

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 9th August 2023

Morning Sitting

*The House met at the Senate Chamber,
Parliament Buildings, at 9.30 a.m.*

[The Deputy Speaker (Sen. Kathuri) in the Chair]

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, kindly confirm whether we have the requisite quorum.

(The Clerk-at-the-Table consulted the Deputy Speaker)

Ring the Bell for 10 minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

We now have quorum. Clerk, read the first Order.

QUESTIONS AND STATEMENTS

QUESTIONS

Hon. Senators, today on Questions and Statements, we are expecting the Cabinet Secretary for Education, Hon. Ezekiel Machogu, to answer several Questions. I can see they are quite many. I hope the respective Senators to ask the Questions are in the Chamber. If the Cabinet Secretary is around, he can be ushered in so that we proceed with the business.

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Hon. Senators, we have one Cabinet Secretary who is here to respond to all these eight questions. I advise that after he clears the first question, if you have a supplementary question, you can ask during the other question so that we do not pile up everything on one question because he will be here for quite some time.

If you do not get a chance to speak after he responds to the first question, just wait. I will give you a chance to comment on the other questions that he will be answering.

*(The Cabinet Secretary for Education (Hon. Ezekiel Machogu)
was ushered into the Chamber)*

Hon. Senators, the Cabinet Secretary is here. Hon. Cabinet Secretary, I welcome you to the Senate. I know that you have appeared here on several occasions to answer questions. I can see that you have quite a bit to respond to today. We will do as much as we can so that we clear with these questions.

Sen. Mbugua, kindly ask your first question. Question No.021.

Question No.021

REVIEWING THE BASIC EDUCATION ACT, 2013

Sen. Mbugua: Thank you, Mr. Deputy Speaker, Sir and *karibu* Cabinet Secretary. I stand here to ask Question No.21 as follows-

(a) What are the reasons for the delay in reviewing the Basic Education Act, 2013 to align it with the Constitution and the Convention on the Rights of Persons with Disabilities (UNCRPD), to address the right to inclusive education for learners with disabilities and special needs?

(b) Could the Cabinet Secretary provide a status report on the operationalization of the National and County Education Boards, as stipulated in the Act?

(c) What specific policy guidelines are in place to ensure the implementation of the home-based education programme as stipulated in the Sector-Policy for Learners and Trainees with Disabilities (2018), and could he state the number of beneficiaries, teachers involved in the programme as well as the amount of funds utilized from 2020 to date?

(d) Could he provide the reasons for non-implementation of the policy, and state the measures in place to ensure the full implementation of the policy during the 2023/2024 financial year?

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, respond to Question No. 021.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. The response to Question No. 21 is as follows-

The object of the UNCRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity. Kenya ratified the Convention on 19th May, 2008 and, therefore, under the obligation to respect, protect and fulfil the provisions of the Convention. Article 206 of the Constitution provides that any Treaty or Convention ratified by Kenya shall form part of the laws of Kenya. In this regard, the Convention is also part of the laws of Kenya.

Article 24 of the Convention requires State Parties to recognize the rights of Persons with Disabilities (PwDs) to education. Article 53 (1) of the Constitution recognizes the right of every child to free and compulsory basic education.

Article 54(1)(b) is specific that the person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interest of the person. These provisions are also captured in the Basic Education Act, 2013 Section 28 (1) of the Act which requires the Cabinet Secretary for Education to implement every child's right to free and compulsory education.

The Act also provides for the establishment of special and integrated schools for learners with disabilities. The current legal framework, including the Basic Education Act, 2013, is generally aligned to the requirements of the Convention and the Constitution.

To further implement the provisions of the Convention and the Constitution, the Ministry adopted Sector Policy for learners and trainees with disabilities as given in 2018 to guide the implementation of special needs education in the country. The policy replaced the Special Needs Education Policy of 2009 with a particular focus being to align with the Convention, the Constitution and the Basic Education Act, 2013.

It is also better to note that this particular item is also captured clearly in the document, which has been handed over to His Excellency the President from the Presidential Working Party. We have an implementation matrix and the Ministry is in the process of implementing the various recommendations within the one year period given. I am sure that there are several provisions that we will implement accordingly as recommended in the Presidential Working Party Report.

Part (b) of the question is the operationalization of the National and County Education Board as stipulated in the Act. Section 21 of the Basic Education Act, 2013 gives the Cabinet Secretary the powers to appoint County Education Board Chairpersons and Members. The Ministry has appointed all the Members of the County Education in all our 47 counties.

This was done in February, 2022. The tenure of these members is supposed to be three years. We did the advertisements and the interviews were done of the Chairpersons of the County Education Board, but they have not been hired.

Mr. Deputy Speaker, Sir, we have a recommendation from the Presidential Working Party. We have also sent a recommendation to the National Assembly on the same. We should have the county commissioners as Chairpersons of County Education Boards. We have made the recommendations and sent a miscellaneous amendment to Parliament.

If it can fast track that amendment, then the county commissioners will be the ones to chair the County Education Boards as opposed to the way the situation is now. However, because we already have a quorum, every time that the county education board wants to have a meeting, they identify one of them to chair the meetings while we are trying to reconcile this.

To respond to the question (c) on the status of Sector Policy for Learners and Trainees with Disabilities, 2018 is the current policy framework for the implementation of home-based Education. The policy recognizes home-based education from two perspectives. First, it recognizes the need to start the education of children with disabilities from the onset of a disability in a home setting rather than when they are enrolled in school. This makes it easier for them to transition to school without being disadvantaged by moving out.

Secondly, home-based education is a learning and teaching approach for learners with severe disabilities who are unable to attend an educational institution because of their disability. The policy requires the Ministry of Education to enhance equal access, retention, progression and transition of all learners with disabilities at all levels of education and training.

In terms of the implementation strategy, the Ministry is required to provide teaching and learning resources in an accessory format to qualified teaching and support staff for home-based and institution-based learners and trainees with disabilities.

The Teachers Service Commission (TSC) is also required to provide teachers to support the home-based programmes. Home-based learners with disabilities are still enrolled in specific institutions. At present, the Ministry does not have separate data for those who learn from home and those based in institutions. The available data is aggregated.

Mr. Deputy Speaker, this particular financial year, I want to undertake that we are actually in the process of getting the necessary required data of those at home and those in educational institutions. For this purpose, the State Department of Basic Education has been allocated Kshs14 million which we are using for this particular exercise so that we can have proper information on the same.

Mr. Deputy Speaker, Sir, in terms of teachers, there are 5,687 teachers deployed to special needs educational institutions. The numbers on emoluments and funding in 2020 are indicated in the detailed table provided. I hope the Senators have a copy of the table as outlined, indicating specifically the year and the amount disbursed thereof. Therefore, I do not need to go into specific figures.

On question (d), indeed this particular year 2023/2024, as a Ministry, we undertake to implement this particular policy. As I have said, we have an allocation of Kshs14 million for this particular purpose. Our county directors and sub-county directors of education have been instructed to start giving the information. It is on the basis of that information that we would be able to make the necessary required policy initiatives and interventions where they are required.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you, Hon. Cabinet Secretary. You know you have the title honourable having served in the National Assembly in the last Parliament.

So, the Mover of this Question, Sen. Mbugua, do you have a supplementary question? You have the privilege to ask two supplementary questions. Either simultaneously or one then the last one later.

Go ahead.

Sen. Mbugua: Mr. Deputy Speaker, Sir, I give the chance to my colleague Senator. I will ask later.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mungatana, MGH, Senator for Tana River.

Sen. Mungatana, MGH: Thank you, Mr. Deputy Speaker, for this opportunity. First of all, I acknowledge Hon. Machogu for the kind of work he is doing. He has been up and about. We congratulate you.

With respect to this Question, the Kenya Institute of Special Education (KISE) carried out a survey of students who have a learning disability. It revealed that 11.4 per cent of students in Kenya have learning disabilities which is lower than the global prevalence which is at 16 per cent.

Mr. Deputy Speaker, the question I pose to the Cabinet Secretary is whether the budgetary allocation for special education reflects this reality. Has he allocated sufficient funds for special education, especially for those who have very severe difficulty that they cannot access schools and have to be home-based?

I ask this question because last week we were talking about mental health in this very Senate and the negligence that the Ministry of Health (MoH) has shown those living with mental illness. A number of hospitals here were mentioned as having neglected people with mental illness.

Now, we are coming to education. We want to know if, with this reality of statistics, the Cabinet Secretary has been able to allocate sufficient funds. As he explains this, I want him to specifically tell us what the Ministry of Education is doing for those people with disabilities in Tana River County. We have not been feeling or seeing them, yet there are many students who are not able to go to school. Life is difficult there. I want to hear what he has to say about allocating sufficient funds.

The Deputy Speaker (Sen. Kathuri): Sen. Mungatana, do you know you have asked almost five supplementary questions?

Sen. Mungatana, MGH: It is just one question, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): You were supposed to ask just one. You will choose which one to be answered because he cannot---

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I was giving the background so that the Cabinet Secretary can---

The Deputy Speaker (Sen. Kathuri): The rest of the Senators, kindly be specific to your question. Do not give background information.

Proceed, Cabinet Secretary.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Sen. Mungatana from Tana River County. I take note of your question. The survey done

by KISE indicated a figure of 11 per cent. That is why I said that we are doing a survey this particular year which will give us the very accurate figures.

We seem to have the figures, but we just need to come up with real and accurate figures. That is why we have tasked the county director and the deputy county directors of education to undertake the same. I hope with the little resources given to us this year, the Kshs14 million, we should be able to undertake that particular assignment.

Mr. Deputy Speaker, I must admit that we have not been very effective in home-based care. That is an area we want to move into, moving forward because we have done well in those institutional-based care. However, we are supposed to go further than that. As the policy says, we need to cater for those home-based. That is why we are carrying out that survey.

On allocation of funding, you know out of capitation that we give if it is in junior secondary, the Kshs15,040 is for a normal child, but we give more for the disabled. For senior secondary, we give the normal student Kshs22,240 while the disabled are given between Kshs35,000 to Kshs37,000 because of their special needs.

Right now, we do not have specific figures for Tana River County. However, for the rest of the country, I undertake that we will take necessary measures. This is because one other area that is properly captured in the Presidential Working Party Report is on children with special needs. The Government has said it will put a lot of emphasis on and allocate more resources going forward.

The Deputy Speaker (Sen. Kathuri): Thank you. Sen. Munyi Mundigi, do you have a supplementary question?

Sen. Munyi Mundigi: Bw. Naibu wa Spika, langu ni swali la kawaida.

The Deputy Speaker (Sen. Kathuri): It must be a supplementary question. *Hakuna swali la kawaida na la siku nyingine.*

Sen. Munyi Mundigi: Bw. Naibu wa Spika, ninamshukuru Waziri wa Elimu kwa ile kazi ambayo anaendelea kufanya katika kaunti zetu 47. Tunamuunga mkono.

Swali langu linahusu walimu ambao hawajiwezi na wanaojiweza. Wanapofika miaka 60 na kustaafu, kunakuwa na shida za malipo. Kampuni nyingi zinalipa pesa za uzeeni baada ya miezi tatu. Lakini, upande wa elimu, wanakaa mwaka mmoja au miwili bila kulipwa pesa zao baada ya kustaafu.

Tunaomba Waziri wa Elimu, aungane na Wizara ya Fedha ili tuweze kuinua uchumi wa Kenya na kuwasaidia walimu walipwe bila shida. Wanakaa muda mrefu mpaka wanabadilika, wanakaa kama vilema na wengine wanakufa. Ni kwa sababu mtu alikuwa anapata pesa na sasa ana shida. Atatoa suluhisho gani wakati huu kwa sababu Serikali ya Kenya Kwanza inafanya kazi nzuri?

The Deputy Speaker (Sen. Kathuri): Thank you. Hon. Cabinet Secretary, respond to that question.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Asante, Bw. Naibu wa Spika. Ni kweli vile Seneta wa Kaunti ya Embu amesema ya kwamba ni muhimu wale wanaostaafu walipwe malipo yao kwa wakati unaofaa.

Kuna utaratibu ambao unafuatwa. Mwalimu au afisa wa Serikali akistaafu, lazima faili yake iangaliwe na itumwe National Treasury kwa Idara ya Pensions. Wakati huu sio kama zamani na hiyo faili ikifika hapo, haikai sana. Tumeleza TSC, wakati mtu

anastaafu, faili yake itumwe haraka iwezekanavyo kwa Pensions Department, ili malipo yashughulikiwe. Kusema ukweli, iwapo mtu alikuwa anapata mshahara halafu akae mwaka mmoja au miwili bila mshahara, inaweza kuleta madhara mengine.

Bw. Naibu wa Spika, tunasisitiza mtu alipwe baada ya miezi tano na kutoka hapo, awekwe kwa orodha ya kupokea pesa kila mwezi. Lakini, kama kuna kesi yeyote ambayo mtu amekaa mwaka mmoja, naomba hiyo kesi ifikishwe kwangu ili niweze kuishughulikia kikamilifu. Asante.

The Deputy Speaker (Sen. Kathuri): Asante sana Waziri kwa hilo jibu.

Next is Sen. (Prof.) Kamar.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir. I congratulate the Cabinet Secretary alongside my colleagues for ably running a massive Ministry.

