please, Dr. Khalwale, do not be vexatious and neither should you be frivolous. As a medical practitioner, I expect much more out of you. Even as a Member of Parliament. And you must stop there, I am afraid! I rule you out of order.

**Dr. Khalwale:** Mr. Speaker, Sir, the matter rests but then it brings me to the issue of compensation. What commitment has the USA made in the need to compensate this country for all the money that they have earned over the years from our artefacts in their museums?

**Mr. ole Ntimama:** Mr. Speaker, Sir, do not forget that we are dealing with independent nations just like Kenya. Do not also forget that we were colonies of other people for a long time and they had the opportunity to collect those artefacts from private people and other institutions and take them to their land. What we are trying to do now is to negotiate and bring those artefacts back. We are not talking of compensation yet because that is also a complicated affair which has to be calculated in many ways.

Mr. Speaker, Sir, I want to thank you just for one thing: controlling frivolity because some people talk so freely in this Parliament that they do not consider that some of the things they talk about are frivolous.

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. With great respect for the hon. Minister, who is very senior, is it in order for him to assist you in determining what is frivolous and what is not while we know you are quite competent?

*(Laughter)*

**Mr. Speaker:** Order! Order! Mr. Minister, you need not respond to that. Hon. Ruto, I am afraid you, yourself, on that point of order are being frivolous and vexatious. What you have uttered amounts to an abuse of the proceedings of Parliament!

The hon. Member for Kandara, you did not ask the last question. I think that matter rests there.

**Mr. James Maina Kamau:** Thank you, Mr. Speaker, Sir. Among the items that this country needs most, we have the famous freedom fighters like Koitalel arap Samoei, who was deemed to have been among the first freedom fighters in this country. When he was killed, his skull was taken to the British Museum. What is the Minister doing to make sure that, that skull and the famous man-eaters of Tsavo are returned to Kenya?

Thank you, Mr. Speaker, Sir.

**Mr. ole Ntimama:** Mr. Speaker, Sir, the case of Samoei and other heroes and whatever happened to them, we are following up very, very closely, indeed.

Thank you, Mr. Speaker, Sir.

**Mr. James Maina Kamau:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! Order! Mr. Minister, will you respond to the aspect on man-eaters of Tsavo; when will they be returned?

**Mr. James Maina Kamau:** And why it has taken so long---

**Mr. Speaker:** Order, hon. Member for Kandara!

**Mr. ole Ntimama:** Thank you very much, Mr. Speaker, Sir. I had wanted to mention the case of the man-eaters of Tsavo. We have really tried to put this case to the Illinois Museum in United States; we are even now sending our experts there. The problem now is that the US Museum is saying that they bought the man-eating lions of Tsavo from a man called "Patterson". The lions cost them so much money that they are saying that they will not release them until they get their money back. That is actually the whole position today. Patterson was the name of the man who shot the lions in Tsavo.

*Question No. 095*

PAYMENT OF MEDICAL RISK ALLOWANCE SINCE 2002

**Mr. Speaker:** Order, hon. Members! Question No. 095 will have to be deferred to Tuesday, next week.

Hon. Ethuro, I have notification that the Minister for Medical Services is away on official duty and, indeed, he has been granted permission by the Speaker's office to be away. He has no Assistant Minister. So, we will defer this Question to Tuesday, next week!

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

The matter must rest there, hon. Ethuro! You have a lot of sympathy from the Chair for wearing a sling.

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

**Mr. Speaker:** Order, hon. Ethuro! That matter must rest there! There are times when you must hold your peace.

We will proceed to Question Time for the Prime Minister. Proceed, the hon. Member for Nyaribari Chache!

**Dr. Monda:** Thank you, Mr. Speaker, Sir.

**PRIME MINISTER'S TIME**

*Question No. QPM 3*

IMPACT OF KAZI KWA VIJANA PROGRAMME  
ON YOUTH UNEMPLOYMENT

**Dr. Monda** asked the Prime Minister:-

(a) to outline the impact of the *Kazi kwa Vijana* programme on youth unemployment in line with his brief to the House on 25<sup>th</sup> November, 2009, and the strategy employed to ensure the programme is sustainable; and,

(b) to indicate the Ministries through which these funds are channeled and the measures put in place to ensure that there is no duplication and consequent waste of public funds.

Mr. Speaker, Sir, I have not got a written answer to this Question.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I do not know why the hon. Member did not receive a written response, because I know that it was forwarded by my office.

However, Mr. Speaker, Sir, I want to say that I did make a Statement on this subject on the 25<sup>th</sup> November, 2009. Again, this year when I was talking about the stimulus programme, I also did give a very comprehensive Statement on *Kazi Kwa Vijana* Programme. I do not understand why this matter has been cleared and put on the Order Paper again.

Be that as it may, Mr. Speaker, Sir, I beg to reply as follows:-

(1) Impact on Youth unemployment:

The number of youth employed under the *Kazi Kwa Vijana* reached more than 297,000 by November, 2009. This compares well with the target of 200,000 to 300,000 set for that year.

(2) Sustainability of KKV:

The KKV programme will be kept as one of Governments major initiatives in the 2010//2011 Budget. In addition, the coverage of the KKV programme will be expanded to include the creation of sustainable employment of skilled youth through internship programmes with the private sector and other means.

Furthermore, Mr. Speaker, Sir, we anticipate funding from the World Bank as well as a partnership with a number of major private firms to host interns and offer training. Other donor agencies such as the United Nations Development Programme (UNDP) have expressed interest in the KKV.

(3) Ministries receiving KKV funding:

The line ministries currently receiving *Kazi Kwa Vijana* funds and implementing KKV activities include: the Ministry of Roads, the Ministry of Water & Irrigation, the Ministry of Local Government, the Ministry of Regional Development Authorities, the Ministry of Youth Affairs and Sports, the Ministry of Forestry and Wildlife and the Ministry of Environment and Mineral Resources. The activities being undertaken by these ministries include pipeline extension, spring protection, construction of water pans and earth dams, garbage collection, clearing of clogged drainage, minor roads repair and, planting of trees, amongst others. The Office of the President, the Ministry of State for Provincial Administration and Internal Security, the Office of the Prime Minister, the Ministry of State for Planning and National Development and Vision 2030, and the Office of the Deputy Prime Minister and Ministry of Finance on the other hand provide the coordination and oversight role.

(4) Measures to avoid duplication and waste of public funds:

The KKV operational manual has been strengthened in the light of experiences gained. Project proposals will now be initiated by communities, Community Based Organizations (CBOs) and youth groups with the help of line ministries, and thereafter submitted to the District Management Committee for evaluation. Verification will be done at this stage to ensure that there is no undue duplication of projects being undertaken by various stakeholders in that particular district including those under Constituencies Development Fund (CDF) and Local Authorities Transfer Fund (LATF).

The local Members of Parliament will be involved at both the project selection stage by the communities and at the validation stage by the District Management Committee.

Thank you, Mr. Speaker, Sir.

**Dr. Monda:** Mr. Speaker, Sir, in the last financial year, we had resources through the KKV that made a loud cry all over the country, because it was not possible for the country and all of us, including hon. Members in this House, to see how the money was directed to the youth and how it was applied.

Mr. Speaker, Sir, this year, once again, money has been released through the *Kazi Kwa Vijana* Programme. I want to cite an example of duplication where the Ministry of Youth Affairs and Sports has been asked to do tree planting while the Ministry of Forestry and Wildlife is doing a similar activity. This is the reason why we need to understand at what point hon. Members have to be involved and why we have the same activity for the same youths being carried out by different Ministries.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I explained, when I was talking about the Economic Stimulus Programme, that in the current Budget there was no clear provision for the *Kazi Kwa Vijana* Programme. In other words, there was no item or an account head for the *Kazi Kwa Vijana* Programme. It was spread through the various Ministries' Votes under the Economic Stimulus Programme, unlike last year when we initiated this programme, where it stood alone. A structure had been created to implement it.

Various Ministries have received funds from the Treasury for items under their jurisdiction. Therefore, it is possible that the Ministry of Forestry and Wildlife is dealing with tree planting. The Ministry of Youth Affairs and Sports has several other programmes, among them also tree planting. I do not see a contradiction. There is complementarity in this regard. While the Ministry of Forestry and Wildlife is doing tree planting, there is no reason why the Ministry of Youth Affairs and Sports cannot, among other programmes, factor into its programme a tree planting exercise. As long as the money is transparently spent and is cost effective, I see no harm in the current way in which the programme is being implemented.

**Dr. Monda:** Thank you, Mr. Speaker, Sir. I do not doubt that this money will be very useful to our people, but, I doubt two very big issues. One is sustainability and the other is impact. Sustainability is not about injecting additional funds every given financial year, but how that programme can move on, on its own to the final end and have impact on the lives of people. I want to ask the Prime Minister: Why do we not channel these funds to communities and constituencies as the areas of need rather than the Ministries? For example, in the case of the Youth Fund for Reafforestation, we do not have to give the money to constituencies which do not need to plant trees. Why can we not rather look at the areas of need so that it can have a developmental meaning?

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I do not really understand what the hon. Member means by sustainability. In my view, sustainability implies that the project can roll on and on, on its own, or when it is funded by the Government consistently. The Government

would like to see that this programme is continued. Owing to this, other agencies have expressed interest. I mentioned, for example, the World Bank, which intends to provide US\$50 million in this coming financial year for the *Kazi Kwa Vijana* Programme. This is also the case with the United Nations Development Programme (UNDP) and other agencies. We believe that we will have funding going on; this programme can create many jobs for our youths who are idle in the rural areas and also help to stimulate the rural economy. The hon. Member only believes that it is when this money is given to a community that it will be sustainable. I disagree. There are Ministries, of course, dealing with specific aspects of the lives of the youth. Economic activities differ from one region to the other. In one area, tree planting will be a priority. In another area, the priority will be totally different. For instance, in an urban area like my constituency, youths are more effectively engaged in garbage collection, clearing blocked drainages and selling water through water *kiosks*. So, priorities will differ from area to area and the Ministries that are in charge of implementing this programme use their own wisdom to decide which programmes they will initiate in different parts of the country.

**Ms. Karua:** Thank you Mr. Speaker, Sir. I would like the Prime Minister to tell the House if there are any funds that were given under the *Kazi Kwa Vijana* Programme during the last quarter of the financial year; we are aware, from our constituencies, that the monies allocated for other uses like the Kshs18 million for roads, officers are being told to withhold Kshs5 million and use it under the *Kazi Kwa Vijana* Programme. Is there really any money that was given and if there is, how much is it per constituency or how much generally?

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, for the umpteenth time, I want to explain, and I want the House to listen clearly. I have said that in this financial year, there was no specific allocation of money for the *Kazi Kwa Vijana* Programme. If you look at the Printed Estimates, you will not see an item there headed "*Kazi kwa Vijana*". The Treasury, in its own wisdom, decided to cover this programme under the Economic Stimulus Programme through various Ministries; that is what is to be part of the *Kazi Kwa Vijana* Programme. We have discussed this matter very extensively with the Treasury, and they have agreed that in the coming Budget, an item will specifically be dedicated to the *Kazi Kwa Vijana* Programme.

The Economic Stimulus Programme had Kshs30 billion allocated to it in this financial year. However, it took time to create the structures for the disbursement of those funds. Implementation of it included negotiations with hon. Members as to how best the money would be channeled. It took so long that by the time I made a Statement here, last month, out of the Kshs30 billion, only about Kshs4.5 billion had been disbursed. We hope that we will make use of the balance of the money in the period between now and June. If that does not happen, then that money will be rolled over in the next financial year.

**Dr. Monda:** Mr. Speaker, Sir, the Economic Stimulus Programme, which we have been dealing with for some time now--- We are coming to the end of the financial year when the whole programme should have been concluded. A number of Ministries that are handling this programme are not very clear as to where *Kazi Kwa Vijana* Programme falls. I request the Prime Minister to cite which activities really benefit the youths. All the monies that we were given have been contracted out. How does it benefit *vijana* when contactors have gone away with the money, yet the *Kazi Kwa Vijana* Programme is a Government programme?

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I mentioned the Ministries under which the money has been spent. For example, the *Jua Kali* sheds which are supposed to be constructed under the Ministry of Industrialization. There are markets, modern primary and secondary schools and health centres which are supposed to be constructed. So, all those items

under the Economic Stimulus Programme where there is labour, the labour content falls under the *Kazi Kwa Vijana* Programme (KKV).

**Mr. Ruto:** Mr. Speaker, Sir, we require a framework for monitoring the KKV Programme---

**Mr. Speaker:** Order, Mr. Ruto! That question is spent. You caught my eye because I believed you were standing on a point of order which you had drawn my attention to earlier on.

**Mr. Ruto:** I still wanted to prosecute the issue with the Prime Minister but I will abide by your ruling and revert to my other question. I rise to ask for your direction---

**Mr. Speaker:** Order! The Member for Chepalungu has a point of order on Prime Minister's Time. That is why it is relevant at this point.

*(The Prime Minister stood in his place)*

I believe you have answered all the questions today. Do you still have any more questions?

