

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd June, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Hon. Members, I have two Communications to make. Will the hon. Members at the Bar, please, come in?

*(Several hon. Members entered
the Chamber)*

DELEGATION FROM ZANZIBAR HOUSE OF REPRESENTATIVES IN SPEAKER'S ROW

Hon. Members, first, I wish to introduce to you and welcome this afternoon a delegation from the House of Representatives of Zanzibar who are seated at the Speaker's Row. They are:-

Hon. Pandu Ameir Kificho – Speaker and Leader of Delegation

Hon. Hamza Hassan Juma, MP and Minister of State, Chief Minister's Office

Hon. Ame Mati Wadi, MP

Hon. Mtumwa Kheir Mbarak, MP

Hon. Abdalla Juma Abdalla, MP

Mr. Ibrahim Mzee Ibrahim, Clerk of the House

Hon. Members, they have been in the country since Sunday on a study visit on the modalities, successes and challenges in the implementation of the Constituencies Development Fund (CDF). During their stay, they will visit CDF projects in some constituencies. They will also interact with some of our Committees, meet with hon. Members and officers of the National Assembly. The delegation leaves the country on Saturday, 6th June, 2009.

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

Hon. Members at the bar, please, come in.

*(Several hon. Members entered
the Chamber)*

OPERATIONALIZATION OF COMMITTEES UNDER
NEW STANDING ORDERS

Hon. Members, you will recall that the New Standing Orders were adopted by the House on 10th December, 2008, and they came into operation on the date of the commencement of the Third Session of the Tenth Parliament pursuant to the provisions of Standing Order No.220(1). On that date, the old Standing Orders were repealed.

Although we have implemented most of the Standing Orders, you will agree with me that we have not made much progress with respect to Committee operations. This is because the existing Committees had to be given time to conclude all the matters under consideration and table their reports. Members of Parliament also needed time to familiarize themselves with the provisions of the new Standing Orders before the formation of the new Committees.

Having taken hon. Members through both procedural and Committee provisions in the new Standing Orders, through a series of workshops, I feel that we need to form the new Select Committees, so that the Standing Orders can be implemented fully. I, therefore, direct that the Party Whips should forward the list of all hon. Members who have been nominated for Membership in Select Committees, to the House Business Committee for onward transmission to the House. The names should be ready for approval by the House on Thursday, 4th June, 2009. On that date, upon approval of the Membership of Committees by the House, all existing Committees except the *ad hoc* Committees and those whose lives length is determined by enabling Acts of Parliament, shall stand dissolved. In the appointment of Committee Members, the provisions of Standing Order Nos.159, 160 and 161 must be strictly adhered to.

Please, note that all Committee proceedings shall be open to the public, except where the Committee decides otherwise, and when a Committee is considering its recommendations. This is provided for under Standing Order No.180. Rules for public access to Committee sittings and guidelines for public hearings have been finalized and they will be placed in the Parliamentary Website for the public to take note. They will also be distributed to all hon. Members.

After the formation of the Select Committees, all Committee Members must ensure that they adhere to all the Standing Orders that affect Committee operations.

Thank you.

QUESTION BY PRIVATE NOTICE

AWARD OF TENDERS FOR NAIROBI-ELDORET/
MOMBASA-NAIROBI PIPELINE CAPACITY
ENHANCEMENT PROJECT

(Mr. Linturi) to ask the Minister for Energy:-

- (a) What is the respective capacities of the proposed Nairobi-Eldoret Parallel Pipeline and the Mombasa-Nairobi Pipeline Capacity Enhancement Project?
- (b) When were the respective tenders for the above projects advertised, the identity of the firm(s) awarded the tender(s) and the amount(s) of the tender(s)?

- (c) Has the letter of award for the construction of the Nairobi-Eldoret Pipeline been issued and has the contract been signed?

