

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 12th April, 2007

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of Higher Education Loans Board for the year ended 30th, June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Egerton University for the year ended 30th, June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Egerton University for the year ended 30th, June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for  
Tourism and Wildlife  
(Mr. Muriungi) on behalf of the  
Minister for Education)*

Annual Report and Accounts of National Council for Science and Technology for the year ended 30th, June, 2004, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for Tourism  
and Wildlife (Mr. Muriungi) on  
behalf of the Minister for  
Science and Technology)*

Annual Report and Accounts of Agricultural Development Corporation for the year ended 30th, June, 2001, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of National Cereals and Produce Board for the year ended 30th, June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Pyrethrum Board of Kenya for the year ended 30th, June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Pyrethrum Board of Kenya for the year ended 30th, June, 2003, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for  
Tourism and Wildlife)*

*(Mr. Muriungi) on behalf of  
the Minister for Agriculture)*

Annual Report and Accounts of Tana and Athi Rivers Development Authority for the year ended 30th, June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Lake Basin Development Authority for the year ended 30th, June, 2002, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for Tourism  
and Wildlife (Mr. Muriungi)  
on behalf of the Minister  
for Water and Irrigation)*

Annual Report and Accounts of Nursing Council of Kenya for the year ended 30th, June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Nursing Council of Kenya for the year ended 30th, June, 2003, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for  
Tourism and Wildlife  
(Mr. Muriungi) on behalf of  
the Minister for Health)*

Annual Report and Accounts of Kenya Ferry Services Limited for the year ended 30th, June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for  
Tourism and Wildlife  
(Mr. Muriungi) on behalf of  
the Minister for Transport)*

Annual Report and Accounts of the Medical Practitioners and Dentists Board for the year ended 30th, June, 2001, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Medical Practitioners and Dentists Board for the year ended 30th, June, 2002, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Medical Practitioners and Dentist Board for the year ended 30th, June, 2003, and the certificate thereon by the Controller and Auditor-General.

*(By Assistant Minister for  
Tourism and Wildlife  
(Mr. Muriungi) on behalf of  
the Minister for Health)*

**Mr. Deputy Speaker:** Mr. Muriungi, how many are those documents?

**The Assistant Minister for Tourism and Wildlife** (Mr. Muriungi): They are 16 documents, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Have you laid the 16 documents now?

*(The Clerks-at-the-Table  
counted and confirmed the  
number of documents)*

Mr. Muriungi, it has been confirmed that they are 16 documents. Thank you.  
Next Order!

### QUESTIONS BY PRIVATE NOTICE

**Mr. Deputy Speaker:** We have two Questions and I will start with Mr. M.Y. Haji.

FATE OF KENYAN UNDP WORKER  
ARRESTED BY ETHIOPIAN  
SECURITY FORCES

**Mr. M.Y. Haji:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Could the Minister inform the House the fate of a Kenyan working with the United Nations Development Programme (UNDP), Mr. Mohammed Amin Dable, who was arrested by Ethiopian security forces at Kismayu on 3rd January, 2007?

(b) What steps is the Minister taking to secure his release?

**Mr. Deputy Speaker:** Mr. Assistant Minister for Foreign Affairs, can you deal with this matter?

*(Loud consultations)*

Order, hon. Members! When we started this Session, we agreed that we will lower the consultation tones and now we are beginning to raise them! So, please, let us listen!

**The Assistant Minister for Foreign Affairs (Mr. Wetangula):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The fate of Mr. Dable remains unknown though his employer, the UNDP, has confirmed to us that he has been missing since the 2nd of January, 2007.

(b) We are using all available channels to try and trace the whereabouts of Mr. Dable.

**Mr. M.Y. Haji:** Mr. Deputy Speaker, Sir, I reported this matter to the Ministry of Foreign Affairs on 16th January, 2007. That is about three months to date. It is shocking to hear that the Government is not aware of Mr. Dable's whereabouts, yet I have reported to them where he is. He was in Kismayu and later taken to Harad in Ethiopia. The latest information I have is that he was returned to Baidoa. Now that we know where he is, could the Assistant Minister tell us when to expect an answer that the Government has secured his release?

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, it is true that Mr. M.Y. Haji has been visiting our offices regularly to discuss the fate of Mr. Dable. It is also true that we have, jointly with him, regularly contacted the UNDP and TFG in Somalia through their mission here. The UNDP has confirmed to us that the gentleman went missing from Kismayu where he was working and a trail to find where he has been has not been successful. Now that the hon. Member has said that he is in Baidoa, I will call the TFG Ambassador to Kenya and give him the necessary instructions to act.

**Mr. Billow:** Mr. Deputy Speaker, Sir, in a letter to this Ministry on 22nd March, 2007, the Human Rights Watch, an international organization recognised for its role in human rights, accused the Kenya Government of having co-operated in a detention operation together with the Somalia,

Ethiopia and the United States of America (USA) governments in which over 150 people were detained in this country and denied access to all rights. This is documented in a letter that was written on 22nd March, 2007. Among those 150 people who were detained and 63 others deported, are Kenyans. I want to give an example of two Kenyans. I want to table copies of their identity cards. The two have been deported and today they are among 63 people who are Stateless because this Government deported them without giving them the chance of defending themselves in a court of law. Could the Assistant Minister undertake to table in this House the list of all people who have been deported from this country in the last three months, after having been subjected to detention and interrogation which included torture, which has been banned? The issue of torture is included in the report by the Human Rights Watch and the letter was addressed to the director---

**Mr. Deputy Speaker:** Order! You have asked a valid question! So, do not spoil it by adding many things.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, if you may recall, a similar Question was asked in this Parliament last week and it was answered in his presence. The gentleman that we have been dealing with, with Mr. M.Y.Haji was not abducted from Kenya. He was recruited locally in Somalia by the UNDP, although he is a Kenyan. He was working with the UNDP in Somalia and he disappeared while working there. We are making an effort to get him. The issues that Mr. Billow is raising are strange to this Question.

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, Mr. Dable's fate in Ethiopia is as mysterious as the Assistant Minister said. We also have cases in Southern Sudan where our nationals are languishing in detention, particularly the truck drivers who have either been detained by SPLA or they have been kidnapped by agencies unknown to the Kenya Government. What is the Ministry doing to liaise with our neighbours with whom we have bilateral agreements? You should tell us if those States are hostile to Kenya or they are our friends.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, I think it is common knowledge that all our neighbours are our good friends without exception. It is true that we have had some complaints by Kenyans working in Southern Sudan of being treated badly, not by the Government of Southern Sudan, but by some errand forces. You know the situation in which Southern Sudan has been. I want to appeal to all Kenyans who want to go and work in our neighbouring countries, to take the opportunity to report to the Government, particularly my Ministry, so that in the event that we have any problems of this nature, we are able to quickly deal with it based on the data available in the Ministry.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the Question suggests that this Kenyan was arrested by officers of the Ethiopian Government. Has that man been charged in any court of law since that time? Has our Government made efforts to find out whether he has been taken to any court because if Government officers arrest an individual, he should be taken to court?

**Mr. Deputy Speaker:** If you listened to the answer the Assistant Minister gave, your question would not have arisen. But the Assistant Minister can answer if he wants.

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, I do not think I need to answer that.

**Mr. Maore:** Mr. Deputy Speaker, Sir, if you remember, as a prelude to the entry of the Ethiopian security forces into Somalia, late last year, the Kenya Government stopped all flights into and out of Somalia. You remember that during that period, they never gave opportunity to Kenyans who were in Somalia to evacuate because by inference and by all the conducts by this Government, they were party to what Ethiopians were doing or were to do in Somalia. Why is the Kenya Government not coming out with a policy about Kenyans who may have been picked genuinely in Somalia and yet, they were not part of the combatants?

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, you recall that when Ethiopian forces entered Somalia, many nationals of the United Kingdom (UK), USA and other countries including Kenya,

were given safe passage by the Government of Kenya to come to Kenya on transit to their respective countries. The gentleman that Mr. M.Y. Haji is asking about was abducted in Kismayu, over which we have no jurisdiction and we are making an effort to get him back through the means that I have already explained.

**Mr. M.Y. Haji:** Mr. Deputy Speaker, Sir, would I be in order to request the Government, through the Assistant Minister, that since the children of Mr. Dable are suffering in Kismayu without any income, guardian or anybody to help them, to consider, as they continue looking for means and ways of securing the release of Mr. Dable, extending assistance to his children in Kismayu?

**Mr. Wetangula:** Mr. Deputy Speaker, Sir, once we locate Mr. Dable, the Government will assist in getting both him and his family back to Kenya.

INCREASED INSECURITY  
IN BARINGO DISTRICT

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

(a) Is the Minister aware that in December, 2006, armed raiders gunned down a child at Kapturo Sub-location in Ngorora Location and a large herd of livestock was stolen from Yatya Sub-location in Kipkata Location?

(b) Is the Minister further aware that three people were killed by gun-totting raiders at Rugus and Kiserian in Mukutani Division on 25th and 28th March, 2007, respectively?

(c) What concrete measures is the Minister taking to guarantee the security of the people and their property in Baringo District?

**Mr. Deputy Speaker:** Is the Minister not here? Mr. Vice-President and Minister for Home Affairs, I have a problem here.

*(Laughter as Mr. Y.M. Haji  
crossed the Floor)*

What is funny? The Question has been asked by the Member for Baringo North and we are waiting for an answer!

**The Minister for Justice and Constitutional Affairs (Ms. Karua):** Mr. Deputy Speaker, Sir, we seek the indulgence of the House for the Question to be answered on Tuesday by the Minister. If he will not be here, we undertake to answer it ourselves.

**Mr. Deputy Speaker:** Very well. I think I will allow that request, because it is very rare that the Minister asks for Questions to be deferred or even misses in the House. So, there must be a good reason. Don't you agree with me, Mr. Boit?

**Mr. Boit:** Mr. Deputy Speaker, Sir, I am wondering if in the course of this afternoon, since this is a Question by Private Notice, the Minister walks into the House he will be allowed to answer it!

**Mr. Deputy Speaker:** Yes, if he does, I will allow him to answer it. Otherwise, the Question is deferred to Tuesday.

*(Question deferred)*

ORAL ANSWERS TO QUESTIONS

*Question No.016*ACQUISITION OF NJABINI LAND  
BY MIDLANDS LIMITED

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

- (a) under what circumstances the company by the name Midlands Limited acquired land at Njabini Farm; and,
- (b) what proportion of land the company acquired, for what purposes and at what cost.

**Mr. Deputy Speaker:** Let me brief the House on the status of this Question. It was actually largely answered. There was only one final question by Mr. Owino. What happened was that Mr. Kamama read out names of directors of Midlands Limited, and Mr. Owino gave another version. Therefore, we asked that the Clerk of the National Assembly verifies the two versions. The Clerk has informed me that he has not yet received certification, and that he expects it by Tuesday. Therefore, I want to defer this Question to Tuesday. We will only deal with the Question far as something remained to be clarified. We are not going to open debate on the Question afresh. There was only one question to be asked, unless Mr. Kamama wants to add or correct anything.

**The Assistant Minister for Lands** (Mr. Kamama): Mr. Deputy Speaker, Sir, I still maintain the status quo. I will go by the answer that I gave to this House; there are no changes. Since hon. Kimunya's name was mentioned, and he is here and is ready to clarify a point, why don't you give him a chance to say something about this matter?

**Mr. Deputy Speaker:** Order, Mr. Kamama! There are procedures. If Mr. Kimunya wants to make a Personal Statement on that matter, he can do so under Standing Order No.69 after clearing with the Chair. So far, I have not been approached by Mr. Kimunya. The issue is simple. It is that Mr. Owino gave a list of directors, one of whom was Mr. Kimunya, and Mr. Kamama gave a list of directors on which Mr. Kimunya's name did not feature. Therefore, the Clerk of the National

Assembly is to verify who between the two hon. Members was telling us the truth. It is only an independent person like the Clerk of the National Assembly who can do that. Therefore, he is going to give us this information on Tuesday and we dispose of the matter. Mr. Owino will then be given an opportunity to ask only one question.

So, the Question is deferred to Tuesday.

*(Question deferred)*

*Question No.121*

## PENSION DUES FOR MR. KIVUTHU UVATHA

**Mr. C. Kilonzo** asked the Minister of State for Defence:-

- (a) whether he is aware that Mr. Kivuthu Kyule Uvatha, Force/Pension No.DPN/P 13829, ID No.3549915, who retired from the Kings African Rifles in 1954 on medical grounds, has not been paid pension from 1998 to date;
- (b) whether he is further aware that Mr. Uvatha, who is 79 years old, is now stressed as a result; and,
- (c) what he is doing to ensure that Mr. Uvatha receives his pension which is in arrears of over seven years.

**Mr. Deputy Speaker:** The Minister is still not here? Deputy Leader of Government Business, what do you have to say?

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker,

Sir, we, again, seek the indulgence of the House in this matter and pray that the Question be deferred to Tuesday.

**Mr. Deputy Speaker:** All right. Mr. Kilonzo, the Question is deferred to Tuesday.

*(Question deferred)*

*Question No.127*

COMPLETION OF SURVEY/DESIGN  
WORK ON ISIOLO-MODOGASHE ROAD

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

- (a) whether he could confirm that survey and design work on Isiolo-Modogashe Road (B9) has been completed; and,
- (b) when this important road will be upgraded to bitumen standards.

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

(a) The survey and preliminary designs of Isiolo-Modogashe Road were completed in August, 2006. The final design is being awaited from the consultant and he will be ready at the end of April this year.

(b) There are plans to upgrade the road to bitumen standards. My Ministry is currently soliciting for donor support to finance the construction of this road.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, this is a very important road, and I want to thank the Assistant Minister for that answer, although he has taken quite a long time to conclude this matter of survey and design. In the meantime, could the Assistant Minister inform the House how much money he will allocate to ensure that this road is motorable?

**Eng. Toro:** Mr. Deputy Speaker, Sir, I do not have that figure at the moment of the amount that has been allocated for maintenance purposes. But I am sure we have already budgeted this financial year for maintenance of that road.

**Mr. Billow:** Mr. Deputy Speaker, Sir, when it comes to roads in North Eastern Province, the talk has always been that we are looking for donors to finance construction of those roads. Is the Assistant Minister aware of an offer by a donor of a US\$300 million loan, repayable in 30 years after a grace period of ten years at a zero interest rate? This offer was brought to the attention of Ministries of Roads and Public Works and that of Finance, but no action has been taken to secure it. I will table documents to prove what I am saying. Why has the Government not taken up that offer?

**Eng. Toro:** Mr. Deputy Speaker, Sir, it would be prudent if the hon. Member named the specific donor. We need to know the donor.

**Mr. Maore:** Mr. Deputy Speaker, Sir, a portion of this road actually passes across my constituency. The Assistant Minister says he has finished with design work. What is the specific time frame or period - is it this financial year or the next financial year which starts on the 1st of July - within which the Ministry intends to actually advertise for the construction of this road?

**Eng. Toro:** Mr. Deputy Speaker, Sir, since we do not have any confirmation from any donor, we cannot say exactly when the work on the road is going to start. But since the design is being completed at the end of this month, after that we will be able to do the necessary. The other option is starting work on the road with funding from either the Roads Development Fund or the Fuel Levy Fund. Somehow, we will have to start work on the road.

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

**Mr. Bahari:** Mr. Deputy Speaker, Sir, Mr. Billow, in his supplementary question, raised a very important issue. He said that a donor had agreed to tarmack that road. That has to do with the

livelihood of our people. Would I be in order, through you, to ask that this Question be deferred because the Assistant Minister is not even sure of the donor?

**Mr. Deputy Speaker:** But the Assistant Minister asked you to name the donor! Why do you not tell him that?

**Mr. Bahari:** Mr. Deputy Speaker, Sir, I want to table this document because it is very important!

**Mr. Deputy Speaker:** Mr. Bahari, that should not form the basis as to why we should defer the Question. Is there any need to defer this Question because you have brought documents? That is a supplementary question. Whoever asked the supplementary question and said that there is a donor with US\$300 million should give us the information. But you cannot tell the House to wait until next week so that you can bring the information. It is not fair! If you have information, give it now or ask your last question!