I just want to know from the Cabinet Secretary, what informed the change to return the chairing of the Education Board to the County Commissioners. Initially, it was chaired by eminent educationists from the county. That meant those committees were independent of everything else and could concentrated on education.

We know registration of schools has not been completed and it is something continuous. We know there are schools that do not have title deeds and that is the committee's agenda. We know there are issues of indiscipline and discipline that need to be dealt with. If it is given to county commissioners, how can we be assured that they will have enough time for them? Some county commissioners are faced with insecurity issues, food insecurity and poverty issues as well as other issues. What really informed the Committee that was dealing with reforms? Touch on this matter also.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, proceed.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. The Presidential Working Party went round the 47 counties. It engaged experts and stakeholders in various areas on their terms of reference. One of them was on some of these areas with cross-cutting issues. In that engagement, Kenyans gave a report. This was not just a mere public participation, but a people-driven process where Kenyans freely gave their views.

The Government's main coordinating body is the county commissioner at the county level. They are supposed to oversee and coordinate and also be part and parcel of Government initiatives and processes at that particular level.

Mr. Deputy Speaker, Sir, when I served as a District Commissioner (DC), we used to have the District Education Board (DEB). At that time, the DC was the chairman of DEB. The experience we have had for the last few years has pointed out to a number of problems that have been encountered in our school management when you just have a county commissioner as a member of such a key committee.

We are speaking about human capital and developing it at that young stage. The Education Board relates with the County Director of Education and the County Education Officer from the TSC. So, when you find a certain Government officer who does not have some kind of authority, they will not be able to easily impellent certain recommendations from the Education Board.

Sometimes, we have had problems such as registering schools. If the county commissioner was the chair of that particular team, it would be easier for him to direct

certain other steps to be taken; unlike when you have someone from outside chairing that important committee. This is what informed that decision that is captured in the Presidential Working Party Report.

Mr. Deputy Speaker, Sir, this will require an amendment in Parliament. It is not final until it is approved by Members of Parliament, for which I said we are forwarding a miscellaneous amendment for Parliament to consider.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, let me give you some guidance as we commence. I can see quite a number of Senators want to ask their supplementary questions now on this Question. Since we have several questions on the same Ministry, you can still ask about disability later on. However, to manage time, I will be distributing Members on different questions so that we can make progress. Otherwise, we might be stuck here for more than two hours on the first Question.

So, I want to now request Sen. Mbugua, to ask his supplementary question.

Sen. Mbugua: Thank you, Mr. Deputy Speaker, Sir. Hon. Cabinet Secretary, currently the special needs education top-up is given to learners with a disability who are enrolled in special schools. The ones who are in regular schools are not benefiting from this top up yet the Ministry Sector Policy, 2018 is intended to try as much as possible to enrol them in regular schools. Why is this discrimination happening and what are you doing to address it?

I thank you.

The Deputy Speaker (Sen. Kathuri): Hon. CS, you may respond to that question.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. As the hon. Member says, it is true that the top up is actually given to those schools which are specifically for that category and those in regular schools have not benefited. However, depending on the nature of the disability, we also want to integrate these children as much as possible along with the others.

As I said earlier, we are capturing this information and that information will inform our decisions going forward such that we are able to know the number of those with disability in the normal regular schools. This will ensure that when we are forwarding capitation, it is done taking that into consideration. The information sometimes we have in the National Education Management Information (NEMIS) does not tell you specifically that this one is suffering from this kind of disability.

That is why we have found it necessary to undertake the kind of survey that we are undertaking which will rectify some of these anomalies.

I thank you.

The Deputy Speaker (Hon. Kathuri): Thank you, for that comprehensive response.

Hon. Senators, I request we go to the next Question, Question No.027. The Member who is asking this Question is Sen. Korir. I am well briefed that she has delegated this responsibility to the Senator for Bomet, Sen. Wakili Sigei.

Sen. Wakili Sigei, please proceed and ask the Question.

Sen. Wakili Sigei: Thank you very much, Mr. Deputy Speaker, Sir. Before I ask question No.027 to the Cabinet Secretary, I would like to, first of all, appreciate him for honouring this appearance today.

This Question was deferred during the last two sessions, owing to circumstances that were beyond our control. Secondly, I would like to appreciate him for the work that he is doing in the Ministry.

In particular, I would like to appreciate the Cabinet Secretary for the support he gave to my school last Friday where he was the chief guest on a prize-giving day. The school is called Tenwek High School. I am an alumni of that school.

Yesterday, the hon. Senator for Nyamira County asked the relevant committee - which I know the Cabinet Secretary will be expected at some point to respond to - the question being what is the infrastructure allocation to national schools, the policy and the justification across such infrastructure allocation.

From my end, I am already a beneficiary of that---

The Deputy Speaker (Sen. Kathuri): Sen. Wakili Sigei, are you asking a supplementary question?

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir I am not asking a supplementary question. I am setting the foundation for my Question to the Cabinet Secretary---

The Deputy Speaker (Sen. Kathuri): No. proceed and ask the Question from Sen. Korir.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir I will ask the question---

The Deputy Speaker (Sen. Kathuri): Proceed and ask the Question then I will give you that opportunity to ask your supplementary question.

Question No.027

STALLED CONSTRUCTION PROJECTS AT BOMET UNIVERSITY

Sen. Wakili Sigei on behalf of Sen. Joyce Korir: Thank you, Mr. Deputy Speaker, Sir. I beg to ask the following three questions to the Cabinet Secretary for Education-

(a) Why has project W.P Item No-D106RV/BM/1502 Job No-101117A for the construction of a library block, hostels, a multipurpose hall and lecture halls at Bomet University stalled for almost a year?

(b) What measures is the Government taking to ensure the completion of the project?

(c) Could the Cabinet Secretary provide an update on the findings of the task force that was established to address the issue of tarmacking of the grounds adjacent to the library block, the hostel, the multipurpose hall and the lecture halls at the institution?

I thank you.

The Deputy Speaker (Sen. Kathuri): Before the Cabinet Secretary responds, I want to confirm whether the response has been circulated to all the Members because the Cabinet Secretary has a comprehensive response to all the questions. If these responses are with the Members, I want us to still save more time by the Cabinet Secretary not reading everything verbatim, which is in this almost 20-page report response.

If the Members have these responses, then I will ask the Cabinet Secretary not to read verbatim every word, comma and full-stop and just summarize his answers so that we can get more time.

I am encouraging Members to read. The culture of reading should be implemented in this House. Members should be encouraged to read reports so that we do not take a lot of time reading through the sentences and paragraphs verbatim.

Hon. Cabinet Secretary, please proceed.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. I will try to do exactly that. First to say that the Bomet University Project consists of the following works - An academic block, a tuition block, one multi-purpose hall, one library block, two hostel blocks, and the civil works around the buildings.

The project was started way back when a contract was given in November, 2016, and the contract was between then Moi University and M/s Smith and World Production Limited, who was identified as the contractor. The contract sum was Kshs1,391,982,486 and Moi University was listed as the employer because Bomet University was a college of Moi University.

Upon the gazettelement of Bomet University as a constituent college way back in July, 2017, the project was handed over to Bomet University College on 29th March, 2018. The initial contract period was supposed to be for 104 weeks with the completion date set for 7th November, 2018.

A number of subcontractors were engaged to handle various aspects of the project. I do not have to go through the list of subcontractors because they are almost 10. All of them are listed in the report together with the works that they are supposed to have undertaken in specific areas.

The project has not been completed and there have been three extensions of the contract. The first extension was by 52 weeks, which was supposed to end in 2019. The second extension was also done for the project to end in 2020 and the final extension was done where the project was supposed to end on 2nd August, 2021.

The main contractor and subcontractors abandoned the site in May, 2021 without providing adequate reasons. Therefore, they left work undone.

The overall completion of the project is about 52 per cent. The tuition block is 95 per cent complete. The library block is 70 per cent complete. The multipurpose hall is 90 per cent complete. The hostels are five per cent complete while the civil works are at 10 per cent.

Out of the 33 interim payment certificates issues, only 32 have so far been honoured. The amount certified is Kshs772,945,748, while the amount actually paid is Kshs754,450,117. There is one certificate which was not paid for.

After the contractor abandoned the site, the project manager issued a default notice to the contractor on 29th September, 2021. A copy is enclosed therein. There has been no response from the contractor ever since. He has absented himself from the site.

There are certain measures the Government has taken to ensure completion of the project. We started several projects in almost each and every public university in the country. We gave them small amounts of money, which could not ensure the projects are

completed. Apart from Bomet County, we have incomplete projects in almost every university.

This year we have been given little money for the university. In the initial contract, the amount not paid is Kshs532 million. Given that the contractor has absconded his duties, a new contractor has to be engaged in order to complete the project. Therefore, that the figure is likely to change.

We will start with the tuition block which is 95 per cent done. The amount given to us in the allocation for this university is only Kshs40 million. We will try to put up a case in the first Supplementary Budget. If we get funds, we will progressively complete the project. We will start with part of the project, which is 95 per cent complete coming down up to the one which is five per cent done, so that we complete and have it for use.

There has been no task force established for the civil works, tarmacking of the grounds and arranging the right procedure for completion from the hostel, the multipurpose halls and the lecture halls. The civil works are part of the contract.

Mr. Deputy Speaker, Sir, as indicated in the report, they have not been done. As we undertake the project going into the future, this is one of the areas that was identified as a priority, which has to be done.

I submit.

The Deputy Speaker (Sen. Kathuri): Thank you, Hon. Cabinet Secretary. Let us get the supplementary question from the Senator who asked the Question.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, before I ask my supplementary question, I beg that you allow any of my colleagues who has a supplementary question to go first before I close. I have got only one supplementary question to the Cabinet Secretary.

The Deputy Speaker (Sen. Kathuri): Fair enough. Sen. (Dr.) Khalwale, the Senate Majority Whip, proceed to ask your supplementary question.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am taking advantage of your guidance that we can swing back to the original question. Allow me to thank the Cabinet Secretary for the administrative restructuring and infrastructural support to Kakamega County.

Some of the children with disabilities are now qualified teachers. Could you confirm whether you have an affirmative programme in the Ministry during recruitment of teachers, so that such kind of qualified teachers with disabilities get support for recruitment? If you have, how many such teachers do we have in the country?

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, proceed.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr. Deputy Speaker, Sir, I cannot give the numbers right now. However, given time, I can give you specific numbers.

Just like during recruitments in other public sectors, we have affirmative action for people who are physically challenged or with disabilities of one kind or another. This is something that the TSC should be doing. Given time, I can give specific numbers of such teachers who have been employed.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Khalwale, do not expect the Cabinet Secretary to have the statistics of all issues we raise. As he has been guided, with time, he can provide the statistics to you.

The next question is by Sen. Cheptumo.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, I also wish to thank the Cabinet Secretary. He is one of the Cabinet Secretaries who we cherish the work they are doing. We served with him in the National Assembly in the last Parliament. I think Members who served in Parliament make better Cabinet Secretaries.

Baringo County has six constituencies. In five constituencies, teachers receive hardship allowances, except for Eldama Ravine Constituency. Even teachers in the neighbouring constituencies in Kericho and Uasin Gishu with the same climatic conditions receive hardship allowances.

Is the Cabinet Secretary aware that Eldama Ravine Constituency has been discriminated upon? For several years, teachers in that constituency have not been receiving hardship allowance. Hon. Cabinet Secretary, that is contravention of Article 27 of the Constitution where equity for all Kenyans is protected by the law. It is important that it is done.

Hon. Cabinet Secretary, are you aware of that? If you are, what is the basis of that policy, which in my view, is discriminative against teachers of Eldama Ravine Constituency?

Shortly I will be filling a Petition, but I would like you to answer that question first. I just want to set the stage for you to answer that question today, hon. Cabinet Secretary.

The Deputy Speaker (Sen. Kathuri): Proceed, hon. Cabinet Secretary.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you very much, Mr. Deputy Speaker, Sir. As I have moved around the country, I have been able to encounter these questions in many places.

There is a place in Ndaragwa which is neighbouring Laikipia. The last time I was there was last month. There are teachers working in the same climatic conditions and hardship, but you will find a school which is one km apart, whereby one school is getting the allowance while the other one is not getting. This makes it necessary for people to apply for transfer in order to get that additional income.

Now, the criteria of classifying an area as a hardship area is clearly given out and understood. Some years ago, there were certain other factors which must have been considered apart from the real factors which are supposed to make it necessary for an area to qualify as either being a hardship or not a hardship area.

Again, if we classify every area in this country as a hardship area, then you know even the amount of money you are giving us in the Education Sector. If it goes beyond 30 per cent of the total budget and there are other sectors of the economy, then really, I do not know whether we can manage that.

I know there is an exercise going on, trying to streamline and consider areas which were left behind and that are supposed to be considered. Eldama Ravine had not come to my attention. The Ministries of Public Service and also Internal Security, are

responsible for that. Ours is to recommend and then once they undertake that process and have the area classified as hardship, we pass over the information for implementation.

So, the Senator of Baringo County, I will only say that if out of the six constituencies, this one is not benefiting for one reason or the other, then you can submit the information. Thereafter, we will also submit it to the relevant Ministry so that it is subjected to the necessary process.

Therefore, if it qualifies, then as a Ministry and even the Teachers Service Commission (TSC) will be instructed to effect the recommendation as would have been recommended from the necessary channels as given in the law.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, did you give him the specific State Department that deals with those issues?

