

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 6<sup>th</sup> June, 2012

The House met at 9.00 a.m.

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

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.1469*

#### MEASURES TO FACILITATE ESTABLISHMENT/ OPERATION OF BUSINESSES

**Dr. Kones** asked the Minister for Finance:-

(a) what the Government is doing about the recommendations of the 2011/2012 “*Doing Business Report*” prepared by the International Finance Corporation and the World Bank to encourage simple and efficient regulations designed to facilitate the establishment and operations of businesses;

(b) what regulatory measures the Government has taken to improve the country’s overall investment climate in future, considering that Kenya was ranked 109<sup>th</sup> in the last report; and,

(c) what reform measures the Government has taken to simplify payment of taxes and regulations for investors, and what achievements have been made in improving the business environment to attract new investments in the country.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) In implementing the recommendations of the 2011/2012 “*Doing Business Report*”, the Government has, firstly, benchmarked with other countries such as Mauritius in order to learn the best practices.

Secondly, the Government has established a regulatory reform working committee to co-ordinate all the regulatory reforms.

Thirdly, the Business Regulatory Reform Unit has been established in the Ministry of Finance to implement the reforms under the guidance of the reform committee.

(b) In order to improve the country’s overall investment in future, the Government has developed an implementation matrix that serves as a strategy document for improving Kenya’s performance in the next ranking. A system of regulatory impact assessment has also been developed with clear guidelines and will be launched soon.

The Business Regulations Bill is currently under the consideration of the Attorney-General. The Bill provides for the establishment of an electronic registry for business licences,

which will act as a platform for entering, storing and availing information about all business licences requirements in Kenya. The electronic registry will also facilitate easy access to exhaustive information about business licences and the formalities that businesses must comply with to obtain licences.

(c) In order to simplify payment of taxes and regulations for investors, the Government is currently reviewing tax laws on Excise Duty, Value Added Tax and Income Tax so as to bring them in line with the international best practice.

The Government has also established the National Single Window System Project, which is intended to integrate and enable the sharing of trade and regulatory data. The biggest achievement has been automation of tax procedures through Phase One of the Integrated Tax Management System (ITMS). Phase Two has commenced, and this will greatly improve tax administration.

Thank you.

**Dr. Kones:** Mr. Temporary Deputy Speaker, Sir, I am thankful for the Minister's response on this Question. This country can only develop if we provide an enabling environment for doing business. It is very sad that a small country like Rwanda, which recovered from the effects of a civil war just the other day, is now doing much better. In the "Doing Business Report", our country was ranked 109<sup>th</sup> out of 187 countries that had been surveyed. Rwanda was ranked 58<sup>th</sup>, which was actually the best country in Africa. This shows that there is still a lot for us to do.

There could be a number of questions that I would have asked but, on the Business Regulation Bill, which the Minister said he is waiting for in order to set up an electronic registry; I do not understand what it is---

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Kones, what is your question?

**Dr. Kones:** Mr. Temporary Deputy Speaker, Sir, I am coming to the question.

**The Temporary Deputy Speaker** (Prof. Kaloki): I want you to be specific, Dr. Kones.

**Dr. Kones:** Mr. Temporary Deputy Speaker, Sir, why would you require a Bill to set up an e-registry when you already have a policy on e-governance?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, in fact, I have a copy of the Final Draft of the Business Regulation Bill. This is the Bill that is going to sort out all our trade issues and problems. In this Bill, it is required that before any body makes any regulations that deal with licensing, those regulations must be approved by the Business Regulatory Authority, which is proposed to be set up.

Secondly, the Bill requires all the bodies that issue licences to justify the regulation that is in their requirement. It also specifies that after seven years, all those regulations will lapse, unless they have been re-introduced.

Mr. Temporary Deputy Speaker, Sir, you find that some business regulations that were established in the year 1900 are still in our Statute books. So, this is the Bill that is going to sort out all those issues. It is the Bill that will legally empower the Registrar of Companies to register businesses electronically. The Bill will require land registries to do registration electronically.

We want to borrow from the best practice, particularly on land registries. In Norway, you do not present any paper physically. You do everything electronically. You do not get a physical title. You get an electronic title. That is what we want to achieve, and this is the Bill that is going to sort out all these issues.

Mr. Temporary Deputy Speaker, Sir, to answer the hon. Member's question, the main problem is the existence of very many regulatory bodies that issue licences, particularly the local

authorities, which keep on adding more requirements every year. This also applies to the Ministries. Another problem is that this is also not done in a co-ordinated manner.

For example, recently, we had the Ministry of Agriculture imposing *Ad Volem* Duty on tea without having consultations with anybody and, therefore, causing problems in the tea sector. So, we require this Bill before any Ministry, local authority or county government imposes a business requirement that is approved by this authority and they must justify why they need that requirement.

**Mr. Mbadi:** Thank you, Mr. Temporary Deputy Speaker, Sir. This House passed the Companies (Amendment) Bill which is now an Act of Parliament and we expected major reforms in doing business. The question that I want to put to the Minister is with regard to taxes. The Minister is aware that one of the reasons why the shilling is volatile is because of the low investment and many investors moving out of Kenya. There are cases of tax disputes as a result of tax compliance, computation and assessment. What has the Minister done with the tax laws to simplify them so that we re-minimize cases of disputes on tax payments with regard to tax assessment and tax computation?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, I thank hon. Mbadi for that very important question. Many disputes have been on the VAT Act. In the proposed amendments which the Cabinet has already approved, and I am told the Attorney-General has now finalized the VAT Bill, gives the Commissioner for the VAT authority to give declaratory advices. In other words, what has been happening is that a business enterprise would perform its functions the way it thinks the law states only for the Commissioner to come and dispute that the way he or she has treated the expense is not the way it should be treated. Therefore, a dispute arises, and we have very many of those disputes. In fact, our local tax dispute tribunals are meeting almost every day. However, in the new laws and even in the Income Tax, if it is the Commissioner for Income Tax, you can write to him and ask for an advisory opinion that; is the way I am treating this expense the right way? Therefore, the Commission will be able to issue that advice in advance. What is happening now is that it is done after. It is when they do assessment or audit that they discover that the way you have been treating certain expenses which you thought were allowable are not allowable and, therefore, dispute arises. We hope that if we do this, businesses will be able to ask for advisory opinion which will be binding and that will sort out the numerous disputes. I assure you that there are very many disputes now on taxes.

**Mr. Kioni:** Thank you, Mr. Temporary Deputy Speaker, Sir. I come from a pyrethrum-growing area. The sector has been brought to its knees because of the Government regulations in issuing licences to potential investors. Could the Minister inform this House the amount of time that is required to register a company in this country? In so doing, can he inform us what progress or improvement we have made over the years? This is because every single day we lose while waiting for this Bill, the youth of this country continue being unemployed because investors cannot come into the country.

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, I have some good news in that area. It used to take six months to register a company. This reduced to three months, but now it takes two-and-half months to register a company. However, the requirements from the service charter of the companies registry is supposed to be 14 days. So, we are not yet out of the woods.

However, the solution is what I call the “electronic registration” where you do not have to prepare all these documents and take them to the registry physically. You can do it from your own office. That is the way to go. That is what Rwanda is doing and that is why they have improved their business performance indicators. That is what Mauritius has also done. The way

is electronic registration. Even on taxes, there is no need of physically filling those bulky forms. That should be done electronically and it has started.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Minister tell us when we should expect the e-registry to be functional? When should we expect companies to register electronically?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, they are actually ready. What is remaining now is the change to enable them to do that. However, they are ready.

The Bill is now ready and it is here. I can even table the draft so that hon. Members can see it. This is what will sort out our poor performance in business practice. Countries like Rwanda and Mauritius are doing better than us because of our cumbersome procedures.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Minister! When do you think you will be able to present that Bill to this House?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, if everything goes well, this should start in the next three months.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The question was: “When will the companies register electronically?” We would like the Minister to give us a date so that we can hold him to that date. I am sure many investors are waiting to hear that date because it will really help in improving business environment in this country.

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, I am saying that, that will be in the next three months if everything goes well because this Bill is now ready.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir. The Minister has talked about the regulatory committee that has been formed. Could he inform this House the membership of this committee, its mandate and when it is likely to start operations?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, the committee is already operating. It comprises of staff from the Ministry of Finance, Ministry of Trade and Ministry of Industrialization. It has powers and mandate to co-opt other relevant bodies like the Registrar of Companies and other bodies, which in their view are necessary. However, they are basically staff from the Ministry of Finance, Ministry of Trade, Ministry of Industrialization and the Attorney-General where the Companies Registry falls under.

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Kones, because of time, go ahead and ask your final question.

**Dr. Kones:** Mr. Temporary Deputy Speaker, Sir, I agree with the Minister that electronic registration is the way to go. I wish he can even shorten that time from three months to two months because we want to improve the business environment.

I also come from a tea-growing area and there has been a lot of interest from investors to put up private factories. However, they complain that they are frustrated because of the Government bureaucracy. Could the Minister clearly tell us what is the procedure for those investors who are willing to set up industries in this country?

**Mr. Githae:** Thank you, Mr. Temporary Deputy Speaker, Sir. Again, I thank the hon. Member for that very important question. We need change of attitude. When an investor applies to set up a company, it is us who should be running to him. It is like he is doing us a favour and, therefore, very many obstacles are put in his or her way.

For example, to get a licence from the Tea Board of Kenya takes such a long time and the main problem is because they have not indicated. The Bill indicates that if you want to put up a tea factory, these are the requirements which must be available in the internet so that an investor knows. At the moment, you apply and you are told you require an environmental impact

assessment form and a licence from the local authority. This is not stated anywhere. It is on a case by case basis and this is what is causing the delay.

We are saying that this Bill will state, for example, if it is the Tea Board of Kenya, they will have their requirements. If you want to set up a tea factory, these are the requirements which you will know in advance rather than them starting to tell you what you need to do when you apply for a licence. I will go ahead and say that by 30<sup>th</sup> September, we should be doing registration electronically.

**Mr. Koech:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House that some regulations are not clear when in Butali Sugar Company the investor was given all the requirements and he adhered to them. In fact, the foundation stone was laid by His Excellency the President, but when it came to getting the licence to operate, he was frustrated for one full year. Is he in order to mislead the House? Is the Government really serious in ensuring that they are committed to helping investors to come and invest in Kenya?

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Minister! On that particular issue on the point of order, the overall investment climate makes Kenya to be ranked 109<sup>th</sup>; this shows we have a major problem. This is a comprehensive problem which I think your Ministry, the Ministry of Trade and the Ministry of State for Planning, National Development and Vision 2030 should be able to co-ordinate to make sure we are not ranked so poorly. Could you address that issue?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, I could not agree with you more. The main problem is that it has been done on an *ad hoc* basis. Therefore, the Ministry of Trade would have its own regulations, the Ministry of Finance would have its own, the Ministry of Agriculture would have its own and so forth. It was not clear. It was not co-ordinated and that is why we formed this Business Practice Reform Committee. It is now looking at the various licences required.

In the case that Mr. Koech has given, the company was given all the approvals but they forgot to amend one law, which was what they were calling the jurisdiction of each sugar company where you are given a specific area for your operation. I do not have the exact facts but I think at that time, it was 25 kilometers. After this factory was built, the owners were told: "No, we cannot give you a licence because if we do that, we are going to impeach on the rule on exclusive jurisdiction of sugar factories". That is exactly the point I am giving. That was there but they did not tell that investor that he would still need to comply with this rule. After everything was done, they showed him this rule, and said they could not give him a licence. Those are some of the issues we are saying will be addressed by this Bill.

**Mr. Mureithi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Am I in order to raise the issue that the Minister has appointed only people from the Ministries to form the regulatory committee, whereas the stakeholders in the private sector and other bodies that are affected probably would have given more input about how they suffer when it comes to licences?

*(Applause as some hon. Members entered the Chamber)*

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, in this Business Regulatory Authority (BRA), there is provision for private sector involvement. The committee has basically staff from the three Ministries to come up with this Bill, which they have done. We are now going to table it. In this regulatory authority, there are provisions for three directors from the private sector. Therefore, they are taken care of.

**The Minister for Lands** (Mr. Orengo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I stand on point of order, just as a matter of record. When the gracious ladies walked in, there was applause from the House, but that applause came at the conclusion of Mr. Mureithi's point of order. For the purposes of the HANSARD, was that applause for the ladies or for Mr. Mureithi? I think we need to guide the HANSARD.

**The Temporary Deputy Speaker** (Prof. Kaloki): Minister, the applause went to Mr. Mureithi and the hon. Members who had just walked in!

Next Question by Mr. Peter Gitau.

*Question No. 1436*

BOUNDARIES OF AREA GAZETTED AS MWEA IRRIGATION SCHEME

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

(a) whether he could indicate the entire land gazetted as Mwea Irrigation Scheme under the management of the National Irrigation Board (NIB) and table the relevant gazette notices;

(b) whether he could indicate which part of the land under the NIB had been allocated to the private developers and title deeds issued; and,

(c) whether due process was followed during the issuance of those title deeds, and whether he could table the relevant documents.

**The Minister for Lands** (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, this Question was supposed to be answered by my colleague Mr. Rai. He has had some problems getting to the House. Actually, he is stuck in Mombasa but when I was coming here, I knew he was the one to answer the Question. I did not carry the answer with me. If the Member could wait a little bit, and I get an answer, I will be able to answer it myself.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Gitau, will you?

**Mr. Gitau:** Mr. Temporary Deputy Speaker, Sir, I have the answer with me. Maybe he can borrow it from me for him to answer the Question.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Gitau! Are you willing to allow the Minister to organize himself from his office and deal with this Question a little bit later?

**Mr. Gitau:** Mr. Temporary Deputy Speaker, Sir, I already have the answer with me here; but if it can be postponed, I have no problem.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Gitau, the answer must be given to this House. You are just in agreement that we defer the Question. Can we defer the Question?

**Mr. Gitau:** Yes.

**The Temporary Deputy Speaker** (Prof. Kaloki): Minister, you can then bring it up a little bit later. We will defer that Question to a later date.

*(Question deferred)*

*Question No.1477*

STATUS OF PENDING CONSTITUTIONAL BILLS

**Dr. Nuh** asked the Minister for Justice, National Cohesion and Constitutional Affairs:-

(a) whether he could explain the respective status of the constitutional Bills scheduled to be enacted by 27<sup>th</sup> August, 2012 in line with the Fifth Schedule of the Constitution; and,

(b) when each of the said Bills will be published.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The Fifth Schedule of the Constitution of Kenya 2010 elaborates nine key legislative areas that require legislation to be enacted within two years of its promulgation.

(b) Out of these nine legislative areas, four have already been enacted on and five are pending at various stages as elaborated in the typed matrix. The matrix has also set out the estimated time lines within which the remaining Bills are planned to be published.