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

**Mr. Deputy Speaker:** Mr. Billow, what is it?

**Mr. Billow:** Mr. Deputy Speaker, Sir, the Assistant Minister has said that they are looking for donors. I have evidence of donors offering up to US\$300 million for those roads and the Ministry of Finance has not responded. Please, give us time and I will produce those documents.

**Mr. Deputy Speaker:** Mr. Billow, what the Chair is saying is that, that should not form the basis as to why we should defer the Question. You can still get the information and pass it on to the Assistant Minister. Let us be serious. We cannot hold the business of the House. You can still get the documents and give them to the Assistant Minister in his office.

Mr. Bahari, I want you to ask your last question.

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

**Mr. Deputy Speaker:** Capt. Nakitare, what is your point of order?

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to doubt donors? Do we have donors who come through the back door and others who are known to the Ministry only? Is he in order to mislead this House that he does not know that there are donors who are, specifically, interested in funding that particular project?

**Mr. Deputy Speaker:** Eng. Toro, are you in order?

**Eng. Toro:** Mr. Deputy Speaker, Sir, there are so many donors who are prepared to fund projects. For example, on the Garissa-Modogashe-Wajir Road, we are already, as a Government, starting works on the first 20 kilometres, while awaiting the confirmation of donors like Bank for Economic Development in Africa (BADEA). That project is starting next month. But until we have a confirmation, we cannot say that So-and-so has agreed to fund the project, because we will be misleading the House. That is why I am asking Mr. Billow that, since this Question is not by Private Notice, and he knew it was on today's Order Paper, he should have come with the name of the donor so that we can follow up the matter.

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

**Mr. Bahari:** Mr. Deputy Speaker, Sir, we know that roads in that part of the country have been neglected because of the way allocations have been done in the past. That is a fact. The Government promised to construct those roads in two years after it took over the running of this country. But now, its time is up. When does the Assistant Minister intend to upgrade that road to bitumen standards? Could he give a commitment?

**Eng. Toro:** Mr. Deputy Speaker, Sir, I said that I cannot give a commitment. When we get a commitment from the donor that money will be available, we will say when those works will start. However, we are taking the construction of roads in North Eastern Province very seriously. I gave an example of the Garissa-Modogashe Road where BADEA and Saudi Fund are prepared to fund its construction. However, before they avail the money, we cannot say anything. But we have



started the works. We have allocated Kshs770 million for the construction of the first 20 kilometres. So, even if we do not get a confirmation from the donor that Mr. Bahari is talking about, we can still work on it as a Government.

**Mr. Deputy Speaker:** Mr. Bahari, that is a fairly satisfactory answer. But you can still take the documents about those donors to the Assistant Minister.

Next Question by Mr. J.M. Mutiso!

*Question No.136*

NUMBER OF KENYA CHARITY  
SWEEPSTAKE KIOSKS IN NAIROBI

**Mr. J.M. Mutiso** asked the Vice-President and Minister for Home Affairs:-

- (a) what the number of Kenya Charity Sweepstake *kiosks* in Nairobi is; and,
- (b) what measures the Government is taking to increase the number of vendors, *kiosks* and sales of lottery tickets, in view of the intense competition from private lotteries.

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

(a) Kenya Charity Sweepstake has a total of 100 *kiosks* in Nairobi.

(b) Kenya Charity Sweepstake is a private company. It is the responsibility of the company to intensify its marketing and sales strategy in order to compete with other private lotteries. The role of the Government is to provide an enabling environment to all operators in the lottery sector without discrimination. Kenya Charity Sweepstake is, therefore, accorded the same treatment as other private lottery operators.

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, I would like to thank the Vice-President and Minister for Home Affairs for that answer. Whereas we acknowledge the contribution of the Kenya Charity Sweepstake to various sectors of this economy, the Kenya Charity Sweepstake has licensed more than 100 *kiosks* in Nairobi. But the operators cannot operate their businesses because of Government discrimination. Could the Vice-President and Minister for Home Affairs tell us why the Government is discriminating against those operators?

**Mr. Awori:** Mr. Deputy Speaker, Sir, while I am conscious of collective responsibility, that information should come from the Ministry of Local Government. I really do not have an answer. Nevertheless, I intend to speak to the Minister for Local Government who is responsible for allowing those *kiosks* and tell him not to harass *kiosk* operators.

**Eng. Muriuki:** Mr. Deputy Speaker, Sir, many of us are learning now that Kenya Charity Sweepstake is, in fact, a private organisation. Ordinarily, when we recommend schools and other beneficiaries of charity sweepstake funds, it is done through the District Commissioners (DCs). Perhaps, it would help to know who are the owners of those private companies and who the directors are, so that we can find the route that leads to Government offices.

**Mr. Awori:** Mr. Deputy Speaker, Sir, Kenya Charity Sweepstake has a long history. In the past, the line between private sector and Government was grey. It was almost blurred. However, it is a private company. I know that the Managing Director is called Maj. David Vauden. He has a Board of Directors. This information can be made available to the House.

Mr. Deputy Speaker, Sir, may I volunteer further information? We are in the process of starting a national lottery. The discussions and arrangements are at a very advanced stage. Of course, when that comes about, many operators will be asked to apply for licences. Once they get a licence to operate a national lottery, all those others, including the Kenya Charity Sweepstake, will cease to operate. The only other people who will operate lotteries are organisations that use

lotteries to promote their products. That is a "once-only" affair. A national lottery will considerably help good causes. So, we will just be falling in line with most countries in the world, which have a national lottery.

**Mr. M'Mukindia:** Mr. Deputy Speaker, Sir, I would also like to thank the Vice-President and Minister for Home Affairs for his scheme to create a national lottery. However, in view of the fact the cost of running a lottery is very low, could he tell us what percentage of the earnings of Kenya Charity Sweepstake actually goes to social projects to help communities?

**Mr. Awori:** Mr. Deputy Speaker, Sir, in the normal circumstances, a national lottery, and I am here not referring to Kenya Charity Sweepstake which operate slightly differently, would allocate, say, 12 per cent to the operator as the expenses, 50 per cent to prizes for the winners and 25 per cent to good causes. Normally, that is how national lotteries operate. I can get the information as far as the Kenya Charity Sweepstake is concerned, but it runs more or less on the same level.

There was also a question which was asked about disbursement of cheques through the Provincial Administration. This is from a historical point of view that the cheques are safer when sent through the Provincial Administration. That is why they are sent to the Provincial Commissioners who in turn sends them to the recipients.

**Mr. Syongo:** Mr. Deputy Speaker, Sir, under the Betting Control and Licensing Act, all unclaimed prizes are forfeited to the Government. Could His Excellency the Vice-President and Minister for Home Affairs confirm that all the licensed lotteries do surrender unclaimed prizes? Secondly, could he also inform the House how the Government disposes of these unclaimed prizes?

**Mr. Awori:** Mr. Deputy Speaker, Sir, we have in our Ministry the Betting Control and Licensing Board and any undisposed of prizes are surrendered to it. It then uses the money like Appropriation-in-Aid (A-in-A).

**Mr. J.M. Mutiso:** Mr. Deputy Speaker, Sir, every morning in the electronic media, we have advertisements by various companies like Safaricom and Celtel asking their members to top up their mobile phones. Could the Vice-President and Minister for Home Affairs tell us whether these companies are in the lottery or gambling business or what activity is this they engage in because it is very confusing? Could he clear the air regarding these activities?

**Mr. Deputy Speaker:** Mr. J.M. Mutiso, I will leave that at the discretion of the Vice-President and Minister for Home Affairs because it is not really related to the Question on the Order Paper.

**Mr. Awori:** Mr. Deputy Speaker, Sir, in my written answer, I mentioned that organisations, including Celtel, Safaricom and any other industrial organisation can use a lottery to promote their products. That is exactly what Safaricom and Celtel are doing. They are not in the lottery business; they are in the communication business.

**Mr. Deputy Speaker:** Next Question by Mr. Lekuton!

*Question No.141*

NUMBER OF SCHOLARSHIPS FOR LAISAMIS  
CONSTITUENCY SINCE 1963

**Mr. Deputy Speaker:** Mr Lekuton, before you ask your Question, I have a message for the House that the Minister for Education is out of the country. His Assistant Minister, Dr. Mwiria, is in Nyeri attending the National Drama Festivals. His colleague, Mrs. Beth Mugo, is indisposed. Therefore, I will defer this Question to Tuesday, next week. Mr. Lekuton is that okay?

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I suppose we have no alternative, but to do so.

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question by Mr. Mirugi!

*Question No.156*

IRREGULAR CHANGE OF SHAREHOLDING  
IN NAKURU WATER COMPANY

**Mr. Mirugi** asked the Minister for Water and Irrigation:-

- (a) whether he is aware that the Municipal Council of Nakuru changed the shareholding of Nakuru Water and Sewerage Company and later conducted an irregular election of the Board of Directors;
- (b) whether he is further aware that the company is not registered; and,
- (c) what measures he is taking to ensue that the company is legally constituted and to enhance transparency and accountability in its management.

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

(a) Yes, I am aware that the Municipal Council of Nakuru changed the shareholding of Nakuru Water and Sanitation Services Company by increasing the number of shares held by council officials. A general meeting of the company held in February, 2006, also increased the number of directors in the Board of Directors. However, these changes have not been filed with the Registrar of Companies.

(b) Nakuru Water and Sanitation Services Company is registered under the Companies Act as a private company limited by shares.

(c) My Ministry, through Rift Valley Water Services Board, has instructed the company to comply with the provisions of the Companies Act by ensuring that the changes are filed and registered with the Registrar of Companies, failure of which, the service provision agreement between the Rift Valley Water Services Board and Nakuru Water and Sanitation Services Company will be cancelled. My Ministry has developed and will soon gazette rules and regulations governing water services providers aimed at legalising changes in Memorandum and Articles of Association of Companies after signing of water services provisions agreement.

**Mr. Mirugi:** Mr. Deputy Speaker, Sir, Nakuru Town has been suffering from a perennial water shortage and the big problem comes from the water service provider. Could the Assistant Minister tell us why the Ministry allowed the water service provider change the Articles of Association after signing the contract by increasing the number of shares? Now, all the councillors in the town have shares and these shares have perpetual shareholding. Secondly, could he also tell the House why the Ministry allowed councillors to be the ones who determine who the consumer stakeholder, business person stakeholder and who are the women stakeholders sitting in the Board? Why did they allow the council to decide on its own and yet, this is supposed to be a private company with private sector participation?

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, I have been very clear in my answer that Nakuru Water and Sanitation Services Company is registered under the Companies Act as a private company limited by shares. That is why we did not stop them from doing whatever they did. As I said, the company must comply with the provisions of the Companies Act by ensuring those changes. Up to now, the Registrar of Companies cannot revoke anything until those changes are filed. However, up to now, they have not been filed.

**Mr. Deputy Speaker:** The hon. Member raised an issue of councillors being the

shareholders of the company that is supplying residents of Nakuru with water. I think that is the concern of the hon. Member. Is it proper for councillors to be shareholders of the company that is supplying water to Nakuru residents? That is the question the hon. Member has asked.

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, it is the office that is a shareholder, but not individual councillor. Those are offices. For example, the mayoral shareholder is an office. The chairman of a committee in the council is also an office.

**Mr. Waithaka:** Mr. Deputy Speaker, Sir, I think the hon. Member of Parliament for Nakuru Town has very clearly stated that all councillors are shareholders.

**Mr. Deputy Speaker:** As individuals or office holders?

**Mr. Waithaka:** Mr. Deputy Speaker, Sir, I am saying what he has actually said, and we would like a clarification from the Assistant Minister.

My understanding of a company is that if that change has not been registered with the Registrar of Companies for a whole year, and dividends have been declared at the end of the year, because it is more than a year, it means that maybe even the profit is being looted by those councillors and other people who have come into play. Could the Assistant Minister table a list of the shareholders and their shareholding, so that we know who owns what, because this may go on in perpetuity?

**Mr. Wanjala:** Mr. Deputy Speaker, Sir, first of all, the shareholder is the Nakuru Municipal Council, the Mayor and chairmen of the committees of the council. Unfortunately, I did not come with the list of the shareholders and their shareholding. Could I be allowed to bring them on Tuesday?

**Mr. Deputy Speaker:** I will do just that, Mr. Assistant Minister. I will defer this Question, because you have just said that the shareholder is the Nakuru Municipal Council. Then you went further to say that the Mayor and chairmen of the committees are also shareholders. You cannot separate them. If the Nakuru Municipal Council is the shareholder, then why should the Mayor and chairmen of the committees also be shareholders?

Therefore, I will defer this Question to Tuesday afternoon, because I think you need to re-look at it and bring the information that you have promised. Is that okay?

**Mr. Wanjala:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Very well. Mr. Mirugi, your Question is deferred to Tuesday so that it can be answered further.

*(Question deferred)*

The next Question is by the Member of Parliament for Kaiti Constituency. Mr. Ndambuki, before you ask your Question, I would like to inform you that the Minister for Energy is attending a conference with other Ministers of Energy from the region in Kasarani. The Assistant Minister for Energy is out of the country. He has, therefore, requested that the Question be deferred to Tuesday next week, because he cannot be here.

Is that okay, Mr. Ndambuki?

**Mr. Ndambuki:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** The Question is, therefore, deferred to Tuesday next week, and the Minister may be so informed.

*Question No.167*

COMMENCEMENT OF REP IN  
KAITI CONSTITUENCY

*(Question deferred)*

*Question No.169*

GOVERNMENT ACTION TO  
FIGHT CHILD SEX TOURISM

**Ms. Ndung'u**, on behalf of **Mr. Mukiri**, asked the Minister for Tourism and Wildlife what action the Government is taking to fight child sex tourism in the country.

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

My Ministry has already taken a bold step towards taming the kind of menace being involved in sex trade within the Ministry's tourism industry, by signing the code of conduct to protect children from sexual exploitation in travel and tourism. We are also encouraging the stakeholders to sign the same code of conduct. The Kenya Association of Hotel Keepers and Caterers has endorsed that code, so that they can work with the Ministry to enforce the prevention of exploitation of our children in the sex tourism industry.

We are also decentralising our services by opening new tourism offices and strengthening the existing ones, so that our officers can work with the stakeholders at the grassroots, to stem this vice. We are also reviewing the existing tourism legislation, with a view to entrenching that law that will punish the offenders very seriously.

**Mr. Deputy Speaker:** Mr. Muriungi, have you finished?

**The Assistant Minister for Tourism** (Mr. Muriungi): No, Mr. Deputy Speaker!

**Mr. Deputy Speaker:** But I can see you have a two-page document!

**The Assistant Minister for Tourism** (Mr. Muriungi): Mr. Deputy Speaker, Sir, I will not read the whole of it.

The other thing which we are doing is working with other Government departments and Ministries, such as the Children's Department in the Ministry of Home Affairs, the police and Judiciary with a view to bringing to book the culprits.

We are also asking the communities living adjacent to the tourist resorts to speak out against this vice, that negatively affects the welfare of our children.

**Mr. Deputy Speaker:** I request Ministers to be brief in their answers, so that they allow hon. Members to ask supplementary questions.

Yes, Ms. Ndung'u!

**Ms. Ndung'u:** Mr. Deputy Speaker, Sir, the Assistant Minister has given us a very flowery answer. But, actually, in practical terms, what is happening is that some of the hotels that have signed the code of conduct are turning away men who they believe are coming to sleep with minors. However, what they are not doing is to report these guests immediately to the police so that the police officers can try to trace them from hotel to hotel. What is the Assistant Minister specifically doing to ensure that hotels and establishments have to report incidents like this to the police?

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, one of the things that we are doing is asking the hotels to register all guests, so that in the process of doing that, they can detect minors and turn them away. Another reason for registering these guests is that it will be possible to trace any of them who is accused or suspected of having perpetrated sexual offences with minors.