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Yes, the Ministry of Public Service, Gender and Affirmative Action and Interior and National Administration are responsible. More so, when I got the case of Nyandarua I also forwarded it. When I was somewhere in Nyatike in Migori County, I also did encounter the same kind of problem. The hon. Senator can give the facts so that we are able to submit the same to the relevant Ministry.

The Deputy Speaker (Sen. Kathuri): Actually, I was intentionally asking that question to help my senior colleague so that he does not petition to the Education Ministry. This is because, that is an issue that is touching on many counties and that question has come several times on the Floor of this Senate.

Let us get the last one on this question from Sen. Dullo.

Sen. Dullo: Mr. Deputy Speaker, Sir, I wanted to ask on Persons with Disabilities (PwDs). I do not know---

The Deputy Speaker (Sen. Kathuri): Proceed, there is no problem if you ask a question on that.

Sen. Dullo: Okay. Thank you, Mr. Deputy Speaker, Sir, for the opportunity and the Cabinet Secretary for your presentation.

Now, there are so many challenges on the ground especially for PwDs at an early stage. At the Early Childhood Education (ECD) level, we do not have a structured way of dealing with PwD students.

Is the Ministry planning to do anything at that grassroot level or at the foundation level where the PwDs can get proper foundation to go to primary school?

Secondly, placement of special teachers is a big problem in this country. This is because the special students require special teachers who are trained in that particular field. There is a problem in placement and promotion of the same teachers. Does the TSC and the Ministry have a separate plan for the PwDs from the normal students?

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Hon. Cabinet Secretary.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you very much, Mr. Deputy Speaker, Sir. As Members are aware, ECD is the responsibility and the reserve of the county governments. However, we work very closely in collaboration with them.

We have a committee which comprises my Ministry and the Chairperson of the Council of Governors (CoG) and the Governor of Kericho County, Gov. Mutai. One of the areas that we discuss is on some of these issues. Actually, we are developing some kind of policy so that there can be uniformity in matters ECD. This is because what we find is that each county does its own thing. This includes the payment of ECD teachers. That lack of standardization and uniformity causes quite a bit of problems and this is a very critical stage as the hon. Senator says on foundational running.

If we also lack in this, then even when they transition to grade one, then there will be a missing link. Since we are encouraging 100 per cent transition, if we leave out PwDs at this particular stage, then we will also not be able to succeed in the policy of 100 per cent transition.

I think the kind of survey we are doing in this and the meeting we are having between us and the CoG, we will be able to tackle and sort out some of these issues.

The Deputy Speaker (Sen. Kathuri): Okay. Sen. Wakili Sigei, ask your supplementary question.

Sen. Wakili Sigei: Thank you Cabinet Secretary for the responses that you have shared with us this morning, particularly on the measures that the Government is currently taking to ensure that there is completion of such projects.

Hon. Cabinet Secretary, I listened to you and I have gone through the response you gave us. I am a bit worried that you not been given what they would call the actual situation on the ground on this particular project. You are aware we have had issues with the institution particular with administration and the management. In this regard, hon. Cabinet Secretary, your responses at paragraph 22, 23 and 26, form part of the areas where I would want to ask the supplementary questions.

Under paragraph 22 of your response, which I believe the officers who gave you these responses intentionally did so that they serve the intention they desired. This contract was extended four times on 7th November, 2018, 2019, 2020 and 2nd August, 2021, and that the contractor abandoned site in May, 2021. That was within the contract extension period.

I have made an attempt to reach out to the contractor. In response to that paragraph 22 and 23, the contractor indicated that on 22nd October, 2018, there was official handover of one part of the project - one academic block that is in bracket – (tuition block which had been referenced to at paragraph 17 (a)).

This was an official State function presided over by the then President, Hon. Uhuru Kenyatta. During the handover ceremony, a handing-over certificate was prepared and issued. A certificate of completion was also made available and the first moiety of Kshs5 million was thereafter paid to the contractor. That is with regard to the tuition block. The response is that the tuition block is 95 per cent complete. It could not have been possible for all these to be done, including a State function, if that position is true.

Secondly, you have said under paragraph 22 that the contractor abandoned the site. He indicates that the administration had already occupied the site. Therefore, he could not have been working on a site that was already occupied, as at May 2021.

If it was incomplete as it is alleged in the response in paragraph 23, which of course is the true position with regards to the multipurpose hall, library block, hostels,

and civil works around the building, then it could not have attracted a State function the way it did.

The only thing that paragraph 22 responds to well is with regard to the non-payment of the contractors leading to their abandonment of site. This is not by the Ministry. It is with regards to the administration of the institution.

Hon. Cabinet Secretary (CS), I am sure you are aware of all that. We have had a conversation about this. Are you aware that there is already another contractor who has been contracted by the current administration to undertake that which your officers have responded to in paragraph 28? You are saying that you are undertaking options to procure another contractor and yet there is already another contractor who has been on site for a couple of months now.

Lastly, you have responded under paragraph 26 that in the 21st regular meeting of the University Council in May, 2023, there was an invitation to the project manager who gave reports as you have highlighted there. The contractor says that he has never failed to appear on any invitation by the council. Instead, he has been kept away because there is already another contractor on site, contrary to the law or what the Ministry would have expected the administration of the institution to undertake.

Hon. CS, what is your response to those concerns? In particular, with regard to the element of interference to the contractor, occupation and the official handover of the tuition block where the President then, presided over the event.

The Deputy Speaker (Sen. Kathuri): Sen. Wakili Sigei, you are prosecuting the way you do best in the courts of law. This is the Senate and not a court of law. The way you are ---

(Sen. Wakili Sigei stood up in his place)

You are okay. This is just a by the way. You are really practicing the court procedures. Several issues have been raised. *Waziri*, please respond to the Supplementary Questions.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir and the hon. Senator for Bomet. One, there was a State function, I do not deny that.

Mr. Deputy Speaker, Sir, completion of a project entails many things, including furniture and others which were supposed to be done in that particular tuition block. However, they might not have been done during that particular official opening of the building. Therefore, it cannot be 100 per cent complete and that is why we said 95 per cent. Sometimes, probably the head of State might have been in that particular area and they might have looked for a particular project that was nearing completion at that particular time for him to open. Bomet University must have been such one project which was formally and officially opened, but there are certain other things among the five per cent that I said, which had not been done.

Mr. Deputy Speaker, Sir, this report was submitted to Parliament in June when I was supposed to appear here. If there is anything that has happened within the university, then it is irregular for them to engage any other procurement process or contractor without such information coming to the Ministry. This is because it is the Ministry who

give them money. We have said that we require things to be done in a proper manner. It means that we do not want to give a contract unless and until we are sure that we have adequate funds to undertake the same. I will have to check with Bomet University in view of what the hon. Member has said, to make sure if there is any contract which has been awarded. What is the nature of the contract? Does the contract involve the component that was supposed to be done under the original contract? Have they not done what is to be done by engaging the contractor?

There are official channels of engagement. The project manager must put it in writing to the contractor in order for the contractor to appear or not.

I as the CS, cannot informally call the contractor directly. Therefore, the information that I got from the project manager was a confirmation that yes, they have tried, but the contractor, for one reason or the other, has not appeared and hence the decision was taken the way they did.

I do not deny it. As I said, there are three extensions that have been done. In case there is a fourth one that was done, then it was not brought to my notice. However, overall, it captures the spirit and the answer that there have been extensions of contracts. However, due to one reason or the other, it has not been completed.

What we are doing in the process is comparing the Kshs754 million paid *vis-à-vis* the amount of work that has been done. The amount which was remaining is Kshs532 million. Is it that the Government gave more or less than what it should have given? That is one other area that we are also trying to establish so that we know whether we gave more to the contractor since he has absconded.

Mr. Deputy Speaker, Sir, it is an issue that we undertake to work on with the funds that we will provide to that particular university. We want to know what exactly we can do with the funds this year and move on until we are able to complete the project.

As the hon. Member said, I know there are other issues which we have had discussions separately with the hon. Member and other stakeholders.

Mr. Deputy Speaker, Sir, at times, our hands are tied. Once you have given a contract to an individual, then terminating it is another process. If you terminate the contract, you know the way Kenyans are. The matter goes to court and it becomes quite a headache. Therefore, there are other issues that we are engaging in that are not part of this Question.

We will do our best. I will also check in case there is a new contractor. As I have said, it has to be brought to my notice and the Ministry. For anything like that to happen there must be concurrence from the Ministry.

Thank you.

The Deputy Speaker (Sen. Kathuri): Thank you, Cabinet Secretary. Mover of the question, I think you are satisfied that there are some issues that the Cabinet Secretary will respond to after contacting the institution.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, in the context of the questions which were before the Cabinet Secretary, I will take the responses he has given. However, as I have indicated, there is less that has been shared to the Cabinet Secretary than what is happening. We will deal with that on a separate engagement as he has rightly put it.

I appreciate the Cabinet Secretary for making time to appear before the House. Earlier on, I had wanted to appreciate the Cabinet Secretary, but you told me that was amounting to a supplementary question. In my capacity as an old boy of that particular school, I appreciate the Cabinet Secretary for giving us the support that he gave us last Friday. We truly appreciate. I know that is an effort that it took your office to make sure that Tenwek High School, as a national institution, also gets in terms of infrastructure to the status of other institutions.

We will support your Ministry as stakeholders in that institution even as we push ourselves to support this other institution, particularly, the one that has brought us here this morning. We will also ensure that there is some semblance of appropriate utilisation of public resources for the benefit of us Kenyans and the locals, who are also looking up to your Ministry to do what it can within the law to support such institutions.

I thank you, Mr. Deputy Speaker, Sir, for the opportunity.

Thank you, Cabinet Secretary.

The Deputy Speaker (Sen. Kathuri): Let us move to the next question. Question 034 by Sen. Tobiko.

Question No. 034

STATUS ON IMPLEMENTATION OF THE
COMPETENCY BASED CURRICULUM

Sen. Tobiko: Thank you, Mr. Deputy Speaker, Sir. I beg to ask the following Question-

(a) Could the Cabinet Secretary state the purpose of the Grade Six (6) Kenya Primary School Education Assessment (KPSEA), providing a per-county breakdown of learners in both public and private schools that sat for the assessment in the 2022 academic year and indicate how many of them transitioned to Junior Secondary Schools?

(b) What criteria did the Ministry apply in the placement of learners in Junior Secondary Schools and when will the learners in Grade Seven transition to the existing secondary schools?

(c) What is the status of implementation of the Competency Based Curriculum (CBC), particularly in Junior Secondary Schools, in view of the concerns that minimal to no learning is taking place?

(d) To what extent has the Ministry of Education availed resources to facilitate proper learning in Junior Secondary Schools, and could the Cabinet Secretary provide per-county details of the implementation of CBC, including capitation for learners in the schools, distribution of learning materials, teacher to learner ratio as well as infrastructure put up so far?

Thank you.

The Deputy Speaker (Sen. Kathuri): Thank you, Cabinet Secretary, proceed to respond.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. That is a very elaborate question.

First, the summative KPSEA is administered at the end of the upper primary. For the year 2022, the assessment was administered from the 28th to 30th November. The assessment sought to establish the levels of achievement among grade six learners in English language, mathematics, Kiswahili, Kenyan Sign Language, Integrated Science, Creative Arts and Social Studies.

It was administered through written tests that had multiple choice tasks. The purpose of KPSEA is to establish the level of mastery of competencies among learners in the various learning areas. This is in line with the recommendations of the Presidential Working Party on education reform. In its first progress report to His Excellency the President on 1st December, 2022, the Presidential Working Party recommended that KPSEA would be a continuous assessment for monitoring learners' progress and achievements and not for purposes of placement of learners to grade seven.

As indicated in the report, the specific objectives of KPSEA, which is, listed from A to H--- I do not require to go into each and every specific area listed as to what the purpose of this is. The assessment was guided by the Competence Based Assessment Framework for the age-based pathways, which recommends an assessment at every end of upper primary. It is important to know that the summative assessment was preceded by a school-based assessment, which started at grade four. The school-based assessment comprise classroom assessment conducted by teachers. The teachers are guided in the curriculum designs on the activities to carry out to access learner progress and to develop approve remedial action.

Mr. Deputy Speaker, Sir, this was reinforced by the Kenya National Examination Council (KNEC) providing standardized tools for this assessment at grades four, five and six in all learning areas of upper primary. They are given opportunity to work out individually and in groups and with the support of resource persons including parents and teachers. The assessment tools include written tests, projects, practical performance tasks, observation checklist, oral and portfolio assessments. Out of this assessment, 60 per cent is based in the school. Commonly known as formative and 40 per cent which they sit for at the end of grade six is commonly known as summative.

The scores are analyzed and the reports are used as feedback to the stakeholders. The learners, parents and teachers received instant feedback after the formative assessment. For the summative KPSEA assessment, schools were provided with specific reports that highlighted the performance of candidates in each learning area. The gaps and the suggestive remedies were also given in those particular reports.

I have given the breakdown of the numbers as indicated in that table, of all the candidates. A total of 1,194,600 out of the 1,212,000 learners have enrolled in junior secondary schools, translating to a transition rate of 98.54 per cent. It is also shown in the annex. I have shown the numbers for each county and how they transitioned to junior secondary.