**Dr. Nuh:** Mr. Temporary Deputy Speaker, Sir, I wish the Assistant Minister when answering the Question read the answer. This is because Members are not all privy to the answer and I am the only one who has a copy here; because of their laxity in providing enough copies Members are not able to follow. I am really disappointed by the answer that has been given by the Ministry. It is completely unsatisfactory.

Mr. Temporary Deputy Speaker, Sir, this is a matter that has disturbed this House when a lot of pressure is piled on Members of Parliament here because they are supposed to enact legislation on a time-bound basis. We have been forced to go through hours enacting legislation at night. The Press would carry news that we enacted legislation at midnight, as if it was a crime, yet we were performing specific duties that have been a cornerstone of this House.

When I put Question to the Ministry, I asked for specific dates. This Question was deferred for a specific matter as to the Ministry's inability to---

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Nuh, let us get that clarification from the Minister. He is here.

Assistant Minister, you have two questions here. Could you just be a little bit specific and provide the dates?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I can do that.

The first one is legislation on leadership under Article 80 of the Constitution. Under that Article, we now have a Bill; the Leadership and Integrity Bill (2012). That Bill has already been developed. It is currently being reviewed by the Kenya Law Reform Commission. It is now being sent to CIC for further review. We hope that this Bill will be published in the month of June.

Number two is on the right to recall under Article 104 of the Constitution. This has been done under the Elections Act. Therefore, the publication is not relevant, because already, it has been done.

Three is determination of the question of membership of Parliament; that has already been done under the Election Act. Therefore, the timelines or publication date is not necessary.

Four is right to petition Parliament under Article 119 of the Constitution. We are looking at the law now. My Ministry is in consultation with stakeholders with a view to developing a policy which will guide the petition process.

Fifth is the assumption of the Office of the President under Article No.141. The Bill to be enacted here is Assumption of office of President Bill, 2012. The Bill has been developed and is

currently with the Cabinet for consideration and approval. We hope that this month of June the Bill will be published.

Sixth, we have the Judiciary Fund under Article No.17. This has already been enacted under the Judicial Service Act.

Seventh, there is the Financial Control under Article 225. This is the Public Finance Management Bill, 2012 which is before this House.

Eighth, there is The National Security Organs under Article 239. We have three Bills here; The National Security Council Bill, 2012, The National Intelligence Service Bill, 2012 and The Kenya Defence Forces Bill, 2012. These three Bills have also been developed and they are currently with the Commission for Implementation of the Constitution (CIC) for review. We hope that this will be published in this month of June.

Ninth, we have the command of national police service under Article 254. All these have already been enacted under the National Police Service Act 2011 and the Independent Policing Oversight Act, 2010. Therefore the dates for publication are not necessary.

I think this is the overview of the Bills that we need to do on or before 27<sup>th</sup> August, 2012. I hope that it is now clear to my colleagues because I have been able to clearly explain the various stages which we are with those Bills.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, there are two key Bills which I want to request the Assistant Minister to address himself to because these two Bills have already been overtaken by events. These are the Bills that give effect to Section 217 of the Constitution in respect of the criteria of allocating funds to the counties; that is, the Division of Revenue Allocation Bill and the County Allocation Revenue Bill. These two Bills are the ones that the Commission on Revenue Allocation (CRA) will rely on to give a criteria on how one county should get more money than another one.

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, that is an area that I am yet to look at because the Question was specifically on Bills that are pending to be enacted on or before 27<sup>th</sup> August, 2012. I may be able to look at those areas raised by my colleague because I have not looked at those issues. I was only addressing myself to the issue of---

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Indeed, I have no problem with the Assistant Minister finding time to look at it but may I remind him that already in his Ministry, there is a Ministerial Statement pending which was asked in this House by myself on 8<sup>th</sup> May, 2012 in respect of these two Bills. This arose after there was an outcry by hon. Members, some for and others against, when the CRA decided to release the funds that it will give different counties. So could he say when he is going to respond to that Ministerial Statement?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I will also have to look at that because that Ministerial Statement will address what is being raised now by my colleague. I will go to the office and look at the status of that Statement and we should give it within this week or next week.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. Prepare yourself to issue that Statement by next week, let us say, on Tuesday.

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I undertake to do so by Tuesday next week.

**Mr. Imanyara:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is in a situation where he is not able to give us specific dates. This answer talks about June and we are in the first week of June. If you take the normal publication period of a Bill, it will take us to the

third week of June. For it to mature and come to this House for debate, it will definitely be after June. But even as that is going on, we have the Executive performing constitutional tasks, for example, appointing the so-called county commissioners in complete breach of the Constitution. What assurance can the Assistant Minister give us in terms of specific dates as to when these Bills will go to the Government Printer for publication and bring them to the House? He should be specific.

*(Applause)*

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, why we gave the month of June is because before I came to this House, I talked to the various line Ministries. You will realize that these Bills are being developed by various Ministries and for us to be specific about the dates, a specific date would be perhaps to mislead the House. What we have done as a Ministry is to continuously liaise with these Ministries and tell them that they must move with speed. What is being raised here is genuine. It does not help this country and this House when we have had enough time and we delay up to the last minute and have to rush through the Bills. So, I do not want to give a specific date but I want to assure the House that we will continue to remind the Ministries.

For the sake of this House, let me mention that there are about eight stages of developing these Bills. We have the Ministries in charge developing the draft. It goes to the Law Reform Commission (LRC), the CIC and then the stakeholders come together, then to the line Ministry, Cabinet approval and so on. So, it would be very difficult for me to give specific dates but I want to assure the House that we are liaising with the Ministries and telling them to move with speed and conclude.

**Mr. Imanyara:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My question was quite specific because the House is demanding specific dates. They have had since the date of promulgation of this Constitution which is more than almost two years to liaise with the Ministries, go through the eight stages and bring these Bills well in time for them to be debated in the House. He says he is not capable of giving us specific dates. Clearly, he is confirming that even the date of June that is contained in this answer cannot be attained.

In these circumstances, is it in order for the Assistant Minister to stand before this House without a clear and ready answer on the specifics and get away with it by simply telling us that they are continuously liaising without being able to state what specific dates these Bills will be in the House in order to beat the June deadline that he has indicated in his answer? If he is not sure, would he not ask for time and then come to this House fully prepared?

**The Temporary Deputy Speaker** (Prof. Kaloki): Assistant Minister, what is the problem? Are you in charge of the programme?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I want to be very clear. It is not difficult for me to mention a specific date but---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Assistant Minister! What is the problem? How can you implement the deadlines and specifics if you do not even know? How are you planning to implement the Constitution?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, I stated that these Bills are being developed by various line Ministries and when we talk of a specific date, that is why we talk of this month of June. We hope in the process of this month, these Bills will be published. But when you talk of specific dates----

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Constitution has specific timelines. There is nothing new that the Assistant Minister is going to read from the Constitution in terms of timelines. It appears like he is not clear as to what he would want to inform this House. We have been accused, and Dr. Nuh has mentioned this aspect of sitting here past midnight. Given the gravity of this issue, am I in order to ask that this Question be deferred, so that he can come with specific timelines that will ensure that this House does not sit after midnight to pass Bills because of not having specific timelines for the Ministries?

**The Temporary Deputy Speaker** (Prof. Kaloki): Indeed, Assistant Minister, would you take additional time to prepare for parts (a) and (b) of the Question? You should bring your answer here by next week on Tuesday with specific timelines pertaining to how you will meet the deadline on 27<sup>th</sup> August, 2012.

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This Question has already taken more than a month now. Giving the Ministry one more week would not be doing justice to this Question. In fact, the Assistant Minister is misleading this House because if he talks about liaising with other Ministries and key stakeholders, they are not doing that. This is because even on 30<sup>th</sup> May, 2012, as he prepared this answer, he stated that the Bill on Leadership and Integrity will be forwarded to the CIC next week. Even before that, this Bill was already with the CIC. So, if he is serious, he can give an answer to this House tomorrow in the afternoon.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Hon. Assistant Minister, I want to go back to my ruling that you take your time, co-ordinate with the relevant bodies and come up with specific dates. You should come up a deadline and when you will publish the Bills. That way, you can come up with a comprehensive answer pertaining to this.

**Mr. Ethuro:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We are deferring this Question for the third time for the same reason. Surely, is the Assistant Minister confirming to the Republic of Kenya that his Ministry is so incompetent that it cannot do the obvious thing of preparing a schedule?

**The Temporary Deputy Speaker** (Prof. Kaloki): Assistant Minister, just confirm that on Tuesday, you will be ready with a comprehensive answer to deal with these particular weighty matters. Could you do it on the microphone?

**Mr. Cheptumo:** Mr. Temporary Deputy Speaker, Sir, before I confirm that, the first deferment of this Question was because we were not ready. The second one was because I had a problem in my constituency on security matters. Last week, I was here to answer the Question but my friend, Dr. Nuh, was not available. So, it is wrong to say that the three deferments were because we were not ready. Let me confirm that we will liaise with the Ministries and give a definite date on Tuesday next week.

*(Question deferred)*

*Question No.1430*

NON-PAYMENT OF HARDSHIP ALLOWANCE TO  
TEACHERS IN MWALA DISTRICT

**Mr. D. Muoki** asked the Minister for Education:-

(a) whether he is aware that teachers in Mwala District do not receive hardship allowance while those working at the neighbouring districts of Mbooni and Yatta, with similar climatic conditions as Mwala, receive the allowances;

(b) what criteria the Ministry uses to gazette districts as hardship areas and whether he could indicate if Mwala district meets such criteria and, if so, why the teachers from Mwala District are not paid hardship allowance; and,

(c) when they will be paid the allowances.

**The Assistant Minister for Education** (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, this Question by hon. Muoki was already handled, but I want to table the letter that we have written to the Permanent Secretary, the Ministry of State for Public Service requesting the Ministry to take action and advise my Ministry what is to be done with regard to hardship allowance for teachers in Mwala District and other places which deserve to be categorized as hardship areas. That is the furthest I have gone and there is no response yet.

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

**Mr. D. Muoki:** Mr. Temporary Deputy Speaker, Sir, I do not know whether the Assistant Minister has therefore answered the Question or he wants time to await his colleagues to update him before he answers the Question. He has only tabled a letter in which he is seeking advice from his colleagues. Has he answered the Question or do we give him time to answer it?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon Assistant Minister, did you deal with parts (a), (b) and (c) of the Question? Do you feel you have done that?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, the policy regarding the hardship allowance is in another Ministry. Some time back, the Minister of State for Public Service, hon. Otieno, handled a similar Question here, namely, on hardship allowance touching on teachers. Until his Ministry gives us a response, there is very little information that I can give to this House.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon Assistant Minister, I think you are avoiding the Question. You are going around those three parts of the Question. They are specific enough.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House? Teachers within Ndaragwa Constituency were put under the category of hardship allowance back in 2009. To date, they have not been paid. So, if it is a question of the communication being made to the Ministry, that was done by the Minister himself, hon. Otieno, in 2009. To date, they have not been paid. They even have a judgement from the court. Is he in order to mislead this House that they cannot do anything until they have been advised while they were advised in 2009 in the case of Ndaragwa and they have not done anything?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, the harmonization of hardship allowance that was done as per the date the Member is talking about, as far as I know, was put on hold because of the request of the teachers themselves through the KNUT. They wanted the original one to be maintained because the new system was leaving out so many places which were originally categorized as hardship areas. So, they wanted the original system to be maintained.

**The Temporary Deputy Speaker** (Prof. Kaloki): Prof. Olweny, could you liaise with the relevant Ministries like the Ministry of State for Public Service and the others, so that you

can prepare yourself and come and deal with this particular Question? I do not think you are dealing with this issue. You need to consult with the relevant Ministries and then you can prepare and come and deal with this Question.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, let us be fair to my Ministry. This House has always redirected Questions to other Ministries where they belong. Why can this Question not be redirected to the Ministry where it belongs?

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I can see that the Assistant Minister is getting vexed that this issue be taken to another Ministry. This is not the first time that the Ministry of Education has demonstrated inability to deal with the issues of teachers falling under it. This is just one example. The other example is the inability of the Ministry to deal with the issue of enhancing house allowance for teachers in the municipalities of Kisumu and Mombasa as it appears in the new Act. Is it in order for him to keep on telling the House that these issues that are relevant to his Ministry should be taken to another Ministry?

**The Temporary Deputy Speaker** (Prof. Kaloki): The Question is on whether hardship allowance will be paid. You can co-ordinate with the relevant Ministry. So, I direct that this Question be deferred for you to prepare yourself and come with the relevant answer by Thursday next week. That is my directive. You should come prepared next week on Thursday.

Mr. Assistant Minister, could you make that undertaking and confirm using that microphone?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, the issue of hardship allowance touches on the entire public service and not only the Ministry of Education.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Assistant Minister, co-ordinate with the relevant Ministries and bring the relevant answer to deal with parts (a), (b) and (c) of the Question on Thursday next week. That is what I want you to confirm, Mr. Assistant Minister.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, I cannot confirm that I will bring it next Thursday. You give me more time.

**The Temporary Deputy Speaker** (Prof. Kaloki): How much time do you need?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, maybe, a month.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is showing insensitivity towards the teachers. I have talked of a case that dates back to 2009 and he still asks for a month.

Is the Assistant Minister in order to just continue being insensitive to the plight of teachers across the country and especially those living in Maragua?

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, the performance of the Ministry of Education is dependent on the motivation and hard work by teachers. Where teachers feel that they are being unfairly treated courtesy of the fact that in one area of the same environment, teachers are being paid hardship and others are not, that affects the performance of the teachers. That problem is not only in that area. It cuts across the Republic of Kenya.

The Minister for Education cannot run away if he sincerely wants to tell this House that he is ready to perform to the best of his ability. I want to thank you for deferring this Question, but I want to add that the Minister should come with a comprehensive answer to ensure that he deals with all those cases once and for all, so that we do not have many other Questions coming to the Floor of the House.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. Mr. Assistant Minister, that is my directive from the Chair. Prepare to deal with that Question next week on specific items

(a), (b) and (c). Make sure you address those specifics. Hon. D. Muoki, we will defer the Question until next Thursday. Prepare yourself so that we deal with the Question.

**Mr. D. Muoki:** Much obliged, Mr. Temporary Deputy Speaker, Sir.

*(Question deferred)*

*Question No.1200*

MEASURES TO MITIGATE DRYING UP  
OF LAKE KANYABOLI

**Dr. Otichilo** asked the Minister for Environment and Mineral Resources:-

(a) what the cause of the drying up of Lake Kanyaboli in Siaya County, one of the largest ox-bow lakes in Africa is;

(b) which endemic fish species and other aquatic life are threatened by the drying up of the lake: and,

(c) what urgent measures he will take to arrest the situation and avoid extinction of endemic aquatic life in the lake?