**Mr. Khamisi:** Mr. Deputy Speaker, Sir, there are so many foreigners of very dubious character in my constituency, especially in Mtwapa Town, who are engaging in all kinds of sex activities.

**An hon. Member:** Do you have evidence?

**Mr. Khamisi:** Yes, I have evidence! What is the Government doing - this Ministry in conjunction with the Ministry of State for Immigration and Registration of Persons - first of all, to determine the status of these individuals, who are exploiting boys and girls in that area? What is the Government doing to ensure that they are checked in terms of their status, and secondly, that they are deported, if necessary, for engaging in these illegal activities of sex trade?

**Mr. Muriungi:** Mr. Deputy Speaker, Sir, I appreciate that this is not a problem that can be solved by one Ministry. Indeed, even the Questioner asked what the Government is doing. My answer is actually on what the Ministry of Tourism and Wildlife is doing together with other Ministries and departments, to fight this very big evil.

As I speak, we have our senior staff, and some consultants in Nakuru, working on a revised tourism policy. They are also working on a Bill to be presented to this House, so that we can come up with the specific remedies to this big menace. So, very soon, we, as a Ministry, are going to present this document, so that it can be debated in this House, because we appreciate that this is a very serious issue.

Meanwhile, our tourism offices which we have established in different parts of the country are working. We also have a police unit which works with the other Ministries, including the Ministry of Health. If we can prove together with the Ministry of Health and Ministry of State for Provincial Administration and Internal Security that we have perpetrators of this heinous crime, then, definitely, the laws of the land will be used.

Mr. Deputy Speaker, Sir, I should also remind this House that, recently, we passed the Sexual Offences Bill. It is one of the laws that we can use to bring these characters to book.

**Mr. Deputy Speaker:** Hon. Members, Question Time is up! Now, ask your last question!

**The Vice-President and Minister for Home Affairs** (Mr. Awori): On a point of information, Mr. Deputy Speaker, Sir. I just want to volunteer information that, of course, this Question also touches on the Ministry of Home Affairs. In particular, I want to inform the hon. Member who asked the Question that it is not just a question of dealing with tourists. In fact, 40 per cent of the offenders in this Question of child molestation are Kenyans. So, we have to deal with Kenyans as well. In fact, apart from using the Sexual Offences Act, as the Assistant Minister said earlier, we intend to strengthen the Children Act 2001; to ensure that there is more policing and more children's officers around the tourist areas.

Thank you.

**Mr. Deputy Speaker:** Ask your last question, Ms. Ndung'u!

**Ms. Ndung'u:** Thank you very much, Mr. Deputy Speaker, Sir. A Government Task Force on the implementation of the Sexual Offences Act was established a few weeks ago, and I noticed that the Ministry of Tourism and Wildlife is not a member of that task force. How does the Assistant Minister intend to work on this issue when we know that the task force is also working on this issue? Or are they doing two different projects in one Government?

**Mr. Muriungi:** I am not aware of that task force. But if it is there, then it is only fair that we be included because we are a very important stakeholder in that business.

Thank you.

**Mr. Deputy Speaker:** Very well. Hon. Members, that marks the end of Question Time.

### QUESTION BY PRIVATE NOTICE

#### INCREASED INSECURITY IN BARINGO DISTRICT

**Mr. Boit:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Administration

and National Security the following Question by Private Notice.

(a) Is the Minister aware that in December, 2006, armed raiders gunned down a child at Kapturo Sub-location in Ngorora Location and a large herd of livestock was stolen from Yatya Sub-location in Kipkata Location?

(b) Is the Minister further aware that three people were killed by gun-totting raiders at Rugus and Kiserian in Makutani Division on 25th and 28th March, 2007, respectively?

(c) What concrete measures is the Minister taking to guarantee the security of people and their property in Baringo District?

**Mr. Deputy Speaker:** I remember that we deferred this Question to Tuesday, next week. I do not know whether the Minister of State for Administration and National Security is ready to answer it. Are you ready to answer that Question, Mr. Minister? We deferred that Question because there was no one to answer it then.

**The Minister of State for Administration and National Security** (Mr. Michuki): Mr. Deputy Speaker, Sir, the position, as explained by hon. Karua, should stand.

**Mr. Deputy Speaker:** I do not know, as this Question was deferred because the Assistant Minister who was to answer it was not there. So, we deferred it to Tuesday, next week. Is that okay, Mr. Minister?

**The Minister of State for Administration and National Security** (Mr. Michuki): Yes, it is.

**Mr. Deputy Speaker:** Fine, we will defer the Question to Tuesday, next week.

*(Question deferred)*

Hon. Members, that is the end of Question Time!

I have two requests for Ministerial Statements. The first one is by Maj-Gen. Nkaiserry.

## POINTS OF ORDER

### FATE OF KENYAN MEMBERS FOLLOWING JUDGEMENT BY EA COURT OF JUSTICE

**Maj-Gen. Nkaiserry:** Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Leader of Government Business regarding the recent judgment by the honourable Court of the East African Community (EAC), rejecting the nominees by Kenya as hon. Members of the EALA. In its wisdom, the honourable court blamed Kenya for not following the laws and procedures pertaining to the nomination of the hon. Members of the EALA. I want the Leader of Government Business, in his Ministerial Statement, to first state or tell the country when Kenya shall submit a fresh list of nominees to the EALA. Secondly, he should assure Kenyans that the law shall be followed in nominating and submitting the fresh list. Thirdly, I would like him to apologise to the country for the shame that the NARC Government brought to Kenya in the nomination of hon. Members to the EALA.

Thank you.

*(Applause)*

**The Assistant Minister for Water and Irrigation** (Mr. Wanjala): Apologize for what?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Thank you, Mr. Deputy Speaker, Sir. I do not need to go and bring a Ministerial Statement. We have structures in this House and the House Business Committee is handling this matter. We will be having a meeting, as

usual, on Tuesday next week and we will deal with the matter.

Thank you.

**Mr. Deputy Speaker:** Very well. Therefore, you will have to wait until after Tuesday's meeting. Is that okay, Maj-Gen. Nkaisserry? Do you want to seek a clarification?

**Maj-Gen. Nkaisserry:** Thank you, Mr. Deputy Speaker, Sir. Let me thank the Leader of Government Business for that short response. I wish that he will submit the list on Tuesday so that our people, especially the KANU nominees, should---

**Mr. Deputy Speaker:** The Leader of Government Business has said that they are sitting on Tuesday---

**An hon. Member:** To apologize!

**Mr. Deputy Speaker:** Therefore the report will be ready after Tuesday.

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, my third request in the Statement was the apology that the Government must give to Kenyans for letting the country down in nominating those people.

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Mr. Deputy Speaker, Sir, in the first place, I would like Maj-Gen. Nkaisserry to really follow my answer. I said that this is a parliamentary matter and it will come through the House Business Committee. For your information, Maj-Gen. Nkaisserry, the House Business Committee meets at the rise of the House. So, it is not possible for me to, in fact, bring anything here on Tuesday. As for the question of apology, there is no apology to make.

Thank you.

*(Applause)*

**Mr. Deputy Speaker:** Very well. Mr. M'Mukindia, you were standing; do you have an issue to raise?

#### ESCALATION OF INSECURITY IN MERU

**Mr. M'Mukindia:** Mr. Deputy Speaker, Sir, on Tuesday last week, the Minister of State for Administration and National Security assured this House that he would make a Ministerial Statement on the security situation in Meru. I rise to seek the same.

**Mr. Deputy Speaker:** Was the request for a Ministerial Statement made last week, Minister? Is the Statement ready?

**The Minister of State for Administration and National Security (Mr. Michuki):** Yes, Mr. Deputy Speaker, Sir. It is not a crisis---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! You are requested to listen.

#### MINISTERIAL STATEMENT

#### ESCALATION OF INSECURITY IN MERU

**The Minister of State for Administration and National Security (Mr. Michuki):** Mr. Deputy Speaker, Sir, I wish to respond as follows.

On 10th April, 2007, hon. M'Mukindia rose on a point of order to seek a Ministerial Statement on what he termed, and I quote: "The escalating insecurity in the whole of Meru region"



and what action the Government is taking.

*(Ms. Mwau, Ms. Abdalla and  
Mrs. Tett consulted loudly)*

**Mr. Deputy Speaker:** Order, there! Order, Ms. Mwau! Order! Order! I am disturbed by the fact that the hon. Members sitting in the last bench, and they happen to be ladies, are consulting too loudly. Please, lower your voices!

**The Minister of State for Administration and National Security (Mr. Michuki):** Mr. Deputy Speaker, Sir, it would

appear as if Ministerial Statements are not of very much importance.

Mr. Deputy Speaker, Sir, from the very beginning, let me assure this House that although there were incidents which have led to insecurity, the matter was promptly handled and there was no escalation of insecurity in the whole of Meru region as alleged by the hon. Member.

Mr. Deputy Speaker, Sir, boundary disputes in the greater Meru District date back to the colonial times. However, the recent flare up of hostilities between the Tharaka and Meru can be traced to 1986 when the then District Commissioner (DC) for Meru decided to put a boundary at *Muro wa Muguu*, just opposite a road leading to Kibunga. The Tharaka community objected and shot at the DC's entourage with bows and arrows. That was in 1986.

In 1994, clashes again erupted between the Tharaka and Meru communities claiming many lives. The Government of the day, therefore, mandated and facilitated the *Njuri Ncheke* elders to resolve the boundary issue. As arbitrators, the *Njuri Ncheke's* scope was limited in that they could not change any boundary except to confirm the old boundaries between locations, divisions and districts. The *Njuri Ncheke* elders agreed on the following facts to be the bench-mark in their arbitration decisions:-

- (i) To abide by the old boundaries which were known and determined by their forefathers.
- (ii) To follow the existing administrative boundaries between locations, divisions and districts.
- (iii) Where land demarcation had taken place in bordering locations in the two districts, the arbitrating committee to follow the laid and gazetted demarcations of external boundaries.
- (iv) Where the boundary could pose danger to public security due to non-visible boundary marks, the *Njuri Ncheke*, with the assistance of the Provincial Administration, to call a special meeting of the disputants for further discussion.

Mr. Deputy Speaker, Sir, subsequently, a meeting was held in Meru Town on 9th March, 2007, chaired by the acting Provincial Commissioner, Eastern Province, and attended by five hon. Members from the larger Meru region. During the meeting, it was unanimously agreed to form a task force, led by former Senator Julius Muthamia, to co-ordinate the boundary issue. The task force held several meetings in Meru Town and agreed to tour all the disputed areas, gather facts and evidence before making any decisions.

When the task force visited Karocho Location and interviewed ten people, rumours started to circulate that the official boundaries would be shifted to Marimanti Primary School. This angered the Tharaka people who felt that they would lose substantial land. They armed themselves with bows and arrows and forcefully demarcated their boundary with Imenti South in disregard of the task force. In the process, they cut down crops and mango trees.

A group of youths burnt down 12 houses, seven belonging to the Tharaka people and five belonging to Merus of Imenti. Further damage was thwarted by the arrival of security forces. Following these skirmishes and misunderstandings, the Government has taken the following

action---

**Mr. Kajwang:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek guidance from the Chair on the length of the lecture that we can be given by the Minister, especially on the history of conflicts from 1956 when I was born. Could he deal with the issue and sit down?

**Mr. Deputy Speaker:** Order, hon. Kajwang! I have not given any limit to the Minister. I think he is dealing with a very important issue.

Continue, hon. Minister! Be patient!

**The Minister of State for Administration and National Security** (Mr. Michuki): Mr. Deputy Speaker, Sir, the second part of hon. M'Mukindia's question was that this House should be told what the Government has done. This is what the Government has done:-

(i) Two suspects have been arrested for incitement.

(ii) District Security and Intelligence Committees from the larger Meru sub-region have held several *barazas* to ask wananchi to maintain peace and give the task force a chance to complete its work.

(iii) Security has been beefed up in the affected areas through police patrols.

(iv) There is an on-going search for more suspects who are believed to have incited the youths to violence.

(v) Three assistant chiefs have been interdicted on the grounds of complacency and impartiality in the matter and more may face stern action when investigations are complete.

A further meeting to be chaired by the Provincial Commissioner between all hon. Members and DCs from the greater Meru region and the task force will be held on Monday, 16th April, 2007, to review and deliberate on the on going boundary disputes.

Mr. Deputy Speaker, Sir, I would like to bring to the notice of the hon. Members and to a section of the media that no thefts have been reported or detected and no firearms have been used during the skirmishes as alleged previously. Also, I would like once again to reiterate at the risk of repeating myself, that hon. Members and other leaders should desist from politicising security matters because this trend will escalate the state of insecurity and create unnecessary tensions amongst the communities.

Finally, I would like to stress that it is the commitment of the Government to speedily determine the boundaries of the two districts by involving all parties in order to achieve lasting peace and tranquillity in the region.

**Mr. Deputy Speaker:** We will have four clarifications from hon. M'Mukindia, hon. Kagwima, hon. Muite and hon. Ndolo.

**Mr. M'Mukindia:** Mr. Deputy Speaker, Sir, first, I wish to thank the Minister for his Statement. I wish to state that contrary to what hon. Kajwang has said, the Statement is not long enough. This is a very serious issue which should be taken serious by this House.

The task force of the council of elders has, indeed, finished its work. As the Minister has stated, it is true that all of us in Meru region are united to ensure that these boundaries are cleared. Could the Minister assure this House that he will provide sufficient security to the task force to finalise its work within the next two weeks, so that we can put this matter behind us as we move towards the elections?

Secondly, could he also clear the air regarding the involvement of politicians, chiefs and councillors, who are inciting the youths to violence? These include sitting and former hon. Members, sitting and former councillors, parliamentary and civic aspirants. Could he clear the air on this matter? What action is he taking to arrest these politicians?

**Mr. Deputy Speaker:** Mr. Minister, I will ask you to hold on until you hear Mr. Kagwima and then you will respond to both.

**Mr. Kagwima:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I also want, from

the outset, to agree with the Minister in his reply to the request by Mr. M'Mukindia. I am happy that the Government has put in place a mechanism by which to determine the boundaries among the Meru communities.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order! You gracious ladies over there! Please, we are dealing with a very important security issue here.

Continue, Mr. Kagwima!

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, the matter is very important.

I also agree with Mr. M'Mukindia that the Ministerial Statement was not too long. I am happy that the Minister endeavoured to explain the matter at length. He is actually creating peace even by the announcements he has made here. In the evening, the Kenya Broadcasting Corporation and other radio stations will be airing this message to the people. So, it is important that the Minister has taken that long to explain what has happened, and what measures the Government has put in place to resolve the issue.

**Mr. Deputy Speaker:** So, what clarification are you seeking, Mr. Kagwima?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I will seek three clarifications. First, could the Minister assure this House that the existing boundaries of the sub-locations and locations will not be interfered with because doing so would disturb the pattern of living of the people in those areas? So, as the Government reviews the boundaries, it should leave the people to continue living the way they have been living. Secondly, we want the council of elders to stick to the mandate given to them by the area Members of Parliament. Unfortunately, the chairman - the senator, who is also a former Assistant Minister - is the man who caused the fight that the Minister referred to. The fight between Tharaka and Nithi was caused by the same man. We, unfortunately, made him the chairman. I am requesting that he steps down and another chairman be appointed, so that we can have a harmonious undertaking of this important task. He is trying to use that---

**Mr. Deputy Speaker:** Order! Order! Mr. Kagwima, we are not debating the matter!

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I hope that the Minister has captured my second clarification. We want the current chairman to step down, so that we can trust that council of elders. We want to have in place a neutral chairman, so that the council of elders can carry on with the mandate given to it.

**Mr. Deputy Speaker:** Point taken! Can the Minister now respond?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I have one more clarification to seek.