**The Prime Minister** (Mr. Raila): There was one more.

**Mr. Speaker:** Then I am sorry. Please, answer it

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, Dr. Khalwale wanted to know what the Government is doing to avert a repeat of the 2005 Referendum when our Cabinet was split right in the middle leading to the violent referendum of that year. I want to say that unlike 2005--

**Mr. Speaker:** Order, Prime Minister! As a matter of fact, I thought we had finished with the questions to you, so that, that in itself finishes the area of questions. You are delivering a Statement and that is a different Order. That is what I thought. That has to be the correct position. Please, call the next Order. Your point of order can be taken at this point.

#### INTERPRETATION OF STANDING ORDER NO. 40: PRIME MINISTER'S TIME

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. I rise to seek your guidance on the interpretation of Standing Order No. 40 on the Prime Minister's Time. This particular Standing Order states that during the Prime Minister's time:-

“(a) the Prime Minister may make a statement, or

(b) questions may be put to the Prime Minister relating to matters of Government policy or the general performance of Government and the Government agencies”.

Mr. Speaker, Sir, this particular Standing Order talks about ordinary Government policy and the mechanisms of the running of Government. In ordinary practices of the parliaments, we expect to interrogate the Government even on whether it is delivering on the promises it gave to the electorate. For example, the manifestos, we would like to interrogate the Government on what manifesto it is using. That does not come down to ordinary policy. It is the mother upon which the policy will be born.

It is not clear to us as to whether we can question the Prime Minister on the manifestos that are being implemented, whether the Prime Minister is actually speaking on behalf of the entire Government or the part of the Government which he leads under ODM. We would like to know further whether there is a specific representative of the President's part of the coalition, so that we are able to interrogate the Government appropriately as to whether it is delivering on the promises it gave to the electorate. We would like to interrogate the Government on very clear

platform. As of now, we are only asking the Prime Minister to answer questions in terms of general policy and supervision of Government. This particular Standing Order appears not to take note of the fact that maybe the Prime Minister, in some instances, is supposed to be head of Government. In this Parliament, who is the head of Government?

I do not know whether I am clear Mr. Speaker, Sir, but I believe in your guidance on what exactly we are expected to do under Standing Order No. 40.

**Mr. Speaker:** Yes, you are!

**Mr. Ruto:** Mr. Speaker, Sir, I would like your guidance on what exactly we are expected to do under Standing Order No. 40. Should we question the Prime Minister as head of Government? If not, who is representing the President in this Parliament so that we can also then question that part of Government? As we have seen through ordinary practice, we also get contradictory statements from either of the two principals. Sometimes it appears as if this is a partnership coalition or is it a normal coalition as we know it in general practice in parliaments? Thank you.

**Mr. Speaker:** Order, hon. Members! Indeed, as I intimated earlier, I was on notice that the Member for Chepalungu would want to rise on this point of order and as far as the House is concerned, and I speak for the House, the position is very clear.

The Office of the Prime Minister is clearly provided for under the Constitution as amended in the year 2008. Those of you who may want to look at the Constitution, I think they will find those provisions in Section 15 (a) of the Constitution as amended. The Office of the Prime Minister is then conferred with powers as provided for under the National Accord and Reconciliation Act, which the Constitution expressly provides must be read as part of the Constitution.

Among other things, the objective and intention of the provisions of the Constitution as well as the Act and as a matter of fact, the Standing Orders are clear that the Prime Minister is one of the Ministers in the Government and has certain constitutional functions vested in his office, and that the Prime Minister, if you read Section 4 (1) of the National Accord and Reconciliation Act, shall have authority to co-ordinate and supervise the execution of the functions and affairs of the Government including those of Ministries and that he shall perform such other duties as may be assigned to him by the President or under any other written law.

Under Section 2 of our Standing Orders, there is a provision with respect to interpretation. It provides for the meaning of Minister as at page 2. "Minister" means the President, the Vice- President, the Prime Minister, the Deputy Prime Minister and so on." So that if you take all those provisions together, I find no room and indeed there is no room to categorise the Government in two parts. There is one Government with one President, one Prime Minister exercising their functions as specifically provided for in the Constitution, the National Accord and Reconciliation Act and indeed the Standing Orders.

In a nutshell, the Prime Minister can respond to Questions or matters pertaining to the performance of Government whether they relate to policy, supervision, co-ordination or general overall functioning or performance of the Government. That ought to be clear. Let us avoid getting into areas that may otherwise be mediocre. There is no need for it. I think that matter is clear.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. I take note of your last words that we Members of Parliament deviate from what could ordinarily be mediocre. I thank you for your clarification. However, it cannot be said that Mr. Isaac Ruto was ignorant of what the real effect of Standing Order No.40 means. He was only being mischievous. To that extent, he referred to

the Government as if there is one side of the Government that represents the President and the other side that represents the Prime Minister.

In view of this mischievousness of Mr. Ruto, I kindly ask if it would not be in order for you to invoke against Mr. Ruto Standing Order No. 97 that declares a Member of this House disorderly when conduct is grossly disorderly if the Member concerned knowingly raises a false point of order. Mr. Ruto has clearly and knowingly raised a false point of order and I kindly ask that he be named under Standing Order No.98.

**Mr. Speaker:** Order, the Member for Kisumu Town West! If, indeed, the Member for Chepalungu had problems with interpretation of the law beginning from the Constitution down to the Act and the Standing Orders, then those problems have actually been dealt with in the directions which I have given. I am not inclined to exercise or invoke the provisions of Standing Order No.97. This is because it is possible that the Member for Chepalungu was unable to interpret the law as well as the Member for Kisumu West can. It is permissible.

Next Order!

#### GOVERNMENT'S POSITION ON DRAFT CONSTITUTION

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, Dr. Khalwale wanted to know what the Government is doing to avert a repeat of the 2005 Referendum when our Cabinet was split right in the middle during the violent Referendum of 2005.

The Referendum of 2005 was not violent. Secondly, I want it to be known that unlike 2005, this Draft Constitution was prepared by the Committee of Experts (CoE) based on the input by the people of this country. When this House endorsed the Draft Constitution, the President and the Prime Minister were present in this House and they both stood up here to endorse it.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

Once that had been done, the President has been on record publicly declaring full support for this Draft Constitution. The Prime Minister has done likewise. A number of other Ministers, including the Vice-President and Minister for Home Affairs, the Deputy Prime Minister and Minister for Finance, the Deputy Prime Minister and Minister for Local Government, the Minister for Energy, the Minister for Industrialization, Minister for Justice, National Cohesion and Constitutional Affairs, Minister for Lands and Minister for Medical Services just to mention but a few, have been on record publicly endorsing this Draft Constitution.

Mr. Deputy Speaker, Sir, in 2005, a significant section of the Government walked out of the Bomas of Kenya and boycotted the final proceedings. During the 2005 Referendum, the Cabinet was almost split on a 50/50 basis. That is not the case now. I want it to be known that the Government will conduct a civil, united and vigorous "Yes" campaign. I can assure this House that the Government will do everything within its powers to prevent and stop any violence during the referendum.

Mr. Deputy Speaker, Sir, the hon. Member for Ikolomani also wanted to know whether the call by the Vice-President and Minister for Home Affairs and Mr. Samoei, the Minister for Agriculture that the country should again be taken back so that the Draft Constitution is

renegotiated is, indeed, the position of the same Government which both Ministers serve. I would like the hon. Member to note that the Vice-President and Minister for Home Affairs has gone public in support of the Draft Constitution.

With regard to Mr. Samoei, he has gone public saying “No” to this Draft Constitution. I would like it to be known that this Government is very democratic and on a matter of the Draft Constitution, we cannot force anybody, be it a Member of Parliament or a Member of the Cabinet to say “Yes” just because the other Members of the Cabinet are saying so. Every Member of this House and the Cabinet has got the democratic right to say, “No”. That is a right that we must respect as a democratic Government.

I was also asked what the Prime Minister and the President intend to do in order to bring on board a few dissenting voices from amongst members of the clergy. Hon. Members are aware that both the President and I held a six-hour consultative meeting with the leadership of some of the churches on 8<sup>th</sup> April, 2010. At the end of those discussions, the Government and the church leaders present agreed to form a committee of ten persons to study and recommend viable options of solving the few sticking points. Discussions are progressing. I would, however, like to avoid details of the ongoing negotiations so that I do not compromise them. I am sure that hon. Members and the church will agree that discussing the ongoing negotiations publicly will not be the best approach.

Mr. Deputy Speaker, Sir, I was also asked how the Government intends to persuade a group of about 30 Members of Parliament who are currently busy mobilizing an attempt to spearhead a potentially dangerous and unhelpful “No” campaign. The Government will do everything in its power to convince as many people as possible to vote “Yes” at the Referendum. However, in a democracy, divergent opinions thrive and we must learn to live with all tenets of democracy. To expect unanimity in such a complicated political process such as Constitution-making would be naïve. As a Government, all we can do is to try and persuade as many people as possible and we will continue to do that.

Finally, I was asked whether I could reassure this House that the country will not be set on a collision course by the “Yes” and “No” campaigns for the new Constitution. I do not possess a crystal ball.

Mr. Deputy Speaker, Sir, I am also not naive to assume that the issues involved are not emotive, or that those trying to push for the “No” vote are less passionate. What I know is that an overwhelming majority of Kenyans are saying “Yes” to the proposed Draft Constitution. Kenyans are fatigued with the constitutional struggle. They want to get over it and get on with something else. There will be no collision course. Kenyans will debate and then vote. I have faith and confidence in the wisdom, intelligence and foresight of the people of Kenya.

Referendums are processes that are done democratically in other mature democracies. In Switzerland, they hold a referendum on almost every issue. This is the second time that Kenyans are going to go through a referendum. Therefore, we do not have as much experience as those in other mature democracies. However, it is not the end of the world. Let us not try to go through the referendum as if it is a matter of life and death. There must be life beyond the referendum.

Mr. Deputy Speaker, Sir, let us also not cheat ourselves that we will be able to get everybody on board. Even if we were to stop the process at this stage and bring the matter back to this House, it will still be impossible to get a complete consensus. If we have to deal with the issue of *Kadhis* Courts, how can we get a consensus in this House? Even on the issue of the so-called “abortion”, which is not, how can we get a consensus here? On the issue of transitional

clauses, how can we get consensus? Even on the issue of devolution, are we cheating ourselves that we will get consensus? We will not!

So, in my view, this plane on the runway has reached a point of no-return. It must try to take-off. If we try to stop it, it will overshoot the runway and crash. So, let us not cheat Kenyans that it is possible to stop the process at this stage. It is not. We must move forward. Let us go quietly and soberly to the ballot box. If you are able to convince the people of Kenya to vote “No”---

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

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

**Mr. Musyimi:** Mr. Deputy Speaker, Sir, is the Prime Minister in order to tell us that a consensus cannot be reached? Then what is the point of meeting?

**Mr. Deputy Speaker:** Proceed, the Rt. Hon. Prime Minister.

**The Prime Minister:** Mr. Deputy Speaker, Sir, I said that I do not want to talk about the contents of the negotiations that are going on between the Government and the clergy, because doing so will prejudice the outcome of those negotiations. However, I will try to tell the House what I feel myself. That is why I am saying that I think we will be cheating Kenyans if we think that we can halt this process now and start afresh. Let us then be honest and say that we do not want a new Constitution, and we can go ahead with the current old Constitution.

I do not see that it is possible for us to stop the process at this point in time. Kenyans have been on this process for the last 20 years. What we have achieved is the best that can be achieved by way of a consensus. Consensus does not mean absolutism – that everybody must be convinced. That is not consensus. Therefore, I want hon. Members to be truthful to the oath that they took and advise the people of this country correctly that the hour of the new Constitution has come, and it is now.

So, you have a democratic right to go and say “No”. Let us go to the ballot box, and let the ballot box be the judge. Let those who want to campaign for the “No” vote do so democratically. You will be given all the protection that you require, by the Government, to do so. So, you will not be molested. Let it be a democratic debate. We will also do the same for the “Yes” vote.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir. With due respect to the Rt. Hon. Prime Minister, I find a lot of contradictions in the statements he is making. At one point, he was saying that it is democratic to say “No” and yet he is on record as having said---

**Mr. Deputy Speaker:** Order! Is it on record in parliamentary proceedings and in his contributions on the Floor of the House or are you talking about the stuff in newspapers and others outside Parliament?

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I even want to quote him. In one of his presentations, he has just said: “The “No” campaigns will be destructive and unhelpful.” If it is true that the campaign will be democratic, would he assure us that he will not continue to intimidate those of us who are in the “No” campaign because of exercising our democratic right? Are we going to be swept by a *tsunami* to some sea? Are we land grabbers?

**Mr. Deputy Speaker:** Order! Order, Mr. Ruto! Hold your horses! We conduct the business of the House based on certain basic provisions of the Standing Orders. The Rt. Hon. Prime Minister is on a Ministerial Statement that was sought by a Member of Parliament. It is not an open-ended debate. Listen to his Ministerial Statement and then seek for clarifications. If you wish to do anything else, go back to the Standing Orders and seek another form of business on the Floor of the House, based on what is provided for in the Standing Orders.