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I have not been given a written answer.

**The Temporary Deputy Speaker** (Prof. Kaloki): All right. Minister for Environment and Mineral Resources. Is the Minister here! Well. Let us allow some time for the Minister to get here. We will try to catch up the next round.

Next Question, hon. Jackson Kiptanui

*Question No.1504*

ISSUANCE OF TITLE DEEDS TO SCHOOLS BUILT  
ON FOREST LAND

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

(a) whether he is aware that there are many schools and other public institutions in Keiyo South within forest land; and,

(b) what steps he is taking to ensure that those institutions are issued with title deeds since they were allocated the said land by the Government.

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

(a) Yes, I am aware that there are many schools and other public institutions in Keiyo South within forest land.

(b) The Ministry has no role in the issuance of title deeds to the schools. That is because the process of forest excision and degazettement is currently vested in Parliament, according to Section 28 of the Forest Act, 2005. A total of 24 public schools and local community have been advised to make their petition to the Minister for Forestry and Wildlife for presentation to Parliament, which will then approve as per the Act. That advice was given to those schools and the local community by the Minister for Forestry and Wildlife, who is sitting next to me here.

**Mr. Kiptanui:** Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister is aware that there are many schools within forest land in the constituency, and many other areas in this country, there is a new requirement by the Ministry of Forestry and Wildlife that all facilities within the forest land, including colleges, churches, hospitals, Nyayo Tea Zones, KWS, police and Provincial Administration are required to pay some annual rent ranging from Ksh10,000 per acre per year. What measures have you put in place to ensure that those schools are not forced to pay the Kshs10,000 per acre per year? That is because it is not affordable.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, no arrangements have been made for that. I do not think we have any plans to make such arrangements. That is because that land belongs to the Kenya Forestry Board. It is the board which must bring the issue to Parliament.

As regards land, all the public schools that we register belong to the communities. The first criterion to register those public schools is that they own land.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes, if the Assistant Minister is willing to get that information. Mr. Assistant Minister, would you like to be informed?

**Prof. Olweny:** Well, let him inform me.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, the Question touches on securing title deeds for schools in forest lands. If there is any issue, then the Assistant Minister should ask his colleagues in the Ministry to help him. It should be this one because it falls squarely under the Ministries of Forestry and Lands. They are the ones who can excise forest land and have title deeds issued. So, on this one, he can say specifically he can hand over. I mean this one and not the others.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, if you listened to the answer from the Assistant Minister, you may think he is talking about private schools.

Mr. Temporary Deputy Speaker, Sir, this Question is specific to public schools which fall squarely on the Republic of Kenya and the Government of Kenya. This Ministry has lost so many schools to private investors courtesy of the “do not care attitude” towards helping the children in public schools. Could the Assistant Minister, now that he is indicating that the power is vested in Parliament, consider being the father of those children, go out there, get all the information and bring this issue to Parliament for approval, so that those schools can actually enjoy the benefit of having land that belong to them?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, the law states that it is the Kenya Forestry Board that approves the request by the schools and communities. Then, the Minister for Forestry and Wildlife presents that approval to Parliament. Then we, as Members of Parliament, will grant our approval and land will be excised. After the excision and degazettement, the Ministry of Lands will issue title deeds.

**Mr. Pesa:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister, Prof. Olweny, is seated next to the Minister for Forestry and Wildlife. He should have used this time to consult. However, my concern is this: Could the Assistant Minister inform the House whether the schools we are talking about are registered by the Ministry at the moment? He just stated here earlier that they do not register schools which do not own land. If they have been registered, how did you register them?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, I think they were registered sometime back, using temporary allotment letters, but that is not done today after the change in the law.

**Dr. Kones:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Listening to the Assistant Minister, he has given an indication that the Question does not fall within his Ministry because issues to do with titles fall under the Ministry of Lands. It is for the Ministry of Forestry and Wildlife to initiate. There are also other institutions which are not schools and which are located within what were formerly gazetted forests. A clear example, which the Minister for Forestry and Wildlife knows of, is the Chepalungu District Headquarters. It has stalled because the Ministry has not given consent.

Will I be in order to seek your direction that this Question be directed to the Ministry of Forestry and Wildlife? They need to tell us what measures they have taken to issue titles to all public institutions that are within what were formerly gazetted forests.

**The Temporary Deputy Speaker** (Prof. Kaloki): Prof. Olweny, are you able to deal with this Question? Do you feel competent enough to deal with it?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, it is very obvious that I do not have the power to issue title deeds and also excise forest land. So, it could be redirected to the Ministry of Forestry and Wildlife that will help me.

**Mr. Yakub:** Mr. Speaker, Sir, I think the issue of title deeds for the schools still lies with the Ministry of Education. For the last 49 years, public schools in Mombasa, Malindi, Lamu and Kwale have not had title deeds. Could the Assistant Minister inform us whether or not he will liaise with the Minister for Lands, so that by next year, all the public schools on Government land will get title deeds?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, even in my constituency, schools do not have title deeds. However, to answer the hon. Member, the process is this: The owners of the public schools, that is, the community, apply by submitting all their papers regarding their land to the Ministry of Lands. If they need a recommendation, our District Education Officer (DEO) can provide it. Once they have the registration certificate from us, that is enough recommendation. If they use that and all other papers relating to a particular parcel of land, they can process the title deed at the Ministry of Lands. The Minister for Lands is here. The Ministry of Education does not issue title deeds. Ours is to register the schools and run them.

**The Temporary Deputy Speaker** (Prof. Kaloki): But you can do much more than that. You can also write to the Ministry of Lands in order to secure title deeds for your schools. Can you not do that?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, this is not done properly. We use documents to secure title deeds. The documents must come from the communities, that is the owners of the school. They should take the documents to the Ministry. In case the Ministry of Lands has any doubt, then the Minister for Lands can consult us. We could consult with them.

**The Temporary Deputy Speaker** (Prof. Kaloki): Prof. Olweny, I am trying to help you. Are you not able to liaise with your schools? They could bring the documents to your office and then you pass the documents to the Ministry of Lands and request that the title deeds or the allotment letters be issued.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, my Ministry directed all the schools to try as much as possible to process title deeds for their school land. They have all been told to do this. It is up to the communities who own the land. In some places, you will find that there are problems with the ownership of the land on which a school is.

**The Temporary Deputy Speaker** (Prof. Kaloki): Prof. Olweny, these schools fall under your Ministry and I think you just need to be a little bit serious in your Ministry.

**Mr. Koech:** On a point of order, Mr. Temporary Deputy Speaker. Sir, the Assistant Minister is referring to frustrations. All these schools have been writing letters and they are being frustrated. He keeps on referring to and pointing at the Minister for Lands, and also to the Minister for Forestry and Wildlife. Would I be in order to request that this House be informed by the two Ministers, so that this issue is handled once and for all? They are here and they are Kenyans.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Koech! Prof. Olweny, I want you to take your time and liaise with your colleagues on this matter. You cannot run away from this responsibility. This is your responsibility.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, I beg to say that the Chair is unfair to me.

**The Temporary Deputy Speaker** (Prof. Kaloki): It is not unfair to you!

**Prof. Olweny:** You are unfair to me, Mr. Temporary Deputy Speaker, Sir, because I am telling you that I do not have the powers to issue title deeds. Our schools apply to these other Ministries!

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Assistant Minister! I know you do not have powers, but you can liaise with the right Ministry.

**Ms. Shakila Abdalla:** Mr. Temporary Deputy Speaker, Sir, I think the issue of title deeds on public utilities like schools lies with the county council. It is the county council which should--- They know the town plans and everything. This thing should be passed in the county council. It should be taken to the county council as a Motion. It is passed in the county council and then they apply for the title deed from the Ministry of Lands – it is simple. It should come from the county council of the relevant county.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Shakila Abdalla! What is your question? Is that a point of information?

**Ms. Shakila Abdalla:** Mr. Temporary Deputy Speaker, Sir, can you direct the concerned schools to apply for the title deeds through their respective county councils?

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Shakila Abdalla. I rule that to be out of order. It is not information that we need.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You notice that hon. Prof. Ayiecho Olweny is really angry that you are imposing issues on him, which do not deserve to be imposed on him. For the last five minutes, he has been gesticulating at you very angrily. Even now, he is doing it very angrily.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Prof. Olweny, I think you know the decorum of the House if, indeed, that is what you are doing. I think you know better.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister for Forestry and Wildlife, Dr. Noah Wekesa, to sit next to Prof. Olweny and keep smiling while he knows that this is a problem that cuts across the country? He visited my constituency recently. Ndaragwa Headquarters are within the forest area and there are institutions within the forest in Ndaragwa Constituency. The Minister is aware of this fact. Is it in order for him to deny the necessary assistance to his colleague, who has been labouring to answer questions in this House?

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Prof. Olweny! On part (b) of the question, which is about what steps the Minister is taking to ensure that these institutions are issued with title deeds, you need to tell us the steps you have taken since they were allocated the said land by the Government. I direct that you liaise with the relevant Ministries to show that you

are writing to them and requesting for the same. You need to do that about that part of the question. The responsibility falls within your Ministry. That is the direction I am giving. Your Ministry needs to do something pertaining to the issuance of these particular title deeds. You need to bring that particular correspondence. I give you two weeks to deal with this particular Question from now. Could you, please, confirm the same?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, I know that you have all the powers to give those directives. But I am repeating---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order!

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, I am not going to do it!

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Assistant Minister! Order! If you are not willing to deal with the Question, I do not think then we should also allow you to be in this Chamber! So, will you, then, walk out of the Chamber?

**Prof. Olweny:** I will do that!

*(Prof. Olweny threw up his hand)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Please, do that!

*(Prof. Olweny walked out of the Chamber in protest)*

**Hon. Members:** Shame! Shame!

**The Temporary Deputy Speaker** (Prof. Kaloki): Within two weeks, the Substantive Minister should come and deal with that particular Question by hon. Kiptanui. That is what I direct and I want to rest that matter there.

*(Dr. Wekesa stood up in his place)*

Is it on the same issue, Dr. Wekesa?

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): No, I have already ruled on that issue and I do not want to go back to it.

Prof. Olweny will be out of the Chamber for the remainder of today and tomorrow. He will not be allowed to transact business in this Chamber until---

**An hon. Member:** What if he apologizes?

**The Temporary Deputy Speaker** (Prof. Kaloki): Of course, he has to give a proper apology if he is to continue doing business in this Chamber!

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

Is it on the same matter, hon. Koech? Yes, proceed.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I want to thank you for the direction, but you will note that the Assistant Minister actually did indicate that he was not going to answer the Question. Could you, kindly, guide us on who is now going to answer this very important Question?

Mr. Temporary Deputy Speaker, Sir, on the same note, you notice that as the Assistant Minister was walking out, he kept on throwing his hands up. By refusing to answer this Question--- Would I be in order to move that he be named under Standing Order No. 97?

*(Applause)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Koech, I am not going to allow the naming for the time being. I have dealt with the punishment by not allowing the Assistant Minister to transact Business here for two days. If he wants to continue transacting business here, he has to apologize to this House before we can deal with that. The Question will be dealt with by the Substantive Minister for Education in two weeks time. I have already ruled on that.

*(Question deferred)*

Yes, hon. Duale!

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, I want to ask Question No. 1604, and I wanted you to allow me to read it out because it is of national importance.

*(Mr. Duale read out the Question to the House)*

*Question No.1604*

#### IRREGULAR ALLOCATION OF KMC LAND TO PRIVATE DEVELOPERS

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

(a) whether he is aware that a huge acreage of land and properties that are owned by the Kenya Meat Commission (KMC) have been irregularly allocated to private developers across the Country

(b) whether he can provide a list of all the land parcels and properties owned by the KMC, indicating the Land Reference Numbers, their locations and status of ownership; and,

(c) what action the Ministry has taken to safeguard properties owned by KMC.

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

(a) I am aware that a number of parcels of land belonging to the KMC were allocated to private developers across the Country.

(b) The following is a list of parcels of land owned by the KMC, with a summary of particulars and status. Since the list is long, I cannot read it, but it is part of the answer which I will table.

(c) The Ministry, in liaison with the Ministry of Livestock Development and the KMC, has recommended a number of steps to be taken to remedy and safeguard the properties owned by the KMC. These include:-

(i) surrender of titles allocated to third parties;

(ii) extension or renewal of leases where the terms have expired or are about to expire;

(iii) revocation of titles that have been issued on the KMC land; In the list, I have spelled out the status and, in fact, what has been done in respect to the parcels of land that may have been allocated;

(d) in the meantime, a team from the Ministry of Lands, Ministry of Livestock Development and the KMC is developing and establishing an accurate inventory of all the land belonging to and reserved for the KMC; I may add that I have had several meetings with the Minister for Livestock Development and the management of the KMC at my offices, and we have undertaken this exercise together.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): All right. Hon. Duale, let us---

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

Order, hon. Duale! What is your point of order, Dr. Nuh?

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am a bit at a loss because the Minister's answer contradicts itself in some part. He has given us the status of all the land parcels belonging to the KMC, but in his answer to part "d," he says that "a team has been formed to establish an accurate inventory of all the land belonging to and reserved for the KMC." So, is he confirming to the House that whatever he has given us in the earlier part of the answer is not accurate, and that it should not be part of the answer? We can only prosecute the Question upon clarification on that?

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes, what is your point of order, Mr. Ethuro?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, this Question has three parts; parts "a," "b" and "c." The Minister has decided to provide us with part "d," purporting to answer some imaginary Question. Is he in order not to answer the Question as asked?

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well.

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

Let him deal with that first!

*(Mr. Mungatana remained standing in his place)*

All right! Proceed, hon. Mungatana!

**Mr. Mungatana:** Mr. Temporary Deputy Speaker, Sir, you have heard the Question; it is specifically requesting the status of ownership. I have a copy of the answer, and what he has tabled is not a status of ownership. There is a convoluted way of trying to avoid to say who owns the land as it stands now; the purpose of this Question is to name and shame the people who have stolen public land.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Minister, are you able to take, maybe, two more?

Proceed, Hon. C. Kilonzo and then---

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

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hold on, Mr. Duale! I think you will be in the second round!

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Every time the Government wants to hide, they form commissions and task forces; now, the Minister is forming a team from the Ministry of Lands and the Ministry of Livestock Development while the inventory of what the KMC owns – leave alone being with the Meat Commission itself - is also in public domain. Why would the Minister try to take us round by purporting to form a team to investigate and come up with an inventory of something which is already known by the KMC, and which is not in dispute? So, is the Minister in order?

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Just let him deal with those first!