Mr. Speaker: Hon. Members, I have a notice from the Member for Igembe South that he is engaged elsewhere on parliamentary business. But, please, note that this is the second time that this Question has appeared on the Order Paper. I, therefore, direct that it be deferred for the last time to Tuesday next week at 2.30 p.m.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.111

UTILIZATION OF LATF MONEY ALLOCATED TO TURKANA/LODWAR LOCAL AUTHORITIES

Mr. Speaker: Mr. Ethuro! It appears he is not here! Hon. Members, I have no notice of anything happening to the hon. Member for Turkana Central. So, the Question is dropped!

(Question dropped)

Question No.187

IRREGULAR ALLOCATION OF PRIVATE LAND BY KIRINYAGA COUNTY COUNCIL

Mr. Gitau asked the Deputy Prime Minister and Minister for Local Government:-

(a) why the County Council of Kirinyaga is irregularly acquiring, subdividing and allocating private land LR.No.13963 which belongs to South Ngariama Ranching Co-operative Society Ltd.;

(b) whether there are approved plans and consent to subdivide and allocate the land from the relevant authorities; and,

(c) what steps he is taking to stop the irregular process.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I beg to reply.

(a) Following Court Case No.71 of 2006, and pursuant to the consent of the parties that was made at the time, an order which, *inter alia* provided that the said land be sub-divided and distributed in accordance with the law was issued.

Pursuant to those orders issued by the then sitting Judge in the above case, the County Council of Kirinyaga set aside land Parcel No. Ngariama/Lower Ngariama/431, as envisaged by Section 177 of the Constitution of Kenya. The council made the necessary gazette through the Gazette Notice No.10751 and No.10752 and no objections were registered.

(b) The subdivision and allocation of the land in question, LR.No.13963 was done in a regular manner and all the necessary legal provisions were adhered to.

(c) Since the allocation is not irregular, as stated above, my Ministry is not bound to get involved in the process. In any case, certain applications that touch on the substance of the Question are still in court and I may not want to undermine issues before a court of competent jurisdiction.

Mr. Gitau: Mr. Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Local Government for his answer. I wish to state that the answer does not address the issues that I have raised here. First, there is no land in Kenya that can be subdivided without the consent of the Commissioner of Lands. At the same time, there should be approved maps by the Ministry of Lands.

Is the Deputy Prime Minister and Minister for Local Government aware that the Ngariama/Lower Ngariama/431 does not exist? It only exists---

Mr. Speaker: Order, Mr. Gitau! It is Question Time!

Mr. Mudavadi: Mr. Speaker, Sir, the land in question, according to the records that we have, does exist. It was a trust land and it belonged to the County Council of Kirinyaga. Indeed, at one time, the same land had been leased out to the South Ngariama Co-operative Society Ltd. So, it does exist.

Mr. Imanyara: Mr. Speaker, Sir, I have had the privilege of looking at these documents myself and I think the Minister has been seriously misled. In fact, there is no such land registered as LR.No.13963. Could the Minister tell us who the parties to the court order that he is referring to are? This is because this is a ranching company with thousands of members. One or two members going to court to undermine the rights of several thousands of members is an abuse of the process. Could he tell us who the parties to this land case he is referring to are that gave rights to consent order?

Mr. Mudavadi: Mr. Speaker, Sir, the parties to this case were one Moses Gachuki Kimwea and nine others versus the Kirinyiga County Council.

Mr. Gitau: Mr. Speaker, Sir, the Gazette Notice No.10751 was meant to set apart land and No.10752 was meant to gazette a land board which is the work of the Commissioner of Lands. Is the Minister aware that it is only the Minister for Lands who can gazette the land for the two purposes?

Mr. Mudavadi: Mr. Speaker, Sir, indeed, the gazette notices set up the land divisional board. When these gazette notices were set out, there was no objection whatsoever. So, the statutory period for any objection to have been raised on this matter was adhered to. No particular person raised an objection at that time.

Question No.152

NON- PAYMENT OF HARDSHIP ALLOWANCE
TO CIVIL SERVANTS IN THARAKA DISTRICT

Mr. Mwiru asked the Minister of State for Public Service:-

- (a) why the civil servants in Tharaka District are not paid hardship allowance like their counterparts in the teaching profession; and,
- (b) what measures he has put in place to address the disparity, considering that Public Servants live under the same conditions as teachers.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I apologise for being engaged in official business outside Nairobi. My Assistant Minister could also not reach the House from his constituency. We are both sorry.