**Mr. Deputy Speaker:** Very well. Let it be the last one.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, lastly, the statement that the council of elders went to Karocho and interviewed eight people is not correct. I want to inform the Minister on this one and make a request. What happened was that eight people were called to Meru Town by the chairman called Mr. Muthamia, and he disregarded the people of Tharaka, who were sent to represent us. He said: "These are the people who know the boundary".

**Mr. Deputy Speaker:** Mr. Kagwima, we are not debating this matter.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I am not debating it. I am only trying---

**Mr. Deputy Speaker:** I want you to seek clarification, please!

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, could the council of elders be told to honour the people who have been elected to represent the various communities, instead of bringing on board others who do not have the knowledge or the mandate to represent these communities?

**The Minister of State for Administration and National Security (Mr. Michuki):** Mr.

Deputy Speaker, Sir, I have been asked to guarantee security to the task force. That security is there. That is why the task force is intact and in existence in the area. Security for the task force will continue to be provided. What I cannot guarantee is whether the task force will finish the work in two weeks. It all depends on the pace at which they will move in doing the work.

Mr. Deputy Speaker, Sir, Mr. Kagwima wants me to guarantee him that the boundaries that now exist will remain intact. If I were to give that kind of guarantee, then I do not know why this task force should be set up. So, I would rather leave this matter to the task force to determine. The task force is looking at the boundaries that will create peace in the area. I am sure that the task force will not recommend anything that will disturb peace. To that extent, we must give them the discretion to determine the final conclusion rather than direct them the way they were directed before, in 1986.

Mr. Kagwima also raised the issue of the chairman of *Njuri Ncheke*. That is for the Meru people to decide. As I said in the Ministerial Statement, the meeting that was held in March, 2007, at which, I believe, the hon. Member was present, agreed that the *Njuri Ncheke* would handle this matter. Obviously, the chairman of that *Njuri Ncheke* is very well known in Meru. If he has to be replaced, it is the Meru people who will do it, and not us in the Government. So, I want to thank the people of that area, because when they were cautioned that they should not continue to disturb peace, they agreed to wait for the task force to carry out its work. I hope a similar thing could happen in Mount Elgon.

**Mr. Deputy Speaker:** Mr. Muite, briefly!

**Mr. Muite:** Thank you, Mr. Deputy Speaker, Sir. What was happening in Meru Central and Tharaka is symptomatic of the potential for conflict with regard to district boundaries in the rest of the country. Could the Minister clarify why the Government cannot come up with a holistic approach? We have heard of Ministers talking about creating additional provinces. Why can the Government not come up with a proposal for creation of districts and their boundaries, as well as provinces, if it wants to create more, so that we can all look at it? This is the age of transparency. Why can it not do that and involve the Electoral Commission of Kenya? As of now, the problem with district boundaries is that some constituencies stride over several districts. So, why can the Government not adopt a holistic approach? We have heard of a Bill coming here for this House to ratify districts which have been created. Why is it assumed that this House will rubber-stamp it? Should we not do it the other way round, by having the law first?

**Mr. Deputy Speaker:** Mr. Muite, your point has been heard. Let us have the Minister to respond now.

**Mr. ole Ntimama:** On a point of order, Mr. Deputy Speaker, Sir. I wanted to seek some clarification from the Minister. What is happening in Tharaka is very unique. This has come about because the Government has been moving round the country, and creating districts without consulting the people. The whole of this mess is as a result of that. What we have seen is only the tip of the iceberg. We could see more of such cases as the Government continues to impose on the people new district boundaries. The other point--

**Mr. Deputy Speaker:** Order! Order, Mr. ole Ntimama. You know, you were seeking clarification. Now, you want to make another point. You are now debating an issue which is not before us. So, you were to seek clarification of the Ministerial Statement.

**Mr. ole Ntimama:** Mr. Temporary Deputy Speaker, Sir, I was seeking a clarification. The district boundaries are entrenched in the Constitution of 1963. If you have to change district boundaries as I know, then you have to come to this House to amend the Constitution. Give us clarification on that issue.

**Mr. Deputy Speaker:** Very well! Mr. Minister, you handle Mr. Muite and Mr. ole Ntimama's clarifications. Then that would be it.

**The Minister of State for Administration and National Security** (Mr. Michuki): Mr. Deputy Speaker, Sir, let me address the concerns expressed by Mr. Muite by first of all, confirming to him that the Government has no intention of creating additional provinces. If there have been any discussions of that kind, it is more of speculation than a factual situation.

Secondly, on the creation of districts, Mr. Muite is proposing that we pass the law and then create the districts. But the districts come from the wishes of the people. Therefore, people must consult before the creation of new districts. That is what we have done so far. We are still in that process because there are certain areas where, when we started that process to respond to the requests that were made to His Excellency the President as he toured this country, we mandated the leadership of the affected areas to meet and agree on three issues.

The first one was on the boundary. The leadership in the area should agree on the boundary of the new districts. Secondly, the leadership was to agree on where the headquarters of that district would be. Thirdly, they also had to come up with the name of the new district. We have reiterated that over and over again. Those who thought that we will enter into debate on those three matters already know that my answer is no! It is them who must decide. We do not want to impose anything on the new districts. Therefore, after the intention to create the new districts was expressed in the official gazette, those consultations started. At the same time, Government official surveyors embarked on tracing those boundaries as determined by the local leadership. I want to confirm to this House that almost 95 per cent of that survey work has been carried out. Since we want to prepare a Bill that embraces all the districts and bring it to this House--- In order to deal with the Provinces and Districts Act of 1992 that requires to be amended to include a schedule of new districts, I ask this House to be patient. The Attorney-General is already looking at the Bill.

Thank you.

**Mr. M'Mukindia:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. M'Mukindia! We have taken a lot of time on this matter because the Chair understands its importance.

**Mr. M'Mukindia:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Mr. M'Mukindia, you should know better than that. You are an officer of the House! I am in the process of saying something and you are also talking. Let me finish what I am saying and then I will give you an opportunity. I was saying that, with all due fairness, we have given this matter adequate time. Therefore, unless there is something very burning from Mr. M'Mukindia, we must now go to the Next Order.

**Mr. M'Mukindia:** Mr Deputy Speaker, Sir, I want to seek a clarification because there are some suspects who have been arrested. There are also some other people who the Minister is looking for. Could the Minister confirm or deny whether there are politicians who are involved in that matter?

*(Mr. M.Y Haji stood up in his place)*

**Mr. Deputy Speaker:** Now, I have to oblige to Mr. M.Y. Haji. Him being a former Provincial Commissioner, maybe, he has something to say.

**Mr. M.Y. Haji:** Thank you, Mr. Deputy Speaker, Sir. There are districts like Ijara which have been functioning for the last five years. The people have agreed on the boundary. They have also agreed on the headquarters. We have even contributed money and constructed the DC's office and residence. So, could the Minister tell us when he will present the Bill confirming those districts before this House?

**Mr. Deputy Speaker:** Mr. Minister, just address yourself to the issues raised by Messrs. M'Mukindia and M.Y Haji.

**The Minister of State for Administration and National Security** (Mr. Michuki): On the issue raised by Mr. M'Mukindia as to whether politicians are involved--- Obviously, nobody, politician or non-politician, is allowed by law to disturb peace. Everyone is bound by the law. They cannot go wrong when they follow the law. There are two councillors that we know have gone into hiding. We are looking for them. That is the extent to which politicians, as far as I know, are involved in that matter.

Mr. M.Y Haji has told us what they have done in their district. But he has not told us that the neighbouring district has some pending issues before it can be gazetted.

**Mr. Deputy Speaker:** Very well! Thank you, Mr. Minister.

Next Order.

## MOTIONS

### ADOPTION OF SIXTH ACP AND 12TH ACP-EU ASSEMBLY REPORTS

THAT, this House adopts the Report of the Sixth Session of the ACP Parliamentary Assembly and the 12th ACP-EU Joint Parliamentary Assembly held from 15th to 23rd November, 2006 in Bridgetown, Barbados laid on the Table of the House on 29th March, 2007.

*(Mr. Kamotho on 10.4.2007)*

*(Resumption of Debate  
interrupted on 11.4.2007)*

**Mr. Deputy Speaker:** Who was on the Floor? Prof. Maathai concluded her contribution yesterday. Who wants to contribute to this Motion?

I think I will call the Mover to respond.

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

I have already called upon the Mover to reply. It is too late. I have called Mr. Kamotho to reply.

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, I want to---

**Mr. Deputy Speaker:** Order! I have already called upon the Mover to reply. You may be wanting but that is a different issue. But the Chair does not want.

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

**Mr. Deputy Speaker:** What is your point of order? The Chair has called upon the Mover to reply. That is Mr. Kamotho.

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

**Mr. Deputy Speaker:** Order! Mr. Oparanya, I think you are being disorderly. This is Parliament and I am on the Chair. Are you challenging me that you should speak and not Mr. Kamotho? You are out of order!

Proceed, Mr. Kamotho.

**Mr. Kamotho:** Mr. Deputy Speaker, Sir, first of all, I would like to thank all hon. Members who made a very constructive contribution to this debate. I would like to acknowledge the following Members who made those contributions: Mr. Syongo, Capt. Nakitare, Mr. Jimmy Angwenyi, Mr. Poghio, Mr. Sungu, Mr. Raila Odinga, Mr. John Koech, Mr. Obwocha, Mr.

Omingo Magara and Prof. Maathai. These hon. Members talked in depth on the main topics in this Report. One of the topics was the impact of tourism on the development of the ACP countries.

Mr. Deputy Speaker, Sir, they all noted that apart from the financial contribution that tourism brings to ACP countries, ours included, it has also a lot of adverse effects on the society. These negative effects include destruction of environment and evils like sex tourism which is very unpalatable because sometimes it involves minors and children in these matters. Tourism has also imported various kinds of diseases to ACP countries. So, it is the responsibility of our development partners to assist our ACP countries to deal with these evils.

Secondly, it is also, I think, the responsibility of the respective countries to do adequate and relevant investment to continue attracting productive tourism

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. M'Mukindia) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, all the hon. Members who spoke on this particular subject spoke very positively. I am sure their contributions will be very useful to those Ministries which are responsible for tourism. It is unfortunate that nobody from the Ministry of Tourism and Wildlife was present in this House to hear what hon. Members were talking about.

The second major topic was the issue of small arms, light weapons and sustainable development. We all agree that the influx of small arms and light weapons to our country has contributed to a lot of economic destruction; destruction of lives, property and general insecurity in the country. I am sure that the Minister in charge of security will agree that the principles of conflict resolution and management of insecurity are universal principles. Therefore, what others have been able to do elsewhere, we can also borrow a leaf and do likewise to manage the widespread insecurity in the country.

Thirdly, Mr. Temporary Deputy Speaker, Sir, hon. Members spoke very strongly on the review of negotiations on Economic Partnership Agreements (EPAs) and regional integration. Unless we take these matters seriously, as a country, we can be caught unawares. We are all aware that EPAs negotiations are going on and by the end of the year, the six regions of ACP are expected to sign a new agreement with the European Union (EU). This agreement will have very far reaching economic effects on our economy. During our debates and discussions in the Joint Parliamentary Assembly (JPA) we, from the ACP side, have maintained that EPAs have to be a tool for development and advancement; not just for trade. This is so because trade between unequal partners will make the weaker partner suffer a lot. We can end up becoming just consumers of goods imported from Europe. Therefore, the Government should take this matter seriously and at the same time involve this House, on behalf of the people of Kenya, to ensure that all the concerns are properly addressed.

The other issue which was fairly well debated was water in developing countries. The hon. Members talked of the need to control pollution of water, our own water catchment areas and our environment for sustainable development.

These are issues of great concern to us, as a country. Therefore, I would, particularly, take this opportunity to thank the Minister for Planning and National Development and the Minister for East African Community for having appeared yesterday, made their contributions and supported the Report on behalf of the Government. I would like to see in future those other Ministers connected with development co-operation between us and development partners coming here to participate in the discussions and debates on these matters of national importance.

Mr. Temporary Deputy Speaker, Sir, in particular, the Minister for Trade and Industry should come here and table an update of the EPAs' negotiations so that the House is involved in the discussion as to where this country is going.

With those few remarks, I would like to call upon the House to adopt the Report.

*(Question put and agreed to)*

#### ADOPTION OF 1999/2000 PAC REPORT

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

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 1999/2000 laid on the Table of the House on Thursday, 26th October, 2006.

Mr. Temporary Deputy Speaker, Sir, right from the outset, I would like to appreciate the membership of the Public Accounts Committee (PAC). On behalf of the PAC, I would like to take this opportunity to present to this House the Report and recommendations therein.

The PAC had its first sitting on 16th April, 2005, and held 105 sittings. The Committee noted that most of the queries contained in the 1998/1999 Accounts were also in the Report of 1999/2000. For that reason, it is the first time that the PAC tackled Reports for two years in one year, courtesy of the very able team that I had in the PAC then.

Accounting Officers of Government Ministries and departments, which had audit queries in any of the two Reports, appeared before the PAC and evidence taken thereof. The Controller and Auditor-General raised audit queries and then responses were given to us by the Accounting Officers. That is what formed the basis of this Report.

Mr. Temporary Deputy Speaker, Sir, I would like to acknowledge the participation of the hon. Members with whom I sat in the PAC and who ably matched their tasks. The PAC comprised of hon. Omingo, then Chairman of PAC before I was bundled out by my party and consigned to oblivion. However, I am not dying soon. Others were: Hon. Kenyatta; hon. Kipchumba, who, occasionally, acted as the Chairman - not really on record, but through internal arrangements; hon. Dr. Ojiambo, currently a luminary in the Orange Democratic Movement (ODM(K); hon. Billow, the current shadow Minister for Finance; hon. Ojaamong; hon. Archbishop Ondiek, who on every single day of our sittings put us in the hands of the Lord before we could start our deliberations; hon. Wamwere, who was picked when NARC was forming the Government of National Unity (GNU); hon. Ethuro, who was also picked at the same time to form the GNU and which is currently illegal; hon. ole Ntimama, who was taken on board too and appointed Minister though he never lasted there because of the temporal nature of appointments of the current Government. He is now on the Opposition side guiding us in our struggle to take over leadership; and hon. Mganga, who was also picked to join the Government and still serves there. He is still a member of KANU.

**The Assistant Minister for Co-operative Development and Marketing** (Mr. Mwenje): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. M'Mukindia): What is your point of order, Mr. Mwenje?

**The Assistant Minister for Co-operative Development and Marketing** (Mr. Mwenje): Mr. Temporary Deputy Speaker, Sir, I really do not know if it is in order for the former Chairman of PAC to read out the names of those who were members in the PAC then and at the same time explain something about them. Is it really in order for him to do that? He seems to be belittling those hon. Members and even the Government.



**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, Mr. Mwenje knows very well---

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Order, Mr. Omingo! I believe that hon. Omingo is quite in order.

*(Applause)*

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, it is important, even when employers are receiving job applications, to look at the curriculum vitae (CVs) of the people applying for the job. Hon. Mwenje cannot be patient because the hon. Members who comprised PAC then could not be allowed to continue with their work because they chose to speak out openly on issues.

The Committee inspected various projects, one such project being the Moi University-Cheptiret Road. I will endeavour to give some details about what we found on this road. This is an issue that even the Chair will not appreciate that it happened in the current world. We also visited the Ministry of Roads and Public Works offices in Eldoret Town and Elgeyo Saw Mills, which had been closed down because of political reasons. The observations and recommendations of the PAC, with regard to the projects that we visited, are contained in the specific audit queries as raised in this Report.

Mr. Temporary Deputy Speaker, Sir, before I embark on the general observations, for the record, I would like to state that this Report is as old as it is. However, the contents of the claims and problems cited in this Report continue to exist. It may look outdated and old, but today, if you read the Report and my comments thereafter, you will conclude that corruption is still rife in this country. It has refused to die despite the fact that this Government assumed power on the platform of reform, to fight corruption, economic liberation, employment creation and so forth.