*(Dr. Khalwale remained standing in his place)*

Order, Dr. Khalwale! We will come to you later! We want the Minister to deal with that and then we will be able to take on other issues later.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, first of all, I can tell you as a fact – and hon. Duale used to be in this Ministry up to a few months ago – that even the Kenya Meat Commission (KMC) itself does not know the entire amount of land that has been reserved for it. There were a lot of pieces of land all over the Republic that were categorized as holding grounds, which were reserved for the purposes of the KMC. They know some of them and do not know others. The Ministry also---

**Mr. Duale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister for Lands is misleading this House. I have a caveat put in the daily newspapers by none other than the KMC, telling his Ministry: “The following parcels of land belong to the KMC.” He is misleading that the KMC does not know its parcels of land in this country. Why is he misleading?

**Mr. Orengo:** But you are talking only about four.

**Mr. Duale:** Sixteen!

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, if it is 16, I can tell you---

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, I want to table this caveat. They are 16 parcels of land, totalling to millions of acres of land owned by the KMC and given to private developers who I am going to name.

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

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, this is a very serious Question. If it is a question of naming and shaming, I am prepared for that.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, I was hoping that it will come as a matter of a supplementary question, because you did not ask me to name and shame, but I was prepared. For example, in regard to land which is popularly known as Sheep and Goat Ranch, which is L.R No.10029, there is a contestation between Kajiado and Mavoko as to who holds the rights over that land and I have had delegations. But the fact of the matter is that part of this land was excised and 250 acres were given to a group known as Maasai Impex.

**Hon. Members:** Who are they?

**Mr. Orenge:** Just listen! There was another 12.35 acres given to the Kenya Girl-guide Association. There is another 24.7 acres under the name of Kolia Properties which was an association of Members of Parliament from the Coast at that time. They had pleaded with the then President to be given land. So, they formed an association and were given 24.7 acres. There is also 24.7 acres which was given to Akamba Members of Parliament.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order!

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister needs to be very specific. Which Kamba Members of Parliament and which Parliament?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, for his own satisfaction, if it was the current Members of Parliament, I would not have done that. They are of the previous Parliament and the details are there, which I can table.

**An hon. Member:** Where are the details?

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you look at part “b” of hon. Duale’s Question, it asks: “Could the Minister provide a list of all the land parcels and properties owned by KMC indicating the Land Reference Numbers, their locations and status of ownership?” When we are ambiguously told about Coast Members of Parliament, which I also happen to be, although I was not a Member of Parliament during Moi’s regime, it places a very black coat and condemnation over Members of Parliament who passed through this House. Could the hon. Minister table a list and be very explicit and to the point by giving us the status of ownership of these land parcels?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Orenge, are you able to deal with part “b” of the Question?

**Mr. Orenge:** Mr. Temporary Deputy Speaker, Sir, the Constitution talks about security of title. As far as the records are concerned, you will find that a lot of these pieces of land were surrendered by the KMC itself. I am not saying whether or not that was right. As far as the records are concerned, the land no longer belongs to the KMC, because they belong to the people who I have enumerated. But if it is the view of this House, and this is what we are exploring together with the Ministry of Livestock Development and the KMC--- We are pursuing a process where we want these pieces of land to return to the KMC. Where necessary, I have revoked some titles and where some of the people who got the pieces of land have surrendered them, we have been able to get those pieces of land back to the KMC. So, it is an ongoing exercise, but I do not want to stand here and say that the land belonging to the KMC was never given out to private developers. It was given to people who actually pretended to be private developers, but they were out just to grab these pieces of land.

Mr. Temporary Deputy Speaker, Sir, if you will allow me to continue, I think I need to make a full disclosure. This is because hon. Mungatana did require that we make that full disclosure. On L.R No.11895, known as---

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You saw and heard C. Kilonzo protest that although the list read by hon. Orengo contains Kamba Members of Parliament, he is not one of them. If part “b” of this Question is to be answered in a meaningful way in which Members of Parliament can interrogate the matter properly, then it is important that the information given is what contains the ownership of these plots, so that if the Minister is going to say that it is the Coast Members of Parliament, then he has got names of those Members of Parliament. If it is the company, then he has got names of the directors. If it is a partnership, then he has got the names of the partners. That way, we will be able to interrogate this issue meaningfully, otherwise, we are going to just flash over it and go away without getting to the bottom of this issue. So, I kindly suggest that under these circumstances, the Minister should go back again and come with a complete list showing the identities of the persons.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Minister, are you able to deal with part “b” of the Question?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, let us come to an understanding. I was answering this Question on the basis that there is land which belongs to the KMC or the Ministry of Livestock Development and I have given a list of those parcels of land and the status of those particular portions. But there is land which previously belonged to the KMC, which is not part of this list and, probably, is subject of the caveat the hon. Duale is talking about. This is because if there was land which belonged to the KMC and they either sold it rightly or wrongly, or surrendered it rightly or wrongly or were made to allocate this land to private developers--- If those are the pieces of land that hon. Duale is talking about, then I am prepared to bring a full list of land which belonged to the KMC, but now belongs to individuals and then, we can name those particular individuals. This is because I cannot stand here and say that a particular piece of land--- For example, some of that land was given to the National Social Security Fund (NSSF). So, I cannot stand here and say that, that land belongs to the KMC. But if the answer that you require is for me to give a list of all the pieces of land that belonged to the KMC and were given to other developers, including public institutions, then I can do that. That is something which hon. Duale should have made clear in the beginning. I am prepared to do that even tomorrow.

**The Temporary Deputy Speaker** (Prof. Kaloki): What is your point of order, Mr. Duale?

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, my good friend, the Minister for Lands, in the last four years has been known for cancelling title deeds for public land. He has that legacy for now. We do not understand why he is applying the law very selectively. I want to tell him that Land Registration No.337/186 measuring 25.1 acres in Mavoko, as we sit now, is an estate. He must tell the nation who the owners are and why he is doing that. The information is here. There is Kamukunji Estate which has taken 10.53 acres of the Kenya Meat Commission (KMC) land. The title was issued by his officers. Go to Nanyuki, Nakuru and Mombasa--- Why are the KMC land title deeds, just like many other public properties that were grabbed as late as the days of the Moi era, not being cancelled?

Part “b” of the Question is very categorical. We are asking the Minister to give us the land reference number. We are also asking him to give us the location of the land. Finally, I asked for the status of ownership. What is the status of ownership? The Minister must name and shame the Coast Members of Parliament who grabbed land that belonged to the KMC. He must

also name and shame the Kamba Members of Parliament and many other Kenyans who grabbed this land. The nation needs answers.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well hon. Duale. Mr. Minister, do you have the information to deal with part “b” of the Question? Can you deal with it today or do you want additional time to prepare and come with an answer to this House?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, just for purposes of record, I just want to point out to Mr. Duale that he will find from the KMC that where they have brought to my notice any specific piece of land that belonged to them and was allocated to private developers, I have revoked some of the titles and he can even see from this matrix. For example, there was a property which, through an order of the court, was vested to Safeway Limited. If the hon. Member comes to our offices and consults with the Ministry of Livestock Development together with the KMC, they will tell him that every time they have asked me and brought to my attention any piece of their land that they feel was fraudulently or irregularly allocated to private developers, I have been able to deal with those pieces of land. However, with respect to the pieces of land which the hon. Member has talked about which are now registered in the names of other persons but which originally belonged to the KMC, I am prepared to bring that list to this House. I will bring a full list together with the status. As to whether or not those titles can be cancelled, that is another matter. However, I am prepared to bring that and if I am given a week, I can bring the full list of the records.

**The Temporary Deputy Speaker** (Prof. Kaloki): So, are you requesting the Chair to allow you an additional one week to do that? So, when will that be done next week?

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I may not be there next week. Let me say that I can do it within two weeks.

**The Temporary Deputy Speaker** (Prof. Kaloki): Within two weeks, bring a comprehensive answer to deal with land ownership at the KMC.

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, it must be made clear that in dealing with part “b” of the Question, that this is not necessarily land that is owned but would include land that was previously owned or reserved for the KMC otherwise---

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Duale!

**Mr. Orengo:** Mr. Temporary Deputy Speaker, Sir, I am trying to be of assistance because if he is talking about what they own, I can stick to land that has title deeds. However, if the hon. Member is talking about land that they may have, had owned before or was reserved for them before because ownership is not just on the basis of titles, then I can bring a full and a comprehensive list with names, if he so wishes, before the House.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. I want that matter to rest there. Mr. Duale, you presented a document which you wanted us to add but it is not admissible because it has no date and it is not signed by the author.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, this is a public document. It has a date. However, I will bring to this House a copy that has been signed by the Chairman of the KMC.

**The Temporary Deputy Speaker** (Prof. Kaloki): Very well. We will accept it. Let the matter rest there.

Yes, hon. David Koeh!

*Question No.1476*

NON-PAYMENT OF SHARE CONTRIBUTION/BENEFITS  
TO FORMER TELKOM KENYA EMPLOYEES

**Mr. Koech** asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that Messrs. Abraham Korir (PF No.72410), Christopher Chepkwony (PF No.45261), Mark Ngeny (PF No. 88606) and Jacob Mutuka (PF No.46444), former employees of Telkom Kenya who were retrenched in 2008, were members of Mwasiliano Co-operative Society Ltd;

(b) whether he is also aware that the former employees have not been paid their share contributions and other benefits; and,

(c) what measures he will take to ensure that they are paid and when they will be paid.

**The Temporary Deputy Speaker** (Prof. Kaloki): Where is the Minister for Cooperative Development and Marketing? The Minister is not here. We will wait and see whether he will be here during the second round.

*Question No.1491*

AFFORESTATION OF MUA HILLS

**Dr. Munyaka** asked the Minister for Forestry and Wildlife whether the Ministry could consider launching afforestation programme of the Mua Hills in Machakos County which are rapidly losing vegetative cover due to human settlement.

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I beg to reply

My Ministry is currently supporting afforestation and other environmental related efforts aimed at reversing loss of vegetative cover in Mua Hills. The Kenya Forests Service with the support of the Community Development Trust Fund (CDTF) jointly funded by the Kenya Government and the European Union have been implementing the IVEMUA Project that covers the Iveti and Mua Hills. The total funding of the projects amounts to Kshs22 million.

In addition, the following complementary activities geared towards reversing environmental degradation and increase of tree cover have so far been implemented within the Mua Hills.

(i) Twenty six community tree nurseries have been established in Mukuyuni, Kathiani, Makau Nursery Catchment Group, Bidii Youth Group, Miwano Kyasila and Kyaani in 2008.

(ii) Twelve shallow wells have been sunk in Ndovoini, Kyanzau, Kwakitetu and Kwa-Rhoda within Mua Hills. The prospecting was done in 2008 and the actual work was done a year later.

(iii) Over 40 schools and church compounds have been planted with trees including Kyonda Primary School, Ngomeni Primary School, Mua Girls, Kyasila Primary School, Kyaawa Primary School, Kyemchau and Kyanda Catholic Church.

The planting in these schools was undertaken in November 2008, April 2009, November 2009 and April 2010.

(iv) Over 1,000 farmers were trained on tree nursery management, bee keeping, soil conservation and other environmental related training. The training was undertaken in the years 2008, 2009 and 2010.

(v) Farmers were provided with dairy goods and poultry between those years to improve their livelihood and consequently reduce over-dependence on the Mua Hills trees and,

(vi) Six weirs have been constructed in Mongoni, Nduini in the years 2009 and 2010.

**Dr. Munyaka:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for that answer but I wish to inform him that Mua Hills are actually the major water catchment hills supplying water to Maruba Dam and due to the deforestation in those hills a lot of silt has been taken to Maruba Dam such that even after the rehabilitation of Maruba Dam, there is a threat of it getting fully silted within another five years.

Could his Ministry organize one week of afforestation programme in Mua Hills just before the rains start so that we can restore the forest which was there around ten years ago?

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, my colleague has been working very well with me. I have visited the lower parts of his constituency. Actually before we do what he is suggesting, I think since his constituency is very close to Nairobi, I would like him to invite me and we actually go and look at the area before I put my staff on the job. I am actually interested to see the degradation that has been caused by the heavy rains that we recently got.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, the Minister is answering a Question that clearly needs more measures. If this rapid loss of vegetation is creating the kind of problems that the Member of Parliament has raised and it is due to human settlement, then is it not time again he bit the bullet and stopped encroachment on areas that are of vegetative cover that helps in stabilizing the environment? He should deal with the human settlement and encroachment which is the real issue here.

**Dr. Wekesa:** Mr. Temporary Deputy Speaker, Sir, in fact, the hon. Member of Parliament is quite right. This is why I actually want to go to see so that we can deal with it because it sounds like it is a serious problem and I would like to give it the seriousness that it deserves.

**Dr. Munyaka:** Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for offering to visit the hills to see for himself and I want to invite him at the earliest possible time. Otherwise, could he assure the residents of Mua Hills community whether he can be able to supply them with seedlings so that they can be able to do afforestation on their own?

**Dr. Wekesa:** Yes, Mr. Temporary Deputy Speaker, Sir. We have got seedlings and, in fact, when we will go to the field, I will be able to know how much we can actually give the community in the area.

**The Temporary Deputy Speaker** (Prof. Kaloki): Next Question by hon. Olago.

*Question No.1480*

THREATS OF EVICTION OF TRADERS BY KISUMU CITY COUNCIL

**Mr. Olago** asked the Minister for Local Government:-

(a) whether he is aware that eateries along Bank Street in the City of Kisumu were constructed after contracts were signed between the traders and Kenya Railways as per the proprietors of the plots, with the approval of plans by the Council;

(b) whether he is also aware that the City Council of Kisumu has threatened the traders with eviction without a resolution of the Council or regard to Kenya Railways as the proprietors or the approval of the Council, thereby jeopardizing the investments of the traders; and,

(c) whether he could confirm that the threats are motivated by a desire of senior persons at the Council to acquire these plots for their own benefits.

**The Assistant Minister for Local Government** (Mr. Nguyai): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that eateries along Bank Street in the City of Kisumu were constructed after contracts were signed between traders and Kenya Railways. I wish to mention that the land belongs to Kenya Railways Corporation. However, the City Council of Kisumu (CCK) did not approve any plans for temporary structures on the mentioned areas. The CCK is mandated by the Physical Planning Act Cap.286, Part 5, Section 29 which accords the powers as follows:

(i) To prohibit or control the use and development of land and buildings in the interest of proper and orderly development of its areas.

(ii) Gives the Council enforcement authority as stated in Section 38(1) of the Act which states as follows:-

“When it comes to the notice of the local authority that the development of land has been or is being carried out after the commencement of this Act without the required development permission having been obtained or that any of the conditions of the development permission granted under this Act has not been complied with, the local authority may serve an enforcement notice on the owner occupier or developer of the land.”