However, I beg to reply.

- (a) It is true that civil servants in Tharaka District are not paid hardship allowance like teachers. This is because Tharaka District is not classified as a hardship area for civil servants. Tharaka District was gazetted as a hardship area in 1997 by the Minister for Education following a signed Collective Bargaining Agreement (CBA) between the Teachers Service Remuneration Committee and the Kenya National Union of Teachers (KNUT). As a result of this gazette, there is a disparity in the payment of hardship allowance between teachers and the other civil servants.
- (b) In order to address this disparity, the Government has already completed a study to review all hardship areas and the resultant allowances in the country. This is to ensure that public servants, teachers, disciplined personnel and parastatal employees deployed in hardship areas are all paid harmonised hardship allowances.

Mr. Speaker, Sir, this policy is in the spirit of harmonising terms and conditions of service in the entire Public Service. In addition, I wish to confirm that a Cabinet Memorandum has already been prepared to seek Government approval on the recommended hardship areas and the corresponding hardship allowance.

Mr. Mwiru: Mr. Speaker, Sir, since Independence which is 46 years ago, the Government has been doing some study to know whether these are hardship areas. Now that the Minister has completed the study, could he assure this House that, in the coming financial year, this district will be taken care of?

Mr. Otieno: Mr. Speaker, Sir, the results of the study show that Tharaka District will continue to be a hardship area.

Mr. Langat: Mr. Speaker, Sir, the Minister has said that they have completed a study. What is the criterion for determining whether a place is a hardship area or not? Who does the recommendations so that a place is classified a hardship area?

Mr. Otieno: Mr. Speaker, Sir, the study is done by the Ministry of Planning, National Development and Vision 2030. They use economic indicators not very different from the ones we use to determine the poverty index in the country. The surveys have been fairly thorough and we are satisfied in the Ministry that the categories are now in line with what obtains actually on the ground.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Are you satisfied that the Minister has answered the hon. Member's question? He has asked him whether he has made an allocation with respect to Tharaka District this financial year. He has very cleverly avoided answering that part of the question!

Mr. Otieno: Mr. Speaker, Sir, there is satisfactory budgetary allocation for the purpose of payment of hardship allowances for all the districts and divisions that will continue to be classified as hardship areas.

Mr. Litole: Mr. Speaker, Sir, civil servants have suffered for quite some time now. When teachers are given 30 per cent of their basic salaries as hardship allowance, other civil servants are given up to Kshs1,200. Could the Minister confirm to this House when these civil servants will enjoy the 30 per cent of their basic salaries?

Mr. Otieno: Mr. Speaker, Sir, the hon. Member is talking about House Allowance while my answer is in respect to hardship allowance!

(Mr. Litole approached the microphone while talking)

Mr. Speaker: Order, Mr. Litole! It is out of order for you to talk while walking!

Mr. Litole: I apologise, Mr. Speaker, Sir.

Mr. Speaker: Okay. Proceed to the microphone then!

Mr. Litole: Mr. Speaker, Sir, I am referring to hardship allowance. I have been a civil servant for quite some time and I know what I am talking about.

Mr. Otieno: Mr. Speaker, Sir, this time, all the allowances, that is, housing and hardship will be renegotiated. Even the last CBA did not include hardship allowance and house allowance. They will now be harmonised for all public servants.

Mr. Kigen: Mr. Speaker, Sir, I have two schools in one locality. One is a secondary school and the other one is a primary school. The teachers in the primary school enjoy hardship allowance, but those in the secondary school do not. What informs this situation?

Mr. Otieno: Mr. Speaker, Sir, that appears unusual unless because of the KNUT and KUPPET membership issues. The CBA serve different sections separately, that is, secondary and primary.

Mr. Mwiru: Mr. Speaker, Sir, Tharaka District, after being classified as a hardship area, there is a division in the neighbouring Meru South District called Irabang'ombe, which has the same conditions. The teachers and civil servants there have not been enjoying hardship allowance. Gatunga Police Station, according to the Police Standing Orders is classified as a hardship area. Could the Minister confirm to this House whether for the years that police station has been approved as hardship area he will compensate those who have been working there for the years they have served there?