Mr. Temporary Deputy Speaker, Sir, as I said yesterday, and history will bear me out, we have a wonderful country called Kenya. This country is wonderful because it is willing to give us beautiful "bouncing babies" every year in terms of resources. We have fantastic babies in the Coast Province in the name of the coastal strip. This is a wonderful tourist attraction. We have wonderful climatic conditions which can allow you to put on a tie for 24 hours a week and throughout the year. People from other countries can also come to see our good vegetation and beautiful landscape. All these are wonderful resources of our country. In some sections of this country, you can grow everything. This affords us to be self-sufficient. Woe unto the Kenyan Republic; we suffer from a plague called graft. As a result of this, we have had wastage and misappropriation of resources to the extent that this country is reeling under a Kshs750 billion public debt. You then, as a Minister for Finance, pretend to go out there to negotiate for aid when you actually have no financial spine. This is because you are desperately begging with a bowl in your hands!

Mr. Temporary Deputy Speaker, Sir, the fantastic lady called Kenya is willing to give us "babies", unfortunately the plague of corruption has been eating "babies" one after the other regardless of the pain *mama* Kenya has been experiencing. These are the voices of the voiceless we have been talking about. We claim that our country has grown economically, but the wastage of our resources continues to weigh down on Kenyans. The poor population pays taxes whose value cannot be seen. The taxes they pay cannot match the services that they get.

Mr. Temporary Deputy Speaker, Sir, the observations in this Report also touch on irregularities on road constructions. It is very painful. Listen to this:

"The Committee noted with great concern that contracts for several roads constructed during the period under review were varied unjustifiably and, on many occasions, the Government did not get value for money."

Several nugatory payments were made by the Government. This means that the Government paid for nothing done. We had the Goldenberg scandal. When we complained, Mr.

Kamlesh Pattni was taken round in circles, but nothing happened to him. It is a pity that the Goldenberg scandal gave birth to Anglo-leasing leading to nugatory payments. This is where you get money from your pocket to buy nothing.

Mr. Temporary Deputy Speaker, Sir, that is the same case with the contractor of Ziwa-Kitale Road. The original contract sum was varied by about 151 per cent. One wonders if there was a need to tender such a contract. For the information of the House, the accepted variation within procurement rules is up to 15 per cent. If the variation goes beyond 15 per cent, the contract must be re-tendered. I want to say on record that graft, in the same context, continues happening in our country today.

Mr. Temporary Deputy Speaker, Sir, during the construction of the Amala River-Narok Road, a sum of £10,161,598 was paid as interest on delayed payment, demurrage charges, advance payments and delayed issue of commencement order. One pound is equivalent to Kshs20. Therefore, when converted the contractor was paid over Kshs200 million.

Mr. Temporary Deputy Speaker, Sir, what the contractors used to do and they are still doing it even today is to leave a wheelbarrow without wheel on the site. It could not move. Because it is a plant and machinery of the contractor, he would not be in a hurry to remove it. That wheelbarrow would continue accruing interest and damages. This is because the contractor would not have been paid for completion of the work. As a result, we continued paying damages and interest on a wheelbarrow without wheel. On the other hand, the contractor would have moved the other equipment to another site to earn him more taxpayers' money. What a shame? Mother Kenya is crying to this Government to nurse her "babies".

Mr. Temporary Deputy Speaker, Sir, it is immoral for an adult African man to get money from one pocket and stuff it in another and run away as if he has stolen from himself. As unparliamentary as it might be, that is how "primitive" we behaved then and we are still doing the same today.

The original contract sum for the construction of Kabonge-Serem Road was varied by about 145 per cent. The same thing is happening today. If there is anybody challenging me, let him or her, stand up to be counted!

Mr. Temporary Deputy Speaker, Sir, the Kenya Airports Authority (KAA), under the captainship of Mr. Muhoho, has varied a contract meant for Kshs800 million to Kshs10 billion.

**An hon. Member:** He is "Reverend" Muhoho!

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, although not through the Chair, I have been informed that he is Rev. Muhoho.

Mr. Temporary Deputy Speaker, Sir, the contract sum was varied from Kshs800 million to Kshs10 billion. However, this was done without re-tendering. Most of these contracts are illegal. They are happening in the full view of the Kenya Anti-Corruption Commission (KACC). The KACC has not moved to look into these matters. We only see them going to City Hall to arrest councillors who misappropriate Kshs300 from meter parking fee. The good man of God, I have tremendous respect for, varies a contract from Kshs800 million to Kshs10 billion. Rev. Muhoho still sits comfortably at the headquarters of the Kenya Airways Authority (KAA). I am sure, the loot has already been distributed. Whether we cry foul or not---

**The Minister for Foreign Affairs (Mr. Tuju):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to deliberately mislead the House on a serious matter like this? He says that a contract sum has been varied from Kshs800 million to Kshs10 billion, while we know fully well what transpired? This is in the public domain. We know how the law was followed.

Secondly, the hon. Member is mentioning the name of somebody who cannot defend himself in this House. Could he, please, substantiate?

**The Temporary Deputy Speaker (Mr. M'Mukindia):** Mr. Omingo, could you clarify that?

**Mr. Omingo:** Mr. Temporary Deputy Speaker, I do not have to clarify. It is in public domain---

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Order, Mr. Omingo! As you know, the hon. Member is responsible for facts that he bring to the House. Therefore, Mr. Omingo, you really have to be very careful.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I am networking to get that information tabled before I wind up. In the meantime, I withdraw. However, truly, the facts are obvious. This is a contentious issue that this Government must clear.

**The Minister for Foreign Affairs** (Mr. Tuju): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Members should withdraw unreservedly. I have noticed the hon. Member, not only talking to the Chair, but also looking for headlines tomorrow. It is, therefore, appropriate he withdraws without any reservations.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, Mr. Tuju is my best friend and he knows how to manage the media, but I do not. Perhaps, he should advise me that if I need to catch the headlines I must look at the Press Gallery. In fact, that is a titbit. I want to catch the headlines because it is a long time since I did so. For sure, I am not a luminary, but I would like to catch the headlines.

Mr. Temporary Deputy Speaker, Sir, what I said is an issue of concern to the general public. There is truly a concern about KAA. If I am referring to the name in bad taste, I withdraw the name of "Rev. Muhoho".

It is upon the Government to satisfy Kenyans that what they are hearing is not correct. At the KAA, I cannot access documents. The documents are top secret. Now that we are talking about a situation where we want the Government to clarify some issues, must we probe them to prove a point?

Mr. Temporary Deputy Speaker, Sir, I am organising myself to get the information I want to table. In the meantime, I withdraw.

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Mr. Omingo, the matter is very clear. You withdraw the allegation. If you get information on it, at a later time, you may table it. There is no problem with that. As of now, if you cannot substantiate what you said, please, withdraw it unreservedly and proceed with your contribution!

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, we denied the presence of *mamluki* in this country, but they were here. Today, we have denied they are not here, but eventually, they would be found. Whether my neighbour wants me to withdraw the statement for the sake of it, which I can do, but the fact remains! There is a problem at the KAA. The sooner the Government addresses it, the better for them. It could lead us to consider voting them in.

Through the Chair, why can Mr. Tuju not take the advise to correct the situation, in this House, and advise Kenyans accordingly. I withdraw.

Mr. Temporary Deputy Speaker, Sir, the construction of a 20 kilometre Kibsagat-Kitum Road to bitumen standard was awarded to a firm in 1997 at a contract sum of £21 million. This is equivalent to Kshs422 million. Only 20 per cent of this road was completed since 1998. We paid £25 million when the contract sum was £21 million. We paid more than 125 per cent of the contract sum.

Mr. Temporary Deputy Speaker, Sir, it is not civil, it is primitive! It may sound unparliamentary, but that is what it is. That is what we discovered. You pay 25 per cent of the value of the contract which is about Kshs500 million for a contract done only 20 per cent. If that is not primitivity, then I do not know what it is. I said and I repeat, it may be the same thing that we are seeing. If it was happening then, with less information, how much more can Kenya Airports Authority (KAA) with enhanced information technology. They could vary it from Kshs800 million

to Kshs10 billion. The facts should be told.

Mr. Temporary Deputy Speaker, Sir, In June 1998, a contract for the construction of Mwingi-Kabanga Corner Road was awarded to a firm for a contract sum of £25 million, which in Kenya shillings is about Kshs500 million. The contract was varied three times and the Government eventually paid £51 million which is approximately Kshs10 billion. If that is not primitivity, if that is not what mother Kenya is crying for, if that is what a primitive father can do; to steal from his children, then I do not know what it is. For your information, this still goes on today. These reports have incriminated or blacklisted contractors who are still serving today. The "cowboy contractors" are still serving today. After serving cold meat to some senior politicians, they started getting contracts very quickly in the new regime. For your information, this Government, that came in on a platform of change, was quickly baptised by the crafty boys and they are now serving under their whims. So, the forests remained the same but the inhabitants changed. The only unfortunate thing is that the inhabitants of the forest, primitive as they may appear, pick ripe and unripe fruits. That is the only difference.

Mr. Temporary Deputy Speaker, Sir, the Committee noted that competitive bidding loses its purpose if the contract is varied to a point where the amount eventually paid is more than what was quoted by the highest bidder. Some contractors conveniently quoted a lower figure to win a contract. We discovered that. They quote the lowest sum knowing very well that back in the Ministry--- The most notorious Ministry is the Ministry of Roads and Public Works, even up to today. There was the issue of pending bills being audited. At a particular time, they were frozen. As we sit here today, all those pending bills audited and frozen have unfortunately fully been paid. That is why Kenyans want a new Constitution that can address real issues. In a devolved system, money for roads meant for, example, South Mugirango, must go to South Mugirango and that money can be overseen by the people of that constituency as opposed to what is happening now.

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

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, I will take that information.

**Mr. Raila:** On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to confirm to the hon. Member who is contributing, about the issue of pending bills. When I was a Minister in charge, I appointed a committee to investigate the pending bills. The committee produced a report which I tabled in the Cabinet and as a result, a special committee was set up, led by the former Controller and Auditor-General, Mr. D.G. Njoroge. I would like the hon. Member to know that to date, that committee has not produced any report, yet they have continued to pay some of those pending bills. That confirms what the hon. Member is saying.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, if the report could come out, it could stop the "big boys" from "sucking" from the pot. It is convenient that the report does not come out, so that we can turn our eyes the other way and continue paying, while killing mother Kenya's children. Our country bleeds under the hands of corruption. Unless we address that matter, we shall continue suffering in the hands of bad governance.

I was talking about the issue of roads. A devolved government would address the issue of concentrated distribution of resources. I want to state here that there is a road in my constituency which is about 27 kilometres, whose design has been done and Kshs84 million set aside for its construction. The contractor was supposed to go on site, but because of being a black sheep in a perceived clean den, my people have been denied that development because the money has gone to other "politically correct regions". That is abuse of office. We misuse our offices and the resources given to us. That is the more reason why, this time round, Kenyans must stand up to be counted and vote not by emotions but by decisions.

Mr. Temporary Deputy Speaker, Sir, there are several other issues that have been addressed here. Sometimes when the Government was losing money through ex-gratia payments, the simple

reason was that an employee had gone to court and got an award but the Attorney-General did not go to court and, therefore, the Minister does not know whether they lost or won the case. Somebody waits for three years then sends a bill to the Ministry with interests and penalties. Most of the money that we have paid is actually convenient and out of collusion in the Government. The Attorney-General was not going to court. The money that was being paid was actually doctored to fit the situation. Contractors have gone to court and they even negotiated the bill out of court and the Chief Legal Advisor could tell the contractor, "do not worry, we will look up to it." This was in order to get a big cut from the same contract. Therefore, the Government loses and the cake is shared between the other people.

Mr. Temporary Deputy Speaker, Sir, regarding ex-gratia payment, the Government lost billions of shillings in terms of ex-gratia payments and that is what we call compensation because information never flowed from the Attorney-General's office to the Ministry where payments could be made in good time.

I want to address the issue of evasion of duty. The Kenya Revenue Authority (KRA) boasts of meeting revenue collection targets. I want to record my dissent here, that transit goods have found their way to the market, to the extent that we lose billions of shillings in revenue because of diversion of goods. That does not only compromise the business arrangement within the country but we also lose revenue. The people who pay taxes face unfair competition because of the goods which are supposed to be duty-free but they get their way into the market. That is an issue that we must address and there is a recommendation here to that effect. The diversion of transit goods is actually an avenue for the "big corrupt boys" not to pay revenue to the Government.

Mr. Temporary Deputy Speaker, Sir, as I conclude my submission, I want to appreciate the Committee, through the Speaker, the Deputy Speaker and the Clerk of the National Assembly for facilitating its sittings and funding its trips to Canada and United States of America (USA). It is unfortunate that when we went to America and Canada and we came with a report, one Minister yesterday said that; "when you go out, do not go on holiday." We had a wonderful report that would have revolutionised the operations of this House if it would have been ranked for debate in the House. The reports were filed, for both the trips to Canada and the USA, where the operations in the Government and in the Public Accounts Committee (PAC) would have been revolutionised. The reports would have revolutionised the sittings and the management of affairs of this House. But because, conveniently, some of us do not sit in the House Business Committee, and that maybe, the radical changes that we had recommended were not palatable to some people in political power, those reports are still gathering dust out there.

The Committee wishes to thank Treasury, the Kenya National Audit Office and the National Assembly for their services. The procedural advice given, records received and scrutinised, organization of meetings and record-keeping by the officers contributed a great deal towards the production of this Report.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I want to mention something about the essence of strengthening the audit office. It is only fair that issues addressed are current, otherwise we shall continue singing about wastage, but just watch as it continues. We only do a post mortem. We do a post mortem not only on a corpse in terms of wastage, but also cannot comfort the mother Kenya "babies", because those who killed the "babies" are long dead. We not only do a post mortem on a corpse, but also on dry bones. Even if you diagnose the cause of the disease that killed mother Kenya's children, you will not cure it. Great men like hon. Dr. Kibunguchy who knows something about medicine knows what I am talking about. It is easier to do an autopsy on a corpse than on dry bones. Therefore, we require to build the capacity of the Public Accounts Committee.

The Kenya National Assembly cannot also escape blame. I believe the Kenya National Audit Office is fairly new. We need to speed up our operations, so that we are also current in

dealing with audit issues. We should address the issues at the Jomo Kenyatta International Airport (JKIA) before they gather dust; that is before the corpse rots and becomes dry bones. That is the only way in which Kenyan children will be freed from the yoke of public debt.

Mr. Temporary Deputy Speaker, Sir, there was a senior Minister in the previous regime who said that he signed on dotted lines. I will tell you why. Some of the Ministers have vested interests. Some do not know what they are doing, and others may want to know what they are doing, but have no financial spine to stand on their own and must dance to the whims of their masters. Yet, we have a wonderful country, mother Kenya. We have wonderful resources. We must address these matters before it is too late.

Mr. Temporary Deputy Speaker, Sir, I also want to request that the enactment of a law for the establishment and operationalisation of the Parliamentary Budget Office be expedited, so that it will be able to ask the hon. Tuju's Ministry and hon. Koech's Ministry how variances in their expenditures arose in order for them to justify additional allocations. Routinely, our Budget is only based on the previous year's Vote. That is the truth. There is no science at all in our Budget. If anything, Ministries just want to be allocated so much. They retain surplus from the previous allocation and actually increase every previous Item allocation by 10 per cent to arrive at the required Vote amount. It is now time that this country must operate like a business. We need to operate like a limited liability company for Kenyans to get value for money. Value for money is a social good that taxpayers must receive their taxes. It is time we moved quickly to do an accounting system that is going to give value for money, and gauge Ministries in terms of performance. We do not want to gauge Ministries by how quickly they will spend their money. We want to gauge them by how well they have spent it. We are saying that can only be done through Fiscal Analysis Committee that is to be established by this House. The only panacea to our problems is to make the Ministers account.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Order! Hon. Wamwere and hon. Ethuro, you know you are not supposed to do that when another hon. Member is on his feet. Please consult quietly.

**Mr. Omingo:** Mr. Temporary Deputy Speaker, Sir, hon. Wamwere was a very effective Member of this Committee, and I am sure he would like me to jog his memory, so that he can contribute to this Motion very objectively.