Proceed, Rt. Hon. Prime Minister!

**The Prime Minister:** Mr. Deputy Speaker, Sir, that was frivolous and vexatious.

Be that as it may, I want to conclude by telling hon. Members that it is their responsibility to try and ensure that democracy in this country thrives. That is what I am trying to say. The hon. Members are perfectly in order to go on a “No” campaign and try to inform the people correctly why they think they are voting “No”. The hon. Members are also perfectly in order and within their democratic right to go and tell the people “Yes” and say why they are saying “Yes” to the Draft Constitution. Ultimately, the people of Kenya have their democratic right to decide. Let the people of Kenya decide.

Thank you.

**Mr. Deputy Speaker:** Dr. Khalwale, you may seek clarifications.

**Dr. Khalwale:** Thank you, Mr. Deputy Speaker, Sir. I would like to thank the Prime Minister for assuring the country that we are not going to find ourselves on a collision course. May I also thank the Vice-President for having changed his mind. Since this is a coalition Government of Ministers of many colours and specialists of doublespeak, I will not be surprised if even those Ministers who are saying “No” change their minds and say “Yes” like the rest of us. They are most welcome. However, I would like the Prime Minister to clarify only one issue.

The Prime Minister was attempting to invite the clergy to the table of negotiation, which is welcome anyway, but is he aware that the Constitution of Kenya Review Act was deliberately designed such that the constitutional review process can be constantly on the forward-gear and, therefore, cannot be reversed? If he is aware, could he do the honourable thing by taking advantage of this time and assuring the church that the only thing you can do is to commit yourself, and probably the Government, to the fact that after the referendum, is when their issues can be looked at afresh but at the moment, it is an exercise in futility?

Finally, if, indeed, that is the case, can you also assure the House that the President and the Prime Minister are not remotely attempting a situation whereby they would like this country to lose on what we have already gained by re-opening negotiations, which you have said can never reach a general consensus?

**Mr. Magarer:** Mr. Deputy Speaker, Sir, while I thank the Prime Minister for assuring this country that the campaigns of the referendum are going to be democratic and free, is he aware that some hon. Members and some members of his Cabinet, have hit the ground with a lot of untruth concerning the content of the proposed document that is supposed to be discussed by Kenyans? For example, we have had lies peddled by people---

**Mr. Deputy Speaker:** Order! You can seek your clarification, but avoid the word “lies”.

**Mr. Magerer:** Mr. Deputy Speaker, Sir, I withdraw and apologise for using that word. What will the Prime Minister do to ensure that some untruths peddled by some of his colleagues in Government about the proposed Constitution are stopped? Kenyans will rely on such information to make an informed decision when the time of voting comes.

**Mr. Maina:** Mr. Deputy Speaker, Sir, it is obvious that this country is going to a contest. I consider this unfortunate. Is the hon. Prime Minister comfortable that if we went through this referendum, and by some chance, it came to 49-51, there is a guarantee by the leadership that this country will hold together? The unity of this country is vulnerable.

**Mr. Deputy Speaker:** Whereas the Chair is comfortable by allowing a little bit of a leeway that is out of the tradition and rules, please, confine yourself to seeking clarifications on the statement issued by the Prime Minister.

**Mr. Maina:** Mr. Deputy Speaker, Sir, I am saying that our unity in this country is vulnerable from the history we have gone through, especially the post election violence following the disputed Presidential 2007 General Elections. To me, the unity of this country is paramount. It overrides any other benefit that we may be looking for, including the so called benefits that we will derive from the referendum.

Mr. Deputy Speaker, Sir, my question to the Prime Minister is: The churches have been saying that they have never been listened to. There is no doubt that it is an important group. They say that they were never listened to at all. Is he still comfortable that under circumstances we are in, we should still proceed with the referendum? How is this country guaranteed against the risk of splitting apart?

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I wish to commend the Prime Minister for that good statement.

I want to agree with him largely that it is everybody's democratic right to vote "yes" or "no" during the referendum. I want to confirm that on this one, I might be on the same plane with him. I want him to assure this country that given the events of the Referendum of 2005 may have contributed to the post election violence of the 2007, what specific measures will the Government take to ensure that both campaigners for "yes" or "no" vote, will stick to the truth in the Constitution and not peddle untruth?

Secondly, what specific security arrangements will the Government make to ensure that both the proponents for or against the draft will have to say their piece and be accorded the necessary security? The Government must make it very clear to Kenyans that this is debate and not a hate campaigns. Even after the referendum, the country will remain intact and move forward as one united country.

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. It appears you want this matter to be concluded. Given the importance and nature of this issue; that is the Constitution and having in mind that we are going to a milestone where all of us will go into a referendum to have campaign for referendum, would I be in order to ask for a little indulgence that we seek some more clarifications?

**Mr. Deputy Speaker:** The Right Hon. Prime Minister cannot respond to ten clarifications. The Chair has already used his own discretion and will give you more time to prosecute the same matter.

Hon. Prime Minister, can you proceed? We will later take some more interventions from your side in terms of seeking clarifications.

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, hon. Dr. Khalwale asked why we cannot advise the clergy in our negotiations that there is still a window open even after the referendum.

Mr. Deputy Speaker, Sir, I had said I was not going to divulge the content of our negotiations. However, now that hon. Dr. Khalwale has pointed to one of the areas we have been addressing, I want to confirm to the House that we have made it clear to the clergy that the referendum is not the end of the world. Constitution making is a process. It is not an event. This is going to be one stage. We will have a new Constitution. Then the process of changing it will start. If you remember the American Constitution making, within a very short period, they had come up with five amendments. It has been amended so many times since that time. The Lancaster House Constitution has been amended nearly 50 times. So, we have said that the clergy have got an option to initiate a process of amendment to clauses which they disagree with almost immediately after the passing of this Constitution. They can go the popular route, which

means that they need to collect one million signatures and then go to 24 of the 47 Counties, and if it is approved, then bring it to the House. Then, they do not need 65 per cent; a simple majority will suffice. So, we told them that is an easy option because for the clergy to collect one million signatures is like a child play. But what I want to be understood is that this is not the end of the road for anybody. It is still possible in the future to visit areas which some people will disagree with.

But we are not opening negotiations with a view to saying that we want to delay the process. I have said that the process cannot be delayed unless you just want to completely scuttle it and we have no Constitution. I am sure the hon. Member fully understands this fact. If you read the Constitution of Kenya Review Act together with Section 47(A) of the Constitution, it is impossible to stop this process at this stage.

Mr. Deputy Speaker, Sir, Mr. Magerer was concerned about untruths which are being peddled by some hon. Members out there. I know that in campaign, days there is usually propaganda. Propaganda is part of the campaigns but let us have some civilized propaganda. For a hon. Member to go and say that if this Draft Constitution is passed, there will be an abortion clinic in every ward for women to go to. That is stretching propaganda too far.

*(Laughter)*

Some hon. Members have also said that people will own a maximum of one acre of land. This is also propaganda. However, I would like to assure the hon. Member that civic education will start soon. The referendum will be preceded by civic education where members of the public will be taken through the Draft Constitution, particularly the contentious issues so that they fully understand the implications and do not just live on the propaganda food fed to them by politicians.

Mr. Deputy Speaker, Sir, Eng. Maina wanted to know what will happen if there is a 51 – 49 per cent vote. Where will this leave this country since the unity of this country is fairly fragile? Secondly, he wanted to know whether it is true that the church has not been listened to.

First of all, I would like to inform the hon. Member that at the Bomas of Kenya because we did not start with the Committee of Experts (CoE)--- We were at Bomas of Kenya and we spent months there. The church was fully represented at the Bomas of Kenya. Some of the representatives included Cardinal John Njue; Archbishop Zacchaeus Okoth and Bishop Sulumeti were also at the Bomas of Kenya. So, this issue was discussed at length. They were not part of the people who walked away. They were there until the final hour. The issue of Kadhis Court was discussed and agreed on at the Bomas of Kenya. It was never contentious. So, it is not a question of listening. The church has been part and parcel of this process right from the very beginning. Those are the facts.

Mr. Deputy Speaker, Sir, I would like to address the issue of fragility of relationship between Kenyan communities. Until we reach a stage one day where every Kenyan will be a Kenyan first and then Mkamba, Luo, Kikuyu, Kalenjin, Luhya, Mijikenda and so on second, we will not achieve the Kenya which our founding fathers of this nation wanted. As leaders, we must disabuse ourselves of this notion that we represent communities. We should not go and tell our people: “Our community is going to be disadvantaged if this Draft Constitution is passed”. This is because we have not prepared a Constitution for any particular community. Why should it be disadvantageous to the Mijikenda than it is to the Kamba, Kalenjin, Kikuyu or Luo? This is a Constitution for Kenya.

Mr. Deputy Speaker, Sir, you will find some politicians going out and saying: “Our community is going to be disadvantaged if this Constitution is passed. We are the ones who are being targeted”. That is ethnic incitement and it will not help this country. Let us carry out civilized campaigns based on the facts as they are. Let us not try to incite communities which will live beyond these campaigns.

If this Constitution will disadvantage communities, it will disadvantage all of them and if it will advantage them, it will advantage all of them.

Mr. Deputy Speaker, Sir, we have the National Cohesion and Integration Commission which will watch very closely the statements that will be made by hon. Members of Parliament to ensure that they do not amount to ethnic incitement. For example, why does Mr. Raila Odinga want to say that he can only speak on behalf of the Kamba? Why should I speak just on behalf of the Kikuyu or the Luo? Mr. Raila Odinga, for example, represents a cosmopolitan constituency and he cannot be elected if he only speaks on behalf of one particular community.

So, I would like to plead with hon. Members to note that we are going through a very fragile situation. We must ensure that this Constitution will end up uniting our people so that the Kenya which the founding fathers so hard fought for can be born through the new Constitution. Let us, at the end of it, have a re-birth of our country.

Mr. Deputy Speaker, Sir, Mr. Ethuro said for once, we will be on the same side and I thank him for that. Secondly, he has said that we should tell the truth, which I have already dealt with.

Thirdly, he wanted to know the security arrangements which have been put in place or will be put in place by the Government to ensure that the campaigns are done peacefully. I have already said that the Government will ensure that all hon. Members get proper security and protection during their campaigns at the rallies or meet-the-people tours wherever they want to go so that we prove to the world that Kenya has come of age. So, nobody will be molested whether you say “Yes” or “No”. The Government’s stand, of course, is “Yes” but we will protect unto death the rights of those who want to say “No”.

Thank you.

**Dr. Nuh:** Thank you, Mr. Deputy Speaker, Sir. There is one very legitimate question asked by Eng. Maina but I think the Prime Minister has not addressed it quite adequately. For a Constitution to govern people, it must be legitimately owned. I think for any legitimacy, it borders more on acceptance. One thing that we must have skipped in the review, and I have acquainted myself with the review process, is that Eng. Maina asked what will happen if almost half of the voters say “No” to a Constitution and it is passed with a majority of 50 plus one vote?

Mr. Deputy Speaker, Sir, there is another angle here. We are banking on an attitude that Kenyans will come en masse and vote for this Constitution. We hope and pray that, that will happen. However, what will happen in case only one million Kenyans turn out to vote and only 50 plus one per cent of those Kenyans who go to vote say “Yes” to this Constitution and we expect it to legitimately hold this country together? We would not want to have wishful thinking and just expect and pray that things will turn that way. However, it is better to anchor things better in a law. I would like to ask the Prime Minister whether he has envisaged that such a thing would happen and how we would forestall such a happening.

**Mr. Linturi:** Thank you, Mr. Deputy Speaker, Sir. I really appreciate the Prime Minister’s comment and stress that the Constitution is for the people of Kenya. This country is composed of communities so that there are no misrepresentations during the “Yes” and “No” campaigns. This will ensure that each Kenyan is able to understand the contents of this

Constitution so that it is voted by Kenyans that are well informed. Does the Prime Minister or the Government have any intention, bearing in mind the country's population which can be able to read Kiswahili and English and understand is not beyond 30 per cent--- We want these Kenyans who do not understand these two languages to fully participate in this process. We want to know whether the Government is going to commit any money and print the Constitution in the 45 languages that are spoken in this Republic.

**Mr. Ogindo:** On a point of order, Mr. Deputy Speaker, Sir. I want to thank the Prime Minister for his Statement but I want him to clarify to this House that aware that this House unanimously passed the Draft Constitution and aware that the public mood is for a new Constitution; aware that Rift Valley also endorsed the Constitution led by Mr. Kosgey; aware that Central Province also endorsed this document; and, aware that upper Eastern and lower Eastern, have endorsed this process, is he aware of any section of this country that is opposed to this Draft? If so, what are the reasons therefor?

**The Assistant Minister for Livestock Development (Mr. Duale):** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to allege on the Floor on this House that certain regions of this country have endorsed the document? If there are, we want more concrete evidence from the hon. Member where the Rift Valley, Eastern, Western and Central provinces have endorsed the Draft Constitution because the Referendum is yet to come?