Mr. Otieno: Mr. Speaker, Sir, these allowances are paid currently and there are no arrears provided for. However, because of previous policy, where teachers' remunerations were treated differently from the rest of the Public Service, these disparities and inconsistencies were frequent in many areas, including neighbouring districts and divisions. We have now done a comprehensive study and these will be harmonised. We will publish the latest list of the areas so classified.

Question No.179

CONVERSION OF OUTER RING ROAD INTO
DUAL CARRIAGEWAY

Mr. Speaker: Is Mr. Waititu here? He is not present! The Question is, therefore, dropped!

(Question dropped)

Question No.183

REPAIR OF TENGES-KABARNET
ROAD

Mr. Mwaita asked the Minister for Roads whether he could confirm when he will repair the Tenges-Kabarnet Road, which is a major link to the Northern Tourist Circuit.

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

The Tenges-Kabarnet Road is a Class “D” Road – that is Road D350. It, therefore, falls under the jurisdiction of the District Roads Committee (DRC), which should prioritise it for maintenance in its annual work plans. However, the road is currently undergoing maintenance from the 12 per cent Fuel Levy Fund (FLF).

Mr. Mwaita: Mr. Speaker, Sir, while I appreciate the answer from the Assistant Minister, could he confirm that once this road is prioritised, he will be able to do major rehabilitation on it, given that it is the busiest road in that area?

Mr. Kinyanjui: Mr. Speaker, Sir, the Ministry recognises the importance of this road but; as I indicated earlier, it is a category “D” Road. Road Classes “D”, “E” and other roads are normally done by the DRCs. However, in view of the importance of this road, we will prioritise it as soon as funds become available.

Mr. Mwaita: Mr. Speaker, Sir, the Assistant Minister has said that the road is undergoing some repairs at the moment. Could he tell the House how much money has been set aside for it in the current financial year?

Mr. Kinyanjui: Mr. Speaker, Sir, the ongoing works are being undertaken at a cost of Kshs6 million, which is part of the 12 per cent portion received from the FLF during this financial year.

Mr. Speaker: Next Question, Mr. Ruteere!

Question No.075

DESTRUCTION OF IMENTI
FOREST

Mr. Ruteere: Mr. Speaker, Sir, I completely need the opportunity but I had earlier asked this Question and it was answered. The answer I got then is similar to the one that has been provided. I was satisfied when it was answered last time. Maybe, it has been put on the Order Paper by mistake.

Mr. Speaker: Fair enough! We shall, administratively, check to find out what happened for this Question to come back on the Order Paper, notwithstanding the fact that it had been answered and, indeed, you were satisfied.

Mr. Ruteere: Thank you.

Mr. Speaker: That should rest the matter!

(Question withdrawn)

Next Question, Mr. Peter Kiilu!

Question No.010

PROVISION OF HOUSING TO OFFICERS

AT EMALI POLICE PATROL BASE

Mr. Kiilu asked the Minister of State for Provincial Administration and Internal Security:

- (a) when he will revive the stalled construction of office accommodation at Emali Patrol Base;
- (b) what plans he has to provide housing for officers at the Patrol Base; and,
- (c) whether he could consider upgrading the Base to a Police Station.

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

(a) The construction of office accommodation at Emali Police Patrol Base was an initiative of the local community. However, the Government has disbursed a total of Kshs1 million for rehabilitation of the office block. We disbursed Kshs500,000 in the Financial Year 2005/2006 and another Kshs500,000 in the Financial Year 2006/2007.

(b) There are plans to allocate further funds in the next financial year. On the other hand, the local community has so far received Kshs300,000 from the Constituencies Development Fund (CDF) Committee to enable them complete the said project. We will be allocating more funds in the next financial year for the construction of more facilities at the patrol base.

(c) Upgrading of any police establishment is guided by current and anticipated future crime trend, availability of the requisite infrastructure, and most importantly, the District Security Committee (DSC) must sit and recommend the upgrading of the police patrol base.