Mr. Temporary Deputy Speaker, Sir, to find the solutions to the problems of this country in terms of efficiency, we must rate these people on the basis of economical, efficient and effective application of resources given to them. Your grandchildren, and mine too, will be burdened by the yoke of debt. That debt is not disappearing soon. It is actually growing by the day simply because we have refused to be efficient, effective and economical in the application of our resources. Most of our public officials have gone to school, but they blind their eyes and grab. They just walk through the paths others have walked through.

I want to submit that this House owes Kenyans a duty. This Parliament must be different from many other Parliaments. Things must now be done differently. We require to address these issues and know that Kenya belongs to us. You are stealing today, but tomorrow you will find yourself out there and it will be difficult to reverse what you will have done and history will judge you very harshly.

With those few remarks, I beg to move and ask the hon. Archbishop Ondiek, who was our Reverend in the Committee, to second this Motion.

*[The Temporary Deputy Speaker  
(Mr. M'Mukindia) left the Chair]*

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

**Archbishop Ondiek:** Mr. Temporary Deputy Speaker, Sir, I beg to second the Motion. I was one of the Members of this Committee and I used to pray very hard, so that its Members did not get corrupted, as the cases we were trying to look into contained a lot of corruption.

Mr. Temporary Deputy Speaker, Sir, my former Chairman has talked about very many things concerning corruption within Ministries. An example is the Ministry of Roads and Public Works. There is a lot of corruption in that Ministry. A road is said to have been constructed, a completion certificate issued and money paid, but when you go you find that no road that has been constructed. How do you we run a country where we keep on wasting the resources that we have? We keep on begging from outside, looking for funds to develop our country, when the little we have is being "eaten" by individuals.

Mr. Temporary Deputy Speaker, Sir, there is a trend I have seen in the Ministries. You find that if the Permanent Secretary is a Luo or a Kikuyu--- You will find that the Accountant-General is a Kikuyu, the Controller and Auditor-General is a Kikuyu, the Financial Secretary is a Kikuyu, and everybody else is a Kikuyu. I do not know whether this kind of a system is the best for this country. How do you control such things? These are the issues that are making many people to suspect that there is a lot of corruption in this country.

Mr. Temporary Deputy Speaker, Sir, when we investigated the Anglo Leasing scandal, I was a victim of confusion. I was forced to leave the Committee because we mentioned the truth. We summoned some officers and Ministers, but they did not attend, and somebody somewhere decided that we should leave the Committee. I was one of the victims of those circumstances.

Mr. Temporary Deputy Speaker, Sir, on the issue of failure by officers to account for revenue collected, we interviewed the Registrar of the High Court. He was unable to account for the funds collected by his officers in Coast Province and other districts in the country. One is left wondering whether the revenue collected to assist and develop this country is properly monitored and utilised. There are a lot of irregularities.

Mr. Temporary Deputy Speaker, Sir, there is a lot of outstanding imprest not surrendered by the officers. The regulations state that imprest should be surrendered by officers within 48 hours upon their arrival to their work stations. In this country, there is imprest which has not been surrendered for the last five years. That imprest amounts to millions of shillings. That is a very unfortunate state of affairs! We cannot even buy drugs in our hospitals and yet, individuals are just holding imprest. That can be dealt with administratively.

Mr. Temporary Deputy Speaker, Sir, the issue of maintenance of vehicles also came up in our deliberations. We found out that fuel money, for example, is paid to certain individuals. Sometimes, that fuel is not even used by Ministry vehicles. That fuel is sold by the road-side. Nobody is prepared to account for that. We wonder what is happening in this country. This country is very rich. We have so many resources. We do not even need any donor support, if we manage our resources effectively. If this Government takes charge and controls all the resources in this country, we will not have any financial problems. We will also develop tremendously.

Mr. Temporary Deputy Speaker, Sir, our road network, for example, is in a very bad shape. Every year, we have no food. Our people are starving. We have to look for other countries to come and help us with food and yet, we have got a lot of resources. We can be self-sufficient.

Mr. Temporary Deputy Speaker, Sir, building materials fall under the Ministry of Roads

and Public Works. They buy building materials and, instead of taking them to the site, they are diverted elsewhere. Nobody is responsible for that. Nobody cares to find out whether those materials were delivered at the site and used properly. Those things stay for years without being accounting for.

Mr. Temporary Deputy Speaker, Sir, the kind of corruption that we have in this country, particularly in our Civil Service, is terrible! We do not know whether we will be able to wipe it out and yet, this Government took over the running of this country on a platform of zero-tolerance to corruption. If the Government cannot wipe out corruption, I wonder whether it can do anything else. But, anyway, since their term is almost over--- I am sure in January, 2008, there will be a new government which will be accountable for the resources that we get from the public. I think things will be quite okay.

Mr. Temporary Deputy Speaker, Sir, with regard to the Ministry of Health, drugs that are supposed to be taken to our hospitals are, sometimes, sold to the patients when they are supposed to be given free of charge. Nobody is interested to find out whether those drugs are being given to the patients. Those are the kind of things that the Public Accounts Committee (PAC) should look into---

**The Assistant Minister for Health** (Dr. Kibunguchy): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member who is contributing to impute improper motives without giving us evidence that drugs that reach hospitals are sold? I would like to protect the Ministry's workers. Unless he has concrete evidence, I would like him to withdraw that statement.

**Archbishop Ondiek:** Mr. Temporary Deputy Speaker, Sir, maybe, the Assistant Minister is not aware of that. That issue is appearing in the Report on pages 164 and 192. He can read through those pages and get that information. I am not just talking from the blues!

**The Temporary Deputy Speaker** (Mr. Poghisio): Dr. Kibunguchy, if that information is in the Report, then the hon. Member has a right to speak about it.

**The Assistant Minister for Health** (Dr. Kibunguchy): Mr. Temporary Deputy Speaker, Sir, I have no problem with that. But he made it appear so general. The issue was generalized. It appears that, whenever drugs reach our facilities, they are sold. That is what I am against.

**Archbishop Ondiek:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is aware that some drugs never reach those hospitals. We are always complaining about that!

**The Temporary Deputy Speaker** (Mr. Poghisio): Archbishop Ondiek, I am not sure that the Assistant Minister really knows about that. You are informing him. Go ahead and give him the necessary information!

**Archbishop Ondiek:** Mr. Temporary Deputy Speaker, Sir, we want to highlight such things so that the Minister could take action and prevent them from happening again. Those things are happening even in their constituencies!

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

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

We have limited resources and we must make sure that they are properly accounted for. We cannot afford to misuse the limited resources that we have.

Mr. Temporary Deputy Speaker, Sir, there are so many cases of irregular payment of allowances. If those irregularities are checked by the people responsible, we could not have any



problems in our Ministries. There are very many cases of misuse of funds in the districts. The PAC Report has unearthed a lot of misuse of funds. If those funds are properly used and accounted for, we could have enough drugs in our medical facilities. That will enable our people to live more comfortably in the rural areas.

Mr. Temporary Deputy Speaker, Sir, with regard to local authorities, I do not know what we can do to ensure that funds allocated to local authorities are properly used. It is very difficult to know whether funds under the Local Authorities Transfer Fund (LATF) are properly utilised. It is even more difficult to identify any project that has been funded by LATF. We do not know how those funds are used. I request the Minister for Local Government to try his best and ensure that LATF is properly utilised.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Raila:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity. First of all, I want to thank the Chairman of the Public Accounts Committee (PAC) and his team for doing a very good job. In this Report, Parliament is exercising its function as a watchdog. Outside there, there are a lot of misconceptions about the role of Parliament and a number of people take advantage of this. We find that Members of Parliament are blamed outside there, for responsibilities that are not theirs.

Mr. Temporary Deputy Speaker, Sir, for example, we find that when roads are poor, no medicine in hospitals, problems with the buildings in schools and so on, people outside there, blame the respective Member of Parliament. What is our Member of Parliament doing? He has done nothing for the last four years because of our poor roads. People do not appreciate that the Government consists of three arms which are the Executive, the Judiciary and the Legislature. The role of Parliament is so clear and known and it is there also in the Constitution; it is to make laws and to act as a watchdog of public funds. So, if roads are poor, it is the Ministry of Roads and Public Works to take the responsibility. If there is a problem with hospitals and dispensaries, we have got a whole Ministry of Health headed by a Minister, a Permanent Secretary and officers at the provincial, district and even divisional level. It is never the role of a Member of Parliament to see that the medical system is working properly.

Mr. Temporary Deputy Speaker, Sir, these hon. Members of Parliament have done what has been done by this Parliament year in, year out. The PAC of this House has been doing its work very effectively as it should be done. We have reports that have been written exposing misappropriation of public funds and several financial scandals and even going to the extent of recommending that certain individuals be excluded from holding public offices. What has been lacking is the will on the part of the Government to take action as per recommendations of the PAC.

Mr. Temporary Deputy Speaker, Sir, this Report is not different from reports which have been produced and discussed in this House in the past and approved. There has been very little implementation and that is the reason why public officers continue to operate with impunity. I am saying this as somebody who has been an insider and who knows exactly what is happening. When I took over the responsibility of heading the Ministry of Roads and Public Works, I found that the Ministry was very high up in terms of the corruption index in the Government. I appointed two committees. One was to investigate the illegal allocation of Government properties. The second one was to investigate the issue of pending bills in the Ministry. At that time, the pending bills in the Ministry of Roads and Public Works amounted to Kshs7.5 billion. So, I set up a committee headed by Eng. Andrew Kiptoon, who is a very eminent engineer, and with very prominent

personalities in our country. I wanted to put an end to this phenomenon of pending bills. I wanted to get down to the root cause of this.

Mr. Temporary Deputy Speaker, Sir, once I did this, I found a lot of resistance within the Government system. I found letters coming from the Treasury trying to restrain my hands by telling me that I should not appoint another committee since there is another committee in the Treasury dealing with pending bills. I told them that the committee in the Treasury was merely dealing with figures. It was a committee of laymen in as far as engineering was concerned. The committee that I appointed was a committee that was going to do a technical audit of the projects in respect of which pending bills had been raised. It required engineers going down to the field to carry out inspections to satisfy themselves that, in fact, work that had been done was commensurate with the amount of money that was being demanded by the contractors. There was a lot of resistance and I do not want to go into details because I know it will be very embarrassing to the Government.

Mr. Temporary Deputy Speaker, Sir, I was told that I did not have the powers to appoint committees to carry out investigations. I even went on to quote my letter of appointment which gave me powers to appoint people to advise me. I was told that there were no funds for these kind of committees. In the end, I ended up requesting assistance from the Department for International Development (DFID). It was the British Government which eventually gave money to fund that committee. That was the only way that committee was able to do its work. In other words, the system within the Government was resisting the work of that committee. However, the work was being carried out. This committee went round the country, carrying out a technical audit. The report itself was very shocking. Out of the Kshs7.5 billion which was being demanded, it established that only Kshs250 million was actually due and payable. However, on the contrary, the contractors did owe the Government another Kshs2.5 billion in terms of wrongful payments. Those are the facts; that whereas the contractors were demanding Kshs7.5 billion, it was the Government which was owed Kshs2.5 billion in terms of wrongful payments, and that only Kshs250 million was owed genuinely to some of those contractors. That was what led me to term some of them as "cowboy contractors".

Mr. Temporary Deputy Speaker, Sir, pending bills are used to fleece this Government. There is a collusion. It begins first with the officers of the Ministry and then it goes onto the political class, we have the Attorney-General's office and then the Judiciary. That is how the system works. First, around that time, it became much more lucrative for a contractor not to do the job. These contractors had organised themselves in a kind of a cartel where they were actually awarding the contracts to themselves. When a tender is done, there is a collusion. First, they begin with pre-qualification of contractors. Serious competition is eliminated at that level. Once that has been left now, they remain those of that cartel. They agree that there are so many contracts to be awarded. So, they agree that contractor "A" will be the lowest in this contract. The next one, they say it will go to contractor "B". So, all the other contractors will be put above the other contractors and so on and so forth. It does not matter that they are the lowest in this particular contract because the figures are immaterial. Once they have been awarded the contract, then the real serious business begins. That is when the variation orders come. This is done in a very crafty way. First, the engineers and quantity surveyors leave loopholes within the contract documents, to be used by these contractors to inflate the prices, through variation orders. So, there will be variation orders that will inflate the prices.

Once that is done, somewhere along the line, the contractor declares a dispute with the Government. Once this has happened, after a certain period of time, the contractor stops the work, because he is not being paid. There is a collusion also with the Government officers. After 90 days he begins now to apply pending bills and interest begins to accumulate. Within that time, he will have removed his equipment from the site and taken them somewhere else, and replaced them with some dilapidated equipment. So, he continues now to charge the Government for idle equipment,

yet, the machinery he has put on site is unserviceable. So, the pending bills will continue to pile up and in the meantime, he is again doing some other jobs elsewhere.

So, in the end, you will find that this contractor is demanding three times the original contract sum, for having done only ten or 20 per cent of the work that he was required to do. That is why we had so many projects which were started and unfinished. It was much more lucrative for a contractor to abandon a project, rather than complete it. That is how all these pending bills accumulated.

Once the pending bills have accumulated, the contractor will go to court, despite the fact that the contract provides for arbitration. Once he goes to court, the Attorney-General now comes into play. He is supposed to go and defend the Ministry. The Ministry officials will come up with evidence to show that, in fact, this money is not owed, but the Attorney-General will do two things. One, he will either advise the Ministry that this contractor has got a water-tight case against it and, therefore, it should pay him, or he fails to appear in court. If he fails to appear in court, then there will be an *ex parte* judgement delivered against the Ministry. This is being done deliberately, because the Attorney-General's Chambers is also part of the scheme.

The other one is the courts themselves. If the Attorney-General is not party to the scheme, then it is the courts; the Judges or magistrates. So, you will find a situation where a lawyer from the Attorney-General's Office goes to court and says: "Your Honour, this matter is not properly before the court, because the contract provides for arbitration and the contractor has actually jumped arbitration and come straight to the court. Therefore, we urge, your Honour, to order that this matter be referred back to court." The Judge or magistrate will rule that the matter is properly before the court, because he has already been offered his cut in the whole deal. So, you will find that there is a collusion here between the Attorney-General and the courts. So, we need to take a holistic approach when we are dealing with this particular issue. We should not just blame the Government officers.

Mr. Temporary Deputy Speaker, Sir, Justice Chunga once called me, when I talked about this collusion, and said: "*Bwana Waziri*, you are blaming us - not that I am defending corruption in the Judiciary - but I want you to know that in a number of cases, the hands of the Judiciary are tied. This is because most of the times, either the officers from the Office of the Attorney-General have failed to appear in court, in which case, we enter *ex parte* ruling, or they come and tell us that the matter has been resolved between the parties. So, we just enter a consent judgement." I asked him to give me a list of the cases. When I looked at the list, it was shocking. There were about ten cases where the Government had been fleeced over Kshs2.5 billion. I brought this particular matter to the attention of the Attorney-General.

So, the point I am raising is that we know exactly what is wrong. The Attorney-General - and I wish he was present in this House - knows exactly what is wrong. Instead of him smiling and laughing all the time, he needs to do something about his own officers. The Office of the Attorney-General is one of the most corrupt offices in this country. When the members of the Judiciary come here, we all give them respect. Mr. Speaker asks us to stand for them. But even after the so-called surgery of the Judiciary, it continues to remain one of the most corrupt judiciaries in Africa. It continues to remain very corrupt, despite the fact that we have continued to increase the salaries of its members. So, something serious needs to be done about the Judiciary and the Office of the Attorney-General, if we want to seriously deal with this issue of corruption.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Finance is another one. In this Report, there is a special case about the Customs offices in Loitokitok. Only two weeks ago, I was in Loitokitok--

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Rotino): Order! That corner, please, let us listen! If you are not prepared to listen, please, go out!