To answer the second part of the question; the domiciling of junior secondary school in primary schools was also done following the recommendation of the Presidential Working Party and of course, having received information as to what was

required to be done from the counties and the Kenyans at large. This is because Kenyans were given the opportunity to discuss the matter and recommend. Junior secondary school as we talk is currently domiciled in the existing primary schools.

I think all of them are sworn in. They are in the given schools. In view of the above, all Grade Six learners had almost 100 per cent transition to the existing primary schools. The current Grade Seven will transition to Senior Secondary as you are aware in 2026. They will also transition to universities in 2029.

Part(c) of the Question says that there is minimal learning taking place in our Junior Secondary Schools. I have this to say. The Ministry has been implementing this since 2017 when the Government decided that we have to change our education system to align it with what is happening regionally and globally, and also to be able to make it competitive and to equip our young people with the necessary skills and competencies.

Ever since then, the first cohort of course is the one in Junior Secondary Schools now. The efficacy of the Competency Based Curriculum (CBC) indeed has been subjected to extensive stakeholder consultation and public participation by the Presidential Working Party. If you look at the report on the Working Party, 51.2 per cent of the stakeholders engaged said we retain the CBC structure with a review which of course we have partly done, while 9.6 per cent proposed its retention, 21 per cent argued that it should be discontinued and 12 per cent submitted that we should reverse the 8-4-4 System.

However, many of those interviewed acknowledged that CBC indeed gives learners more confidence, learners become more articulate and have demonstrated emerging competencies at an earlier age compared to 8-4-4 learners. I am sure that Members who have these children in 8-4-4 and CBC can make a comparison. I engage them as the Cabinet Secretary for Education and comparatively, I can see their differences. CBC comparatively is much better.

I also wish to confirm that the Government has taken many measures because we have been given capitation for Junior Secondary to the tune of Kshs15, 040 per student and we have disbursed these funds to the respective schools.

Part (d) of the Question is that we have been provided with resources as I have said. Out of the Kshs15, 040 per learner, it is categorised and split out as follows - Kshs1, 200 for textbooks which we have given to every school in the country. I am happy to report that all schools have received the necessary textbooks for Grade Seven.

A sum of Kshs450 is for laboratory materials, Kshs1,000 is for materials for practical, Kshs2,550 is for stationery and the amount that we have dispatched so far is 50 per cent of this which is Kshs9,580,894,355 and we have given the amount to every county. I have given the breakdown which is on the table. We have also spent Kshs3,164,364,856 on course books for Junior Secondary alone and we have also given a breakdown of how that money has been spent in every part of this country and in each county.

The TSC has also recruited 6,000 teachers as interns and we recruited 30,550 teachers to alleviate the very serious teacher's shortage. Therefore, we have posted a total of 38,917 teachers to the respective Junior Secondary Schools all over the country. We can therefore comfortably say that as much as we have a few challenges, we are in the

process of trying to get funds to construct integrated resource, tests and sanitation facilities and the amount we are looking for is Kshs3.36 billion. We have already had an engagement with the World Bank and we hope that we should be able to access these funds, which will then enable us to build and construct a total of 1,867 integrated learning resource centers and tests.

Also, we are engaging with our Members of Parliament through the National Government Constituency Development Fund (NG-CDF) so that they can also assist from the infrastructural part of the fund that they get in NG-CDF so that we can construct laboratories which we are calling integrated resource centres. I must say that there is proper learning going on within our CBC from every level from Grade One to Grade Seven where we are.

Progressively, we are also trying to mitigate the few challenges that we have particularly on infrastructural development as required by CBC.

I submit.

The Deputy Speaker (Sen. Kathuri): Thank you, Hon. Cabinet Secretary. Indeed, that is very comprehensive. Sen. Tobiko, do you have any Supplementary Questions?

Sen. Tobiko: Mr. Deputy Speaker, Sir, I thank the Cabinet Secretary for the response. However, I do not wish to lock out my fellow Senators who may want to ask supplementary questions on the same then I will do the last.

The Deputy Speaker (Sen. Kathuri): You could still ask. You see, the first two supplementary questions belong to the owner of the Question and then the other Senators ask only one supplementary question. However, if you choose to do it at the end of the other supplementary questions, that is fine. That is okay.

Sen. Abass, of Wajir County, you may proceed.

Sen. Abass: Thank you, Mr. Deputy Speaker, Sir. First and foremost, I want to thank the Cabinet Secretary. He is among the few Cabinet Secretaries that always respond to Parliamentary Questions, and he comes in on time. I thank you for that seriousness.

My name is Sen. Abass, the Senator for Wajir County. I think you know that because you have worked in Wajir in other capacities, and you understand the whole geographical setup.

The issue of the acute shortage of teachers in Wajir and the entire region of Northern Kenya especially in the three counties of Mandera, Wajir and Garissa has been long overdue. I know that there are so many teachers who have been moving. There is a high turnover of teachers because of insecurity. TSC has used the region as a recruitment centre. I understand that the situation of insecurity is still there. Despite recruiting, after one year, the teachers move out.

The security issue is not in the entire region, but along the borders. The other part of the region is relatively peaceful. However, it has become a trend that once there is an incident, teachers move in masses. We have been experiencing the same problems and have had teacher's shortage for the last 15 years now.

Thank you for removing the cluster issues in the Teacher Training Colleges (TTCs) because it is an impediment to training of teachers in that region.

What plans do you have to solve the problem of teachers? Teachers can be moved to other parts of the counties instead of removing them from the entire region. What are your plans so that we do not continue suffering?

The Deputy Speaker (Sen. Kathuri): Proceed, Cabinet Secretary.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. The Senator for Wajir County is aware that since my appointment to this position, I have been to Wajir County twice and other parts of Northern Kenya.

First, the last time I had a meeting with the local leaders, MPs and the Governor, we discussed this particular issue. One thing we came up with was that there has to be home grown solutions, meaning that we have to train people from those particular areas to be teachers. We found out that even those we have trained prefer to go into other jobs.

We do not have people from those areas who can apply for teaching vacancies. The local leadership have work to do so that we train enough people from this area. Getting people from other parts of the country might not be a permanent solution.

Secondly, truth be told, we have had recruitment from other parts of the country. However, there is a perennial problem of insecurity. Apart from what the Government is doing, it must be a combined effort of local leadership and the people to deal with those issues.

Once we have proper security such that there is no fear--- No human being would like to work in an area where they are scared about their life and do not know what will come tomorrow. It is an area that scares people away. You find that teachers are employed, but after a few months or years, one asks for transfer or absconds duty permanently.

Therefore, there has to be a collaborative effort between the Government and the local leadership in order to mitigate that challenge in that particular area of the country. Even when we declare vacancies, a number of Kenyans are not willing to serve in some of those areas. We have work to do. The Senator knows this is an area which is supposed to be dealt with collaboratively.

The Deputy Speaker (Sen. Kathuri): Thank you, Cabinet Secretary.

Proceed, Sen. Chute.

Sen. Chute: Thank you, Mr. Deputy Speaker, Sir. I commend our able Cabinet Secretary for Education. You have worked for this country as a politician and now as a Cabinet Secretary. Congratulations.

In support of Sen. Wakili Sigei, I take you back to Question No.027. I think and believe that the Cabinet Secretary was not given the right picture of what transpired. Looking at the document you produced today, the Cabinet Secretary has shown that there is a payment of Kshs754 and shows the contractor was paid over Kshs30 million. That is something the Cabinet Secretary should have known.

Again, there is the issue of performance bond, which the Cabinet Secretary was meant to mention. If you looked at yesterday's paper, you saw that Sen. Chute has a scandal of Kshs2 billion.

(Loud consultations)

Wewe nyamaza!

With that Kshs2 billion, each contractor can get Kshs30 million. With these kinds of headlines, people do not know the difference between payment to contractors and scandals.

The Deputy Speaker (Sen. Kathuri): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Speaker, Sir, on the contents of speech under Standing Orders No.101, 105 and 98, is the Senator of Marsabit County in order to try to use this House to cleanse himself from the allegations that he has Kshs2 billion? Is it fair? Can he at least be fair to this country and bring a substantive Motion or a Statement under Standing Order No.53 and absolve himself?

If he goes that direction, he can become the witness of the House and we cross-examine him. Personally, I would be interested to get even 10 per cent of the Kshs2 billion that he has. Is it in order?

The Deputy Speaker (Sen. Kathuri): Sen. Chute, is the amount being mentioned related to infrastructural development of schools in Marsabit County or to the matter we are conversing?

Sen. Chute: Mr. Deputy Speaker, Sir, it is not related.

The Deputy Speaker (Sen. Kathuri): Go direct to the question.

Sen. Chute: Mr. Deputy Speaker, I thank my friend for bringing this issue up. I will give a personal statement very soon on the same.

(Applause)

My other question is with regard to performance bond. The able Cabinet Secretary would have told us how much they recovered by recalling the performance bond. If he cannot give the answer now, can he get sometime and give the answer in the next one week, if possible?

The Deputy Speaker (Sen. Kathuri): No, you have no power to direct the Cabinet Secretary. You are not the Chair. Why are you taking powers that do not belong to you?

Proceed, *Waziri*.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir and Sen. Chute.

We have had two functions in Marsabit County. One in Moyale and another in Marsabit. We witnessed quite a number of challenges in Marsabit, which I think he will focus himself on.

Only one student in Marsabit County got an A and he went to Maseno University. You know the recommendations which we had when we were in Moyale and Marsabit. This performance bond is, of course, a necessity in a project of this magnitude. I did not check the figures on this particular project. However, this is something I can work on. I can get the figures and avail them in the next meeting.

The Deputy Speaker (Sen. Kathuri): Thank you, Cabinet Secretary. Let me now get a supplementary question from Sen. Tobiko. Hon. Senators, you still have the

opportunity to ask your questions. We are not in a hurry today because we only have one Cabinet Secretary and we have enough time.

We also need to clear the next three or four Questions. What is your point of order, Sen. Wakili Sigei?

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I wanted your guidance on the direction that you have just given on the presence of the Cabinet Secretary today. You have said that we have no hurry because we have sufficient time. Kindly allow us to also ask before Sen. Tobiko asks her supplementary question.

The Deputy Speaker (Sen. Kathuri): I also put a rider that we have several other questions to clear. I also gave clear guidelines when we were starting this. I said that even if you do not ask that supplementary question, you still have another opportunity. You can go back to the first Question. The Cabinet secretary is well informed on this.

Sen. Wakili Sigei: I stand guided, Mr. Deputy Speaker, Sir. I hope you will give me that opportunity.

The Deputy Speaker (Sen. Kathuri): Cabinet Secretary, hon. Machogu who is here with us today, has a glimpse of everything happening in his Ministry. The President said the other ones do not know what is happening. CS Machogu is one of the Cabinet Secretaries who know what they are doing in the Ministry.

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I shall be patient to get that opportunity.

The Deputy Speaker (Sen. Kathuri): I want to declare my interest that we worked closely with him in the National Assembly and I know his competence. Therefore, all questions will be handled perfectly.

Sen. Wakili Sigei: As a young Competency Based Curriculum (CBC) parent I want to benefit from that wide experience and that is why I am looking forward to ask my question.

The Deputy Speaker (Sen. Kathuri): Can you ask now?

Sen. Wakili Sigei: Yes, Mr. Deputy Speaker, Sir. Thank you for giving me the opportunity. My question is with regard to the responses that the Cabinet Secretary gave. He has given us the basis of the number of challenges that the Ministry has, especially, in the implementation of the CBC programme.

He has given us the measures that the Government has taken and I must appreciate and applaud the Kenya Kwanza Government, particularly, his Ministry, for the opportunities that have been given to Kenyans. He has told us that 38,917 teachers have been employed and deployed to various institutions under the Junior Secondary School programme. This is something that is in the public domain that for the first time in the administration of any Government in this country, the highest number of teachers have been employed, eight months into the administration of this Government.

That has been done out of the extensive guidance the Cabinet Secretary has given. The policy on home grown solutions is one of the options you have taken in as a solution to the delocalization programme, which has not yet been fully implemented. I ask the Cabinet Secretary that this policy be fully implemented so that we enhance the home grown solution and ensure that teachers in various institutions fully serve students, community and those institutions.

My question is with regard to the response on paragraph 35 by the Cabinet Secretary. This is with regard to the school-based assessment which is guided at 60 percent of the Kenya Primary School Education Assessment (KPSEA) Programme and summative assessment. I am aware that there are many challenges.

In his response, the Cabinet Secretary has said that the school-based assessment comprises classrooms assessment conducted by teachers and the teachers are guided in the curriculum designs on the activities to carry out to assess the learner. Prior to the summative assessment, the institutions which have got varied facilities cannot assess at an equitable level.

What has the Ministry done despite the challenges that exist to ensure that there is equity in terms of these two assessment programmes under the CBC programme?

I thank you.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary!

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Deputy Speaker, Sir. As the Senator for Bomet has said, we have so far employed 38,000 teachers and are yet to employ another 20,000 this year, which will make 58,000 in total.

The Kenya Kwanza administration committed that progressively we will go to more than 100,000. I am sure that in the next financial year, we will be able to do better in this area. One of the challenges we have countrywide is the shortage of teachers.

The next question was on a home grown solution, but on this issue, in Kenya and in other areas, we have had problems with teachers being employed and moving out. We have recommendations as contained in the Presidential Working Party Report changing the entry grade.

We are now getting into the implementation of that report. One such problem that we have had is that teachers and our 32 teachers training colleges and the three diploma training colleges were not attracting students. The capacity we have is 17 percent and you can imagine the amount of capacity we have.