(b) The CCK at its planning committee meeting held on 13<sup>th</sup> February 2012 and ratified at the meeting held on 27<sup>th</sup> February 2012, approved the demolition of illegal development structures.

(c) I wish to state that no Council officer or official has any motive or intention to gain from the Kenya Railways plots. The said land is registered in the name of Kenya Railways and no transfer can be effected unless authorized by the Minister for Transport and approved by the Cabinet.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, I want to demonstrate to the House that this answer is an afterthought by the Assistant Minister because in the answer he says that the CCK passed a resolution on 13<sup>th</sup> February 2012 to demolish these structures. I want to table a copy of my Question that I filed on the 6<sup>th</sup> of February 2012 which in effect means that CCK decision came one week after I filed the Question.

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

Mr. Temporary Deputy Speaker, Sir, secondly,, the Assistant Minister says that he is not aware that these kiosks and eating houses were constructed after approval of the contracts by Kenya Railways. I have had the courtesy to give to him a copy of the following documents that I want to table. One, a letter from the regional co-ordinator of Kenya Railways dated 22<sup>nd</sup> June, 2010 advising the Town Clerk of the names of the traders that they had approved and advising that each one of them would pay Kshs21, 000 which they paid. Also a plan that was issued by each one of the traders to the CCK for approval and thirdly a sample of receipt issued by the CCK for inspection of those plans and their approval and also an invoice from the CCK for the same amount. Also, the council is charging the same amount and lastly, there is a letter dated

25<sup>th</sup> October, 2011 to one of the traders, which is similar to all the others. Under those circumstances, and considering that those kiosks employ about 1,200 people who provide food at very low rates to workers in Kisumu Town, could the Assistant Minister kindly inform the House what steps the municipality is taking to ensure that they honour their obligations under the contract?

*(Mr. Olago laid the documents on the Table)*

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, first, this was not an afterthought. On 31<sup>st</sup> October, 2011, which was prior to the hon. Member for Kisumu Town West asking this Question, there was a notice to all kiosks and hotel owners from the Municipal Council of Kisumu. The municipal council gave a seven-day notice to demolish the structures. However, as you are aware, there are procedural processes and, obviously, the council meeting, as the hon. Member has rightly stated, was after the Question had been tabled. I do not necessarily believe the sequence because, already, the process had been initiated with the notice. Therefore, the process was not as a result of the Question.

Secondly, for any building to be inspected, you have to pay a fee. So, by paying a fee, it does not necessarily mean that it will be approved or rejected. As such, even if you went ahead and put up an illegal structure somewhere and you went and paid a fee, it does not necessarily mean that there is a contractual obligation by the council to honour it.

**Mr. Pesa:** Mr. Temporary Deputy Speaker, Sir, we are talking about the lives of almost 2,000 people who will lose their jobs. When the council decided to demolish the structures, did they think of any other alternative arrangement to ensure that those people continue with their livelihoods?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, as you are aware, those structures were constructed on the land belonging to the Railways. It was a contract that the Railways did without the consultation of the council. The creator of the problem was the Railways and, therefore, they should seek alternative land. You know they have huge chunks of land.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister knows that this is not the only issue that surrounds areas that have been developed with approval from the council which then later rejects its approval and leaves the residents to fend for themselves. What is happening in Kisumu is also happening here in Nairobi at the Kenyatta Market, where people were given permission to build. So, they took loans but now, the Council is saying that it is not its responsibility. The Ministry is one among the two that has executive authority. The Ministry has executive authority over the council. So, I am wondering how you can take away responsibility from the council and from the Ministry for livelihoods of people who are paying loans. All those people who are selling food are business people and they have taken loans. Those loans were approved by banks meaning that there was due process followed. So, there is no way that this Assistant Minister can say that those people should seek redress somewhere else, when this is an executive Ministry that oversees councils. They must take responsibility. Could he be clear as to where the redress should be and not to leave it to the goodwill of other institutions?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, the councils across the country normally issue what we call temporary occupation licenses which have an expiry period. Once the period expires, it is not necessarily the contractual obligation of the council to renew them. I

would like to request the concerned business owners to look at the terms of the temporary occupation licenses and work within that timeframe.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): I want to give you the last chance to ask the last question.

**Mr. Olago:** My point of order is on the issue of temporary occupation licenses (TOLs). The question that I have asked is on the land that belongs to Kenya Railways. TOLs can be issued by councils on land that belongs to the council and not that which belongs to anybody else. In this case, the council cannot be said to have issued TOLs to the traders. So, is it in order for the Assistant Minister to talk about TOLs in respect of land that does not belong to the council?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, here we are talking about illegal structures that have not been approved for construction. Even in all private developments - and I was very clear in my answer - we have been provided by Cap.286 the power to approve. Those structures were not approved and, as such, they are illegal.

**The Temporary Deputy Speaker:** Mr. Olago, your final question.

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, demolitions of structures has been a problem, particularly in Nairobi, and it is now spreading to other towns. I do recall that there was a Cabinet decision that all illegal demolitions should be stopped pending further consultations. Why is it that the Council of Kisumu is being authorized to demolish when demolitions were stopped?

**Mr. Nguyai:** Mr. Temporary Deputy Speaker, Sir, all due process has been followed and, as such, the process was within the law. We will then have to carry out those demolitions.

*Question No.1200*

MEASURES TO MITIGATE DRYING UP  
OF LAKE KANYABOLI

**Dr. Otichilo** asked the Minister for Environment and Mineral Resources:-

(a) whether he could inform the House the cause of the drying up of Lake Kanyaboli in Siaya County, one of the largest ox-bow lakes in Africa;

(b) whether he could also inform the House the endemic fish species and other aquatic life that are threatened by the drying up of the lake; and,

(c) what urgent measures he is taking to arrest the situation and avoid extinction of endemic aquatic life in the lake.

**Dr. Otichilo:** I am asking this Question for the second time and I have received a written answer from the Minister right now.

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

**The Temporary Deputy Speaker:** Mr. Minister, I think you should apologize for coming late.

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, first and foremost, allow me to register my apologies for what has already happened.

Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Human activities leading to degradation of water catchment for Lake Kanyaboli in Siaya County contribute to the decline in the lake's water volume. The silt comes from the hills surrounding the lake and also from the streams that drain into the lake such as Kapudo. There is also silt that gets into the lake originating from farmlands on the slopes of Akana Hills and other raised areas. This is an indication of high rates of soil erosion. Although the lake is experiencing heavy siltation, the level of water is still reasonably high.

(b) Endemic fish species that are endangered by over-exploitation are *Haplochromis Macslaris* and *Xystichromis Phytophagus*. Those are Latin name because all I got from the local people is that they just call it fish. They just say "samaki". So, I thought to make it clearer, I should come up with biological Latin names of the endemic fish.

**Mr. Olago:** On a point of order, Mr. Temporary Deputy Speaker, Sir. *Haplochromis Macslaris* and *Xystichromis Phytophagus* are names of local fish. There must be local names for those fish; either, *fwani*, *mbuta*, *kamongo*, *seu* or *omena*. So, which is which?

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I do not come from the lake area; nor do I speak the local language. So, I thought the best approach would be to give a universally recognised name to each of the species, and not the local names since Members of Parliament seated here are not necessarily speakers of the native language in that area.

**Mr. Shakeel:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that the scientific names he has given are local names? They are not Luo names for the fish. They are purely scientific names and the Minister should be aware of them.

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I thought for the benefit of Parliament and everybody else, the biological names recognised internationally should be the ones that should be used in our answers here.

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Minister.

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I thank you.

The majority of the fishermen use gill nets of between one-inch and two-inch mesh sizes, thereby resulting in a rapid decline in the size of fish that is landed. The ongoing reclamation and conversion of Yala Swamp pose several socio-economic and environmental challenges. The environmental effects of swamp conversion are wetland degradation, changes in water quality and biodiversity loss.

(c) The rehabilitation of Lake Kanyaboli requires an inter-Ministerial approach involving the Ministry of Forestry and Wildlife, the Ministry of Fisheries Development, the Ministry of Agriculture, the Ministry of Water and Irrigation, the Ministry of Livestock Development and, of course, the Ministry of Environment and Mineral Resources. Therefore, there is an urgent need to prepare and implement an integrated national resource management for the lake and the surrounding area, so that all the activities undertaken can be in harmony with the lake's ecosystem.

The Ministry of Environment and Mineral Resources is preparing a policy on environment and will soon gazette the Wetland Policy that will further arrest the situation and avoid extinction of the aquatic life forms supported by this important lake.

Thank you.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, first, I want to thank the Minister for the good answer he has given. However, I want him to confirm or deny that M/s Dominion

Farms Limited, which is undertaking rice farming in the area, has blocked the flow of water from River Yala into a canal that drains into Yala Swamp and Lake Kanyaboli and, therefore, causing the lake to dry up.

**Mr. Mwakwere:** Mr. Temporary Deputy Speaker, Sir, I confirm that activities carried out by the company contribute to the degradation of the ecosystem in the lake.

**Mr. Koeh:** Mr. Temporary Deputy Speaker, Sir, the Minister has confirmed that human activities are the major causes of siltation, and I want to thank him for the answer. This problem is not confined to this area. Even upstream, the same is happening. The reason behind this is that people cultivate next to the water because they do not have piped water at their doorsteps. People go closer to the water source and cultivate, so that they can get enough water.

In Sessional Paper No.10, the Government of Kenya committed itself to providing piped water to every Kenyan citizen. What is the Ministry doing, in terms of co-ordinating with the rest of the relevant Ministries and the Government generally, to ensure that farmers get piped water, especially those living upstream, so that they do not need to go downstream to get water, so that we can conserve the environment for the future of this nation?

**Mr. Mwakwere:** Mr. Temporary Deputy Speaker, Sir, as I said earlier, this requires an inter-Ministerial approach. I mentioned that amongst the Ministries that will be involved in solving the Lake Kanyaboli problem is the Ministry of Water and Irrigation. So, we are working on this matter.

**Mr. Washiali:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for the answer. My supplementary question is closer to the one asked by hon. Koech. The Minister has isolated the problem of *wananchi* farming next to the streams. As he is aware, streams are supposed to be protected, so that they can have riparian areas. What is the Ministry doing to ensure that farmers do not farm very close to water bodies, including streams?

**Mr. Mwakwere:** Mr. Temporary Deputy Speaker, Sir, that is a universal problem in the context of this country. In many rural areas, people farm very close to streams, rivers and water catchment areas. We have recognised the problem. As I said earlier, we are working on an inter-Ministerial approach towards the achievement of a permanent solution not only for the catchment area of Lake Kanyaboli but for all other areas in the country where people are farming very close to rivers and water catchment areas.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Otichilo, ask your final supplementary question.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I would like the Minister to clarify when the Ministry will come up with a wetland policy. For the last two years, the Ministry has been telling this House that they will come up with a wetland policy that will ensure that all the swamps in the entire country are conserved because they are very important in terms of water catchment areas and biodiversity conservation.

**Mr. Mwakwere:** Mr. Temporary Deputy Speaker, Sir, we are already working on that policy. I am sure that it will be ready by the end of August. It will be presented to the House for debate.

**The Temporary Deputy Speaker** (Prof. Kaloki): Next Question, hon. David Koech.

*Question No.1476*

PAYMENT OF SHARE CONTRIBUTION/BENEFITS  
TO FORMER TELKOM KENYA EMPLOYEES

**Mr. Koech** asked the Minister for Co-operatives Development and Marketing:-

(a) whether he is aware that Messrs. Abraham Korir (PF No. 72410), Christopher Chepkwony (PF No. 45261), Mark Ngeny (PF No.88606) and Jacob Mutuka (PF No. 46444), former employees of Telkom Kenya who were retrenched in 2008, were members of Mawasiliano Co-operative Society Ltd;

(b) whether he is also aware that the former employees have not been paid their share contributions and other benefits; and,

(c) what measures he will take to ensure that they are paid, and when they will be paid.

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I beg to ask for forgiveness for arriving late from my constituency.

Mr. Temporary Deputy Speaker, Sir, we received this Question yesterday. When we looked at part (b), we came to the conclusion that you give us time until Wednesday, next week, so that we can come up with a comprehensive list of all the former employees who have not been paid their dues since they were retrenched.

In this House, we also get supplementary questions from hon. Members. I would also have liked to know about one of my constituents, who is also a victim of the same situation. So, in the two days, we were not able to get a comprehensive list of all the employees.

Therefore, I beg to be given time until Wednesday, next week, at this time.

**The Temporary Deputy Speaker** (Prof. Kaloki): I think that is a fair request. Hon. Koech, what is your take on the request?

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, I have no problem with the request but I want the Assistant Minister to be aware that those three people are really suffering. They have been coming to me every now and then for help. I hope that by the time she comes to answer the Question, she will tell us that they have been paid. I will really appreciate that.

So, I am ready to interrogate the Question next Wednesday.

**The Temporary Deputy Speaker** (Prof. Kaloki): The reason you are requesting for additional time, is it because of when the Question was brought to you? For the record, I just want to understand what the problem is for you not to compile the answer and bring it here.

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, as I had mentioned, I am from the constituency. I called the office and they told me that they received this Question yesterday. Part “b” of this Question requires a comprehensive answer. It will not just be about Abraham Korir and Mark Ngeny. It will also be about a Benjamin Cheptoros from my constituency and many other employees of Telkom who have not been paid their dues. That is why I am asking for more time.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Assistant Minister, will you be ready to bring the answer by Tuesday, next week so that we can defer the Question to that time? Will that be adequate time for you?

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): I was requesting for Wednesday morning.

**The Temporary Deputy Speaker** (Prof. Kaloki): All right. The Chair then defers that Question to Wednesday, next week.

*(Question deferred)*

That brings us to the end of Question Time.  
Next Order!

## **POINTS OF ORDER**

### **STATUS OF MATHARE YOUTH SPORTS ASSOCIATION**

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I would just like to know the fate of my Ministerial Statement that I requested from the Ministry of Youth Affairs and Sports on the issue of the Mathare Youth Sports Association. I requested for this Statement last week and it should have been made last week. I am still waiting for the Statement which I have not received.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mrs. Shebesh, could you repeat that again? I am sorry I have been obstructed by hon. Members.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I am asking for the status of my Ministerial Statement I requested from the Ministry of Youth Affairs and Sports last week. It was supposed to be delivered last week but it was not. I have waited today and I do not see the Minister. I would just like to know when the Minister has committed to give me that Ministerial Statement.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mrs. Shebesh, when was that Ministerial Statement supposed to be brought to this House?

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, it was supposed to be brought to this House on Thursday, last week.