We have no objection whatsoever to the upgrading of Emali Police Patrol Base. We are eagerly awaiting the recommendation from the DSC. Consequently, all these factors will be considered with a view to determining whether there will be need for upgrading the patrol base.

Mr. Kiilu: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer he has given. However, Emali Police Patrol Base houses six officers in two uni-huts. It is not very healthy for six officers to share two uni-huts. So, I would like him to tell us whether he is satisfied that these officers are living in an environment that is conducive to delivery of service.

Mr. Ojode: Mr. Speaker, Sir, I am not satisfied. That is why we are getting some funds to construct houses for my officers. I have also allocated some uni-huts as a temporary measure, while waiting for the next financial year, when funds will be made available.

Mr. Speaker: Last question, Mr. Kiilu!

Mr. Kiilu: Mr. Speaker, Sir, could the Assistant Minister tell us how much money he has allocated to this patrol base, and for what facilities has the money been allocated?

Mr. Ojode: Mr. Speaker, Sir, we have not actually allocated money for a particular project. We have allocated funds to be approved by this House, for the general construction of houses for the police fraternity. The amounts will be determined by what we are going to construct at Emali. In the meantime, priority will be given to the housing units for dwelling purposes.

Mr. Speaker: Mr. John Mututho!

Question No.087

DEATH OF LIONS IN KENYAN PARKS

Mr. Mututho asked the Minister for Forestry and Wildlife: -

- (a) whether he is aware of the airing of a damaging documentary on Kenya in the international media on 14th April, 2009 by CBS, a television network in the USA, regarding the death of lions in a Kenyan Park;
- (b) whether he could confirm that the pride of seven lions found dead in the parks were as a result of Furadan poisoning; and,
- (c) when he will, through NEMA, effect an immediate ban of Furadan chemical, pending further investigations.

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

- (a) I am aware of the airing of a damaging documentary on Kenya in the international media on 14th April, 2009 by CBS, a television network in the USA, regarding the death of lions in a Kenyan Park.
- (b) I can confirm that a pride of three lions died last year in the Mara Triangle as a result of Furadan poisoning, to which the CBS documentary referred.
- (c) After the CBS documentary, Farm Machinery and Chemicals (FMC) Corporation, the manufacturers of Furadan, stopped further shipment of the product to Kenya. The Corporation is in the process of buying back Furadan stocks in the Kenyan market. In the meantime, my Ministry is spearheading the creation of an inter-Ministerial Committee on Wildlife Poisoning in Kenya, which will provide guidance on the issue of banning Furadan chemical in the country.

Mr. Mututho: Mr. Speaker, Sir, that is a very good answer from the Minister. He has admitted three deaths but they were actually seven. I wish to table the post-mortem results showing that the deaths were seven.

(Mr. Mututho laid the document on the Table)

As late as last week, two more lions died. This was published by the local media. The Question is: When are you banning the product?

Dr. Wekesa: Mr. Speaker, Sir, the issue of banning Furadan involves the Ministry of Agriculture. This is why, in my reply, I have said that an inter-Ministerial Committee has been formed to address the issue. We are aware that Furadan has caused deaths of lions in national parks. We are, therefore, concerned and would like to have it banned.

Mr. Konchella: Mr. Speaker, Sir, while I thank the Minister for that answer, I would like to say that this is a serious matter. Ministers have to be serious. He cannot say that he has to wait and consult another Ministry. They must be able to work and make decisions! They should not delay making decisions on issues that are going to kill institutions in this country. We are going to leave tourism to our neighbours because all the lions are going to die. This thing is widespread. Vultures and hyenas are dying in Isiolo and many parts of the country, where there is wildlife, as a result of this chemical.

So, when the Minister says that he is going to consult, to me, it is not the right answer. He should say that the chemical is banned and order every shopkeeper to withdraw it today and not in the near future!