### QUORUM

**Mr. Angwenyi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Raila, today, is giving facts. But I wish we had a quorum to listen to him.

**The Temporary Deputy Speaker** (Mr. Rotino): Are you suggesting that there is no quorum?

**Mr. Angwenyi:** Yes, Mr. Temporary Deputy Speaker, Sir. There is no quorum.

**The Temporary Deputy Speaker** (Mr. Rotino): It is true, we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Mr. Rotino): Order, now! The House has a quorum. Proceed, hon. Raila!

**Mr. Raila:** Thank you, Mr. Temporary Deputy Speaker, Sir.

I was talking about the issue of the contract for the construction of customs houses at Loitokitok which was awarded at a tender sum of Kshs44 million. By the time they were over, the contractor was demanding more than Kshs1.4 billion. I was just saying that this is one of those cases where there is a collusion and the tender sum is completely immaterial. Eventually, the intention is to use those projects to fleece the Government. The Government needs to take a thorough audit of particularly two departments: One, the Office of the Attorney-General. I am happy that the Leader of Government Business is now here to listen to me, because---

**The Vice-President and Minister for Home Affairs** (Mr. Awori): I was listening!

**Mr. Nderitu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to discuss a point which is not the content of the Report?

**Mr. Ojode:** That is a frivolous point of order!

**The Temporary Deputy Speaker** (Mr. Rotino): Order! That is not a point of order. He is very relevant! Mr. Raila, just ignore that point of order.

Proceed!

**Mr. Raila:** Mr. Temporary Deputy Speaker, Sir, I will ignore it with the contempt that it deserves.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, unless the Government tells the Attorney-General to desist from just laughing and smiling all the time, and take serious action about offending officers in his Ministry, this issue of corruption within the Government is going to continue.

**The Vice-President and Minister for Home Affairs** (Mr. Awori): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to insinuate that all the Attorney-General does is to laugh and smile?

**Mr. Raila:** Mr. Temporary Deputy Speaker, Sir, His Excellency the Vice-President and Minister for Home Affairs, of course, knows this because he is a neighbour of the Attorney-General and he always smiles with him. But I am saying that---

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, I want to tell His Excellency the Vice-President and Minister for Home Affairs to tell the Attorney-General that, like the Bible says: "There is a time for everything", there is a time to laugh and a time to weep; there is a time to give birth and a time to bury, and so on. So, the Attorney-General must know that there is a time for him to roll up his sleeves and be serious. I am saying so because the problem is right inside his Ministry. I have evidence of an incident which I drew his attention to, where there is a clear case of collusion.

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

*[The Temporary Deputy Speaker  
(Mr. Poghio) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, there was a case of somebody who tendered to supply the Government with stationery at a cost of Kshs35 million. When his company was unable to supply the stationery, the contract was cancelled. The Government then re-advertised the tender and this company participated again in the tendering process. But this time, it lost the tender and it went to court challenging the cancellation of the original tender. The company was awarded some damages to the tune of Kshs75 million. That money was not paid and kept on piling as pending bills and interest. By the time I came into the picture, this company was demanding Kshs250 million. This figure increased to more than Kshs500 million. This is despite the fact that these people were not able to supply anything after they tendered for Kshs35 million and the Government cancelled the contract. They are now demanding more than Kshs500 million. To my surprise, a letter had come from the Attorney-General's office directing the Ministry to pay them, arguing that the money was due and payable, despite the fact that the company did not supply a single item to the Government! So, I am saying that the problem lies within the Attorney-General's office.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I want to say this. I mentioned earlier that I appointed a Committee to investigate pending bills and I laid that Report on the Table of the Cabinet. As a result, a Committee headed by the former Controller and Auditor-General, Mr. D.G. Njoroge, was appointed. That was in 2003. It took my first committee four months to carry out investigations and submit the report. But as I am speaking today, the Committee of Mr. D.G. Njoroge has not finalised its work. The issue of pending bills has not been finalised to date, and I am sure that there is no intention to complete it soon, because all those pending bills which I said were not due or payable, have been paid quietly! So, there is collusion with officers in the Treasury to pay some of the pending bills. Even if the respective Ministry stopped payment, the Treasury will proceed to pay.

Mr. Temporary Deputy Speaker, Sir, I am saying here that one of the biggest failures of this Government is to fight corruption.

**An hon. Member:** Yes!

*(Applause)*

**Mr. Raila:** There is no will to fight corruption! Corruption is happening on a daily basis and this Government is losing millions of shillings. It is estimated that out of the total Government revenue every year, 30 per cent goes down the drain; it is fleeced!

**An hon. Member:** It goes into whose pockets?

**Mr. Raila:** That is a lot of money, particularly for a Government that came into power on the platform of zero tolerance to corruption! I, myself, became the first victim. I exchanged very bitter correspondence with my colleague when he was protecting some of these people.

Mr. Temporary Deputy Speaker, Sir, when I talked about these pending bills, before the report was released, the Chairman of the Pending Bills Committee was summoned to the Treasury in the office of the Minister, where he was confronted by two contractors whose names were adversely mentioned in the report which had not been released. He was told that these were benefactors of the Government; they funded the NARC Government and, therefore, the Government wanted their names to be removed from the report.

The Chairman of the Committee left that place a very terrified person. He rang me and told me: "I had been summoned to the Treasury and I was confronted by some of these contractors. I was told to remove their names from the report. What do I do?" I told him to do nothing of the sort. I told him to produce the report the way he had written it and I will then know what to do with it.

Mr. Temporary Deputy Speaker, Sir, the report was presented to me and I invited Mr. John Githongo, who was then the Permanent Secretary in charge of Ethics and Governance. I also invited the Press to be present when the report was being handed over to me. To my surprise, phone calls were made as to why I should allow the Press to be present when a document which was supposed to be a secret Government document was being presented to me. I said that there was nothing secret about it because I had appointed this Committee to work on behalf of the members of the public. I said that our Government wanted to do things differently from KANU. We wanted to be transparent in everything that we were doing.

This created a lot of anxiety and animosity within the Government system. When I presented this report to the Cabinet, this Committee was appointed, which was never intended to complete any work, but to cover up. The report of this Committee has not been produced, just like the report of the Committee which was inquiring into the Artur brothers or the *mamluki* saga. You heard yesterday that, that report cannot be released for security reasons. I know that the report on these pending bills cannot also be released for security reasons.

My charges are that this Government lives and thrives on corruption. It cannot correct itself. The only way that Kenyans can deal with this Government properly is to vote it out and vote into power, a Government of the Orange Democratic Movement.

With those few remarks, I beg to support.

**Mr. Wamunyinyi:** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute on the report of the PAC.

When I was contributing on the Presidential Speech last week, I brought to the attention of the House the fact that Mr. D.G. Njoroge was previously the holder of the office of the Controller and Auditor-General, the office that was responsible for auditing the accounts of all Government departments, parastatals and Ministries. Most of the pending bills that hon. Raila has referred to were brought about as a result of audits undertaken by the office of the Controller and Auditor-General under Mr. D.G. Njoroge. I still insist that it is unethical and wrong for the person who conducted the audit to review the same accounts.

Mr. D.G. Njoroge is the head of the final Committee that is looking at the pending bills. He is the only person who is going to say which bills will be paid and which ones will not be paid. Is it ethical? Do you not see something wrong there?

Mr. Temporary Deputy Speaker, Sir, the same person who conducted the audit is reviewing his own work. You cannot turn a blind eye to this. Action should be taken by this Government. We are demanding that this man should be removed from that office.

**The Assistant Minister for Planning and National Development (Mr. Ethuro):** On a

point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to continue misleading this House that Mr. D.G. Njoroge, the former Controller and Auditor-General is the one who accumulated the pending bills? He was actually reporting about them.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, he is only taking my time. I said that---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Wamunyinyi! If the hon. Member says that you are misleading the House, basically, you have to listen. If Mr. D.G. Njoroge was the Controller and Auditor-General, then he is the one who was auditing the systems. So, how could he be the one also allowing these things to happen?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, that is exactly what I am saying. He was responsible for auditing the systems and he is the one who brought out the issue of the pending bills. But now, he is the one who is reviewing the same cases. The hon. Member should get me right.

**The Temporary Deputy Speaker** (Mr. Poghisio): And what is the matter with that?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, how can you review the same accounts that you audited? He audited the accounts and brought about the issue of the pending bills. He is responsible for chairing the Appeals Committee that is going to decide whether payments should be made or not.

**The Assistant Minister for Planning and National Development** (Mr. Ethuro): On a point of order, Mr. Temporary Deputy Speaker, Sir. It is an insult to the intelligence of this House for us to continue listening to hon. Wamunyinyi implying that Mr. D.G. Njoroge was responsible for the pending bills. Mr. D.G. Njoroge is the most informed person to chair the Appeals Committee. He was not responsible for the pending bills.

**The Temporary Deputy Speaker** (Mr. Poghisio): Is this matter mentioned in the document that we are discussing today?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, it is mentioned. It is valid and I have every right to talk about it as an hon. Member of this House. The hon. Member should allow me to continue because he is putting up an argument and not raising a point of order.

**The Temporary Deputy Speaker** (Mr. Poghisio): I also do not want people to dwell on persons unless it is an issue raised in this document. Do not bring matters extraneous to the document, especially when it involves naming persons who cannot defend themselves here.

**Mr. Wamunyinyi:** Thank you, Mr. Temporary Deputy Speaker, Sir. With regard to the issue of pending bills, hon. Raila has stated clearly that officers in the Ministry of Finance are currently colluding with contractors and conspiring to steal from the Kenyan public. They are putting in place mechanisms to ensure that there is a recommendation for the pending bills to be settled.

I have a letter from a member of the Appeals Committee, which is written to one of the Permanent Secretaries and copied to a State corporation, asking them to hurry up and forward some documents to facilitate a decision to be made to make the payments. This is with regard to the Kenya National Library Services. In fact, the project never took off. As hon. Raila has said, nothing took off. The project was irregularly awarded and about Kshs70 million was paid out. This figure has accrued interest to the tune of several hundreds of millions and someone is pushing for this payment to be done.

Mr. Temporary Deputy Speaker, Sir, when I talk about this, a "half Minister" is trying to interrupt me. I do not take it lightly!

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! What are you talking about?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I am talking about the issue of pending bills, which is such an important issue that must be taken seriously.

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to refer to a "half Minister"? Could he clarify who is a "half Minister" in the Government?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, this hon. Member is also a half Minister. By "half Minister" I mean one who is not a full Minister. It simply means that one is an Assistant Minister or something like that.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order!

**The Assistant Minister for Planing and National Development** (Mr. Ethuro): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghisio): No, no, no! You do not even need to rise on a point of order, Mr. Ethuro!

**The Assistant Minister for Planing and National Development** (Mr. Ethuro): Mr. Temporary Deputy Speaker, Sir, I am not happy with his use of the term "half Minister".

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order!

Mr. Wamunyinyi, according to our Standing Orders, there is no "half" or "quarter" or "three-quarter" Minister. We have only a Minister, which is defined to include even an Assistant Minister. So, there are no "half Ministers".

**Mr. Wamunyinyi:** Thank you, Mr. Temporary Deputy Speaker, Sir. You know there are small Ministers and big Ministers.

**The Temporary Deputy Speaker** (Mr. Poghisio): You need to withdraw!

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, coming back to the point---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order! You need to withdraw! You know, by the way---

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I withdraw but they remain so.

Now, coming back to the point, the Public Accounts Committee (PAC) is such an important Committee of this House. As a watchdog Committee of this House, the PAC has had to deal with very serious cases, whose recommendations have been adopted by this House. Over the years, these cases have just "died" like that. The implementor of the recommendations of this House has been sleeping on the reports.

Mr. Temporary Deputy Speaker, Sir, reports have been adopted by this House, having been brought here by the Public Accounts and the Public Investments Committee, but they have not been implemented. If they are not implemented, we will continue to lose. We will continue to see Anglo Leasing and many other scandals coming up. We are going to continue seeing people coming up with many claims and colluding with Government officials and our leaders to steal public funds. Unless these recommendations are implemented seriously, and those who have been found to have looted public funds taken to Kamiti Prison and the money recovered, we will continue to see such cases coming up.

An hon. Member talked about zero-tolerance to corruption by the NARC Government. Another hon. Member said that during the reign of the previous regime, *kitu kidogo* was ten per cent. Now, in the current Government, *kitu kidogo* has gone up to 45 per cent. The level of tolerance to corruption by the Government is only zero when dealing with other communities, but when it comes to communities from the Mount Kenya region, the level of tolerance to corruption by the Government is between 40 per cent and 45 per cent. Why the double standards? All Kenyans must follow the law. Enforcement of the law must be even. Anybody committing an offence must be dealt with. People from all Kenyan communities must be treated equally. We should not have people who are more equal than others.

Mr. Temporary Deputy Speaker, Sir, I want to say something which relates to my constituency, which is about a public body. I keep talking about it because we have had problems



in the past. Again, I can foresee problems on the way at Nzoia Sugar Company. As we speak, the efficiency at this company is continuously going down. Production of sugar is continuously going down. The employees of the company are getting frustrated more and more and getting more demoralised. The farmers are also getting more demoralised. Payments are now not forthcoming.

Also, there is some alleged corruption within the management of Nzoia Sugar Company. Recently, sugar worth Kshs15 million was taken out of the factory without being paid for. We are talking about ten lorry loads. That consignment was taken away from the factory without payment being made or the people involved being known. The registration numbers of the trucks were given. Some were arrested around Mount Kenya area. I do not know whether it was planned that the sugar was to go that route. One of the lorries transporting the consignment was arrested somewhere in Murang'a District on its way towards the Mount Kenya region.

Mr. Temporary Deputy Speaker, Sir, I do not know whether this was just part of a deliberate move to kill Nzoia Sugar Company again. It is baffling that sugar of that magnitude can be stolen from a company like Nzoia Sugar Factory, which has a police station within its premises, and where the management stays 24 hours. A cheque for Kshs15 million, which was issued to the company in respect of that consignment, was dishonoured. How do you accept a cheque for Kshs15 million without confirming whether there is money in the bank account and release the goods to someone you have not been dealing with previously? Something must have gone wrong in this case, and the Government must act. If we slip back to where we were, our people will suffer. We are saying all this because of our people. We are concerned that our people will suffer. We are concerned that they will not enjoy life, and that their lives will continue to deteriorate because of problems emanating from bad management. As people representing farmers in this country - all of us from sugar-cane growing areas and others - we complained that we have problems which are of our own making.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Agriculture and the Ministry of Finance have been involved in the sugar importation problems. That is because sugar money is very sweet. Why have they involved themselves in this to the extent that they do not care about the local farmer? They are only concerned with importation of sugar. They are not addressing problems facing farmers. Sugar-cane farmers are experiencing difficulties in getting fertilizers, transporting sugar-cane to factories, paying taxes and cess as well as non-payment for their sugar-cane that has been delivered to factories when the Ministry charged with that responsibility just watches.

The Minister is concerned with fighting another Minister in connection with imported sugar. This is something that must be addressed. This is something which is in the public domain. I am not talking about anything new. There was a serious fight between the Minister for Agriculture and the Minister for Finance over importation of sugar. It is shameful for Members of the same Government, and particularly senior Members of the Cabinet, to be seen by the public fighting. The two Ministers have been seen arguing over the issue simply because there is a lot of "sweet" money they want to loot. That is what they were fighting for.

Some time back, we pointed out this matter. The Public Investments Committee (PIC) undertook a probe into---

**Mr. Ojode:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to say that the two Ministers were fighting to share the loot? Could he substantiate? Who are these two Ministers who were fighting to share the loot?

**The Temporary Deputy Speaker** (Mr. Poghisio): And what is the loot?

*(Laughter)*

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, the two Ministers were fighting publicly. You even heard them argue over the radio! You also read in the newspapers that the Minister for Finance was claiming---

**The Temporary Deputy Speaker** (Mr. Poghismo): Order! Newspapers reports are not accepted as a source of information here. Are you trying to substantiate your claims by using newspaper reports.