**The Assistant Minister for Roads (Dr. Machage):** On a point of information!

**Mr. Deputy Speaker:** Who are you going to inform?

**The Assistant Minister for Roads (Dr. Machage):** Mr. Ogindo, Mr. Deputy Speaker, Sir!

**Mr. Deputy Speaker:** He is not on the Floor!

**The Assistant Minister for Roads (Dr. Machage):** I want to inform him!

**Mr. Deputy Speaker:** But he is not on the Floor!

**The Assistant Minister for Roads (Dr. Machage):** On a point of order, Mr. Deputy Speaker, Sir; then, is the hon. Member who has just left the Floor in order to insinuate that all communities of this country have endorsed this document when Kuria and other marginalized communities and minorities have said "no"?

**An hon. Member:** Maybe, Kuria is part of Nyanza!

**Mr. Deputy Speaker:** Order, hon. Member! There is no collective vote of a region, district or ward. A Referendum is for Kenyans! Every individual Kenyan---

*(Mr. Kutuny consulted loudly)*

Order, Mr. Kutuny! I thought you were seeking a clarification. Could you seek your clarification?

**Mr. Kutuny:** Bw. Naibu Spika, nataka kusema kwamba kwa mara ya kwanza, namshukuru Waziri Mkuu kwa kufafanua vizuri kwamba maswala ya Katiba yatakuwa kulingana na demokrasia na hisia ya yeyote katika taifa la Kenya. Ni wakati muhimu ambapo taifa la Kenya litatatua kitendawili ambacho kimekuwepo kwa zaidi ya miaka 20; kuwepo Katiba ama kusiwepo. Kwa sasa, inajulikana kwamba kuna vikundi viwili; "la", na "ndio". Tungependa sisi mreno wa "la" Waziri Mkuu athibitisha madai kwamba Serikali imepeana onyo kali kwa vyombo vya habari na wahusika wa utoaji wa habari kwamba taarifa isikuwe sawa kwa wanaounga Katiba na wanaoipinga, kwa sababu kwa ripoti yao kwa sasa, inamaanisha kwamba

wana mapendeleo. Wale wanaounga Katiba wanapewa nafasi ya kutosha kutoa madai yao na wale wanaosema “hapana” wanakatazwa nafasi ya kutosha ya kutetea maswala yao.

**Mr. Mwangi:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to suggest that those who are saying “no” are being discriminated against when the Minister for Agriculture was on air this morning? Is he in order to mislead the House that they are being discriminated against?

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Parliament as an organ of review has played a very important role and we all appreciate the fact that the media also plays and is going to play a critical role. Is the hon. Member in order to impute that the media which cannot speak in this House today is impartial when we know it is only two days ago when they were accurately reported as having been heckled and booed in a rally in the Rift Valley in Tinderet? Is he in order?

*(Laughter)*

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

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

**Mr. Deputy Speaker:** Order, Mr. Outa! Mr. Mbau is on a point of order!

**Mr. Mbau:** On a point of order, Mr. Deputy Speaker, Sir. I want to know whether the Prime Minister, indeed, has legitimate powers to be sent to advise the media in this country on how to report and how to cover the debate on the Referendum as implied and instructed by one Mr. Kutuny.

*(Mr. Ruto stood in his place)*

**Mr. Deputy Speaker:** Mr. Ruto, can you seek your final clarification and the Rt. Hon. Prime Minister will then respond?

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I wish to seek clarification. First, I must thank the Prime Minister because he has said that this is a citizen’s agenda and that it is not Government business. But I would like to seek clarification whether the “yes” campaign will be a Government project. The “yes” campaign was launched in his office. I saw Mr. Murungi, the Prime Minister and others and, indeed, they said it appears as it is now another Government project like they said last time.

I would like to also seek clarification as to whether the campaigns will be organized and not funded by the State; that the Ministers including the Prime Minister – I would like to get that clarification – will not be moving around using Government resources and putting on orange T-shirts for a “yes” campaign which should be “banana” although this is not 2005.

*(Laughter)*

But I want clarification whether also in the campaigns, he can commit himself not to be carried away by emotions of the moment and threaten others like we have heard in other areas like recently in Kibera, where statements were made to the effect that those who are in the “no”

are hooligans, land grabbers or something like that. We would like civility! Can we confirm from the Prime Minister---

**Mr. Deputy Speaker:** Order, Mr. Ruto! You have made your point!

**Mr. Ruto:** Mr. Deputy Speaker, Sir, let me seek the clarification. Could we clarify from the Prime Minister that the campaigns will be civil and that Government resources will not be used?

**An hon. Member:** The Government must fund!

**Mr. Ruto:** Do you want to be given fuel by the Government? We would also like to get clarifications---

*(Mr. Ruto paused on the Floor of the House)*

**Mr. Deputy Speaker:** Order, Mr. Ruto! You cannot be thinking and imagining when you are on the Floor of the House! Can you sit down! You have made your point. Let the Rt. Hon. Prime Minister respond!

**Mr. Ruto:** Mr. Deputy Speaker, Sir, I would like to inform him as I sit that there are over 70 hon. Members who have now signed up for the “no” campaign and that it is not as he imagines.

**Mr. Namwamba:** On a point of order, Mr. Deputy Speaker, Sir. I just wanted to make a humble request, really to know the position of the Chair and perhaps the Prime Minister’s too, whether hon. Members would be in order to question State support for this process when we know that this House sat and passed what we have come to know as the Agenda 4 Reform Package that sits at the core of the very existence of the Coalition Government and the heart of that Agenda 4 is delivery of a new Constitution. Is it in order for hon. Members to question Government support for a process that underpins the very existence of this Government?

**The Prime Minister** (Mr. Raila): Thank you, Mr. Deputy Speaker, Sir. Dr. Nuh actually revisited the question that had been asked by Eng. Maina, about an almost 50-50 vote. The way the law stands right now, it is a 50 plus one which is required for a “Yes Vote” to pass and vice versa. So, in as far as the law is concerned, there is totally nothing wrong with that. It will basically only show that Kenyans are almost evenly divided, but, at least, one side weighs slightly more than the other. He also was concerned about a possible low turn-out at the referendum. In the unlikely event that there is a low turn-out, it is those who will turn-out who will be counted. So, that is the reason why we are asking Members, during this recess which is going to begin tomorrow, to go out there, and try to whip out their constituents to turn-up and register.

The members of the public have not fully understood that the last register was scrapped and that it went home with the last Electoral Commission of Kenya. Therefore, there is need for every person to register afresh. The impression that I have received from the field is that, that matter has not been fully understood. So, I will really urge the Members of Parliament to use this time to urge their constituents to turn-up and register. We hope that we will get a reasonable number of people registering by the close of the exercise.

Hon. Linturi was concerned about education of the people, so that the people fully understand and I agree with him. But I also want him to know that Kenyans are not hearing about the Constitution for the first time. You will remember that during the Ghai Commission, a very extensive civic education exercise was conducted countrywide. So, Kenyans, therefore, really knew and understood the Bomas Draft. What now needs to be done is for the people to be

enlightened on the changes which have been introduced in the current draft. I agree that more resources and efforts need to be put into this exercise. We should use as much as possible vernacular languages, which are better understood by the people. The Electoral Commission and the Committee of Experts have been instructed to ensure that parts of this draft Constitution are translated into languages which people can easily understand. Also, vernacular radio stations will be used more extensively to explain the provisions of the Constitution, particularly the contentious ones, about which there are some disagreements, so that they are properly understood.

Mr. Deputy Speaker, Sir, hon. Ogindo gave his own statistics based on what can be seen as a perception. But I want Members to understand that the proper campaign has not been launched. It has not even started because the way things stand, the Attorney-General has not published the draft and the Electoral Commission has not even framed the questions. So, I really want the Members not to be worked up over sentiments being expressed by other Members based on their own perceptions.

Hon. I. Ruto has been fully answered by hon. Namwamba. One, we have a National Accord, two, we have Agenda Four and this is part of it. We have gone through the whole process from the beginning up to now. It will be very hypocritical of this Government at this stage to now say that the Government will be neutral when it is one of the reasons why the Coalition Government was formed. We are not going to intimidate anybody. We are going to allow all the other Members to campaign very freely. The time for oranges and bananas is gone. Kenyans ate too much of them. We do not know what it is going to be, whether we are going to have a lion and an elephant or a monkey and a donkey, or whatever it is. Those who are going to be campaigning for “yes” and “no” vote are going to do so very freely.

Mbunge wa Cherangany alikuwa anataka kujua kama Serikali itapatia wale ambao wanataka kupinga Katiba/Tekelezi fursa ya kufanya hivyo bila kutishwa. Kwanza ningependa kumwambia hon. Kutuny kwamba hii si kitendawili lakini haya ni mambo muhimu ya taifa letu la Kenya.

**Mr. Kutuny:** Jambo la nidhamu, Bw. Naibu Spika. Sikutaka kujua kama Serikali itatoa usalama wa kutosha kwa wale wanaopinga Katiba Kielelezo. Bali nilitaka Waziri Mkuu aeleze Bunge hili kama Serikali imetoa vitisho kwa vyombo vya habari dhidi ya kuwapa nafasi ya kutosha wale watu wanaopinga Katiba kielelezo kutoa hisia zao. Ninataka ufafanuzi juu ya jambo hili kutoka kwa Waziri Mkuu.

**The Prime Minister** (Mr. Raila): Bw. Naibu Spika, ningependa Mbunge wa Cherangany---

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. Is the Prime Minister in order to switch from English to Kiswahili? The Standing Orders are very clear that if you start speaking in English Language, then you must finish in English Language.

**The Prime Minister** (Mr. Raila): Bw. Naibu Spika, ninajibu swali ambalo liliulizwa kwa Lugha ya Kiswahili. Sichangii Hoja yoyote ila ninajibu swali. Kanuni zetu zinasema kama umeanza kuchangia Hoja au Mswada kwa Lugha ya Kiingereza, basi utaendelea hivyo hadi mwisho wa mchango wako. Kanuni hizi hazisemi lugha unayostahili kutumia ikiwa unajibu maswali tofauti tofauti. Kwa hivyo, nimeamua kumjibu hon. Kutuny kwa Lugha ya Kiswahili. Ningemuomba mhe. Kutuny awe na subira, maana yake sikuwa nimemaliza kumjibu kabla yeye kusimama kwa jambo la nidhamu. Subira huvuta heri.

Ningependa kumwambia mhe. Kutuny kwamba Serikali haitaki kumtisha Mkenya wowote. Tumesema kuwa kila mtu atakuwa na fursa ya kufanya kampeni vile anavyotaka.

Hatujatoa amri yoyote kwa vyombo vya habari eti wasitangaze maneno fulani na fulani. Katika nchi yetu, vyombo vingi vya habari ni vya watu binafsi na wala si vya Serikali. Kwa hivyo, wao wenyewe wana haki ya kutangaza maneno yoyote ambayo wanayataka. Ikiwa mheshimiwa anasema maneno ambayo vyombo vya habari vinaona hayana maana, wao wenyewe ndio watabagua au kuamua. Sio Serikali kufanya hivyo. Ningependa vile vile kumueleza mheshimiwa kuwa Serikali imejaribu kuwahimiza Wakenya wote wajiepushe na propaganda ambayo haina msingi. Kwa mfano, wengine wanasema Serikali itatenga ward maalum katika hospitali ya kusaidia akina mama kuavya. Wengine wanasema kila Mkenya baada ya hii Katiba kupitishwa, atalazimishwa na Serikali kuwa na ekari moja ya shamba. Hakuna mahali popote katika hii Katiba Kielelezo ambapo pameandikwa kuwa mtu atanyang'anywa shamba lake. Kila Mkenya ambaye ana shamba lake la kibinafsi, ataendelea kumiliki hilo shamba lake. Lakini makabaila, wenyewe mashamba makubwa makubwa, ya zaidi ya ekari 10,000 peke yao---

**Mr. Ruto:** On a point of information, Mr. Deputy Speaker, Sir.

**The Prime Minister** (Mr. Raila): Bw. Naibu Spika, sitaki! Sitaki kamwe!

*(Laughter)*

Bw. Naibu Spika, ningependa kumwambia mheshimiwa Mbunge kuwa sisi sote ni Wakenya, tufanye hii kampeni kama Wakenya. Ikiwa wale wanaopinga na kusema “la” ndio watashinda, sisi tutawaunga mkono. Tutashikana mikono na kusalimiana. Ikiwa watashindwa, kama vile mimi nina uhakika kuwa watashindwa, nao vile vile wasalimu amri.

Asante, Bw. Naibu Spika.

**Mr. Deputy Speaker:** Fair enough! Order, hon. Ruto and hon. Kutuny! You have had your moment.

Yes, hon. Karua!