Mr. Speaker, Sir, we have a problem because of mismanagement. We have directed Questions to the Deputy Prime Minister and Minister for Local Government, who also, is not able to make decisions to stop corruption. In the process, people are killing these animals because they do not see any benefits out of them. Can these two Ministers undertake to protect the wildlife for the benefit of Kenya? These chemicals are being used by people who have no value for these animals because people are taking money as they wish--

Mr. Speaker: Order, Mr. Konchella! What is your question? Ask one question!

Mr. Konchella: Mr. Speaker, Sir, could the Minister immediately stop further use of this chemical, order its withdrawal from every shop and ensure that the police arrest anybody who is stocking the chemical in his or her shop?

Dr. Wekesa: Mr. Speaker, Sir, with due regard to my colleague, we have institutions and I think we should respect them. We have a body called the Pest Control Board that is under the mandate of the Ministry of Agriculture. This is an area for the Minister for Agriculture who has the mandate, through that Board, to actually ban this chemical. I want to give more information in respect to the acquisition of this pesticide. It is so cheap that people who want to use it on their farms acquire it very easily. The pastoralists and people who live around the national parks also get it very cheaply. As a Government, we actually want to ban it.

Mr. Speaker, Sir, this committee is not going to take a long time. We will sit together and ensure the chemical is banned.

Mr. Shakeel: Mr. Speaker, Sir, I think the Minister is not giving us the right answer. There is the Poisons Board and this is poison which has killed our lions and other animals. What is the Minister doing to ban it? We have less than 600 lions in this country. Seven of them have died. Each lion is worth over Kshs10 million, are we going to sue the company that sells this chemical?

Dr. Wekesa: Mr. Speaker, Sir, I sympathise with the Member for Kisumu Town East. However, I want to assure him and the House that this is a matter that we are taking very seriously. The Pharmacy and Poisons Board that he is referring to is under the Ministry of Public Health and Sanitation. As I said, we are going to ban the chemical. The company which manufactures this chemical is in the process of buying back Furadan stocks in the Kenyan market.

(Off-record)

So, the company is actually withdrawing Furadan from the market.

Mr. Ngugi: Mr. Speaker, Sir, I come from an agricultural constituency and we have used Furadan for the last 30 years. Furadan could have caused the death of seven lions but is it the only chemical in Kenya that can kill lions or are we going to ban every other chemical that can kill lions? Could this be a trade war just as we saw with the *Alvaro* drink?

Dr. Wekesa: Mr. Speaker, Sir, we have other chemicals that are poisonous to wildlife. I, therefore, agree with the Member that it is not only Furadan. There are many

others, for instance, Scenic which is very poisonous to livestock and wild animals. However, what actually happens is that the people who use Furadan are usually retaliating for their animals having been killed by the lions. They put the chemical on the carcasses and when the lions come to feed on them, they feed on poisoned carcasses.

Mr. C. Kilonzo: Mr. Speaker, Sir, now that the Minister has confirmed that this is an illegal act by farmers killing the lions, what is the Government doing to apprehend the farmers?

Dr. Wekesa: Mr. Speaker, Sir, in quite a number of cases, we have arrested the culprits and they have been taken to court. In some of the cases we have had to take action. When we do that, they do agree that they actually did it.

Dr. Nuh: Mr. Speaker, Sir, since the Minister has confirmed that the act of using poisons against wild animals is a retaliation by farmers or those who live next to the national parks, what is he doing to better the relationship between the animals and the people who live near the parks? The Kenya Wildlife Service (KWS) has not been kind to the people.

Dr. Wekesa: Mr. Speaker, Sir, that is a very good question. I want to confirm to the House that, along with other measures we try, for example, to fence our national parks. We have done that in many national parks. However, we have also undertaken civic education to educate those living near our national parks about the dangers and advantages of having wildlife around us. It is an ongoing process of educating people that this is a natural resource and we must conserve it.

Mr. Speaker: Last question, Mr. Mututho!

Mr. Mututho: Mr. Speaker, Sir, now that the Minister has admitted that FMCC is withdrawing the chemical from the market, which amounts to admission of public liability, how much is he planning to demand in compensation for the big and small wildlife and livestock lost as a result of poisoning?