**Mr. Wamunyinyi:** No, Mr. Temporary Deputy Speaker, Sir! I am not substantiating anything. I am just contributing to this Motion.

**Mr. Ojode:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has made a serious allegation that is not in the Public Account Committee (PAC) Report. He has said that there are two Ministers who are fighting over the loot that they have made in the sugar scam. Could he substantiate?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, what came to light and you and all hon. Members are aware---

**Mr. Ojode:** The Chair is not aware.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, the Chair should not allow himself to be dictated to by a Member.

**The Temporary Deputy Speaker** (Mr. Poghismo): Order! You are getting yourself into trouble. Mr. Wamunyinyi, the moment you referred to Ministers--- Ministers are Members of this House. When you refer to them in that light, you are already imputing improper motives and casting aspersions on Members of this House. That is why the Member is challenging you to substantiate or withdraw and apologise. You can either substantiate or bring a Substantive Motion to discuss the character of the two Ministers.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I know those were his words. But, so that we do not waste time and my time also because I want to contribute--- Even if I withdrew, it is obvious and we all know that---

**The Temporary Deputy Speaker** (Mr. Poghismo): Order!

**Mr. Wamunyinyi:** I better withdraw and---

**The Assistant Minister for Transport** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Actually, the hon. Member on the Floor never mentioned anything about the two Ministers sharing the loot. Those were words that Mr. Ojode put in his mouth. The HANSARD can bear me witness that he never mentioned anything about the loot. He never mentioned that the two Ministers were sharing the loot! He never said anything like that.

**The Temporary Deputy Speaker** (Mr. Poghismo): Order now! You rose on a point of order. A point of order is mostly in reference to the hon. Member on the Floor. So, that becomes a frivolous point of order.

Proceed, Mr. Wamunyinyi!

**Mr. Wamunyinyi:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I, therefore, wish to proceed. I think Ministers in the Government should concentrate their efforts on serving---

**The Temporary Deputy Speaker** (Mr. Poghismo): Order! Order, Mr. Wamunyinyi. You were on your way to withdrawing something. Did you finally get there?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I was simply saying that the---

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghismo): Order! Just a moment!

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, even if---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! If you want to do it, do it! Do not put---

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I am saying that, as the Chair, you are quite right. You oversee what hon. Members are doing in this House and give direction. But I am saying that, as much as I know what happened, Mr. Ojode also knows. Whatever is said, even if it does not come from me---

*(Laughter)*

**The Temporary Deputy Speaker** (Mr Poghisio): Order! There is a limit as to what you can play around with. There is a limit to that! You need to be serious. To be serious means you withdraw! Do not start lecturing and talking about other things. You withdraw your statement about the Ministers and proceed to contribute!

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

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Ojode! I do not want to allow that until what I have ordered is done.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, since I want to contribute to this Motion, I think it is important that I am taken seriously on this matter. I think the hon. Member interrupted me for purposes of amplifying the issue. I think---

*(Mr. Ojode walked across the Chamber)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Ojode, I need you here! I want to finish with that gentleman first and then get back to you.

Mr. Wamunyinyi, are you withdrawing or not? How would you want us to take you seriously?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I want you to take me very seriously because those were not my words. If I had said those words, and because I want to move on, I would have no problem withdrawing.

**The Temporary Deputy Speaker** (Mr Poghisio): Does that means you are withdrawing or you have no problem? Do you want us to go on with the altercations, Mr. Wamunyinyi?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I can even withdraw on behalf of Mr. Ojode. Thank you very much. Let me proceed.

Mr. Temporary Deputy Speaker, Sir, Members of the Cabinet serve the same Government.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! I do not know why--- Mr. Wamunyinyi, you are a very senior Member of this House. There is nothing stigmatising about withdrawing. It is simply our way of saying: "I now abandoned this line and want to go to a proper line of argument." Basically, you have said something about Ministers and an hon. Member rose on a point of order. You said that you were going to withdraw those remarks. But now, you are telling us--- I do not know what is hard in that.

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

You cannot be on your feet now, until I have sat! So, withdraw those words or---

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir,--

**The Temporary Deputy Speaker** (Mr. Poghisio): No! I do not want to give you too many choices after this.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, usually, it is very difficult for me to be intimidated. I am saying that those were not my words. If there is something wrong with the Ministers and I point it out, I think I have every right to do so. I will do that correctly while following the right procedure. But in this case, I was contributing to this particular Motion and said that Ministers in the Government were differing publicly. They were fighting publicly in the eyes of the Kenyan public. That is in the public domain. It is not something that did not happen. It happened. Obviously, what is it they were fighting for? For control of what?

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Wamunyinyi, you have an opportunity here to make a very wonderful contribution, which you are doing. But what happens when you have side-shows alongside your contribution?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, could I withdraw so that I can proceed?

**The Temporary Deputy Speaker** (Mr. Poghisio): Proceed.

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

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, let me get some information from Mr. Raila.

**Mr. Raila:** Mr. Temporary Deputy Speaker, Sir, the hon. Member is concerned about the sugar war that has been going on in the Government. It is public knowledge that, recently, two Ministers were disagreeing on the importation of duty free sugar. One wanted to bring the importation date forward by one month and the other one was issuing an order against--

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Poghisio): Order! Order! Mr. Raila, that is no longer information. That is exactly what he said. The problem that I have with Mr. Wamunyinyi is his imputation that-- I cannot say the word. That is what I am asking him to withdraw. Really, about the wars and so on, that is actually known.

**Mr. Wamunyinyi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would also like to thank Mr. Raila for the information. However, is it not, indeed, shameful for Ministers from the same Government, one saying that "with effect from 1st March, 2007" while the other saying with "effect from 1st February, 2007"? They both stick to their guns. Each one of them says: "It is me who is supposed to say and not you!" Is it not shameful?

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

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, they are supposed to be working for the same Government.

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to refer to a very healthy dialogue and term it as a fight?

**An hon. Member:** Dialogue?

*(Laughter)*

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, a very healthy dialogue between Ministers.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, that is why I call them "half" Ministers because that is not a point of order.

We are suffering as the people.

**Mr. Rotino:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you heard the hon. Member say that they are "half" Ministers. I do not know whether we have "half" Ministers in this House.

**Mr. Wamunyinyi:** I did not call them that!

**Mr. Rotino:** You called them "half" Ministers. I do not know whether they are "half" Ministers.

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, I did not call them "half" Ministers. I said that is why I sometimes refer to them as that because they cannot come up with the---

**The Temporary Deputy Speaker** (Mr. Poghisio): I will protect Mr. Wamunyinyi to complete his time.

**Mr. Wamunyinyi:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. When this happens in the Government, the people who suffer are the Kenyan public; the farmers. For those of us who represent cane farmers, the people who produce sugar for this country, those factories down there, there are some that require expansion and support. There are farmers who need to be helped and should not be taxed. There are those farmers who should be helped to organise their own transport for their cane. Their organisations should be helped to ensure they get something. This is what I am talking about! That, instead of fighting, they should concentrate on providing services to Kenyans.

We have had reports of the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) which have been brought to this House, like I had said earlier, some of which have not been implemented. However, you will see those recommendations and the issues I am talking about concerning Kenyans. Those issues are covered in there! Recommendations are adopted by the whole House but are never implemented. Some of the recommendations are those small things that we raise.

Mr. Temporary Deputy Speaker, Sir, we need to change and re-focus our energies, as leaders of this country, to serve people. We need to re-focus our energies to work together to fight corruption jointly and as all Kenyans. Not a section of Kenyans should be exempted. Even in employment, some of the people involved go to the Pending Bills Committee most of whose members come from one community. Some of those cowboy contractors claiming pending bills come from that community and they are working together to steal from the public. This must be stopped!

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Wamunyinyi! There was something in your language. Could you withdraw it and substitute it with parliamentary language?

**Mr. Wamunyinyi:** Withdrawn, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghisio): You have to give us a word there!

**Mr. Wamunyinyi:** Which one, Mr. Temporary Deputy Speaker, Sir?

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Wamunyinyi! By the way, this is something we need to get familiar with or used to. When you withdraw something, you look like you are removing it from your text. If it remains blank, can you imagine how that text will read like? When you have withdrawn, what are you putting in its place; that unparliamentary language that you have used? Can you now put a parliamentary word there?

**Mr. Wamunyinyi:** Mr. Temporary Deputy Speaker, Sir, all our energies must go towards ensuring that the Kenyan public does not lose anything.

Thank you.

*(Several hon. Members stood)*

*up in their places)*

**The Temporary Deputy Speaker** (Mr. Poghisio): His time is not up because he had an issue to deal with. I would like to ask hon. Members not to take away much time from your own time by sideshows, language that is not acceptable and by referring to other hon. Members in an insulting manner or even casting aspersions. Let us try and keep the debate clean so that we can proceed.

**Mr. Muturi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say a few words about this Report of the PAC on the Government of Kenya Accounts for the year 1999/2000 as laid by the Committee.

Even a very casual reading of the various recommendations by the PAC will clearly show that, again, like the ones for the previous year, the same malpractices and shortcomings within Government Ministries are being highlighted. This is a matter that the House now must deal with and with finality so that we can minimise cases or instances of waste of public resources. A lot of what has been recommended by the Committee and which I believe this House will unanimously adopt, is corrective action to be taken by particular Government agencies. In cases where a particular officer or particular officers of Government have been shown to have worked in a manner that showed them to be inadequate in their positions; or to have abused their office or to have committed crime, the Committee recommends investigations, either by the Director of Criminal Investigations (DCI), the Director of the Kenya Anti-Corruption Commission or such like other investigative arms of Government. This is with a view to eventually preferring charges against the culprits.

Mr. Temporary Deputy Speaker, Sir, I want to echo the sentiments expressed by Mr. Raila that, indeed, as a House, we must express ourselves quite strongly on the conduct of the Attorney-General. Year in, year out, recommendations that action be taken or investigations be carried against thieves and where appropriate criminal charges or appropriate charges be preferred, have fallen apparently, on deaf ears. Indeed, I do not know whether I would be right to also say that they have fallen on smiling Wako. The gentleman just sits here and smiles. He will never take the House seriously, even for a single day. Then we must ask ourselves as a House; are we acting in vain? Why should we spend so much public resources, receiving evidence from the Report of the Controller and Auditor-General on the accounts of various Government departments and Ministries, where malpractices have been identified, action has been recommended and adopted by the House, but no action is taken by the Executive arm. This is so, particularly, by the investigative and prosecuting arms.

I raise this point because had those two branches of the Government been working, indeed, as we discuss this Report now, we should be seeing a Treasury memorandum showing how previous reports have been implemented. We need to know how many people have been taken to court and whether investigations were carried out. If, indeed, that happened, we need to know what the results were so that both the Controller and Auditor-General---

**The Assistant Minister for Trade and Industry** (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that no action has been taken when he knows for a fact that Kenyans removed the previous regime because of this corruption and that---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Miriti! A point of order means that you point out where he has breached the Standing Orders. There is nothing wrong with what someone says except if it breaches our Standing Orders. I do not know what your point of order is. What are you raising?

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy

Speaker, Sir, my point of order is that the hon. Member is misleading this House by saying that no action has been taken by the Government when he knows very well that action has been taken. He knows that people have been taken to court and judges have been sacked by this regime on the basis of the recommendations of the Committee.

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Miriti! You are not supposed to debate. You are actually arguing now.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, it is so sad that we are in the fifth year of this Ninth Parliament and a number of hon. Members have still not come to terms with the basic rules of how we operate. I am not, in any way---

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Muturi! That was directed at the Chair. So, proceed!

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, I forgive him for he knows not what he is saying or if he knows, he does not know that it is wrong.

Mr. Temporary Deputy Speaker, Sir, it is just a few months ago that we debated and adopted the Report of the Public Accounts Committee on the accounts of Government for the year 1998/1999. As we discuss this particular Report, we should have a Treasury Memorandum showing that this Government department about which Parliament recommended that this-and-that action be taken has done this-and-that to correct this kind of shortcoming. It is very simple! If you read this Report, the Controller and Auditor-General says: "Like I pointed out last year---" or "Like I pointed out in the year 1997/1998." So, indeed, if action had been taken, we would not be seeing those kind of Reports from the Controller and Auditor-General. In fact, the man whose Report forms the basis of these recommendations is none other than the celebrated Mr. D.G. Njoroge, a man who served this country with great distinction. Therefore, he could not have been pointing out these things in vain.

Mr. Temporary Deputy Speaker, Sir, as a House, we need to ask ourselves if really it is not high time that we formed a Committee on Government undertakings and assurances like it happens in other countries so that when the Government--- I do not think that they are going to oppose this Report. When this Report is adopted, within specified periods, that Committee will evaluate what the Government has done regarding that Report instead of us relying on the Executive to tell us that, "You see, we sacked judges." Those kind of perfunctory statements do not serve. Either the Attorney-General should come to this House and tell us whether he has inadequate staff or the Minister of State for Administration and National Security should come here and tell us that he does not have enough police investigators or, indeed, the Attorney-General himself.

The Director of the Kenya Anti-Corruption Commission (KACC) is required by law to present his reports to this House which are merely laid and not debated. Rather than us expecting that the Government will take action, is it not high time that we took the bull by the horns, as a House, and demanded that a Committee of this House, which reports on progress on the assurances and undertakings given by the Government be formed? That means that if a Government Minister stands on the Floor of this House and gives a certain assurance, then that matter will be pursued and a Committee of the House will come back to report. So that we do not see---

**The Temporary Deputy Speaker** (Mr. Poghisio): Mr. Muturi, are you suggesting that, that should be done by the Standing Orders Committee?

**Mr. Muturi:** Precisely so, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Poghisio): There is a way in which you can actually make this known to the Standing Orders Committee.

**Mr. Muturi:** Mr. Temporary Deputy Speaker, Sir, I am saying that because all I have said will be captured in the HANSARD and it being part of the record of the House, it is possible that the Committee reviewing the Standing Orders could pick some of these suggestions. As I will be

demonstrating soon, a lot has happened and not enough action has been taken.

Mr. Temporary Deputy Speaker, Sir, hon. Wamunyinyi, in his contribution, raised the issue of quarrelling and/or fighting Ministers. He was alluding to the conflicts between the Ministry of Finance and the Ministry of Agriculture over certain issues. I do not want to revisit the issue. However, on page VIII of this Report, there is a paragraph titled: Evasion of Payment of Duty and other Taxes - Mombasa. Under this paragraph, you read about a very interesting company called M/s Womankind. The paragraph reads in part:

"The Committee noted with utmost concern that a lot of rice was imported by Non-Governmental Organisations (NGOs) such as M/s Womankind and M/s International Children Trust without payment of duty. M/s Womankind which was allowed to clear 2,000 metric tonnes under Treasury exemption for free distribution to refugee camps also cleared 35.212 metric tonnes without payment of duty."

Mr. Temporary Deputy Speaker, Sir, if you follow this Report, especially with regard to this particular organisation called M/s Womankind, you will learn that they went under and Treasury could not follow them. They used bonds from insurance companies. The insurance companies themselves went under and so did the company. M/s International Children Trust had also been allowed to import 4,000 metric tonnes of rice duty free. It actually cleared 2,518.75 tonnes without paying any duty. The NGO ceased its operations in the country and documents relating to the importation of the items could not be traced in order to establish how the rice was cleared.

Mr. Temporary Deputy Speaker, Sir, that is an indictment on a very key Ministry; that is, the Ministry of Finance. The Customs and Excise Department fall under this Ministry. We are being told, in the Report, that the Ministry allowed people to import rice duty free. They imported excess quantities of rice and they never paid any duty. No documents were made available. Can anybody from the Government stand here and tell us that the officers responsible for that importation, exemption of duty or clearance of items have been taken to court? What action has been taken against the officers concerned?

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, Mr. Muturi! You will continue for 15 minutes next time.

Hon. Members, it is now time for the interruption of business. The House, is, therefore, adjourned until Tuesday, 17th April at 2.30 p.m.

The House rose at 6.30 p.m.