## POINTS OF ORDER

### TRANSFER OF INTERNATIONAL CASINO LAND

**Ms. Karua:** Mr. Deputy Speaker, Sir, I wish to ask for your directions. On 23<sup>rd</sup> March, hon. Kioni asked for a Ministerial Statement from the Minister for Lands regarding the transfer of the land otherwise known as the International Casino, where the International Casino is, by the Ministry of Lands to a company associated with one Kamlesh Pattni. The Minister promised to bring the Ministerial Statement on 30<sup>th</sup> March, but he came and asked for extension of time. The Statement has not been given and having been asked, I believe that it is the property of the House. It has aroused our interest and I am wondering whether the Minister can be compelled to give it tomorrow, otherwise Kenyans will think there is something to hide.

**Mr. Deputy Speaker:** Rt. Hon. Prime Minister, can you address that issue?

**The Prime Minister** (Mr. Raila): Mr. Deputy Speaker, Sir, I can give an undertaking that the Statement will be given tomorrow.

**Mr. Deputy Speaker:** Fair enough! Hon. Ochieng!

### CRITERIA OF ALLOCATING FPE FUNDS TO PUPILS

**Mr. Ochieng:** Mr. Deputy Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Education. From the year 2003 to 2009, the Government disbursed Free Primary Education funds at Kshs1,200 per pupil. From the financial year 2009/2010, the Government reduced the amounts of disbursement in categories of Kshs852 and Kshs183 per pupil and subsequent categories receiving lower amounts per child. Could the Assistant Minister table the allocation per school and province and explain the basis of categorization? Could he also clarify if all schools received the same allocations per child from the year 2003 to 2009 and how come he alleges that some schools have fewer textbooks than others from the 2009 financial year? What informed the reduction in allocations and where have the extra amounts been directed to? Finally, what is the Minister doing to curb any misappropriation of these funds?

**Mr. Deputy Speaker:** Fair enough! Minister for Education, can you give an undertaking?

**The Assistant Minister for Education (Prof. Olweny):** Mr. Deputy Speaker, Sir, we undertake to bring a Statement to that effect on Thursday next week.

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

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

Order! The Chair does not have any notification of the hon. Linturi seeking a Ministerial Statement today in the afternoon.

*(Mr. Deputy Speaker consulted with the Clerk)*

The Chair will always assume that an hon. Member is so honourable as not to mislead it. Much as the Chair does not have that information, you can proceed and seek your Ministerial Statement.

#### PRIVATIZATION OF NATIONAL BANK OF KENYA

**Mr. Linturi:** Thank you, Mr. Deputy Speaker, Sir. I am really honourable and would not want to mislead this House. I will be giving you a copy of the signed request to the Speaker.

Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Finance with regard to the privatization of the National Bank of Kenya (NBK). I would want him to clarify to this House what informed the Cabinet decision to privatize the NBK.

Secondly, I would like him to tell us what is the ratio of the shareholding of the NBK between the Government and other shareholders and the equivalent value of the rations of this shareholding.

Were there any consultations done between the Government and the other shareholders before the Cabinet's approval for privatization? Could the Minister explain who procured the transaction adviser and who this transaction adviser is? Finally, could the Minister inform the House how much the Government expects to raise as revenue from the intended sale and whether the same is factored in the 2010/2011 financial year?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu):** Mr. Deputy Speaker, Sir, we shall give a Statement on this matter on Thursday next week.

**Mr. Deputy Speaker:** Fair enough! It is so directed.  
What is your point of order, Hon. Ephram Maina!

NON-ISSUANCE OF VOTERS CARDS TO HOLDERS OF  
OLD GENERATION ID CARDS

**Eng. Maina:** On a point of order, Mr. Deputy Speaker, Sir. Two weeks ago, I sought a Ministerial Statement regarding another urgent and serious matter where people who are holding old identity cards are not being allowed to register and most young people who have gone to get identity cards have been given waiting cards which last as long as one year and are not being allowed to register as voters. The Statement was to come last week on Tuesday. Since the Minister was not in the House, the Speaker ruled that, that Ministerial Statement should be brought today. This is a very urgent national matter because it could be actually a designed way of rigging in some regions. When some people in some regions are not being issued with identity cards quickly and consequently not being able to register, whereas we understand that in other areas people are being issued with identity cards quickly, is not proper.

**Mr. Deputy Speaker:** Order, Eng. Maina! Indeed, the Chair is aware that the Minister of State for Immigration and Registration of Persons was supposed to have given a Ministerial Statement on the same today, 14<sup>th</sup> April, 2010. Maybe, the Rt. hon. Prime Minister could give a direction on this. There was a Ministerial Statement that was sought by hon. Maina from the Ministry of State for Immigration and Registration of Persons that is now two weeks overdue. It has been postponed twice.

**The Prime Minister (Mr. Raila):** Mr. Deputy Speaker, Sir, I know that the Minister has been engaged. I can give an undertaking that this Statement will be given on Tuesday next week.

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

**Eng. Maina:** On a point of order, Mr. Deputy Speaker, Sir. Really, this is a matter of national interest. Whereas I do not wish at all to go back on any ruling, I would beseech that this Statement comes tomorrow. This is because the issue of voting is a right of every citizen. I have stated here that in some regions identity cards take a year to be processed and we see this as a designed way of rigging, right from the beginning. I do not think that the Government needs any further time to issue this Statement.

**The Assistant Minister for Livestock Development (Mr. Duale):** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to say for the second time that there is rigging already in place for the 2012 general election? If he has any information to that effect, could he substantiate? If not, he should apologize and withdraw.

**Mr. Deputy Speaker:** Order! Order, Mr. Maina! You cannot impute improper motive against a Member on the Floor of the House. You have indeed made your point and the undertaking has been done by none other than the Rt. Hon. Prime Minister. So, hold your horse. The Rt. Hon. Prime Minister says Tuesday next week.

**Mr. Konchella:** On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to seek a Ministerial Statement from the Minister for Education---

**Mr. Deputy Speaker:** Did you notify the Chair that you intended to rise on a point of order today to seek a Ministerial Statement or is it an after-thought?

**Mr. Konchella:** No, Mr. Deputy Speaker, Sir. I apologize for that.

**Mr. Deputy Speaker:** Order, Mr. Konchella! There is a procedure in these matters. If you had not consulted--- The procedure is very simple; you write your own Ministerial Statement that you are seeking.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, it is important for the people of Kenya that you allow me. I beg.

**Mr. Deputy Speaker:** Did you notify the Chair?

**Mr. Konchella:** No, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Then you are out of order. You have to notify the Chair. Most likely, you will get an opportunity tomorrow.

Next Order!

## MOTION

### ADOPTION OF REPORT ON BUDGET POLICY STATEMENT

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

THAT, this House adopts the Report of the Budget Committee on the Budget Policy Statement Tabled on March 23<sup>rd</sup> 2010.

Mr. Deputy Speaker, Sir, on behalf of the Members of the Budget Committee and as required under the Standing Order No.143 (4), I would like to take this opportunity to present to the House, the Committee's report on the 2010/2011 Budget Policy Statement laid on the Table of the House on Tuesday 23<sup>rd</sup> March, 2010 pursuant to Standing Order No.143. The Budget Policy Statement stands committed to the Budget Committee for examination in consultation with the various Departmental Committees and by 15<sup>th</sup> of April, 2010 should be laid on the Table of this House.

Mr. Deputy Speaker, Sir, the control and oversight of the national Budget is one of Parliament's fundamental mandates. With the enactment of the Fiscal Management Act, 2009 and coming into force of the new Standing Orders, Parliament's role in the Budget-making process has been strengthened. For the first time since Independence, a Budget Policy Statement has been brought to this House for scrutiny and approval by Parliament. Budget approval which we do as legislators only fulfills the minimum constitutional requirement. Effective execution of the mandate requires Parliament to satisfy itself that the Budget is fiscally sound and that the allocation of public resources is matched with the needs of the Kenyan citizenry and that the Budget is implemented properly and efficiently. Through the Budget, Parliamentarians have an opportunity to check whether the Government's plan of action is affordable, equitable and comprehensive.

Mr. Deputy Speaker, Sir, the Budget Committee was reconstituted in 2009 and it comprises of the following hon. Members:-

The Hon. E. Mbau	-	Chairman
The Hon. Prof. M. Kamar	-	Vice-Chairperson
The Hon. M. Ogindo, MP		
The Hon. G. Thuo, MP		
The Hon. D. Mungatana, MP		
The Hon. M. Lessonet, MP		
The Hon. O. Zonga, MP		

The Hon. J. Mbadi, MP  
The Hon. N. Warugongo, MP  
The Hon. M. Yakubu, MP  
The Hon. J. Mututho, MP  
The Hon. E. Kathuri, MP  
The Hon. N. Gaichuhie, MP  
The Hon. A. Sambu, MP  
The Hon. A. Bahari, MP.

Mr. Deputy Speaker, Sir, in addition, there are Chairpersons of all the Departmental Committee who are ex-officio members of the Budget Committee. That makes the Budget Committee an all-inclusive Committee of the various interests and desires of the Members of this House. That makes the Committee to be the largest and, indeed, it is in line with the importance of the issues which this Committee handles in its day to day agenda.

Mr. Deputy Speaker, Sir, I talk about the mandate of the Committee which is established under Standing Orders No.143 and 190, and the Committee is mandated to:-

(i) Examine the Budget Policy Statement once presented to the House and to report back to the House what, if any, economies should be made consistent with the proper carrying out into effect of the policies implied in or by such statements and estimate;

(ii) Evaluate tax estimates, economic and budgetary policies and programmes with direct implications to Budget outlays.

Mr. Deputy Speaker, Sir, the Budget Committee is further given legal backing under the Fiscal Management Act, 2009. During the review and examination of the Budget Policy Statement, the Budget Committee held seven meetings and one workshop; the Budget Workshop was held on 13<sup>th</sup> and 14<sup>th</sup> April, 2010. The Committee received submissions from all other Departmental Committees which it considered and included in this Report. The Committee also held consultative meetings with the Deputy Prime Minister and Minister for Finance as well as officers from the Ministry of Planning, National Development and Vision 2030.

Mr. Deputy Speaker, Sir, I want to make the following acknowledgements. The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the support that the Committee has received during its consideration of the Budget Policy Statement. It is also very grateful to the Deputy Prime Minister and Minister for Finance and his staff who appeared before the Committee as well the staff of the Ministry of Planning, National Development and Vision 2030. The Committee is also grateful to other Ministries and stakeholders who made various presentations during the pre-Budget Workshop.

Mr. Deputy Speaker, Sir, on behalf of the Budget Committee, I now have the honour and pleasure to present its Report and recommendations, relating to the Budget Policy Statement for the year 2010/2011 and Expenditure framework in this House and seek Members to debate and adopt the same Statement.

Mr. Speaker, Sir, you will realize that the various committees focused themselves on the requirements of what was contained in the Budget Policy Statement. Specifically, number one, the Committee decided to ascertain the compliance to the Fiscal Management Act and Standing Orders. The Budget Policy Statement, which was created by the Fiscal Management Act, 2009, followed to some extent the format prescribed in the Act and the Standing Orders. However, in terms of details, the Budget Policy Statement fell short of expectations, having left out some

certain salient details such as the table showing a break down of the ceilings that the various Ministries are going to receive when the financial statement is eventually tabled in this House.

Mr. Speaker, Sir, we also need to note that to meet the Government national objectives and goals, the budgeting system must be seen to provide a strong link between Government policies and the allocation of resources. Indeed, a major objective of the Medium-Term Expenditure Framework, which is the current approach to the budgeting process that the Government is using, is to provide a linkage between policies, planning and budgeting. In the Budget Policy Statement (BPS), which was laid on the Table, there is no doubt that there was no clear linkage between the BPS and the provisions of the Budget in terms of the national priorities.

Mr. Speaker, Sir, we are left, as a Committee, without a doubt with the impression that a critical budget system is where the allocation of resources is given by the policy decisions that are guided by the policy documents. The national priorities as they stand today in Kenya are outlined in the Government Blueprint, namely the Vision 2030. The various Ministries of the Government have been required to draw strategic plans which have reflected their various visions and objectives.

However, Mr. Speaker, Sir, reviewing the Budget Policy Statement, there is no indication that these strategic plans of the various Ministries form the basis of allocation of available resources to be able to make hon. Members to conclude that we are on the road to achieving the objectives and goals of Vision 2030.

Mr. Speaker, Sir, the Committee observed that the Ministry of Planning, National Development and Vision 2030 seemed to have played a minimal role, if any, in the finalization of the BPS. As a result, the programme annex to the BPS has no linkage to the strategic plans of the Ministries and does not have relevant outputs or indicators that can be monitored and eventually evaluated. The Committee, therefore, recommends that there should be more improvements in future of the Ministry of Planning, National Development and Vision 2030 in the Budget-making process.

Mr. Speaker, Sir, we also noted, as a Committee, that the BPS failed invariably to link the strategies aimed at reduction of poverty and achievement of the Millennium Development Goals (MDGs). We know that the cardinal goal of MDGs is food security. We also know that this country has had a cycle of drought, which means adequate plans must be made in advance to ensure that at times of scarcity, we have adequate food reserves. The Committee, therefore, observes that the BPS did not include the discussion on food security and, therefore, strongly recommends that as the Budget is finalized, there should be adequate provision made for building the required strategic food reserves, be they in the form of grains, milk powder or whatever else. But we should ideally take note of the food diversity of this country.