Dr. Wekesa: Mr. Speaker, Sir, we do not have plans to sue FMCC, but individuals that are concerned, if they so wish, the Government is willing to assist them do so.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that they have no plans to sue for compensation for loss of property of the Kenyan people?

Mr. Speaker: Order, Mr. Shakeel! The Minister is in order! He is entitled to give an answer that he believes to be correct. So, if he says that they have no intention to sue, that is a good answer. Nothing out of order!

Question No.011

RE-ESTABLISHMENT OF COURT SERVICES AT
EMUHAYA DISTRICT HEADQUARTERS

Dr. Otichilo asked the Minister for Justice, National Cohesion and Constitutional Affairs when he will re-establish court services at Emuhaya District Headquarters to service the population of over 300,000 people who require legal services.

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

Emuhaya District is one of the newly created districts. Whereas the Judiciary appreciates that Emuhaya District is vast and has a population of about 300,000 people, they will be considered together with other needy areas when funds are made available. Financial constraints on the development of courts do not allow the Judiciary to commence the planning of a court facility in Emuhaya District at the moment.

Dr. Otichilo: Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, I am not satisfied. I asked him to state when we shall have court services at Emuhaya. If you can recall, we used to have court services at Emuhaya. However, they were withdrawn for no reason. I would like to know why the court services were withdrawn from Emuhaya. When they will be reinstated?

Mr. Kipkorir: Mr. Speaker, Sir, the Question was very specific and I gave a very specific answer. The answer is that we will build a court facility in Emuhaya District Headquarters when funds become available. It is the desire of the Government, and my Ministry, to ensure that Kenyans access justice. The only way to do so, is by establishing courts in our districts. We are doing our best to ensure that in the coming financial year, we will avail funds in some of the new districts.

Mr. Speaker: Mr. Assistant Minister, I think you have not answered the question by the hon. Member for Emuhaya. He says there used to be court services at Emuhaya, but they were withdrawn. When will they be reinstated? That is a legitimate supplementary question.

Mr. Kipkorir: Thank you, Mr. Speaker, Sir. I promise my colleague that I will get in touch with him as soon as I know the reasons for the withdrawal of those services. As to when they will be reinstated, as soon as we get the funds.

Mr. Speaker: That is a fairer answer!

Mr. Muturi: Thank you, Mr. Speaker, Sir. Could the Assistant Minister tell this House what criteria they use to establish courts?

Mr. Kipkorir: Mr. Speaker, Sir, I beg that he asks the question again for me to answer it.

Mr. Speaker: He is asking the criteria used to establish courts. What is it?

Mr. Kipkorir: Mr. Speaker, Sir, there are a number of factors. First, the distance of the existing courts from the new areas where we require to establish the court facilities. Secondly is the population of the region. The principle here is that we would like all Kenyans to access justice within a very short distance.

Dr. Khalwale: Mr. Speaker, Sir, the absence of judicial services in Emuhaya reflects the general shortage of judicial services in the entire Western Province to the extent that even at the High Court in Kakamega, there is only one judge, but in Kisii, they have more than one judge. Could the Assistant Minister tell us when he will increase the number of judges in the Kakamega High Court?

Mr. Kipkorir: Mr. Speaker, Sir, the appointment of judges of the High Court is done by the Judicial Service Commission (JSC). It is true that in Western Province we have construction of court facilities going on now. For example, the construction of a law court in Mumias is ongoing. We are also building Busia High Court. We will also construct a High Court facility in Bungoma. It is only the JSC that can increase the number of judges in Busia, Bungoma, Kakamega and indeed, the entire country.

Mr. Wambugu: Mr. Speaker, Sir, with the present trend of the Government giving services to wananchi and with the creation of the new districts, could the Assistant Minister confirm that he will provide courts in the newly created district headquarters, especially in Mathioya and Kiriaini?

Mr. Kipkorir: Mr. Speaker, Sir, it is, indeed, the desire of my Ministry and the Government to take services closer to wananchi by establishing the new districts. One of those services is provision of legal services. So, the desire of the Ministry is to ensure that every district headquarters has court facilities.