Mr. Deputy Speaker, Sir, moving forward, we think the problem might be in the entry grade and clusters and we are working on that, such that children from those other areas can train as teachers. Moving forward, this will be able to give some kind of a permanent solution. I will cover the other part of the question, which is on home grown solution, in the next question.

On school-based assessment, the tool of assessment is standardized. There are disparities and we cannot say there are no disparities from one school to another. Generally, our fears were done away with because initially, we wondered whether it can be objective or if the criteria of the assessment was going to be subjective.

This is something we have tested and have seen the kind of format, system and what was done. There were individual tests and sometimes, engaging into groups, practicals, engagement from teachers and other stakeholders like parents and the overall final assessment that we got in the 2022 class because that was a major area of focus and discussion.

It gave us the result that this is a workable system. For those Senators who have travelled, they know that it is not only applicable here, but it is in other countries who are

more in formative than the summative method; a more exam-centered system. Even children who would have done better were being denied the opportunity they would have gotten.

Mr. Deputy Speaker, Sir, when you come to matters equity, as much as we have disparities, we have instruments and tools we are making use of in assessing this in order to come up with the overall result, such that it is capturing the performance of each and every learner at the stage we are testing them on.

Thank you.

The Deputy Speaker (Sen. Kathuri): I can see the Chairperson of the Committee on Education is in the House and has requested for some time. I request that you stay around and listen to what is happening and then you summarize at the end of this exercise.

Thank you.

The Deputy Speaker (Sen. Kathuri): Let us have Sen. Mo Fire and then Sen. Tobiko

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir. *Waziri* Machogu, the country is happy because you have returned sanity to the education system in this country. We have had a lot of confusion in the Competency Based Curriculum (CBC). I know that parents are now sure of where their children are going.

I am the Senator for Tharaka-Nithi. I am about to ask you a question, which I am sure it is on your desk. This is to do with a number of primary schools that were burnt and demolished in 1996 in Ntoroni Location, Tharaka North Sub County.

Your officers can put the names down. We have Machabeni Primary School, Karimba Primary School, Kiumbe Primary School, Mpungulu Primary School and Kanjoro Primary School. These schools were burnt down, but up to now we have not seen any activity to ensure that they resume. Several children were discontinued from going to school.

Waziri, I am happy because your sister Ministry, that is, the Ministry of Interior and National Administration is doing a good job in bandit-hit areas, where you are putting up schools. It is my request that the same be demonstrated in the schools I have mentioned.

A rejoinder to that question---

The Deputy Speaker (Sen. Kathuri): You only have one supplementary question.

Sen. Gataya Mo Fire: Mr. Deputy Speaker, Sir, it is just a subsidiary of that question.

The Deputy Speaker (Sen. Kathuri): A rejoinder cannot be a subsidiary.

Sen. Gataya Mo Fire: It is a subsidiary of the question because I have many problems in Tharaka-Nithi.

Mr. Deputy Speaker, Sir, as you are aware, we have Igambang'ombe sub-county, which is a subsidiary of Chuka/Igambang'ombe Constituency, and it is climatically disadvantaged. It borders Tharaka Constituency, which is equally disadvantaged, but teachers there enjoy hardship allowance.

For decades, Igambang'ombe has been neglected. Teachers are running away from that sub-county because they do not enjoy what their counterparts enjoy in Tharaka

Constituency. What is your Ministry doing to make sure that we equalize these two stations?

Mr. Deputy Speaker, Sir, those are my two questions. The first one was on the schools that were burnt down---

The Deputy Speaker (Sen. Kathuri): Are you now confirming that they are two questions or there is a subsidiary?

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir, for allowing me to ask the two subsidiary questions.

The Deputy Speaker (Sen. Kathuri): Hon. Cabinet Secretary, you can respond to that.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr, Deputy Speaker, Sir, those who are a little bit old in this country, like myself, know the history of Tharaka a little bit. In 1997 or thereabout, there were ethnic clashes in the area due to land issues.

A Commission of Inquiry was set up and certain recommendations were made. I have not had an opportunity of looking at its report to understand whether the underlying land issues were resolved because it is out of those land issues that the schools in the affected areas were burnt down.

I believe that the Senator can get an opportunity to come over, so that we engage on those particular issues. If the issues have been resolved, we will rebuild the schools, the same way we have done in Turkana.

For the 15 schools which were burnt down, we gave Kshs100 million. With the assistance of the military, we are rebuilding those schools. It was the same case in the North Rift because there are schools that were burnt down. We have also given Kshs100 million to rebuild the schools.

For these particular cases in Tharaka-Nithi, I encourage the Senator to come, so that we specifically look into those issues. If the issues are no more, then we will focus on rebuilding those particular schools.

Mr. Deputy Speaker, Sir, concerning the other one about the hardship allowance, I said earlier that the concerned Senators can come, so that the issues are addressed with the relevant Ministry.

I thank you and submit.

[The Deputy Speaker (Sen. Kathuri) left the Chair]

[The Temporary Speaker (Sen. Abdul Haji) in the Chair]

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Tobiko.

Sen. Tobiko: Mr. Temporary Speaker, Sir, I am satisfied with the response by the Cabinet Secretary. I would like to congratulate him because being a Member of the Committee on Education, we have walked the journey with him. We have seen the progress that the Ministry has made in terms of the CBC and junior schools.

My supplementary question is not related to the question that I asked. However, we were given a chance by the Deputy Speaker to ask questions on the ones that had already passed.

There is a question that was asked by Sen. (Prof.) Kamar, on why district commissioners chair education committees at sub-county levels. After receiving the Presidential Working Group Report, I have a concern.

Hon. Cabinet Secretary, when we are told about stakeholders at the grassroots levels who make decision. Do you not think it will augur well with this House and even the National Assembly if Senators and Members of the National Assembly from those counties are involved whenever you have stakeholders' meetings? That will ensure that we are on the same page. I believe that many questions being asked here will be avoided because we will address our concerns and challenges right at the county level.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Sen. Tobiko. Let us proceed to the next Question by Sen. Mariam Omar.

Question No.35

DISCRIMINATION AGAINST MUSLIMS STUDENTS

Sen. Mariam Omar: Mr. Temporary Speaker, Sir, I would like to ask the Cabinet Secretary for Education the following:

(a) Is the Cabinet Secretary aware that Muslim students in some public schools are not allowed to wear *Hijabs* and trousers in addition to prescribed school uniforms, particularly at Kenya High School and Alliance Girls' High School, thereby forcing some of them to seek admission to other schools?

(b) Why are the students being discriminated against despite a clear provision in Article 32(4) of the Constitution? I will quote it—

“A person shall not be compelled to act, or engage in any act, that is contrary to the person's belief or religion.”

(c) What action is the Government taking to ensure inclusivity in all public-funded schools and enjoyment of the constitutional right by students, who come from religious backgrounds that require additional attire meant to protect and safeguard their honour?

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. The position of the Ministry is clear on this; that no learner shall be denied admission or kept away from school because of their religious attire.

When this issue came up in March, 2022, the Ministry issued a directive to all county directors of education and the principals that the religious rights of learners should not be violated in any of our institutions of learning across the country. There should be no prohibition of wearing religious attires like *hijab* and turbans.

Also, students should not be forced to take Islamic Religious Education, Christian Religious Education or Hindu Religious Education. These subjects should be optional to students. They should not deny learners the opportunity to observe religious rights or pray; whether Muslims or from any other denomination.

I am a Seventh Day Adventist. We worship on Saturday and insist that on those days in any given school, our children who worship on Saturdays are given that opportunity like any other denomination. Worship rooms and spaces should be allocated because this is key.

There should be no forcing of learners to participate in religious rites and activities that are contrary to their beliefs. We have attached that circular from the Ministry. It is now for us to enforce.

We have an Interreligious Committee in the Ministry to enforce the circular. We normally have regular meetings. After the meetings, some of these concerns have been raised and we are able to disseminate the information to all the relevant parties and schools. I have even gone to the said schools. As of now, I think we do not have the problem that might have occurred at one time or another.

I assure the Members of this august House that we have zero tolerance to any such discrimination. As a Ministry, we will make sure that we take the necessary remedial action where we find there is a violation.

On Question (b), the Constitution, which is the supreme law of the land, is clear on this. It prohibits discrimination on the basis of religion or any belief. On education we have Article 53, which provides that—

“(1) Every child has the right –

(b) to free and compulsory basic education”

Religious beliefs and practices cannot be used to prevent children from accessing this right.

It is on this basis that we are implementing the 100 per cent transition policy. Any restrictions will make it not possible for us to achieve the 100 per cent policy. I will request that any such cases in our public or private schools is reported, so that we take the necessary action.

Question (c) is on the action we are taking. Our county and sub-county directors and the school principals are aware of this. Anybody going against the circular is doing his own thing. He is not only violating the law, but going against the Constitution of this country. When you go against the Constitution, then you become a candidate of removal from your position. We are categorical and in agreement that it should not happen in any of our schools. Where there might be any isolated case in one of our schools, kindly bring it to our notice. We will be effective and categorical in taking the necessary disciplinary action, including what is provided for in our Constitution.

I submit.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Cabinet Secretary.

Sen. Mariam Omar, do you have a supplementary question?

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir. I thank the Cabinet Secretary for his effort to reply to the questions. I rise on facts because parents from Wajir and Mandera counties came to my office because of Kenya High and Alliance Girls' High Schools violating the law.

Cabinet Secretary, you have said that you wrote to county directors of education on 4th March, 2022. In your response, there are number of contents, which is (a) to (e).

Out of those, (a) on the prohibition of wearing religious attire like *hijab* and turbans is not effective. This is why I raised the Questions. I am not satisfied with the response.

The Cabinet Secretary in his response said “the Ministry has not received any specific reports of violation at Kenya High and Alliance Girls’ High School”. I wrote to the CS after getting the allegations, which are a fact. That is discrimination.

I am expecting a sort of action to follow your directive of 2022. There should maybe a letter that you have written to so many schools and their responses, showing feedback from the various schools. I am not satisfied with the response.

In his response, the CS says, “I dispatched a team to investigate the matter.” That means that when I raised the Question sometime in July, 2023, by now after dispatching his team to the specific two schools, he should have got the response.

Mr. Temporary Speaker Sir, I am not satisfied with the response.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Hon. Cabinet Secretary. I hope you understood the question.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr. Temporary Speaker, Sir, if I can go to the history, the hon. Member knows that around 2021, there was a case that was taken to court. Specifically, it was involving the Kenya High School. The court pronounced itself on that particular matter that what the school was trying to do was not right.

As I have said, two or three months ago, we had a meeting in my office with the interreligious committee and the board of management of Kenya High and their principal.

One issue that I really made clear to the board was that we should not have such a case again. This is because it gives negative publicity to that particular school or any other school. I have had a meeting with all the principals in this country when they had their Kenya Private Sector Alliance (KEPSA) meeting in Mombasa. As Cabinet Secretary for Education, again, I pronounced myself on this matter.

We have had a meeting with all the principals of national schools. The agenda when we have some of these meetings is to inform them if they violate or fail to implement any directive as given by the Government, that is based on what emanates from the Constitution, then, they will be doing it at their own peril. This is because they cannot come up and implement their own decision on what they think should be done against the law of the land. Therefore, in case there is any individual case---

In the last meeting, we were joined by a top officer of mine, who is also very religious. He knows him from Wajir. In case there are any such individual cases, kindly, do not shy away from coming to my office, so that we deal with each and every case on its own merit.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Mariam Omar.

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir, and the Cabinet Secretary.

I agree with the Cabinet Secretary. However, I need action or a promise from the Cabinet Secretary by the time of the opening of the third term. This is because I only identified two schools, that is, Kenya High School and Alliance Girls’ High School, but there are some schools that have the same issue.

Nonetheless, I need a promise to be made to the citizens that by the opening of the term, Kenya High School and Alliance Girls' High School will adhere to your directives.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Hon. Cabinet Secretary, I hope you are in a position to give a promise.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. I have an open-door policy. Members know that when you have an issue, you are always welcome to my office. The hon. Senator is always welcome.

I undertake that I will be able to uphold and make sure that the supreme law of the land is observed. Anybody who does not observe it, then we will catch up with him

The Temporary Speaker (Sen. Abdul Haji): Thank you, hon. Cabinet Secretary.

Proceed, Sen. Wakili Sigei. Do you have a question?

Sen. Wakili Sigei: Mr. Temporary Speaker, Sir, I do not have a question as regards the particular response that the Cabinet Secretary has given. I was queuing for the next opportunity.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Very well. Sen. Murgor, do you have a supplementary question on this Question?

Sen. Murgor: Yes, Mr. Temporary Speaker, Sir. Thank you very much for giving me this opportunity. I just want to ask the Cabinet Secretary if he is aware that schools in Sigor Constituency or Pokot Central are still closed because of the insecurity that was there.

Nevertheless, other schools in the neighbourhood have reopened. We thank the Ministry for the construction going on in Tiaty. That has restored normalcy. However, in Sigor, the schools are still closed. Is your---

The Temporary Speaker (Sen. Abdul Haji): Sen. Murgor, sorry to interrupt you. Do you have a supplementary Question following Sen. Mariam Omar's question?

Sen. Murgor: No.

The Temporary Speaker (Sen. Abdul Haji): Okay. Please, take a seat. Can we go to the next Question?