Mr. Speaker, Sir, we also observed that in terms of performance of the economy and projections into the future, that the BPS is not clear as to what will be the key drivers of the economy in terms of future growth. Certainly, the BPS, as currently formulated, does not have details that would indicate how each of the sectors in this country contributed to the growth in 2009. We only saw a mention of the fact that there was drought, rains and some global crisis without indicating how each of them contributed to the growth so that, as a country, we are able to project what is likely to happen in the future.

Mr. Speaker, Sir, the Committee also observed that according to the BPS, the overall inflation rates came down substantially, mainly on account of changes in the manner of computation as well as due to the low food prices. However, the BPS did not isolate the specific

contributions of these sectors, hence it makes it difficult for us to make further inference and inquiry.

As concerns the interest rates, Mr. Speaker, Sir, the Committee observed that the BPS did not seem to recognize the linkage between the stable interest rate regimes as being partly due to the flow of resources from our multilateral donors such as the International Monetary Fund (IMF) and the World Bank (WB). But on the overall, the fundamentals supporting the projection of these two variables – inflation and interest rates – are not adequately provided for in the BPS.

Mr. Speaker, Sir, the Committee also had a keen look at the status of the balance of payments. This is a requirement that the Government maintains some four months' reserves of imports cover. The Committee observed that according to information contained in the Statement, this is not being maintained and there seems to be no efforts to attain this level in the next financial year, which is 2010/2011.

This, according to the Budget Policy Statement, is attributed to rather lengthy and cumbersome procurement procedures. These challenges are accompanied by insufficient understanding of donor policies by the local project personnel. The Office of the Deputy Prime Minister and Ministry of Finance takes a lead in negotiating for these funds; thus it is expected that before the funds are included in the budget, all the necessary arrangements are, ideally, put in place. The Budget Committee, therefore, observed that despite the existence of the challenges, leading to poor performance of externally funded programmes and to low absorption rates, there are no indicated measures that the Ministry will be taking to streamline the execution of the same. The Committee recommends that in the upcoming Budget, adequate information be provided on total commitment by donors and what has been absorbed already.

On macro-economic assumptions underpinning the medium term, the Committee observed that the Budget Policy statement seems to assume that the variables of economic growth, that is inflation, money supply, interest rates and rates of exchange will automatically converge to policy without indicating the underlying risks and externalities such as population growth, whose figures we do not as yet have, and climate change. There is also no mention of the figures in the Budget Policy Statement, yet they are key determinants, as we know, in the distribution of the resources available.

On the Budget Framework for 2010/2011 Financial Year, the Committee observed that the proposed revenue collection may need further administrative measures to achieve targets. On the side of expenditures, the Committee observed that the underlying macro-economic strategy and policy on expenditure is weak, since a huge chunk of the funds goes to recurrent expenditure, currently at the level of 97.4 per cent. This has the result of making projections into the future, and, in particular, development becomes unrealistic and misleading. So, there is need for a strong revenue base, a policy and a firm expenditure framework that can be relied upon and sustained as the country moves forward.

On the deficit financing and public debt, the Committee was able to learn that the Budget Policy Statement does not identify that more efforts and measures will be required to reduce the debt, and in particular the domestic debt. The Committee supports the principle of reducing this public debt; it continues to make current planners happy but at the expense of future generations. However, we are concerned that some of the important expenditures which may cause distress in the framework, including implications of the new constitutional dispensation, had not been included in the Budget Policy Statement. However, the item on the constitution referendum was catered for yesterday when this House passed the Supplementary Estimates.

This country certainly needs a coherent fiscal financing strategy for predictability, and this is not explicit in the Budget Policy Statement. We need a clear policy on debt sustainability in future as a minimum requirement.

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker (Prof. Kaloki) took the Chair]*

As regards the criteria on which resources were allocated, it is a requirement, under the Fiscal Management Act and in the Standing Orders, that the Budget Policy Statement would provide the criteria used to apportion available resources into programmes and projects. However, the Committee did not observe that the criteria given in the Budget Policy Statement will lead to prioritization and targeting of resources to achieve better provision of goods and services. The same left a lot to be desired. It does not give the amounts of the total resources which are going to be used for ongoing programmes and the amounts to be allocated to new programmes. To this end, the Committee observed that there is the danger of going back to doing business as usual, where the Budget is incremental rather than being based on specific needs and outputs derived from known criteria, priority, needs and objectives of this country.

The Budget Policy Statement further does not lend itself to detailed analysis and interrogation. For instance, there is no previous performance from the past Budget in the Statement that was laid on the Table here that can be perused. So, we are saying, as a Committee, that in future we will want to see priorities that will move us towards Vision 2030 provided for the upcoming periods of the budgeting system.

On the Economic Stimulus Package, the Budget Policy Statement gives conflicting information on this package. On one side, it talks of there being a provision of Kshs22 billion.

On the other side, it continues to indicate that this is not yet to be decided upon. These two conflicting statements contained in the Budget Policy Statement BPS cannot help members of the Committee to know whether there is clarity on what is required and whether the Economic Stimulus Package (ESP) which as you all know, should have been based on the principles of ensuring timeliness, quick disbursement, where the same should have been used to spur economic growth and the same be diversified. It should have come upfront and sustainable.

As we speak today, Mr. Temporary Deputy Speaker, Sir, you will also recall that indeed one of the Questions that was asked to the Office of the Prime Minister; he replied to the performance of the *Kazi Kwa Vijana* (KKV) and the ESP. We are calling for the streamlining of the implementation of money voted in this package so that it not be consumed in the normal budgeting of votes.

On austerity measures, the Government definitely requires some austerity measures just like it was the case in the last financial year. The committee reiterates the need to adopt more austerity measures that should lead to resources being released for development as opposed to recurrent expenditure.

The Budget Policy Statement does not mention or imply any desire to prioritise or cut down on expenditures in order to reduce the huge budgetary deficit. Even last year, the budget of 2009/2010, the savings that may have accrued from the change of cars from the so-called fuel guzzlers to the smaller Volkswagen Passat were not highlighted in the Budget Policy Statement. There is no mention of expected further savings. The Committee is concerned over the Government's ability to finance and continue to sustain the high levels of public debts.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): What is your point of Order hon. Ogindo?

**Mr. Ogindo:** On a Point of Order, Mr. Temporary Deputy Speaker, Sir. I seek your guidance. What the Member on the Floor is presenting is Parliament's recommendation on the Budget Policy Statement. Interestingly, there is nobody on the side of the Government. How is the Government going to take in these recommendations? I need your guidance.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order! I think what you brought up, hon. Ogindo, is actually right and so since there is a Government representation on the side of the Government, I think we can proceed.

**Mr. Namwamba:** Mr. Temporary Deputy Speaker, Sir, I appreciate your ruling but, really, this should call for a reprimand from the Chair on the Government side and while appreciating the arrival of Ms. Mbarire, honestly, we require a reprimand from the Chair. The issues we are discussing here constitute one of the core responsibilities of this House. For the left hand side of the Speaker to be speaking to itself on a matter of this nature calls for a reprimand to Members on your right hand side. Even though I notice that even the media have vacated their place---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Thank you. Actually, since I have already ruled on that particular issue, the Government side is fully represented. There is an Assistant Minister in the House and I think we can proceed. Let us proceed!

**Mr. Mbau:** Thank you, Mr. Temporary Speaker, Sir, for that ruling. I think I need to remind Members that when the Fiscal Management Bill, which eventually became an Act, was moved in this House by myself, you all remember what opposition we encountered from the Government and you also remember at some point in time, the same was declined from being accented to. Then we had to go an extra mile of work to ensure that this law becomes enforceable. I appreciate that you know the gravity of the matters we are pushing forward but you also know that we are trying to get involved or rather become partners in the budget making process so that we are able to play our oversight role more effectively. They would not want that. So, I think we just relax and do our bit and ensure that we have completed our bit. It may even be better. We shall adopt the report more easily and quickly. The HANSARD will remain a permanent record. They may at one point or another one want to refer to what was recommended. We shall ourselves thereafter be asking them to implement what we shall have done.

We have had what we call within-the-year reallocation. The Committee observed that the Budget Policy Statement does not give any administrative guidelines on the in-year variations of the budget and noted that there are no legal guidelines or administrative procedures that guide so that one morning you can wake up and find the Minister for Finance has decided to take a certain chunk of money from one Vote to another without any due reference to the House. The Committee is concerned that such re-allocations have been going up over the past years and more specifically, during this ending financial year. It, therefore, recommends that re-allocations should be pegged to no more than 8 percent of the total vote head in any Ministry. This will ensure that in-year pressures from Ministries to the Ministry of Finance are contained. And we need to note that the IMF and other international lenders that monitor the performance of

economies advocate for variations of between 5 to 8 percent. So, this ensures there is predictability and stability in budgeting and execution.

The Committee, more specifically, recommends the following few items:-

1. That this House recommends to the Executive that there be closer linkage between the Ministry of Planning, National Development and Vision 2030 and the Office of the Deputy Prime Minister and Ministry of Finance so as to ensure that the Budget is closely linked to the national strategic agenda, and the Ministerial Strategic Plans be the basis of the budgeting process.

2. That in the interest of ensuring that there is better prioritization and that the debt is brought down to sustainable levels of not more than 42 per cent of the GDP as recommended, we also recommend that in the Budget Policy Statement, as a guide to the finalization of the Budget, the Budget deficit for the next financial year excluding grants should not be more than Kshs192.3 billion, and that the net domestic borrowing not to exceed Kshs95.3 billion. This will mean that any additional expenditure requirements should be allowed only if there are new resources.

3. In order to make the Budget more predictable and for the Ministries to respect it as a tool for planning and development as approved by Parliament, it is proposed that for the next financial years, variations should be limited to not more than 8 per cent of the gross provision of any Vote Head for any Ministry.

4. No new programmes should be started in the course of the financial years except for emergency expenditures. There should be no new items during the Supplementary Budget as happened yesterday.

Mr. Temporary Deputy Speaker, Sir, therefore, this House should instruct the Office of the Deputy Prime Minister and Ministry of Finance to inform all Ministries to ensure that all important expenditures are included in the Budget and in case of any new project, the same must be reported to Parliament through the Budget.

In order to reduce the leakage on Appropriations-in-Aid (A-in-A), this House should instruct the Deputy Prime Minister and Minister for Finance to urgently review all the A-in-As and identify those that can be turned into revenues for better collection and accountability.

Finally, new projects funded by donors need to be reported to Parliament through the Parliamentary Budget Committee, as and when the grants and loans are agreed upon.

I would like to thank you, Mr. Temporary Deputy Speaker, Sir, and call upon Prof. Margaret Kamar to second this Motion.

**Prof. Kamar:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion that the House adopts the Report of the Budget Committee on the on the Budget Policy Statement.

This is history in itself since we are adopting the first Report of the First Policy Statement since the Fiscal Management Bill was adopted in this House. It is a real shame that the Office of the Deputy Prime Minister and Ministry of Finance is not represented here. The only thing we can say is that we look forward to the day when Ministers will come from outside so that they can be disciplined, come to the House and respect it. I guess the problem now is the mix between the Executive and Parliament. This will be a thing of the past very soon and we are consoled by that. The Ministry officials should have been here to listen to what the Chairman of my Committee has said. He has raised issues that are very important.

A Budget is as good as the planners. If we do not plan and budget haphazardly, we will never be able to measure anything out of what we have done. I will only emphasize a few issues. One

of them is the issue of Budget and prioritization which, as a Committee, we did not see any evidence of. It is a pity that we have something called “Vision 2030” and nobody seems to want to obey it. We have spent a lot of money to come up with that Vision 2030. Arising from that, the Ministry of Planning, National Development and Vision 2030 demanded that every Ministry comes up with a strategic plan. A lot of money was used in workshops to decide how they will prioritise. They set that out in their strategic plans.

Further, there was something called “performance contracting”. Two weeks ago, we demanded from the Prime Minister an explanation on how the performance contracting is being implemented. Again, we spend a lot of money. Many of us, when we were in the Civil Service, signed the performance contracts. It would have been obvious that if you want to come up with a Budget, then it must respond to the Strategic Plan in order for you to fulfill the Vision 2030 on one hand and, on the other hand, to assess the performance of civil servants through the performance contracts. However, there is no relationship. We analyzed that and looked at various issues, but we could not see the relationship between the performance contracts and the Budget. So, how will we rank the performance of the Civil Service if the budgets do not respond to what has been targeted and chosen through the strategic plans? It is a terrible error.

Mr. Temporary Deputy Speaker, Sir, another error I would like to comment on is the issue of the criteria used in the allocation of resources. It is a requirement and not a request in the Fiscal Management Act which was passed by this House and which all of us must respect, that the Budget Policy Statement will provide the criteria used to apportion available resources to programmes and budgets. That is missing. If that is the case, then who knows who decided how to allocate money? After passing the Fiscal Management Act, it was very clear that we did not want “business as usual”. We wanted Kenyans to know where their resources have gone to. We also wanted a decision on the allocation of resources not to be done by one Ministry, but to be done by all of us including this Parliament.