**The Temporary Deputy Speaker** (Prof. Kaloki): Clerks-at-the-table, we need to make sure that we communicate with the Minister and give them the last chance or opportunity to come and deliver the Ministerial Statement so that hon. Shebesh can get answers. We need to fix this for tomorrow at 2.30 p.m. during Question Time. That will enable us to get the right answer. That Ministerial Statement should be made tomorrow in the afternoon.

### **CLOSURE OF JKIA RUNWAY**

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I would like to request for a Ministerial Statement from the Minister for Transport with respect to the runway that has been blocked at Jomo Kenyatta International Airport (JKIA) since morning.

In the Statement he should tell us the circumstances under which the runway has been blocked. He should also inform us whether there is only one runway at the JKIA. He should also cover the issue of lighting of the runway not only at the JKIA but also at the Kisumu International Airport and Mombasa International Airport because we have been having problems with emergency lighting not kicking off when power is not available.

I seek your kind indulgence to ask the Minister for Transport to bring this answer to us as soon as possible because of the urgency of the issue. At the moment the airport is totally closed.

**The Temporary Deputy Speaker** (Prof. Kaloki): Is there any Minister to give an undertaking when the Minister for Transport could come and deal with that Ministerial Statement?

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, we will give the Statement next week on Thursday.

**Mr. Koech:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you got the hon. Member clearly, he said the airport is completely closed. We cannot wait for the airport to be closed for one week. This is a very simple Statement. The Minister should come to this House this afternoon and even give just an assurance to Kenyans so that they can know the fate of this matter.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Minister, can we do it sooner?

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): We will communicate to the Minister concerned, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Can they issue the Statement pertaining to that closure this afternoon or tomorrow?

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): In consultation with your office, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): What is the possible time? For the record, we need to understand when the Minister is likely to come.

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I was trying to be cautious here because I am not sure whether the Minister is in the country or not. I am also not sure whether the Assistant Minister is in Nairobi or not. He could be in the country but not necessarily in Nairobi.

**Mr. Namwamba:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This matter is a matter of public notoriety. Everybody knows what is going on. There is something in the Government called “collective responsibility”. Whether this Minister is out of the country or not, the Government does not stop functioning because a Government functionary is on a foreign trip. This is a serious matter and an emergency. This is a matter that the whole country is waiting to hear about. It is a matter touching on aviation, for goodness sake. This is a matter that the Government should be able to come to this House this afternoon and say something about without any further prevarication. This is irresponsibility and recklessness.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Minister, what is the soonest time possible when this can be done?

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, yes, the airport is closed. It does not mean that the Government or the institution concerned is not working on the problem that is causing the closure. This is ongoing and they are working 24 hours a day. I will pass this information to the Minister and I know the Ministry is not just sitting back to watch Kisumu International Airport closed and nothing is being done. They are working on it. I share the concern and everybody shares the concern of the hon. Members but I would like to assure you that a Statement will be made by the Minister as soon as possible. The reason for this is that work is ongoing. It is just a matter of giving information to the House. That is why I was suggesting Thursday, next week and by that time, I am sure the airport will be operational. However, I still remain a little bit cautious on giving the time. But I can give confirmation in the afternoon after immediate consultation if that is okay with you.

**The Temporary Deputy Speaker** (Prof. Kaloki): I think that is fair enough. Let us allow the Minister to consult the relevant Ministry. Mr. Shakeel can also liaise with the Minister who will pass the information to the Clerk when the Ministerial Statement will be issued in the House.

**Mr. Chanzu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The reason why the hon. Members here are insisting it should have been earlier than that is that we also have in mind that the Minister here has been a Minister in that Ministry. He just left that Ministry recently. So, he should be able to assist us to get this information. That is to add on to the issue of collective responsibility.

**The Temporary Deputy Speaker** (Prof. Kaloki): With that Mr. Minister, I think you can even share some highlights if you get permission from the relevant Ministry this afternoon because they are your colleagues. Or, somebody can come and give the status of what is happening with the airport closure. Could you try and seek that information and then you come to the House?

**The Minister for Environment and Mineral Resources** (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I will do just that.

**Mr. Temporary Deputy Speaker** (Prof. Kaloki): That is fair enough, Mr. Shakeel. He has taken the matter for this afternoon. He should be able to consult and if the Minister is out of the country he should come and---

**An hon. Member:** This afternoon?

**The Temporary Deputy Speaker** (Prof. Kaloki): This afternoon. That is what he is saying.

Next Order!

## MOTION

### PAYMENT OF DUES TO RETIRED TEACHERS

THAT, noting that the Government has not paid teachers who retired between 1997 and 2003 their dues in revised pension funds amounting to Kshs17.6 billion; aware that the Minister for Finance on 22<sup>nd</sup> February 2012 informed the House that the money had not been paid due to a query by the Controller of Budget, which required the guidance and opinion of the Attorney-General; further aware that Kshs3.34 billion has been factored in the 2011/2012 Budget and risks being returned to the Treasury at the end of the Financial Year; noting that the Minister stated that the payment of these funds will be affected as soon as the Attorney General renders an opinion; mindful that the delay has caused the parties untold pain and suffering, this House urges the Government to pay retired teachers their dues without further delay.

*(Mr. Pesa on 30.5.2012)*

*(Resumption of Debate interrupted on 30.5.2012)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Pesa had already moved the Motion.

Mr. Chanzu, please, proceed.

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion and I want to congratulate Mr. John Pesa for bringing it.

This Motion arises out of payments which were due to teachers who retired between 1997 and 2003, which is a long time ago. Considering that these teachers, apart from the money they

are demanding in retirement benefits, ordinarily are not paid adequately - some or a majority of them when they retire peg a lot of hope on their retirement benefits - it would have been important for the Government to have incorporated this Kshs17.6 billion into its Budgets from 2003 when the NARC Government took over power. I think by now they would have cleared this.

Mr. Temporary Deputy Speaker, Sir, it is sad that the Government does not take seriously matters to do with teachers' pay. I remember in the year 2001/2002 the Government promised to increase salaries. There was an agreement that was entered into for the Government to pay enhanced salaries to teachers but that was not done. The failure to pay resulted in many strikes. When you find the Government is not willing to pay dues to retired teachers, as in this case, sometimes there is a lot of suspicion that it is not really lack of money; it is because of Government's reluctance to attend to matters to do with teachers.

The Motion says that there was an issue that was raised and that the Minister for Finance on 22<sup>nd</sup> of February 2012 informed the House that the money had not been paid due to a query by the Controller of Budget. From 22<sup>nd</sup> February up to now--- We are now in June ; I do not know how long it takes for the office of the Attorney-General to give an opinion on a single matter, considering that there are many issues he is supposed to be dealing with. One single issue has taken too long. It is high time this opinion was given quickly, as money has been factored into the Budget, Kshs3.34 billion, which should be paid to the teachers. We are getting to the close of the financial year. This is now June and at the end of this month this financial year will be closing. Therefore, it is important that one, we pass this Motion and two, steps are taken to fast track the implementation of the resolution that we are going to pass. I am sure that the Members will be passing the Motion and then the implementation of the resolution should be done fast, so that the money does not go back to the Treasury at the end of the financial year.

Mr. Temporary Deputy Speaker, Sir, education is very important in a developing country like this. We talk about Vision 2030. If we cannot encourage the teaching fraternity through this kind of payment, then we are de-motivating them meaning that we cannot achieve what we are supposed to achieve under Vision 2030.

The reluctance of the Government to attend to matters to do with education has also been seen just in the last few weeks, where the Government is not releasing money for free primary education and free secondary education, yet it is a commitment that the Government gave. It should not just wait for people to go to the streets, teachers to go on strike, and Members of Parliament to come here and raise issues for it to act. It is a core responsibility of the Government to take care of education in the country, if we really mind about the welfare of our children, the future of this country and we want to achieve what we promise, particularly during campaign period. In our manifestos and during campaigns we make promises, we are elected but when we come to performance we do not perform. This is where the Government has really failed. I think it is very important. At the time when the teachers started claiming Kshs17.6 billion the Budget of the country was hardly Kshs200 billion. However, today we are talking of a Budget of over Kshs1.4 trillion. I think it is Kshs1.4 trillion this year. So, in terms of proportion the money that the teachers are demanding is not a lot.

Mr. Temporary Deputy Speaker, Sir, I am also suggesting that when the Government pays this money they should pay it with interest, which has accrued on the money for all this time. I am happy that the Assistant Minister for Education is here. In fact, even before this Motion is passed, you should be discussing with the Treasury to keep this money aside, so that once we pass this Motion the money is released, just as you were saying the money for the free

primary education and free secondary education is going to be released today. I hope it will be released today, or were you saying it because these issues are before the House?

Otherwise, this is a good Motion and I think the Government should act on it. We have many people in this country who have worked for the Government, including civil servants. We keep bringing Questions here on a piece meal basis. I think the Government should take seriously these matters and be able to pay and clean up. Pay those who are owed monies by the Government as retirement benefits, so that as we forge ahead; we should not have these complaints arising from time to time.

With those few remarks, I beg to support.

**Mr. Koech:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this very important Motion. Allow me first to sincerely thank my colleague hon. Member for Migori, Mr. John Pesa, for bringing this Motion. This Motion is urging the Government to pay retired teachers. These are Kenyans who have served this Government diligently. I want to repeat, diligently. This is because it is very rare to find an individual serving for up to 31 or 35 years. Therefore, we are talking of people who started working a long time ago. We are talking of people who have made the country what it is today. Who is who in Kenya today must have gone through teachers. Apart from the very elderly in this House, the majority of us went through the hands of these teachers.

Whatever we are enjoying today, whether you are the Head of State, the Prime Minister, Minister, Member of Parliament, Controller of Budget or the Attorney-General, all of you are in your positions courtesy of these teachers.

Mr. Temporary Deputy Speaker, Sir, many professionals who are moving this country forward went through these teachers either directly or indirectly. It is unfortunate then to see the Government setting aside only Kshs3.34 billion to be given to these people.

Mr. Temporary Deputy Speaker, Sir, that money is already allocated; it is there in the Treasury and what are we being told? For the last one year because we are hardly three weeks to the end of the financial year, that the Controller of Budget is awaiting the opinion of the Attorney-General of the Republic of Kenya. The Attorney-General is a Kenyan and he went through school in Kenya. The Controller of Budget went through school in Kenya. All of us in this House went through school in our country and, therefore, I want to urge my colleagues that all of us unanimously pass this Motion and we expect the Government to act immediately and release this money before the end of this financial year which is hardly three weeks to the end.

We must, as we release this money, make sure that the teaching profession is made attractive and protected as such for the benefit of this country. If you want to fight poverty in this nation and move this country forward, we must ensure that the teacher is motivated. We must make sure that the teaching profession is made more attractive. This is what South Koreans have done so that today they are what they are because they have made this profession one of the best. We must ensure that we do not allow teachers to carry out demonstrations. For those of us who have the background of teaching, there is what we call hidden curriculum that our children learn from observation and seeing. The more the teachers demonstrate, the more the students learn the negative part of what we do not expect them to learn and, therefore, you will be seeing many more demonstrations in future because children think that if a teacher has demonstrated, then who are they not to do so? So, we should be in a country where we provide what is needed and necessary on time to avert this kind of crisis.

Looking at the money that was awarded to the teachers, they were awarded Kshs17.6 billion. In the last financial year, the Ministry of Finance has allocated them Kshs3.34 billion and

we are saying that this money should be released immediately. In the Printed Estimates that we are going through today, the said Ministry again has provided another Kshs3.3 billion meaning that if the Ministry of Finance continues providing in bits, it will take another five to six years for these teachers to enjoy the full privilege of this one. So, the gratuity, the lump sum that they are supposed to get is being delayed and so is the pension and monthly payment. Most of these teachers, for the information of the House, are getting Kshs6,000 every month. Once this is fully implemented, it might give them over Kshs10,000 which can make them stay comfortably wherever they are.

So I now want to urge the Government to ensure that come next year, let us provide for the lump sum that is balanced so that we deal with this case once and for all. I want to thank the teachers of the Republic of Kenya for the good work they are doing. We want to urge them to even do much better. I want to urge the Government to commit itself to all the proposals that they have made. Under Vision 2030, the Government has indicated, in black and white, that they will be employing 28,000 teachers every year to take care of the shortage. In this financial year, what have they provided for? They have provided for 10,000. Where is the 18,000 committed by the Government? Is this Government committed to ensuring that the child of the poor also enjoys the benefits of education so that in future we see the son of a peasant dining with the son of a king in this country? It is only through education that we can bridge this gap.

With those remarks, I want to fully support this Motion.

**The Minister for Public Works** (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to make a contribution on this Motion. I want to thank Mr. Pesa for raising this matter and bringing it to the Floor of this House because it is a matter which touches on the welfare of a section of Kenyans; Kenyans who deserve to be accorded their rights. To my understanding, this was a negotiated package amounting to Kshs17.6 billion. During the negotiations, the Government committed itself to paying out this amount. At the time this group of teachers were active employees of the Government, they were entitled to receive this benefit. Some of them retired in between but in my opinion that does not make any difference. An agreement was reached to pay in four installments. The first installment was paid. If the Government had all the funds to pay these teachers at the time, indeed, they would have been paid and there would be no issue to talk about today.

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

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

Mr. Temporary Deputy Speaker, Sir, therefore, we are talking about this issue today because the Government did not have the money to pay the teachers in full. This is the only reason the matter is here. I am also aware that teachers went to court in Nakuru and the Government lost. The ruling was that the Government pays out this money. The Government made an appeal to the High Court and again the High Court made a ruling that the Government should pay out this money to the teachers. Therefore, the fact that this money has not been paid up to this moment is an indication of the level of impunity on the part of the Government. Therefore, the Government should have honoured the ruling of the court, in my opinion, and the issue of referring this matter to the Attorney-General should not even arise.

Our understanding is that this Financial Year, 2011/2012, a sum of Kshs3.34 billion is available to be paid to the teachers. We are now coming to the end of the financial and the money will go back to the Treasury for re-voting. I think this is a terrible thing to happen at a time when the individuals concerned, the retired teachers are facing severe challenges; they are suffering. I am, therefore, appealing to the people in the Treasury and the Ministry of Education to take the necessary measures to ensure that these teachers are paid before the end of this financial year which is three weeks away. This is a case of bureaucracy and the country as a whole suffers because a few people in positions in the Government do not see the need to discharge their functions and obligations.

Therefore, I want to support this Motion and urge the Government to pay this money to the teachers without any further delay. In fact, this money should be paid before the end of this financial year.

With those few remarks, I beg to support.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. Teachers are respected all over the world except in Kenya. Teachers in Kenya are given a very raw deal. Health workers are given a very raw deal yet these are our driving forces.

It is a shame that the President of Rwanda is asking for 10,000 teachers. If we cannot pay our teachers here, let them go to Rwanda because that is where they have been respected and they will be paid more than here. Here in this country, we are treating them as beggars; as those who have no rights and there is an old saying that those who have everything are the ones who deny others everything.