Proceed, Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Temporary Speaker, Sir. I Chair the Committee on Education in this House. I want to ask a supplementary question following Sen. Mariam Omar's Question to the Hon. Cabinet Secretary. Is there a Government policy on school uniforms? If yes---

(Sen. Tobiko crossed the Floor without bowing to the Chair)

The Temporary Speaker (Sen. Abdul Haji): Sen. Tobiko, you have to follow the Standing Orders. You cannot cross the aisle that way.

Continue, Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Temporary Speaker, Sir. I had just started asking my question. Is there a Government policy on school uniform? If yes, how does

the Ministry ensure that the policy does not exclude students of a particular religious or cultural background from seeking enrolment or continuing their enrolment in a school?

Mr. Temporary Speaker, Sir, the Cabinet Secretary has pronounced himself very well on the directives that have been given to schools. However, I want the Cabinet Secretary to tell this House what the Ministry is doing to see to it that the directives that it gives are complied with and when they are not complied with, what happens.

Mr. Temporary Speaker, Sir, I ask that because I know the Cabinet Secretary does not have direct control on teachers. They are under the Teachers Service Commission (TSC), which is autonomous. I am just wondering what the Cabinet Secretary would do if, for example, a particular principal of a particular school does not comply with the guidelines of the Ministry. We know that more often than not, these principals do not comply.

We have had fees guidelines in this country for a long time. For example, a national school is not supposed to charge more than Kshs50,000. However, they end up charging even Kshs90,000. So, what does the Ministry do?

Sen. Mariam Omar here is talking about schools that she knows are not complying with this order. All of us know, like I have said, schools that do not comply with the fees guidelines. How does the Ministry work with TSC to see to it that action is taken against those that do not comply?

Mr. Temporary Speaker, Sir, I rest my case this far before I come back if you allow me for other supplementary questions.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Sen. Joe Nyutu, you are only allowed to ask one supplementary question.

Sen. Joe Nyutu: Mr. Temporary Speaker, Sir, I am aware. I am talking about when we go to the next questions by other Senators. That is what I was referring to.

The Temporary Speaker (Sen. Abdul Haji): Very well.

Hon. Cabinet Secretary, kindly proceed.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you very much, Mr. Temporary Speaker, Sir. It is clear that there is a policy on uniforms. You will find uniforms when you go to schools in any part of the country. The religious attires are worn in addition to school uniforms. It is nonetheless not very different from the school uniforms, it is an addition.

Secondly, Kenya has a very progressive Constitution. The hon. Senator for Murang'a knows it. We are the only country in Africa or even the world where the Ministry has an autonomous constitutional commission; the Teachers Service Commission (TSC), as pronounced in the 2010 Constitution. However, I must state that it is one sector. When a principal does something, it is not based on anything personal. It is something that is very clear that he or she has done '1', '2' or '3'. Directives are issued based on the law. The TSC is part of the sector and so, it is supposed to implement what emanates from the law.

There are a few basic issues that we are trying to iron out, so that we deliver and partner better with the TSC, as opposed to working in silos. The recommendations, as

contained in the Presidential Working Party on Quality Assurance, states that we have to avoid this duplication because at the end of the day, the Exchequer is one.

The Ministry gets funds from the Exchequer to undertake functions and then the same Exchequer is giving funds to the TSC to do the same function. When two people are given the same function, it will either be done or someone will say the other one will do it, and then at the end of the day it will not be done. The kind of collaboration that we have cannot allow us to have a principal without experience. We have dealt with principals who do not follow directives like for instance, as you said, those who charge illegal levies. We had two recent cases in Kilifi, but we were able to deal with those cases in collaboration with the TSC, including dealing with the sub-county directors who were part of this malpractice.

I submit. Thank you.

The Temporary Speaker (Sen. Abdul Haji): Thank you, *Waziri*. The next question is by Sen. Cherakey.

Senator, could I indulge you to be very quick because we are only left with an hour for Questions, and we would like to cover all the Questions.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I am the last one in the trenches. I will be very faithful in usage of time but, of course, still achieve the intended purpose of why we are here.

Mr. Temporary Speaker, Sir, I thank you for your indulgence. I have waited for so long, like the wait for Jesus Christ, to ask these Questions.

Question No. 37

FUNDING OF PUBLIC PRIMARY
AND SECONDARY SCHOOLS

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I beg to ask the following Question -

(a) Could the Cabinet Secretary state the amount of funds allocated as capitation to all public primary and secondary schools in the Financial Year 2022/2023, indicating the amount already disbursed as well as the amount outstanding?

(b) Could the Cabinet Secretary explain the procedure in the disbursement of the funds to the schools and indicate measures the Government has put in place to ensure timely disbursement of the funds as per the law?

(c) Why are parents with children in public schools required to buy learning materials, when such materials ought to be provided by the Government?

(d) Could the Cabinet Secretary provide a list of all prequalified suppliers of textbooks and other learning materials, indicating the total amount owed in pending bills to the suppliers and the respective schools and companies involved?

Mr. Temporary Speaker, Sir, I have three Questions. Should I read all of them or he answers one by one?

The Temporary Speaker (Sen. Abdul Haji): It is better if he answers them one by one.

Thank you.

Sen. Cherarkey: Okay. Thank you.

The Temporary Speaker (Sen. Abdul Haji): Proceed, *Waziri*.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. Question No.37 is in regards to the Financial Year 2022/2023. The total allocation for free primary education programme was Kshs12.001 billion. A total amount of Kshs9,288,570,185 has been disbursed in the same period.

In Term Two, we had a disbursement done on 4th July of Kshs2,714,037,012 for 8,869,402 learners. We have given for Term One 2023, from (a) to (d). The report given is self-explanatory.

A further disbursement of Kshs99,879,981 was made on 21st June, 2023 to cater for 469,018 learners. The figures are given there. It includes Junior Secondary Schools, where there has been two disbursements. The first disbursement was Kshs9,580,994,355, which was done on 13th April, 2023. The second disbursement was Kshs3,774,304,250, done on 20th June, 2023.

The Ministry received a total budgetary allocation of Kshs64,421,865,698 for capitation. This is now for secondary schools. We were in primary and now in secondary. The money has been disbursed for terms two and three, as indicated in the figures up to (e). The entire amount has been disbursed.

In view of part (b) of the Question, disbursement of capitation to schools is done every quarter of the financial year. For primary schools, the disbursement was initially based on manually collected data from schools. We now have a better system, as you all know. The information is captured in NEMIS, which gives us the specific figures in each county, sub-county and school before any disbursement is done, since it is based on specific numbers.

Disbursement to secondary schools is fully automated through the NEMIS platform. It is the data obtained from the system that we make use of in order to disburse the funds to all our primary and secondary schools. We sometimes experience delays. Occasionally, we do not disburse funds on time because of these delays. However, we have had an engagement with the National Treasury and, therefore, going forward, we should change and start disbursing 50 per cent during Term One, 30 per cent in Term Two and then we will disburse the remainder of 20 per cent in Term Three.

To respond to the last part of the Question, in terms of learning resources, the Ministry through the Kenya Institute for Curriculum Development (KICD), provides textbooks to learners in public primary and secondary schools at the ration of 1:1 in all the learning areas.

Therefore, we do not expect that parents will engage in buying of books because we have already provided the books out of the public funds that are given to us and the capitation given to learners. For instance, a figure of Kshs15,042 is given to learners in junior secondary schools. I gave a breakdown, where Kshs450 is for laboratory materials, Kshs1,000 for practical and Kshs2,550 for stationery. There is also some other amount which is supposed to cater for infrastructure.

Therefore, we expected that what we are giving will be adequate to procure all the resources and materials required at each and every level of basic education. This is because free and compulsory learning at each and every stage is outlined in the Kenyan Constitution. That is why the Government is providing all this, so that we do not have anybody having an excuse not to send his or her child to school.

In part (d) of the question, we do not have prequalified suppliers for textbooks for our public schools. The suppliers we have are procured through an open tendering process. We have given the books as procured to grade five and set books for secondary schools. We have given the list of those who were able to compete. They include the Kenya Literature Bureau (KLB), Mountain Top Publishers and Jomo Kenyatta Foundation (JKF). All of them are listed from Number one to 10. Each and every one of them was able to compete. From the results of the process, they awarded the specific books and the number that they were able to supply. I do not have to go through the entire list. I think it is self-explanatory. The Members can go through the same. I think that provides the answer.

Mr. Temporary Speaker, I submit.

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, do you have a supplementary question?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, let me go first, so that I do not lose my train of thought, then allow my colleagues to also ask their questions.

Cabinet Secretary, on Page 14, you indicated that you have paid 50 per cent to Junior Secondary Schools. However, in response to my supplementary question, you indicated that by June, you had given the total amount to Junior Secondary Schools. Is it your submission that you want to mislead the House by giving contradicting information?

On the final supplementary question, Section 86 of the Public Procurement and Disposal Act says that a successful tender shall be given to the lowest evaluated bidder in the pricing. On this issue of the supply of textbooks, how sure are we, as a House, that the open tender that is being given by the Ministry meets Section 86 of the Public Procurement and Disposal Act? There are allegations that the other mainstream publisher comes from one ethnic community.

On the issue of textbooks, since it is still one and the final question, I had asked about the total pending bill that the Ministry of Education owes to the suppliers of the textbooks. As we talk today, is it Kshs1.1 billion as I have seen in the document the Cabinet Secretary has shared. In one sentence, what is the total pending bill?

I can confirm to the Cabinet Secretary, contrary to what he is saying, that they are providing learning materials to schools, *vitu kwa ground ni* different. The Cabinet Secretary should use the Evaluation and Monetary Unit and Presidential Delivery Unit. This is because most parents are still buying the learning materials.

Those are my two supplementary questions.

Thank you.

The Temporary Speaker (Sen. Abdul Haji): Thank you. *Waziri*, you may respond.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. The Members will agree with me that the first set of answer

that we gave in June on the question about the first disbursement was given. We have now gone to the second disbursement. There is the Kshs9.5 billion and there is the Kshs3.7 billion. Combined, it is more than kshs9 billion. It is Kshs9,580,994,355, and then there is the second disbursement which was done on 20th June, 2023 of Kshs3,774,304,250.

Concerning the pending bills, if you go to Page 84, the money owed to the publishers, we have given the particulars, the grade and the outstanding amount in each and every grade. That is grades 5, 6, 7 and also the 2022 set books contracts, making the total of Kshs1,157,522,771. We are trying to see whether we can be able to cover and offset this as we approach the first supplementary.

We are doing our best in the prevailing circumstances to make sure that all the learning materials are actually provided. So far so good because we have been able to reach each and every primary and secondary school.

Thank you, I submit.

The Temporary Speaker (Sen. Abdul Haji): Sen. Cherarkey, I think you asked two supplementary questions. I will allow other Senators to ask their supplementary questions first.

Sen. Wakili Sigei, you may have the Floor.

Sen. Wakili Sigei: Thank you, once again Mr. Temporary Speaker, Sir. First, I would like to appreciate the Cabinet Secretary for the responses that he has given to the questions that have been asked.

My question is picked from your response on Page 24, Paragraph 23. This is with regard to the disbursement of capitation to schools. You responded that it is quarterly done. Also, on the basis of manually collected and collected data from schools, you have indicated that in the current Financial Year, in this quarter, all institutions are expected to have uploaded their details and those of their learners to the National Education Management Information System (NEMIS).

My question to the Cabinet Secretary is whether they have any facilitative arrangement in the Ministry at the national and county levels to support institutions that are yet to get registration under the NEMIS. This is so that they get the capitation because they already have students.

I am asking this because in my office several institutions have asked for my intervention to get their Integrated Payroll and Personnel Database (IPPD) registration. Specifically, I have one from Kapchumbe Primary School, Kong'asis Ward, Chepalungu Constituency. There is also a Secondary School in Chebunya Ward of the same Constituency. They have students, but they have not been beneficiaries of the capitation from the Ministry because they have blocked the IPPD identifier for purposes of entering the data within the Ministry.

What is the arrangement to facilitate and support such institutions to ensure that they all benefit from the capitation from the Ministry? This is especially where sometimes their inability to register is not the problem of the Ministry, but maybe a failure from their end to have all the documentations required. I am aware that for purposes of that registration, certain mandatory documentations are required. How are you going to facilitate this?

Hon. Cabinet Secretary, as you leave here, I will be very happy if you assign me one or two of your officers to ensure that we serve these institutions, so that they benefit in the next quarter. You have said you will release capitations to institutions that have already uploaded their details.

The Temporary Speaker (Sen. Abdul Haji): *Waziri?*

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. What the Hon. Senator has said is true. We have two major problems that we are trying to overcome. One was registration of schools. Quite a number of primary and even secondary schools had not been registered. Therefore, they had not been captured in the National Education Management Information System (NEMIS).

When they were not captured in NEMIS, it meant that they were unable to benefit from capitation. What have we done as a Ministry? One is to fast-track the registration of schools and rather than centralising the process where the requirement was for the approval to be given from the headquarters here, the approval has to be done at the county level. We have made the process much easier.