In the absence of that, I think we need to take the Office of the Deputy Prime Minister and Ministry of Finance to task. It should go back and give us the criteria it is using. I urge the different Departmental Committees that deal with Ministries to be very vigilant and keen when looking at this. We have already spoken to eight out of the 12 Committees and we are yet to listen to four Committees. All of them said that there is no link between the Budget and the strategic plans and the civil servants are also complaining. So, who will bring the answers? If we are unable to stick to the law that we have created here, how will we save ourselves from the disaster of resource allocation being done haphazardly?

It will be careless for this Parliament not to reprimand the Office of the Deputy Prime Minister and Ministry of Finance for what it is doing. It will be careless for us not to demand that we actually get to know how the resources of this country will be shared out the way it has been outlined in the Fiscal Management Act.

So, it is my appeal to this House that since we have the Act, we must obey it and make the implementers obey the same. It is very important because that is the very basic thing that we require. It is what people call the “irreducible minimum” when you talk of a policy statement. If you do not have that and you mix up issues like we observed--- The strategic issues and the frame work for implementation were completely mixed up. In some cases, it was not clear what the outcomes were. In some cases, we realized that the areas of priorities were mixed up. It is very difficult to know whether the mixing up is intentional or it is because this is the first Policy Statement and they have also not known how to do it. We need to be very clear that whatever the Act makes demand of, we receive the required issues.

Mr. Temporary Deputy Speaker, Sir, we discussed the issue of re-allocation of resources yesterday, when we looked at the Supplementary Budget. We mentioned that there were new entries. I even mentioned it and asked: “Why do we have new entries?” The Minister did re-allocation in the Budget for the 2008/2009 Financial Year. The Budget for the 2008/2009 Financial Year was not fully fulfilled, because of re-allocations.

There are re-allocations in the current financial year and yet, in the Supplementary Budget, we have brought in new Items. What is the use of passing a Budget and subsequently, re-allocating funds and introducing completely new Items? As a Committee, we do not want to see any new programmes. We want to urge this House that this habit of having new items being brought into the Budget must come to a stop.

We were told that a building had to be refurbished. If the building was not in the plan to begin with, then it has to wait until the next Budget. It is very important that we be very clear on what we are doing because, unless we do planning, we will never move in this country. We will continue complaining about the same things.

Mr. Temporary Deputy Speaker, Sir, on the issue of austerity measures, we congratulated the Minister last year for bringing in the Volkswagen Passat cars, but nobody knows what we have realised out of that measure. Was it cosmetic or was it real? What have we gotten out of it? The budgets of the Ministries do not indicate any reduction on expenditure because of the reduction of expenditure on fuel allocated to Ministers. So, how do we know?

In any case, the Policy Statement does not seem to give us enough details to enable us make that kind of judgment. We need to take this very seriously. I urge the House that, as we adopt this Report, we actually make demands from the Ministry of Finance that they deal with the issues as required by this House.

Mr. Temporary Deputy Speaker, Sir, there is the Ministry for Development of Northern Kenya and Other Arid Lands. I looked at the allocation given to this Ministry and asked myself: Are we going to continue feeding this Ministry with Supplementary Budgets? The only reasons as to why some of us supported the Motion for the adoption of the Supplementary Budget yesterday was the allocations going to the Ministry for Development of Northern Kenya and Other Arid Lands.

This Ministry has its own place, because it is a Ministry that has been created. We do not create Ministries to just appease people. We create Ministries, so that we can implement programmes and projects. It is quite regrettable that a whole Ministry that was brought in to resolve the issue of resource allocation was given nothing in the last financial year. In the current financial year, we do not see a major policy shift to give resources to this Ministry. We need to re-look at this issue.

Mr. Temporary Deputy Speaker, Sir, the issue of external funding was also very disturbing. There is a very disturbing approach that the Ministry of Finance uses. We find announcements in newspapers that there are tenders being given out because of projects that are being funded externally with the European Union (EU) projects being the majority. However, this House is never made aware of how that money comes in and how it is expended.

Non-declaration of external funds is going to ruin our Budget. This morning, all of us in this House received documents from the civil society in our pigeon holes. One of the documents that we received was about the Economic Partnership Agreements (EPAs), which the civil society are telling us not to accept. We have asked the Ministry of Finance to brief the Committees on the EPAs and the funding that comes with it, but we are not receiving anything.

Mr. Temporary Deputy Speaker, Sir, I agree with the civil society, because I sit in the African Caribbean Pacific-European Union (ACP-EU) group, where this funding is discussed. The civil society's outcry is basically that the EPAs are biased in such a manner that they will have a negative effect on the development of the countries receiving the funding, unless we modify the agreements. The Ministry is keeping information away from this Parliament, instead of allowing agreements to be ratified by Parliament. This has caused an outcry from the civil society. I think the Ministry should do proper declaration and this House ratifies any of these agreements, even before we accept the funding. We know that most parliaments in Africa that are involved in the Economic Partnership Agreements (EPAs) have ratified or rejected it because of their parliamentary participation. But lack of participation of this Parliament in the EPAs has led to our inability to interrogate the agreement to the extent that the only interrogation we are getting is from the civil society. That is one area we want to be sorted by the Office of the Deputy Prime Minister and Ministry of Finance.

Mr. Temporary Deputy Speaker, Sir, I would not go further than that. I would like to support the Motion and allow other hon. Member to also give their contribution.

With those few remarks, I beg to second.

*(Question proposed)*

**The Assistant Minister for Livestock Development** (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I stand here to support this Motion.

Mr. Temporary Deputy Speaker, Sir, on the onset, I want to say that it is the first time since Independence in this country that both parliament and Treasury have engaged in the preparation of the Budget. This is an indication of where this country is headed. Parliament as an institution consisting of representatives of the people is making a major decision on how resources are allocated by engaging in the preparation of the Budget. This is a milestone for this country. Parliamentarians have no excuse to say to the people of this country that they were not consulted by the Treasury or were not part and parcel of the Budget making process. Parliamentarians will also have no excuse to say they have failed to put in place proper mechanisms on how public resources are used.

Mr. Temporary Deputy Speaker, Sir, if Parliament is involved in the Budget making process, the element of equity and fairness in the distribution of resources will be achieved. The actual distribution of resources is a very important organ of any country's Budget making process. I want to say that the enactment of the Fiscal Management Act of 2009 and its implementation is a milestone to the economy of this country and in ensuring that each and every part of this country is catered for in the budget making process.

I want to take Members of Parliament and this country down memory lane. I come from a region that has 22 per cent of the land mass of this country, but 47 years after Independence, no road is tarmacked. The only tarmacked road is in my constituency. It is a 20 kilometres road in my constituency in Garissa town which was done the last financial year. If you go to the northern part of Kenya, you will see the discrepancies in terms of education, water and health facilities. This is because the leadership and people of the region were not given the chance to participate in the Budget making process. We had a situation where the bourgeois, big tribes or where those who control Government, those who produce the President and the Prime Minister had the sole responsibility of making sure that water, education and infrastructure were allocated to the few. The larger part of this country where the marginalised and pastoralists live was not catered for.

Even in matters of livestock, pastoralists were not given a chance to say what they wanted to be done in the livestock sector.

Mr. Temporary Deputy Speaker, Sir, we must empower this Parliament to participate in the Budget making process whether it is macro economy, future policy, structural policy or any framework that has a bearing on the livelihood of the people of this country. This Budget Policy Statement is giving us, for the first time a linkage between the Budget and the national priorities of this country. The people of northern Kenya will put on the table their priorities. Is it water, education or livestock, which is the backbone of their economy? Secondly, this Policy links the Budget to the basic poverty reduction strategy. The people of northern Kenyan might have a specific poverty index that if the Government tackles, then poverty will be addressed. The people of Nyanza will benefit if the Government has a definite policy on the fishing sector. I am seeing that this Budget Policy Statements gives us a linkage. When Members of Parliament sit in this very important committee, members of this Committee come from diverse regions of this country. When hon. Bahari sits on this Committee and interrogates the Ministry of Finance and on the same table the Permanent Secretary Ministry of Livestock is there, I can assure you then an element of fairness will be done.

Finally, I want to say this is a milestone. I expected this august House to be full today.

With those few remarks, I beg to support.

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, I stand here to support the Motion.

Mr. Temporary Deputy Speaker, Sir, I want to say what I personally need to see in the Budget. I come from a very poor part of this country. When I became the Member of Parliament, I immediately released the poverty which exists in my constituency is due to lack of education. I will, therefore, endeavour during my tenure in Parliament to ensure my people get education.

Mr. Temporary Deputy Speaker, Sir, I would like to see that our pupils get appropriate education or tools which they can use when they graduate. This cannot be done by nothing other than fully funding and providing the materials to schools and teachers to use to teach the kids so that when they graduate, they are qualified to tackle any job and not necessarily the white collar jobs. The white collar jobs are hard to find in this country. We do not have them anymore.

To that end, I would like to see the Office of the Deputy Prime Minister and Ministry of Finance provide funds to increase the number of youth polytechnics or technical institutions. They should be, at least, six per district. This will ensure that those students who were not lucky to join universities can get proper training from their homes inexpensively so that they can do some work on their own or be absorbed in industries.

Mr. Temporary Deputy Speaker, Sir, if this is done, the *Jua Kali* industry will be enhanced. It has been proved that *jua kali* is really helping this country in terms of employment and cash flow.

I will not stop at polytechnics only. I will also advocate higher learning in technical institutions. I know this country does not have many industries but a country like Singapore, which does not have water supply or electricity, and it imports almost everything, is a very rich country. It is rich out of nothing but Information Communication Technology (ICT). With the ICT, you can export a lot. I, therefore, ask the Office of the Deputy Prime Minister and Ministry of Finance to ensure that all our secondary schools are equipped with computers. In the 2009/2010 Budget, the idea of mobile buses taking computers to schools was rejected by our Committee. We did so because we found out that it was not going to help our schools because of lack of infrastructure. We do not have good infrastructure in the countryside or roads to provide adequate access to schools to accommodate the mobile computer buses. We, therefore, agreed

with the Office of the Deputy Prime Minister and Ministry of Finance that this coming year, means and ways be found to provide computers to all secondary schools. This should not be subjected to any negotiation.

Mr. Temporary Deputy Speaker, Sir, I am talking about the ICT because two weeks ago, the President launched e-learning in this country. E-learning will be a saviour. Just as I have said before, it is a saviour because even our retired school teachers, relatives or pupils who cannot make it to schools can learn or get further education in the comfort of their homes.

I also want to talk about Appropriations-in-Aid (A-in-A). In this country, we cannot move far unless we have appropriate infrastructure. I will repeat the word “infrastructure”. This includes roads, energy, water and so on. It behooves the Office of the Deputy Prime Minister and Ministry of Finance to provide enough funds to ensure that Kenyans get cheap energy whether from coal, nuclear, geothermal and any form of inexpensive energy. This is because we will lose investors to other countries if we do not reduce the cost of energy. The cost of energy can only be reduced if we generate cheap energy. Research in this country has indicated that geothermal or coal can provide inexpensive energy. Those are the only areas I recommend that the Office of the Prime Minister and Ministry of Finance or the Ministry of Energy explores.

On roads, we have tea, cotton, coffee and fish. Just name it. If we do not have roads that lead to these areas where we collect these products, we will not make enough A-in-A.

I want to talk about what I know best, and that is fish. During the rainy season like now you cannot reach the beaches to get the fish. Fish contribute, at least, Kshs4 billion annually and yet we have totally ignored it. We have ignored it by not constructing enough roads to reach the beaches and not providing coolers. We have not even taken care of our lakes. Lake Victoria is choked by water hyacinth and nobody has even lifted a finger to see what can be done to help fishermen get fish from the lake. This lake is also choked by soil erosion from the highlands. This destroys areas where fish breed. Nobody has lifted a finger to look into these problems.

Finally, I would like to ask the Office of the Deputy Prime Minister and Ministry of Finance to ensure that all taxes are removed from all ICT equipment. This is the only way that Kenyans who still do not have mobile phones and computers can get them.

Mr. Temporary Deputy Speaker, Sir, that is my contribution and I support the Motion.

**Mr. Namwamba:** Thank you, Mr. Temporary Deputy Speaker, Sir. This House has had occasion to mark several historic moments. This is one of those historic moments that the Tenth Parliament can take pride in. But it is sad to note that this particular moment of history has been clouded by such disappointing apathy to the extent that we are debating one of the most important Motions in the legislative agenda of this House before empty benches of the Government.

This House has three cardinal responsibilities. We have the responsibility to represent the people of this country, the responsibility to legislate the law that governs this country and we have the responsibility to plan oversight role including how resources of this country are appropriated, managed and applied, for and on behalf of the people of this country. Therefore, when for the very first time in the history of this country this House gets the opportunity; an opportunity that previous Houses have desired and repeatedly attempted to have, the opportunity to be part of the Budget making process; the opportunity to move beyond merely being a rubber stamp on heavy, lengthy appropriation documents and books of accounts tabled in this House by the Government; on a day when we are bringing to life in a very practical sense the new Standing Order No.143 that establishes the Budget Committee and gives it the mandate to deal with these

issues; when for the first time we are witnessing the Fiscal Management Act of 2009 coming to life in a very real sense; this moment of history is being marked by empty seats in this House.