The Treasury, the Ministry of Finance and the Ministry of Education have everything at their fingertips. They go on expensive trips yet they cannot pay this money. The role of the Treasury after the Budget is over. If this is budgeted for, they should pay. There is no issue as to whether they are going to ask the Attorney-General, after 12 months. Furthermore, even teachers who invigilated national examinations have not been paid. The Kenya National Examinations Council (KNEC) withheld the payment for teachers who invigilated the exams. The exams took place, the results are out, the children are now going further, but the teachers who invigilated have not been paid. Justice delayed is justice denied. The teachers have been denied their right.

As much as we say that the Nyayo regime was bad and had many problems, one thing was clear that the former President, His Excellency President Moi was very frank to say "*hakuna pesa*". He would say that. So, if there is no money, let them tell us that there is no money. Let us not be cheated that they are referring the issue to the Attorney-General. Let all external trips for the Government be cancelled immediately including for Members of Parliament so as to pay the teachers. We are in a critical situation and we are teaching our children that teachers are not to be respected. The moment the teachers go on strike, you send batons and tear gas them and when they go back to classroom to teach, the students have little respect for them.

Finally, one of the main pillars in Vision 2030 is education yet the sector ceiling is way below what is required to meet the Millennium Development Goals (MDGs). We have visions and I want to quote His Excellency President Kagame in what he said when I was listening to him in Rwanda not long ago. He said "vision without implementation is hallucination". That is what we are guilty of. Once again, if the teachers are not paid this money before the end of this month and the money is lost and has to be re-voted, I am going to join them in the strike because this is not right. I am sure the Ministry will realize that commitments must be honoured. Otherwise, a reward is no longer our bond.

With those few remarks, I support.

**Mr. Namwamba:** Shukrani, Bw. Naibu Spika wa Muda. Ninataka kuunga mkono Hoja hii. Kwanza, ningetaka kumshukuru mhe. Pesa kwa kuwasilisha Hoja hii hapa. Ningetaka kuwapongeza waalimu kutoka pembe zote za taifa letu kwa huduma bora ambayo wanatoa kwa taifa hili kwa kuwatunza watoto wetu na kuhakikisha kwamba sisi kama taifa tunaelekea kupata malengo yetu katika Idara ya Elimu.

Ni swala la kufedhehesha sana jinsi ambavyo Serikali ya taifa hili inavyoshughulikia maswala ya watumishi wa umma kwa jumla, hasa watumishi wa umma ambao wemestaafu na ambao wamehudumia taifa hili na wakafikia muda wa kustaafu. Si waalimu peke yao, ukitazama Wakenya wengi waliostaafu baada ya kuhudumia taifa hili kwa njia sawasawa, utapata kwamba wengi wao wanaishi katika masaibu yasiyo kifani. Hii ni kwa sababu ya jinsi tunavyoshughulikia swala la malipo ya uzeeni. Kila mara, utakutana na Wakenya waliostaafu wakiwa na kilio kikuu kwa sababu ya shida ya malipo ya uzeeni na jinsi wanavyolipwa. Tunapolizungumzia swala hili la waalimu waliostaafu, nikielelezo na mfano wa jinsi ambavyo Serikali yetu haijashughulikia kikamilifu malipo ya uzeeni kwa wale ambao wamehudumia taifa hili na wakastaafu.

Ukitazama kundi la waalimu ambalo tunalozungumzia, ni waalimu waliostaafu kati ya mwaka wa 1996 na 2003. Kundi la kwanza lilistaafu mwaka wa 1997, miaka 15 iliyopita. Tafakari swala la mwalimu aliyehuduma na akastaafu miaka 15 iliyopita. Mtoto aliyezaliwa mwaka wa 1997, wakati huu pengine yuko katika Kidato cha Tatu na anaelekea kukamilisha masomo ya shule ya upili. Lakini mwalimu huyo, baada ya kuhudumia taifa hili kikamilifu, miaka 15 baada ya kustaafu, leo hii bado anakumbana na masaibu ya kutafuta malipo yake ya uzeeni. Kwa hivyo, hili ni swala la kufedhehesha na kuaibisha. Ni swala ambalo ninatarajia Serikali - na ninamwona ndugu yangu, mhe. Mwatela, kwa niaba ya Wizara ya Elimu yuko hapa - iombe msamaha itakapokuwa ikijibu Hoja hii. Kwanza, waalimu ambao tunazungumzia wanastahili kuombwa msamaha na Serikali kwa sababu bado wanatafuta marupurupu yao na malipo ya uzeeni miaka 15 baada ya kustaafu.

Swali lingine la kutia wasiwasi ni kwamba Serikali hii imekuwa na mazoea kuwa ndio itimize lo lote, ni lazima isukumwe. Ni lazima kuwe na msukumo, maandamano na Mswada hapa Bungeni. Ni lazima kuwe na kilio ndio Serikali hii ichukue hatua au waalimu waajiriwe kazi. Tunajua hatuna waalimu wa kutosha. Lakini ili tuaajiri waalimu wa ziada, ni lazima Serikali isukumwe. Ni lazima chama kinachowakilisha maslahi ya waalimu, KNUT, kitoe ilani ya mgomo ndio Serikali isikize. Ili waalimu walipwe zaidi kama inavyostahili ni lazima kuwe na msukumo. Hivi juzi, waalimu 10,000 walijajiriwa kwa kandarasi na ikawa waajiriwe kwa utaratibu unaostahili. Ilibidi kuwe na msukumo hapa Bungeni na mgomo kule inje kupitia KNUT ndio Serikali ikasikiza kilio hicho na kuwaajiri waalimu hao. Tunapojadili Hoja hii, kuna tishio kuwa shule za umma zitafungwa Kenya nzima kwa sababu Serikali imezembea kutuma fedha za kufadhili mpango wa elimu ya bure katika shule za msingi na msaada katika shule za upili. Kwa sababu ya kuchelewa huko, kuna tishio kuwa shule zitafungwa katika pembe zote za taifa hili.

Nilishangazwa na Waziri wa Fedha akitangaza ya kwamba fedha hizo zimechelewa kwa sababu kuna jamaa fulani katika Serikali hii alisahau kutia fedha hizo kwenye makadirio ya pesa katika Bajeti ya muda tuliopitisha mwezi wa nne. Ni fedheha hiyo. Utasahau namna gani mpango huu wa elimu ya bure ulianzishwa na Serikali ya Mheshimiwa Rais Kibaki mwaka wa 2003? Kila mwaka tangu mwaka huo; 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 na 2011 Serikali imeweka pesa hizo katika makadirio ya Bajeti. Itakuwaje leo utueleze ya kwamba ulisahau kukadiria fedha ambazo umezikadiria na ukazishughulikia kwa muda wa miaka kumi mfululizo? Kwa hivyo, hiki ni kielelezo cha Serikali ambayo kidogo imechanganyikiwa. Na hili

swala la kwamba ni lazima Serikali hii isukumwe ndiposa itimize malengo fulani, ni swala ambalo lazima Serikali hii ilishugulikie kwa njia ya dharura.

Nataka kuunga mkono Hoja hii kwa kusema kwamba fedha hizo si kiwango ambacho tutasema ya kwamba lazima tuende nchi za ugeni kukopa. Ni pesa ambazo tuna uwezo kama taifa kuzilipa. Hiyo ni kuonyesha kwamba Serikali hii haina nia ya kulipa fedha hizo na huo ndio wasiwasi wangu. Hata baada ya kuelewana na mkataba kutiwa sahihi, Serikali imejaribu kukwepa kulipa fedha hizo kupitia mahakamani. Na hata Serikali imefika hadi Mahakama Kuu kujaribu kuzuia malipo hayo ya Kshs17.6 bilioni. Ukilinganisha fedha hizo na fedha zinazofujwa; fedha zinazotumika kwa njia mbovu katika idara mbalimbali za Serikali, hauwezi hata kulinganisha. Ni fedha kidogo sana ukilinganisha na fedha zinazofujwa na Serikali. Safari za kila mara za mawaziri na maafisa wengine wa Serikali huku na kule, il hali, fedha hizo hazijalipwa ni aibu sana. Ninaamini kuna waalimu wengi waliostaafu na wameaga dunia. Nimesema kwamba kundi la kwanza lalistaafu miaka 15 iliyopita. Ninaamini kuna waalimu wengi waliostaafu ambao walipitia masaibu yasiyo kifani kabla ya kuaga dunia bila kuona malipo hayo. Familia zao zinaendelea kupata taabu. Kwa hivyo, swala hili ni swala la haki za kibanadamu. Ni haki ya Mkenya inayokandamizwa. Ni haki ambayo tumeiweka katika Katiba mpya ya taifa hili.

Ninataka kusema ya kwamba tushughulikie swala hili kwa njia ya dharura. Na ikiwa ni kweli tuliweka Kshs3.34 bilioni katika Bajeti - makadirio ya Bajeti ya mwaka unaokamilika sasa hivi - ni nini kimezuia Serikali kulipa angalau shilingi hizo 3.34 bilioni ambazo tayari zimo kwenye Bajeti? Je, fedha hizo ziko wapi? Fedha za kufadhili mpango wa elimu ya bure ziko wapi? Waziri atakapojibu Hoja hii, aeleze taifa la Kenya hizo Kshs3.34 bilioni zilizowekwa katika makadirio ya fedha katika Bajeti inayokamilika wakati huu, kabla hatujaenda katika Bajeti wa mwaka ujao, ziko wapi? Zimefanya kazi gani? Na kama ziko kwenye mfuko wa Serikali, mbona fedha hizo hazijalipwa?

Bw. Naibu Spika wa Muda, huu ni ukandamizaji wa haki za kibanadamu wa hali ya juu ambao haustahili kuruhusiwa. Nitarudia ya kwamba Waziri atakapojibu Hoja hii, aanze na kuomba waalimu wa Kenya na Wakenya kwa jumla msamaha kwa kuwakosea heshima na kuwakandamiza jinsi hiyo.

Naunga mkono.

**The Temporary Deputy Speaker (Mr. Koech):** Hon. Members, take note that we must dispense with this matter within this Sitting and, therefore, we must be able to manage our time well. Take further note that I will be calling the Mover to reply latest 12.20 p.m., and the Government Responder should have 20 minutes before then. But the Government Responder can donate part of his time, if he wishes. So, let us manage our time. We have only six minutes for the next person. Mr. Njuguna.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will be very brief on this Motion. Let me start by thanking the Mover of this Motion, hon. Pesa, for heeding the cry of teachers. This Motion is very critical, aware that the retired teachers have rendered invaluable service to this country. They have already used their energies and contributed immensely in shaping the development of this country. After that, the teachers have been unfairly treated by the Government. They have been denied their justice and this should not have been the case. Teachers in this country have made a big mark in producing leaders of this country. They have made prophets, authors, musicians, preachers and Members of Parliament. Even the former President of this country, His Excellency Daniel Toroitich Arap Moi also went through the hands of teachers.

Mr. Temporary Deputy Speaker, Sir, retired teachers are at an advanced age. They need care. They need to educate their children. They also need to keep their families fit and enjoy life. The teachers are languishing in poverty. They are stressed and depressed. Therefore, it is important that the current consultations between the Office of the Controller of Budget and the Attorney General be concluded immediately so that the Kshs3.4 billion is immediately released to the teachers. Even the remaining Kshs14.2 billion, the Government must borrow, if the Treasury does not have money. That money must be borrowed and released to the teachers because they have done this country proud. This is the time to give our teachers motivation.

With those few remarks, I beg to support the Motion on the plight of teachers.

**Mr. Kiilu:** Mr. Temporary Deputy Speaker, Sir, I stand to support this Motion. I want to thank the Mover for bringing up this Motion once again.

Mr. Temporary Deputy Speaker, Sir, teachers in this country form a very critical mass of workers; workers who work under very difficult conditions; workers who have tirelessly worked to produce leaders.

Mr. Temporary Deputy Speaker, Sir, looking at the issue that is before us, one feels saddened that after working for so many years and reaching retirement age, the only thing that one lives to enjoy is the pension that is denied to them. It is important that the Government rewards teachers and other workers for what they have done.

Mr. Temporary Deputy Speaker, Sir, this is not the first time that this House has discussed this matter. We all remember that it is like committing a sin to work in this country and reach the age of retirement. The mere fact of being given a notice to retire begins to stress you because many people in this country do not live to enjoy their pension. It is for this reason that this House debated and passed the Musila Bill. The Musila Bill made it mandatory for the Government to pay workers on leaving the service, but the Government has continued to work with impunity and defying the laws providing for payment of workers. It is very important that we adopt this Motion and request the Government not to continue disrespecting the workers.

*[The Temporary Deputy Speaker  
(Mr. Koech) left the Chair]*

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

Madam Temporary Deputy Speaker you will realize that there are family members of some of these hon. Members who have worked as teachers, and we see these families live in very pathetic conditions; one wonders whether they are workers.

*(Loud consultations)*

Madam Temporary Deputy Speaker, hon. Members are consulting loudly and I am sure you are not able to hear me. I need your protection.

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Members! Allow the hon. Member to contribute in silence.

**Mr. Kiilu:** Madam Temporary Deputy Speaker, I was saying that teachers, who form the greatest number of retirees in the rural areas, need to be respected. They can only be respected if the only form of income that they are expected to have, namely pension is paid to them when it is

due. That way they will be able to look after their families and take their children to school. What is the benefit of being a teacher if after retirement your children cannot continue in school? What example are we giving as Kenyans?

Madam Temporary Deputy Speaker, I support this Motion and call upon the Government to pay these teachers what is due to them.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Assistant Minister, there is a lot of interest in your Motion and it is time for you to respond. Do you want to give these hon. Members a minute each, so that they also give their contribution?

**The Assistant Minister for Education** (Mr. Mwatela): Madam Temporary Deputy Speaker, hon. Kioni made an early request and so did hon. Nyambati. May I then suggest that we give Messrs. Kioni and Nyambati two minutes and the rest one minute each, and then I will be able to reply within five minutes.

**The Temporary Deputy Speaker** (Dr. Laboso): Wonderful. The Assistant Minister has been very magnanimous and he has given you time. So, let us respect the time, so that we can each give our contribution.

**Mr. Kioni:** Thank you, Madam Temporary Deputy Speaker, but you have negotiated me out of my earlier five minutes. However, I will still use what I have been given.