Right now, we have made a lot of progress in the number of registered schools compared to what we found. I am happy to report that quite a number of schools are now properly captured in NEMIS. In case there is any school in any county or sub-county, which is still unregistered so as to benefit from capitation, kindly bring it to my attention. I am saying this because we found some schools had proceeded from Grade One up to Grade Four and secondary school, which had proceeded from Form One to Form Three, and almost registering for the main exam, and somebody tells you that it is not registered. This happened while that school is in a given county and sub-county, where we have our field officers. Therefore, we have to work expeditiously to register those schools for them to benefit.

Secondly, the other problem that we had was the requirement of birth certificates in order for one to be captured in NEMIS. We are also working on this. We have Information Communication Technology (ICT) officers from the Ministry as well as interns in almost every sub-county. They are progressively working on this to make sure nobody is left out from this system, so that the schools and the students benefit from this.

Madam Temporary Speaker, we are aware about this and we are working on it. We are even coming up with a biometrics system going into the future, so that as quickly as possible, we capture each and every Kenyan in the system. That is what we are also trying to do in our tertiary and higher education institutions because we have also been experiencing an almost similar problem.

I submit.

The Temporary Speaker (Sen. Haji): Next Question is by Sen. Cherarkey. This time round, I would plead with you to allow other Members to ask supplementary questions; if you can cede your supplementary question to another Member due to time management.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, the Standing Orders provide me with two extra---

The Temporary Speaker (Sen. Haji): That is why I am pleading with you.

Sen. Cherarkey: I will make it one.
The Temporary Speaker (Sen. Haji): Proceed.

Question No. 38

STATUS OF DELOCALIZATION PROGRAMME BY TSC

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I beg to ask the Cabinet Secretary for Education the following Question-

(a) Could the Cabinet Secretary provide an update on the status of delocalization programme, that entails the transfer of teachers from their native place of birth to another locality?

(b) What are the reasons for the delayed reversal of the delocalization policy by the Teachers Service Commission (TSC) following the TSC commitment to do so in January, 2023?

(c) Could the Cabinet Secretary state the total number of teachers from Nandi County awaiting the reversal on delocalization programme?

I thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Haji): Proceed, Cabinet Secretary.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr. Temporary Speaker, Sir, without going into the merits and demerits of delocalization, the Senator is aware that ever since this administration came into being, we put a lot of emphasis on the fact that we cannot be able to have this policy of delocalization. We have on the contrary what we call nationalization.

Ever since the time we started this, a lot of progress has been achieved. Quite substantial progress has actually been done in this particular aspect if I can be able to give figures. One, the policy has been reversed unlike the way it was before because it had become kind of a policy that if you are working in your home area, you are transferred to another area. That has been reversed such that even in employment, if you want to be given priority to be in your own county that is taken into consideration. So, we have put a stop to that and have had a very good progress in this.

The number of teachers that have so far applied to the TSC for transfer from one county to another as at June 2023 is 46,962 applications across the country, out of which those who have already been transferred to their home counties are 20,055. We have been able to give a table explaining how this has been done.

Specifically coming to Nandi County, the number of teachers who requested for transfer to Nandi were 1,005. Out of the 1,005, the number that have so far been placed is 828. The others are being processed.

Mr. Temporary Speaker, Sir, as explained in the answer, we also want to create stability in the teaching sector. Sometimes you find that a school has 10 teachers and all of them are applying to get out of that particular school or others are from other parts of the country. We have to ensure that there is proper replacement as we transfer them out so that learning goes on. We are not at 100 per cent of this process. We are at around 40

per cent or thereabouts. Progressively, as we get proper replacements, we hope to get to that figure because we want stability in our schools.

We have the figures of the shortfall and the numbers we should have in each county, such that when we transfer, there is some kind of harmony to avoid giving one county more and creating an acute shortage in other counties. We are careful at this, so that we do not destabilize the education sector as we work on this.

I submit.

The Temporary Speaker (Sen. Abdul Haji): Thank you, *Waziri*. Proceed, Sen. Cherarkey.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, although Standing Order No.51(c) allows us to ask two supplementary questions, I will ask one for the comfort of my colleagues.

I have done my due diligence and I would like to inform *Waziri* that *vitu kwa ground ni* different. There are 43 teachers from my county, who are in Vihiga but want to be returned back to Nandi. Why does the Cabinet Secretary allow county directors of the TSC and the Ministry of Education to have so much power than the President of the Republic?

One of the regulations by the TSC is on medical grounds. I campaigned passionately for the Kenya Kwanza Government. One of the reasons teachers voted for us is because we promised to do away with the delocalization policy. Why is the Cabinet Secretary saying it is no longer there, but it is going on behind the scenes? I have many complaints on delocalization and I will table that before the House.

Mr. Temporary Speaker, Sir, let me tell my colleagues who are seated here. In Nandi County, there is always a teacher requesting to be taken back. One of the requirements is on medical grounds. There is a teacher who works in Western Kenya and has a sickly child. Every Thursday, that child must be taken to hospital in Eldoret Town. That is a medical ground, but when they go to the county directors of the TSC and the Ministry of Education, that is not a good reason. Do they want teachers to die?

Another factor is on marriage. You will find a husband working in Garissa and the wife is working in Homa Bay. Is it in the interests of the TSC and the Ministry of Education to separate families and encourage infidelity?

Mr. Temporary Speaker, Sir, could the Cabinet Secretary give commitment to what he is telling this House because it is only fit for academic discourse since it is not what is happening on the ground? My teachers are suffering. I have been having problems with teachers for the past one year.

The Cabinet Secretary for Education and the TSC should be fair to the teachers of this Republic. They should be honest and do away with the delocalization policy. Let teachers work where it is convenient for them. Why would you transfer from Nandi to Lamu or Mombasa a teacher who has only five years to retire? For what purpose is that transfer?

That is the time they need to be close home as they prepare to retire. They should be seeing their grandchildren and appreciate what they have been doing for this country. Could the Cabinet Secretary give a commitment on delocalization policy for teachers, students and Kenyans once and for all?

The Temporary Speaker (Sen. Abdul Haji): You can now respond, *Waziri*.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr. Temporary Speaker, Sir, as the Senator and the Chairperson of the Committee on Education have noted, we are dealing with an independent commission and we will get it right.

However, as I said earlier, this administration made it clear that we do not want to break families. That was a major consideration that made us reverse that particular policy which inconvenienced people and separated families. In the process, as rightly observed by the Senator, there are families that broke up. The man went and got married elsewhere, and the wife went into other things yet the stability of the family is key to the stability of the nation. Of course, on medical grounds, it is also a factor to be taken into consideration.

The number given is three wanting to move from Vihiga County to Nandi County. One other thing that I have found out is that there are teachers who come to me saying that they want a transfer, when in fact, they have not applied for the same.

So, a teacher will come to a Member of Parliament; the Cabinet Secretary, but he or she has not applied for that transfer. Without naming names, one Member here came to me about a teacher who wanted to transfer from one county to another. Of course, when I called the Teachers Service Commission (TSC), they transferred that particular teacher and quite a number.

So, there is progress. As I have said, we are at 40 something percent. I have given a target to the TSC that I want us to be over 60 percent. We are still at a C and I want us to get to a B+ and finally to A.

So, I submit.

The Temporary Speaker (Sen. Abdul Haji): Thank you.

Sen. Joe Nyutu, you may proceed.

Sen. Joe Nyutu: Thank you, Mr. Temporary Speaker, Sir. My supplementary Question to the CS related to Question No.37 by Sen. Cherarkey, the Senator of Nandi County which was about capitation.

There are areas in this country where public schools are not available. What I am driving at is the fact that some private schools that exist in some areas of this country came into existence because of the need that the investors identified.

If you allow me, I can give you an example of Githurai, which is in Kiambu County side. We only have one public school called Mwiki Primary School, which has a population of about 4,000 or 5,000 pupils. In this area, there are very many private schools that have come up not to serve rich people because pupils in that area cannot all fit in Mwiki Primary School. I may not have the figures, but that side of Githurai could have as many as 20,000 school-going children.

I am building that foundation because I would like the hon. CS, who is very hard-working and committed and who does not miss Committee summons, to tell us if the Ministry has any plans to profile pupils in private schools so that those who go to private schools because there are no available spaces in public schools benefit from capitation by the Government? We also have informal schools that serve some of the poorest of the poor but these pupils do not get capitation.

Could the CS tell us what we are going to do because you will find a school like Nairobi Primary School with very well-to-do pupils but receiving capitation? If you go to Kibra, you will find very needy students in some funny school but classified as private and does not enjoy capitation. What are the plans to bring on board needy learners in private schools as far as capitation and textbooks provision by the Government is concerned?

I thank you

The Temporary Speaker (Sen. Abdul Haji): Thank you, Chairperson Senate Standing Committee on Education, Sen. Joe Nyutu.

Bw. Waziri, you may respond.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. What the hon. Member from Murang'a has said is correct. We have parts of this country, for example, Nairobi City County where, for some reason, we do not have adequate public schools.

This is a problem we have identified as a Government and we are looking for solutions. We have had a meeting with the local leadership, the Members of Parliament (MPs) and the Governor. They must get public land where we will build additional primary and secondary schools. We do not have enough secondary schools in Nairobi City County where children can get admission after they leave primary school. They end up in neighboring counties.

This is a problem that we have identified. One month ago, we were in a school in Roysambu, which has six acres of land and is congested. With the aid of the President of the Republic of Kenya, we are doing an additional 30 classrooms. We will construct 5,000 classrooms in Nairobi to accommodate the huge population that is not able to find admission in public schools.

In this financial year, we have an allocation of Kshs3 billion for Nairobi City County alone, because of the problem we are experiencing. We will get Kshs1 billion allocation per year.

Ever since we came in as a new administration, we have identified the problem and there is something we are doing about it. It is not only in Nairobi City County, but also in neighboring counties. We are giving affirmative actions in areas like Mwingi. The Government has committed that we must have additional funds. Education is key. We are looking at human capital.

We do not have a policy on giving capitation to private schools. Hon. Senators, you will remember the kind of debate on giving capitation to private universities and how Kenyans have pronounced themselves on that area. They agreed that we are giving public funds to private enterprises, who are doing their own businesses and we do not have the capacity or ability to audit the public funds that we are giving to those entities. So, we have no plan.

This is why we have come up with a funding model for public universities. This funding is also meant to array the fears of those coming from poor backgrounds. The Government has put in place a proper system to fund students by giving 100 per cent scholarships to those who come from poor backgrounds and cannot raised school fees.

We have categorized them into four. The very vulnerable will get 100 per cent funding. The instrument we are using to measure this is equivalent to what we are using in the Higher Loans Education Board (HELB). About 45,000 Kenyans will benefit from this. There is also the extremely needy or less needy. Each Kenyan will access education. So, concerning private schools, we still do not have a policy to give them public funds.

I submit.

The Temporary Speaker (Sen. Abdul Haji): Thank you, *Waziri*. The Next Question is by Sen. Cherarkey.

Question No. 039

LIFESTYLE AUDIT ON SENIOR OFFICERS AT THE TSC

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I beg to ask the Minister for Education the following Question-

(a) Could the Cabinet Secretary indicate when a lifestyle audit was conducted last on senior officers at the Teachers Service Commission (TSC), including the Chief Executive Officer?

(b) Are there plans by the Government to conduct further lifestyle audits on senior officers at the TSC and if so, provide a timeline for this?

The Temporary Speaker (Sen. Abdul Haji): Proceed, Hon. Cabinet Secretary.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Temporary Speaker, Sir, I went through the Question. However, you have to understand your mandate, limit and powers. I looked through the question and concluded that the constitutional and the legal responsibility is with the Ethics and Anti-Corruption Commission (EACC), which is supposed to do this.

I, therefore, sought the information from them. I wrote to the Attorney-General and to the EACC, to provide the information. The EACC wrote back to me. I am sorry I had not attached this letter, which I have from the Commission. Probably with your permission, it can be tabled.

The letter is dated 31st July, 2023 because I did not have the capacity as a Ministry to undertake the audit. The EACC says it has not received any report on corruption or economic crimes touching on senior officers of the TSC to enable it to invoke this particular mandate to undertake the life style audit. They are the ones who are empowered to do that.

They also say the question has not stated why we exactly want to undertake such a life style audit concerning senior officers from the TSC. They say that they do not have sufficient reasons to commence investigations on unexplained assets involving officers of the Commission.

As I said, if you look at our mandate and roles of our Ministry, conducting lifestyle audit is something that we do not have the capacity to do. That is the answer we got from the body, which is mandated to do that. I think that answers the questions. I submit. In case the letter is required for record, I can have it submitted.

The Temporary Speaker (Sen. Abdul Haji): Hon. Cabinet Secretary, you will have to submit the letter so that it is tabled on the Floor of the House.

Thank you. Let us listen to Sen. Cherarkey.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, in the interest of time, I will need your guidance on Question No. 40 maybe later if I can request that Question to be deferred to a later date or we take written submission, because my interest is on this question.

Finally, I will have only one supplementary question. The Cabinet Secretary has indicated that they do not have this information. I will also need your ruling that, if the Cabinet Secretary is under an independent Commission, can the TSC itself-

(1) appear before the House since the veil that the Cabinet Secretary has been hiding is that TSC is an independent Commission.

(2) When you look at part four of the Regulations of the Anti-Corruption Act and Economic Crimes Act, it provides on the issue of wealth declaration. I did not know if you must do wealth declaration because investigations are ongoing.

Mr. Temporary Speaker, Sir, please, look at the Senate's Standing Order No. 51C (6) (b). It states –

“(6) A Cabinet Secretary -
(b) shall respond to the Question.”