Even when I raise my eyes to look at the Press gallery, it is equally empty. And my heart bleeds and I wonder whether we are turning this House to be a forum where interest is only generated by political drama but when we come to the issues that really affect the people of this country, the issues that really matter; issues that include matters of bread and butter for the lives of the people of this country, that such moments are marked with this kind of apathy. It is really a sad day!

Mr. Temporary Deputy Speaker, Sir, I have had occasion to keenly interrogate the report prepared by the Budget Committee on the Budget Policy Statement for the fiscal year 2010/2011 and let me start by commending the Committee. The Committee has done an excellent job and it is such an excellent beginning as a first time legislator in this House. I can only say that future Parliaments will have an excellent platform on which to build the oversight mandate of this House, judging by the work that the Budget Committee has done on its first interaction with the Budget making process.

*(Applause)*

I have looked at all the 16 issues that have been addressed by the Committee and I must say that if this House wants to seriously play the oversight role that is one of the three pillars in our mandate as an institution, then we must give serious regard to this Report. This Report makes it absolutely clear that if this House does not put its foot down; if this House does not treat this matter with utmost seriousness, the Government will continue to ignore the Fiscal Management Act. And the Committee is very clear when it says that, and I quote them in the very first point they make in their report on page 5, that:-

“In terms of detail, the Budget Policy Statement fell short of expectations, including providing a table breaking down ceilings of various allocations to the respective Ministries”

For us to ensure that the Government pays regard to the Fiscal Management Act, this House must take this process seriously. Remember, as the Chairman of the Committee has indicated here, to bring into being this Act was a battle that the Government was absolutely opposed to. This is because the Government does not want Parliament to be part of this process. Indeed, the Ministry of Finance must be reprimanded for not being here while we are debating this matter. The Government side must be reprimanded for not being here when a matter of such serious national importance is being discussed.

Mr. Temporary Deputy Speaker, Sir, I have noted the concern of the Committee that there is a serious disconnect between Budget proposals and planning. This Budget, at least, as exemplified in the Budget Policy Statement does not provide a clear link between fiscal and national priorities in terms of planning. It has been said that failing to plan is planning to fail. If, indeed, we are going to be debating budgetary proposals in a vacuum of planning, we are setting ourselves up to fail, just as has happened in the past where we have had public resources sunk in grandiose projects. These are projects that have not lived to see the light of day because of failure to plan.

Mr. Temporary Deputy Speaker, Sir, how can we have a Budget Policy Statement that is not linked clearly to certain concrete agenda that really should be brought to the Table by the Ministry of Planning, National Development and Vision 2030? This is a matter that has to be

corrected. Today we have priorities that we would have wanted to see in the Budget Policy Statement. We have the priority of bringing into being a new Constitution. It is shocking that the Budget Policy Statement was absolutely silent on the matter for financing the completion of the Constitutional review process and that this matter---

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to the hon. Member on the Floor, I think time is running out. Would I be in order to request that the Mover be called upon to reply?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Namwamba, just proceed and make your remarks.

**Mr. Namwamba:** Mr. Temporary Deputy Speaker, Sir, that is a demonstration of the lack of seriousness I am talking about. This is a matter that must be prosecuted in its fullness. This is a historic moment. When has this House ever had an opportunity before to interrogate a matter of this nature? This is a matter that we must have sufficient time to engage and participate in fully.

Mr. Temporary Deputy Speaker, Sir, the Budget must connect to issues of bread and butter. These are issues that have a direct bearing on the progress and development of this nation. I want to take special note of the concern raised by the Committee in terms of linking the Budget to poverty reduction strategies and Millennium Development Goals (MDG). I am particularly concerned that there has not been any clear attempt by the Budget Policy Statement to give us a way of dealing with food security. Through the Economic Stimulus Package, we have been able to raise food production in this country ten-fold. I represent a constituency in his House that has traditionally suffered from flooding. But we have been on a path of fixing the flooding menace in Budalangi over the last two years to the extent that while it has flooded everywhere this year, Budalangi has not been mentioned among the areas that have suffered floods.

Mr. Temporary Deputy Speaker, Sir, the result of that is that we are having a bumper harvest. We have harvested more rice than we have ever harvested in the history of this place and yet getting a market for this rice has been a problem. A lot of food that is being harvested in Budalang'i and in other parts of this country is going to waste because the Government is not providing clear plans and clear budgetary provisions to wipe away the excess food and set it aside for the future. That is why, for me, the most important issue I have noted, in the work of the Budget Committee is that Budget proposals must be clearly linked to planning and Budget proposals must respond to the real issues that affect people, and no issue comes bigger or more significantly than the issue of food security.

Mr. Temporary Deputy Speaker, Sir, I also want to commend the Committee on the recommendations that they have made; very solid recommendations which I believe that if they are implemented, will form the basis for this House to play, not the role of a flower girl at a wedding or Cinderella, but a real solid and concrete comprehensive productive role as an oversight organ of state. This is because unless we participate in the manner that we are attempting to do, the role of this House in budget making will be nothing more than a rubberstamp and dancing to the tune of the Government.

Mr. Temporary Deputy Speaker, Sir, in the interest of time, I want to support this Motion.

**Mr. Shakeel:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the Motion.

Much has been spoken about the historic nature of today and the processes that have taken place to bring us to this place. The Ministry of Finance and this Government over the last

number of years, has been taking us as a rubberstamp. As far back as I can remember, a budget policy statement would have been put in the pigeon hole the day before and approval would be sought when hon. Members did not even have time to read it. There were many a time when a Budget Speech would take place and overnight, we would have annual statements and estimates. We would all go and look whether that road that we had asked for was actually in the Budget Statement. If it was not there, it was too bad and it would have to come up in the following year.

Mr. Temporary Deputy Speaker, Sir, the Fiscal Management Act seeks to change this. One of the major problems is that I hear even among my colleagues here saying: "The Ministry of Finance must bring computers. The Ministry of Finance must do the roads." It is not the Ministry of Finance. The Ministry of Finance has a role to control the finances, collect the money and come up with financial policy statements. They cannot and should not be the kings of the Ministries. They should not be the "whole and soul" which decides which Ministries are working. That is the way the Kenyatta Government was able to kill Majimbo, because it did not give them finances. That is what is happening with the Ministry of Finance. The Ministry of Finance has to now get back to the traditional role of regulating the economy at a lower level of a cashier. I know that they took exception when I said that earlier but in essence, what is their role as *wananchi* see it? It is to collect the money, find out how much we have collected with the policy statements and balance it with the outgoings. My wife does that. When I go ask her for Kshs5,000 out of the house budget because I want to go to a rally, she would say "no."

Mr. Temporary Deputy Speaker, Sir, in the very simplest of terms, that is one of the roles of the Ministry of Finance. In the past, the Ministry of Finance and that of Planning, National Development was one. The planning process was relegated to the Ministry of Finance – Treasury, which took the lead role. One of the major things that we wish as the Budget Committee and I would like the Budget Committee to be strong on this, is to ensure that the Ministry of Planning and Development and Vision 2030 now becomes an equal and major actor when it comes to Budget preparation, harmonization and finalization. It is the role of planning to see whether the Budget is in harmony with their policy or Vision 2030 or the needs of the people. Are the individual Ministries who have come up with their strategies in harmony or are they moving towards a concrete goal or one is fighting the other and the benefits of the other have been relegated by the action of the other?

Mr. Temporary Deputy Speaker, Sir, the role of the Ministries is to come up with strategies and strategic plans. There is no doubt about it that we have begun to see the Ministry of Finance as the whole and soul. For example, if a hon. Member wants computers and requests the Ministry of Finance. That is not their job. That is the job of the Ministry of Information and Communications. Have they put it in their Budget? Is it one of their priorities? They are the specialists. When we talk about the IT buses that were brought, it was a joke beyond a joke that an IT bus would cost Kshs5 million out Kshs7 million that had been allocated for computers. So, the computers only cost Kshs2 million while the bus cost Kshs5 million. When you look at the whole issue, it was done by the Ministry of Finance who are not specialists. The Ministry of Information and Communications must have known what we were trying to do. They were taking computers to schools. The Ministry of Works should not have gone to determine what type of vehicle to buy. Those are the sort of disconnects in this country.

I commend the Budget Committee. It is the Budget Committee now which should try and bring these people together. They should bring some reason where there is team work and not a one-man-show or a two-man-show. The Ministries must all set their priorities and strategies and not in May or July, because they might miss out. They should do it at around February before the

year ends. They should have a five-year plan. What is happening and who is harmonizing? If the Ministry of Education comes up at the last minute and makes political demands that the salaries of lecturers of Kshs1 billion be paid immediately, the question asked rightly by the Deputy Prime Minister and Minister for Finance is: “What am I expected to do because I had not put it in our Budget?” It was not there because the Ministry of Education did not budget for it. So, the mistake is with the Ministry of Education. When you go to the Minister for Finance and you use political arm-twisting to demand for some service, he has to take it from somewhere else. That is where it becomes a problem. Then everybody decides that that is the way. That is the *matatu* way. Get into the way and break the rules as long as you get what you want.

Mr. Temporary Deputy Speaker, Sir, we have to get a way out of this. It is a disaster to hear that the Ministry of the Development of Northern Kenya and other Arid Lands was not even factored in the Budget. Where is the mistake? Is it with the Ministry of the Development of Northern Kenya and other Arid Lands or the Ministry of Planning, National Development and Vision 2030 because they did not realize that they have 40 Ministries and one of them is the Ministry of the Development of Northern Kenya and Other Arid Lands? It is a disaster!

The issues that we are looking at are very intricate. What we are saying as hon. Members under the new Standing Orders, the Ministries are responsible to the Committees and are meant to convince the Committee and give them an inkling of what is happening and get an understanding of how they are going to proceed during the coming year. That is where the Budget Committee must put its foot down and mobilize Parliament to ensure that the Supplementary Budgets, re-allocations and things like that follow the normal process. First, the Ministry which is asking for the money should explain why it was not in their budget in the first place and what element of their budget they are going to sacrifice to cover for something that was not planned for. That means exceptions; it is not every time – if they have done it once, perhaps, the second time, you say no! I actually laud it. Now, even from a hindsight, the former President Moi said very clearly when it came to a salary increases for teachers – *hakuna pesa*; there is no money! So, where am I going to get it from? There is no money! This is the sort of thing that I think the Ministry of Finance must come up and say, even if they have been pressurized, that there is no money. They should know that if you did not plan for it, there is nothing.

Of course, the Ministry of Finance must then have what is called a contingency. We all work with the Constituencies Development Fund (CDF); do we not? Do you know what we are told? We have to do this and that and we comply. We work within our CDF limits; if it is the issue of reallocation, we apply for it! But we just do not come up in the middle of the day and decide to do things or to change things! So, why do we expect Ministries to be given that opportunity? I think we must not allow it.

Mr. Temporary Deputy Speaker, Sir, one of the major things that I have seen is that we have budgeted for workshops. We had one in Naivasha and another one in Nairobi. They are not taken seriously by the two Ministries concerned! To be truthful, the Ministry of Planning, National Development and Vision 2030 was there, but the Ministry of Finance was not there because they felt threatened! They did not want to come and talk to us about it. The other day, we had the Office of Deputy Prime Minister and Ministry of Finance there, and the Ministry of state for Planning, National Development and Vision 2030 played a subordinate role; the PS was just sitting there doing nothing; the Deputy Prime Minister and Minister for Finance had taken over and was talking about it! The Minister of Planning, National Development and Vision 2030 was not there – I know he was out of the country – but we have a very able Assistant Minister,

Ministry of State for Planning, National Development and Vision 2030, but he was not there. So, Ministry of State for Planning, National Development and Vision 2030 themselves have been subdued; their ego has been shattered. Some of their economists are world leading economists! Put in another economy, given the power and recognition, they can turn Botswana around! They are turning South African countries round! Why are they not able to turn this country round? The reason is that, brilliant as they are, they are being constrained; they are being suffocated by bureaucracy! They are being suffocated by people who are above them and who do not understand change, they do not want change; they do not wish to recognize that, that young man – yes, he is younger than me and is more educated! He has a better grasp.

Of course, we are human beings, we cannot be used to the best of everything, but instead of allowing our economists to come up with new and definite ideas, they are suffocated, relegated and they are even punished for anything that they want to bring up. This is really the fact!

Mr. Temporary Deputy Speaker, Sir, I remember very clearly that at one time, we were looking at the Grand Regency matter---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Shakeel! You will have eight minutes tomorrow when Parliament resumes debate on this particular Motion.

#### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, it is now 6.30 p.m., and is the time for the House to adjourn. The House stands adjourned until tomorrow, Thursday, 15<sup>th</sup> April, 2010, at 2.30 p.m.

The House rose at 6.30 p.m.