I would like to support this Motion and at the same time commend the Assistant Minister and hon. Pesa for this Motion. This is an issue that we have raised on this Floor. I want to thank hon. Mwatela because he has, on this Floor, confirmed that they are aware of the plight of these teachers. I am happy to see that they pushed this matter until the Minister for Finance provided for these funds in the Budget. What we should not lose sight of is the fact that the query was raised by the Controller of Budget, Mrs. Odhiambo. In querying this matter, she also needed to understand that this was a court award. At times we get ourselves in unnecessary bureaucracy and in the process punish Kenyans. The delay to deal with a query which had been occasioned by a court process may not have been necessary.

It is important that we allow the teachers to benefit from what was awarded to them by the court, and also what the Ministry pushed the Ministry of Finance to allocate in the Budget, so that they do not continue suffering. I have retired teachers in my constituency just like in all other constituencies in this country. They need to take their kids to school and they have hospital bills to pay. There is, therefore, need to ensure that those who are in the public service have certainty or assurance that when they retire their pension will be paid.

I support this Motion and commend the Ministry because they have done what we expected of them and also the Ministry of Finance for allocating the funds.

**Mr. Nyambati:** Madam Temporary Deputy Speaker, I want to thank the Assistant Minister for kindly donating two minutes to me. I also want to thank the Ministry for the wonderful work they are doing.

Madam Temporary Deputy Speaker, it is very sad that, as a country, we cannot take care of our teachers. It is surprising that teachers who retired from 1997 to date have not been paid, yet the money is there. The Government and, somehow the Ministry of Finance, is finding excuses not to pay our teachers. It is really sad. Some of those teachers have died and they cannot enjoy the benefits of their labour; they toiled and they should be supported. We must ensure that the Ministry of Finance gives this money to the Ministry of Education, so that they can pay.

Madam Temporary Deputy Speaker, I also want to thank the Minister for Finance for saying that he is going to give money to pay to primary and secondary schools, because as we

speaking now, we have a lot of problems in the country arising from non-payment of the monies that are supposed to be paid for the free primary and secondary education programmes.

Madam Temporary Deputy Speaker, it is extremely important that year in, year out, we review the issues of our teachers because they play a cardinal role in this country. Somehow, we have neglected the profession of teachers; I think it is high time that we appreciated the kind of work they are doing. We must, as a country, support teachers and the Ministry.

*Asante sana*; thank you for the time.

**The Temporary Deputy Speaker** (Dr. Laboso): Proceed, Chief Whip. Please note that it is now a minute.

**Mr. Midiwo:** Thank you, Madam Temporary Deputy Speaker. What is happening is not a good thing. Why is it that teachers must always agitate to get what is their right? Let me plead with the Government and the Treasury to release this money, so that these people are paid.

Madam Temporary Deputy Speaker, there is not a single week that I go home and I am not asked a question by a teacher who is aggrieved, because they are not getting their retirement money. There is something which we also want to urge the Ministry to sort out; there is a team of unscrupulous lawyers who have sprung up across the country, and collect signatures of these teachers and Kshs10,000 or Kshs12,000 from every teacher, on the promise that they are going to have this money released. It is high time the Government made a statement that this payment will be made by the Government to the teachers directly, and not through some lawyers in Nakuru.

Thank you, Madam Temporary Deputy Speaker.

**Mr. Odhiambo:** Thank you, Madam Temporary Deputy Speaker. I also wish to support this Motion. It is very unfortunate that the teachers have not been given this money. For the last 15 years, most of them have suffered; they have lived in abject poverty; some of them have already died, as some hon. Members have already said. These teachers have nobody else who can assist them because they have ceased to be members of the Kenya National Union of Teachers (KNUT). So, it is only this House which can assist them. Unless we assist them, they will continue to suffer. I am sure that if they were members of KNUT, by now KNUT would have called a strike, because it is only a strike which has always saved the teachers of this country. This is because whenever they need something either benefits, promotions or salaries, KNUT must call a strike. Since KNUT cannot call a strike because these retired teachers are no longer its members, it is only this august House that can help them. So, please, hon. Members, let us support these teachers.

**The Temporary Deputy Speaker** (Dr. Laboso): Thank you, hon. Member.

**Mr. Odhiambo:** Finally, Madam Temporary Deputy Speaker, I would just want to say that delay is devaluing this money. So, it should be released immediately, so that the teachers do not suffer inflation.

**The Temporary Deputy Speaker** (Dr. Laboso): Thank you, hon. Odhiambo. Proceed, Hon. Kathuri.

**Mr. Kathuri:** Thank you, Madam Temporary Deputy Speaker. I also stand to support this Motion. I want to start by letting this House know of a Kiambu saying which states that the banana leaves that are green laugh at those that have turned yellow or brown. We, who are young and working in Government do not imagine that one day we will be as old as those who are fighting for their pensions. I want to tell this Government, through the Ministry of Education, that when the Assistant Minister is responding, he should give a timeframe within which all the teachers will receive this money. As we talk, at their age, they do not even have people who can

accommodate them here in Nairobi as they push for their cases. Let them wait at home and receive this money by a specific deadline set by the Ministry of Education, which I believe they should be able to do now. They should receive that money as quickly as possible.

With those few remarks, Madam Temporary Deputy Speaker, I beg to support.

**Mr. Lagat:** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity.

Madam Temporary Deputy Speaker, I also want to support this Motion because teachers in most cases have suffered a lot. I am also wondering why the Minister should wait to be forced to do his work. When teachers go on strike, it means that the Minister is waiting to be forced to serve them.

Madam Temporary Deputy Speaker, secondly, we are planning to achieve the Vision 2030. It will become very hard for us to achieve the Vision 2030 if we work the way we are doing. We should respect especially the old teachers who have done a lot for us. As they retire, they need to enjoy their benefits and time.

Madam Temporary Deputy Speaker, I support this Motion.

**Prof. Kaloki:** Madam Temporary Deputy Speaker, I rise to support this important Motion and urge the Government to release the first tranche of over Kshs3 billion, which is already budgeted in this particular financial year, to be able to pay the teachers in the next few weeks.

Madam Temporary Deputy Speaker, it is really shameful on this Government that we can have teachers who have taught our children in schools, spending a lot of time trying to get their retirement benefits. I also urge the Government to factor the remaining Kshs14 billion in terms of retirement benefits in this particular financial year. Members of Parliament will be expecting to see that particular amount included in this financial year, together with the interest for the many years that the Government has failed to pay these teachers.

Madam Temporary Deputy Speaker, I beg to support.

**Mr. Magwanga:** Madam Temporary Deputy Speaker, I rise to support this Motion. I want also to thank the Mover of this Motion.

Madam Temporary Deputy Speaker, teachers are very important people in this country and are respected worldwide. It is only in Kenya where teachers are hated. Whenever they want their rights, they must go to the streets. I urge the Ministry of Education and Treasury to work on a modality to fast-track this issue and ensure that these teachers are paid their dues.

Madam Temporary Deputy Speaker, the Attorney General is a Member of this House and since there is an audit query, why can he not actually handle that issue while he is in this House?

Madam Temporary Deputy Speaker, I beg to support.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Assistant Minister, you now have your five minutes to respond.

**The Assistant Minister for Education** (Mr. Mwatela): Thank you, Madam Temporary Deputy Speaker.

Madam Temporary Deputy Speaker, first of all, I would like to thank hon. John Pesa. Initially, he brought a Question here regarding this matter and I am the one who responded to it. We undertook, as the Ministry of Education, to fast-track payments of these dues to teachers. So, the Ministry of Education is fully committed to making sure that teachers earn their pensions in accordance with the laid-down procedure. The pension laws in this country are clear. You cannot withhold anybody's pension for any reason.

Madam Temporary Deputy Speaker, what is most disturbing in this matter is that this is a court award and anybody pretending that he can withhold an award, that person should have first of all gone to court. The matter had been disposed of at the Court of Appeal and I would like the House to realise that the Ministry of Education has no qualms about these teachers being paid their dues. I do not think that the Ministry of Finance has any problems either because that is how they ended up disbursing this amount. Upon the Ministry of Education realizing that we needed to have these teachers paid, the amount was allocated and someone out of the blues decided that, that should be stopped. I fully agree with this Motion that the teachers should be paid not tomorrow but now.

*(Applause)*

A very important point has been raised by the Whip. This is the issue of lawyers collecting signatures pretending that they can push for this money to be paid. The award has already been done by the court. So, the payment is between the Government and the teachers and no lawyer should be given any money for this. For that matter, I will say that the Government, which I represent here, has already allocated the money and no one should stop it from being disbursed to teachers.

The Attorney-General should give his opinion because he had his time in court. The court awarded the teachers the money. So, there is no other business apart from dispersing this money. Whoever is raising the query should have gone to court and not to anyone else. So, we are in full agreement with this Motion that we should not be holding this money any longer. In fact, it is a pity and as hon. Ababu Namwamba was saying, on behalf of the Government, I would like to apologise most profusely to the teachers who have been waiting for this money for this long.

*(Applause)*

It is not right that somebody works and at the end of it all, the person continues running around looking for his money. It is a shame. Please, let us all agree that as we leave this House today, we want these teachers to be paid their money. Since there is a pending issue regarding the question of monies, I will make this statement. The Ministry of Education has no qualms regarding the issue of capitation being disbursed to schools. We have no problem. We presented our case to the Ministry of Finance and it is that Ministry that withheld these amounts.

Fortunately, may I say that in the spirit of collective responsibility, we think and we believe that this matter will be resolved because the teachers union, the Ministry of Education and the Ministry of Finance are having a sitting this afternoon and most likely, by the end of the day, we will have the money disbursed to schools.

With those few remarks, I congratulate hon. John Pesa and thank him for making our teachers get their right. Thank you.

**The Temporary Deputy Speaker (Dr. Laboso):** I call upon the Mover to reply.

**Mr. Pesa:** Thank you, Madam Temporary Deputy Speaker, for giving me time to respond and in my response I want to start by thanking the Assistant Minister for the assurance he has given this House. I want to thank the hon. Members of Parliament who have very ably agitated that the teachers deserve to be paid this money. I also want to thank the teachers, both

the ones in service and those who have retired for working for Kenyans without any kickbacks the way it is done elsewhere.

When we talk about teachers' pensions being delayed, it reminds us of the money that Kenyans have lost through other channels whereby corruption has taken place. Teachers have remained non-corrupt. You cannot bribe a teacher to teach your child. Teachers do their work without any form of coercion and they do it because they love their job and, therefore, it is very much disturbing to me and many Kenyans that we are talking about teachers' pensions and gratuities being delayed because of bureaucracy in the Government of Kenya.

Madam Temporary Deputy Speaker, the question before us today is not whether or not there is money to be paid. Money is there because Kshs3.34 billion was voted in this House to pay the teachers during the current financial year. This money is with the Treasury. The Minister has come here and he has said that the money is there. The question is bureaucracy in paying this Kshs3.34 billion to the teachers who actually deserve it and it is good that the Minister has assured us that this money will be paid. We are calling upon the Attorney-General and the Controller of Budget to take the least time between now and tomorrow and sit down and resolve this issue. They know better since they are Kenyans. We are talking about teachers that taught them. We are talking about the teachers that voted us here and it is us that actually appointed the two officers in question. We want to ask them to come up and make sure that by tomorrow this money is given to the teachers without any further delay. It would be very sad if this money is returned to the Treasury at the end of the financial year because of the bureaucracy that the Attorney-General and the Controller of Budget cannot resolve in this Government.

Madam Temporary Deputy Speaker, teachers as other workers deserve better treatment. We are not only talking about the delay of teachers' pensions but we know other colleagues that have done very good jobs in this country who are not being paid the pensions that they deserve. We talk about the police and the armed forces. These are people that have defended this land and when it comes to their pensions, they have a problem. When we come back to the teachers, a Chief Principal who retired about ten years ago is given a pension of about Kshs15,000. A P1 teacher who retired about four years ago is given a pension of over Kshs15,000. Is that really fair? It is because somebody somewhere and in this case I narrow it down to the two officers, has not come out to clear the case in point. At this juncture I want our two principals to listen to me and understand what I am talking about. These are the teachers that elected the NARC Government. These are the teachers that elected in the current Government and, therefore, we want to ask them to come out and give directions that this money is paid without delay before the end of this financial year.

Madam Temporary Deputy Speaker, as we talk about the payment for this year, we are told that there is money in the Budget to pay the teachers for the next financial year – another Kshs3.34 billion. My appeal to the Ministry and the Government is that, that money that is remaining which is about Kshs10.4 billion should be in the Budget for the year 2014/2015 so that it can be paid as lump sum. That is when teachers will lead better lives than what they are living today.

Finally, I want to tell teachers out there that Kenya has a Constitution and the Pension's Act. According to the Pension's Act, payment of any pension must come from the Consolidated Fund. It is supposed to go directly to the account of those teachers who are involved. We do not want to have lawyers who are misdirecting and misleading teachers that money can be paid through any other proxies, as the Minister has said. The money will have to be paid directly –

and I want the teachers to hear me - to the accounts and anybody that wants them to sign somewhere, they should ignore them.

With those many remarks, I want to, once more, thank the Members of this House for supporting this Motion. I now hope that teachers who have retired will be treated with more dignity than they are being treated now. I beg to move and rest my case.

*(Question put and agreed to)*

## **BILL**

### *Second Reading*

#### THE TRAFFIC (AMENDMENT) BILL

*(Mr. Midiwo on 16.5.2012)*

*(Resumption of Debate interrupted on 16.5.2012)*

**Mr. Njuguna:** Thank you, Madam Temporary Deputy Speaker. I will be very brief. Let me start by thanking the Mover of this Motion, Mr. Midiwo, for bringing a Motion that is very timely, and which addresses the high casualty rates that we have on our roads. The *boda boda* sector in this country must be regulated. Although it creates employment for the youth of this country, they must wear the necessary equipment required on the road. The other critical issue is that there must be adequate road discipline in the entire country. Kenyans have lost lives. Innocent lives have been lost and people crippled. That has also affected young people, who would have led a good life in this country and contributed to the growth of the country. But their lives have been terminated. It is, therefore, important that the implementation of the regulations stipulated in this Traffic Amendment Act must be undertaken in order to improve sanity on our roads and allow the motoring public to be safe.

With those few remarks, I support.

**Mr. Magwanga:** Madam Temporary Deputy Speaker, I rise to support the Motion. This Motion is very important. We are all aware of what is actually happening in this country. We have lost quite a number of our people on the roads and it is very painful. It leaves a lot of pain to their relatives. Quite a number of our prominent people have perished on our roads. These amendments are very important. I do recall when the late Hon. Michuki introduced some stiffer rules. He really tried to manage the transport sector. If those rules can be re-introduced the way Mr. Midiwo has tried to do, I am sure there will be some order on our roads.

## **ADJOURNMENT**

**The Temporary Deputy Speaker (Dr. Laboso):** Order! The hon. Member will have 18 minutes when this Motion is next on the Order Paper.

Hon. Members, it is now time for us to adjourn the House. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.