It does not say ‘may’. The Cabinet Secretary did not answer and, therefore, he has violated Standing Order No.51C (6) (b).

Mr. Temporary Speaker, Sir, Sections Four and Five of the Access to Information Act, 2016 are very clear on the disclosure of information. Section Six provides for a limitation on the non-disclosure of information based on national security. I did not know that the declaration of the wealth of the Chief Executive Officer (CEO) and senior officials of TSC is a threat to national security and, therefore, meets the threshold of Section Six of the Access to Information Act.

Mr. Temporary Speaker, Sir, my learned seniors, Sen. Wakili Sigei and Sen. Cheptumo - the Chair *emeritus* of the Committee on Justice Legal Affairs and Human Rights Committee will confirm that under Article 35 of our Constitution, access to information is a basic right. What we require from the TSC and its CEO is not a threat to national security. We are requesting it under Article 35 of our Constitution on access to information unless the Cabinet Secretary tells us that it is a threat to national security.

Mr. Temporary Speaker, Sir, the CEO in office has surpassed the retirement age. She turned 60 on 11th May, 2023. However, we are in July and the TSC has not replaced her. Therefore, they are in violation of a letter written by Cabinet Secretary, Hon. Aisha Jumwa, on 23rd February, 2023.

Mr. Temporary Speaker, Sir, the Cabinet Secretary has not responded. Therefore, would I be in order to request that you give a considered ruling on the two aspects that the TSC appears before the House independently. Secondly is on the right to access information because we are doing it on behalf of Kenyans. This same Commission is facing lethargy in court cases because of their inability and incompetence in serving the teachers of this Republic. I am not satisfied with the answers by the Cabinet Secretary. I cannot even give such a response to a child in PP1.

Mr. Temporary Speaker, Sir, I respectfully submit.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Sen. Cherarkey. I understand that you are not satisfied with the Question. However, as far as the Cabinet Secretary for Education is concerned, the Question is answered. He has tabled copies of his letters to the Ethics and Anti-Corruption Commission (EACC). As far as the Chair is concerned, the Question is answered.

Therefore, at this point, I will take another supplementary question from Sen. Okenyuri.

Sen. Okenyuri: Mr. Temporary Speaker, Sir, I thank you for granting me this opportunity. I have been waiting all morning.

First, I want to commend the Ministry for taking up the initiative to pay the teachers and examiners who marked the 2022 Kenya National Examinations. I rose on a Statement on 4th May, 2023 seeking an answer as to why those examiners had not been paid.

Secondly, I have a question I wish to direct to the Cabinet Secretary. What measures is the Kenya National Examination Council (KNEC) undertaking to address the differences in payment made to teachers who marked the Kenya Certificate of Secondary Examinations (KCSE) based on different subjects? The Cabinet Secretary needs to inform this House whether it is a criterion that teachers who mark different subjects be paid differently.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Proceed, *Waziri*.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. One, we have now paid all our examiners countrywide. There was a little bit of a delay, but we were able to get the Kshs2 billion and paid each and every examiner.

Mr. Temporary Speaker, Sir, there was a question on which the examiner will take a little more time to mark. For example, Kiswahili has *insha* and other explanations where questions are not open ended. It will require the examiner to take more time. For Kiswahili, we pay Kshs73 per script and Kshs53 per script for Christian Religious Education (CRE).

Why do we do that? In CRE, you might find a question asking where Jesus Christ was born or how many disciples Jesus Christ had. However, the nature of questions in other subjects such as Kiswahili, are not the same. I had the same challenge last year in the 2022 examination weeks. As you know, teachers who were marking CRE Paper Two were insisting that we had to pay them an equivalent of what we are paying Kiswahili teachers, who were in Mang'u High School. Their argument was exactly that.

Again, teachers are taken through some kind of training before they come to mark. They also sign a contract, which is clear on the amount that they will be paid for every subject. I agree that apart from one subject, we are working on a package for our examiners because they require better terms.

We are also working to improve the environment in which they mark. It is because they are the major stakeholders when it comes to marking those exams. They

make it successful. Therefore, we are looking at this, but as far as the subjects are concerned, that is the criteria that is followed.

I submit.

The Temporary Speaker (Sen. Abdul Haji): Thank you, *Waziri*. Hon. Senators, I shall be invoking Standing Order No.34(2)(a) so that we can extend for a further 15 minutes to conclude the business of questioning.

Sen. Wakili Sigei, you may have the Floor.

Sen. Wakili Sigei: Thank you, Mr. Temporary Speaker, Sir. It is not only Sen. Cherarkey who is under pressure and suffering by the concerns on the delocalising question that I had asked.

My supplementary question was with regard to that particular question that Sen. Cherarkey asked about the implementation of the policy by TSC. If I got right the statistics that the Cabinet Secretary gave us, out of 46,000 applications for transfers or rather rerouting of the teachers, TSC has processed approximately 20,000. That is below 50 per cent.

I appreciate the concerns by the Cabinet Secretary with regard to the independence of the Commission. Indeed, TSC is a Chapter 15 Commission, established under Article 237 of the Constitution. However, the Ministry of Education, which also runs the policy of the Government of the day, should at least be able to have a position in terms of implementing a number of its policies.

One of the questions that Sen. Cherarkey has asked is, in the absence of a provision under the Standing Orders or in question as to the appearance of a CEO of an independent Commission, what recourse do we have? This is because that was one of the answers the Cabinet Secretary gave in his attempt to respond to the Question. Sen. Cherarkey gave a list of 43. I have got a bigger list largely from Bungoma County who are seeking to be rerouted back to Bomet County and still a huge number from Wajir and Mandera counties.

These are people who have made applications on the online portal of the TSC and are awaiting the rerouting particularly where the Government has pronounced itself on the need to implement that policy so that we support them in the context of the issues you raised that one, we would want to protect families. We also would want for those who have got medical conditions, we support them as a Government. The unfortunate thing is that when we get the answer, which is lawful as you said, your hands are tied.

The TSC says that it is an independent Commission. What are the practical solutions that we are going to use as a Government in ensuring that we get those policies implemented so that our teachers consider the fact they are genuinely and have got legitimate expectations from the Ministry? What is it that we are going to do? What answers would we be giving them? We also ask these questions on their behalf, we push you on their behalf and we expect to give them in terms of what we are doing and what is not possible?

Hon. Cabinet Secretary, we cannot tell them that we are unable to. We will forever be insisting and pushing the Ministry to support us. If it means asking the TSC to come particularly where I raised that concern, I think that this is the moment that we should use the available opportunities for us to get those responses.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Sen. Wakili Sigei and I think also the question by Sen. Cherarkey, as we all know, as per the Standing Orders, only the Cabinet Secretary can appear on the Floor of the House. However, we have other avenues that you can summon the independent institutions that you intend to question on this matter and that is through the committees. I would advise that we take that avenue and put this matter to rest so that the CS can proceed to other questions that are in place.

Sen. Cheptumo, you may proceed.

Sen. Cheptumo: Thank you, Mr. Temporary Speaker, Sir. I wish to also thank the Cabinet Secretary for being in the House for the last four hours. We appreciate your answers.

Hon. Cabinet Secretary, Baringo County is facing security incidents in some sub-counties. As a result of that, those sub-counties end up not having enough teachers in their schools. I am talking about Baringo North, Baringo South and Tiaty Sub counties.

Even when you now talk about employing the 20,000 teachers in addition to the 35,000 we employed the other day, we still have a problem because those teachers who are either posted or already employed there fear for their lives and sometimes feel like not working in those sub-counties.

This requires what I would call affirmative action. We have many teachers from Baringo in Turkana, Nakuru, North Eastern and other parts of the country. What affirmative action will the Cabinet Secretary put in place so that the teachers from Baringo who are willing, able and available to work in those insecure areas like in Baringo North, Baringo South and Tiaty are transferred there?

You talk of having enough teachers, say, in Baringo, but there are about two, three and four schools which completely do not have teachers because of insecurity. That is the real challenge that we have in Baringo. What affirmative action do you have that can help Baringo have enough teachers in those areas, which are not secure?

The Temporary Speaker (Sen. Abdul Haji): CS, could you respond?

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Thank you, Mr. Temporary Speaker, Sir. I said that we have that problem in Baringo and other counties in northern Kenya. I am happy that the kind of security reports we are getting from Baringo and the entire North Rift are quite encouraging. As a Government, we are managing insecurity problems that we used to encounter. Progressively, as we move on, we will restore law and order in those areas.

I want to make an undertaking to my friend from Baringo that in case we have the local people, we will give them the first priority. I was in West Pokot with my officer, the TSC County Director of Education. In the allocation given to Baringo, West Pokot or any such county, if there are no local people that meet the requirements, that is when they can recruit from outside.

We will look at your allocation to establish the number of teachers out of the 20,000 we are supposed to recruit, for example, in Baringo North or Baringo South. We will encourage the locals to apply and we will be happy to give them opportunities.

Mr. Temporary Speaker, Sir, I also want to make an undertaking to the Senators that I am sure we will have those seeking transfers. I am sure we will transfer quite a

number of teachers because we will have replacements out of the 20,000 that we will recruit. Sometimes we find ourselves in a serious situation whereby you find a school with 10 teachers and almost half of them applying for transfers. If you do not have replacements, it can cause a problem because it is like closing down the school.

Hon. Senator, I assure you it will be done. I submit.

The Temporary Speaker (Sen. Haji): Thank you, *Waziri*. Next question is by Sen. Cherarkey.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I have heard your ruling. However, I request that you give us your considered opinion because we will be facing challenges of independent commissions like the National Gender and Equality Commission (NGEC), the Kenya National Commission on Human Rights (KNCHR) and the TSC. When you retreat, please give us direction. We know there are committees but we beg for your ruling.

Question No.040

MONIES OWED TO TEACHERS' SACCO, UNIONS AND SCHOOLS

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I have two questions. I beg to ask the Cabinet Secretary for Education the following Question-

(a) Could the Cabinet Secretary state the total amount owed by the TSC to the teachers' SACCOs and the two trade unions namely; the Kenya Union of Post Primary Education Teachers (KUPPET) and the Kenya National Union of Teachers (KNUT)?

(b) Why the TSC delays remittances to the teachers' unions and SACCO. Could the Cabinet Secretary provide a timeline for the remittances of the dues?

(c) State the total pending capitation owed by the Ministry to schools; that is public primary schools, junior schools and secondary schools?

The Temporary Speaker (Sen. Haji): Proceed, *Waziri*.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr. Temporary Speaker, Sir, as I speak, the Commission is not owed any outstanding remittances by the teachers' SACCO and unions such as KNUT and KUPPET.

As we are aware, the Commission maintains an account with the Central Bank of Kenya (CBK) where all third-party transactions are conducted. Once the National Treasury transfers the amounts required to the Commission's CBK account, it is supposed to forward the amounts to the three mentioned entities. One problem that we encounter, just like any other entity, is delays in Exchequer releases. When we get the money, the first priority is to pay salaries. After we have paid them, we look at other areas.

In the last few months, we have not had a problem because like for May, 2023, we released the money to those other bodies in June. The same payments were done to KNUT and KUPPET. SACCOS payments were done on 12th June, 2023. Even if there was a delay, probably it was a week or so. If you engage our Unions, especially KNUT and KUPPET, this time round, they will confirm that unlike before, their remittances are

timely. The amounts paid by the TSC to KUPPET is Kshs130,949,661 while the amount paid to KNUT is Kshs160,450,000.

Mr. Temporary Speaker, Sir, usually, the delays are occasioned when the Exchequer delays. I confirm to the House that we have paid all what was outstanding. As at now, there is no amount that has not been paid to the two Unions and the SACCO.

I submit Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you, *Waziri*. Sen. Cherarkey, do you have a supplementary question or do we give another Senator the chance?

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I can cede to my colleagues.

The Temporary Speaker (Sen. Abdul Haji): Thank you. Sen. Mbugua.

Sen. Mbugua: Thank you, Mr. Temporary Speaker, Sir. I refer the Cabinet Secretary for Education to Article 36(2) of the Constitution-

“36(2) A person shall not be compelled to join any association of any kind.”

We have received complaints from especially female teachers and special needs teachers being forced and being deducted some amount of money without their consent. Is the Cabinet Secretary aware of this? What is he doing about that?

The Temporary Speaker (Sen. Abdul Haji): *Waziri*.

The Cabinet Secretary for Education (Hon. Ezekiel Machogu): Mr. Temporary Speaker, Sir, it is right that no one should be forced. The KNUT is voluntary. A teacher must fill a form and submit it to the TSC. The same applies to KUPPET and SACCOs.

The amount deducted from one’s salary is the one indicated in that form. I am not aware of such a case where a teacher has been deducted without his or her consent or knowledge. If there is such an isolated case, kindly bring it to my notice so that we are able to take the necessary action.

I so submit, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you. I take this opportunity to thank the Cabinet Secretary for Education for his patience and spending the whole morning with the Senate. I also thank you for your answers. At this point, I will give you leave so that you resume your other duties.

*(The Cabinet Secretary (Hon. Ezekiel Machogu)
was escorted out of the Chamber)*

ADJOURNMENT

The Temporary Speaker (Sen. Abdul Haji): Hon. Senators, it is now 1.15 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until today, Wednesday, 9th August, 2023 at 2.30 p.m.

The Senate adjourned at 1.15 p.m.