Mr. Mureithi: Mr. Speaker, Sir, I would like to ask the Assistant Minister what action he is taking particularly in Ol Kalou and Nyandarua in general to relocate the courts within the district because people are tried in Nyahururu which is in Laikipia West?

Mr. Kipkorir: Mr. Speaker, Sir, I am unable to give the exact action that we will take. However, I will refer to the Judiciary to assess the concerns in the area and then get to my colleague later.

Dr. Otichilo: Mr. Speaker, Sir, I would like the Assistant Minister to assure me that, in the meantime, as he looks for money to establish a court facility at Emuhaya, he will consider providing mobile court services in Emuhaya because my people are currently travelling over 30 kilometres either to Nyanza or Vihiga for court services?

Mr. Kipkorir: Mr. Speaker, Sir, it is my duty to give the correct answer to this House. The issue of lack of court services in our country is a general problem. It may not be appropriate for me, at this point, to give an undertaking. I can only assure him that in the next financial year, we may consider Emuhaya District for allocation of funds to establish the court facilities.

Question No.070

AWARD OF TENDERS FOR CONSTRUCTION/REHABILITATION
OF DAMS IN SAMBURU EAST

Mr. Letimalo asked the Minister for Water and Irrigation:-

- (a) the identities of the firms that were awarded the tenders for construction/rehabilitation of Sileta Water Pan, Sordo Dam and Lpus Dam in Samburu East;
- (b) the terms and scope of work in the contracts; and,
- (c) the implementation status of these projects as well as the steps she has taken to speed up their completion.

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

- (a) The Northern Water Services Board identified and prioritised three pans for construction/rehabilitation in Samburu East in the current financial year, 2008/2009. Lpus Dam is not one of the works whose contracts were awarded. Construction works for the three dams were awarded to two firms as follows:
 - (i) Sileta Pan to Geocast Agencies of Nyahururu.
 - (ii) Sordo Pan to Doch Company Limited of Maralal.
 - (iii) Ngorok Pan to Geocast Agencies of Nyahururu.
- (b) The terms and scope of work in the contract are as follows:-

- (i) In Sileta Pan, there was excavation of a new 14,059 cubic metres capacity pan and silt. There was also provision of placing of 270 cubic metres of rip rap. The contract sum was Kshs3,133,415.
 - (ii) In Sordo Pan, there was disilting of the main reservoir and silt trap of 12,962 cubic metres. There was provision and placing of a 150 cubic metres rip rap. The contract sum was Kshs2,723,470.
 - (iii) In Ngorok Pan, there was excavation of a new 12,325 cubic metres capacity pan and silt trap. There was also provision and placing of 160 cubic metres of rip rap. The contract sum was Kshs3,369,600.
- (c) The implementation status of these projects is as follows:
- (i) Sileta Pan Project is already completed and was handed over to the Ministry on 22nd January, 2009.
 - (ii) Sordo Pan was completed and handed over to the National Water Service Board representatives on 5th March, 2009.
 - (iii) Ngorok Pan was also handed over to the Northern Services Board representatives on 27th March, 2009.

Mr. Letimalo: Mr. Speaker, Sir, I believe that the Assistant Minister is talking out of ignorance, because these projects are far from completion. How does the Assistant Minister consider the pans complete when the rip raps at the in-lets and out-lets are not done? How does he expect water to flow in and out of the pans?

Mr. Kiunjuri: Mr. Speaker, Sir, I would also sympathise with the Assistant Minister if he is really speaking out of ignorance. Definitely, we cannot allow officers to mislead us to this level. I assure the hon. Member and this House that if it is true that I have been misled in any way, then somebody must be disciplined because of this. I would like to assure this House that if it is true, and the hon. Member can confirm to me that this work is not complete, then we will take the necessary action against the officer who might have misled us.

Mr. Speaker: Yes, Mr. Chachu!

Mr. Gabbow: Mr. Speaker, Sir, this is the second time you are addressing me as Mr. Chachu in this House.

Mr. Speaker: Mr. Chachu is your close relative; is it not?

(Laughter)

Mr. Gabbow: Mr. Speaker, Sir, we know that the National Water and Pipeline Corporation, without consultation with the District Tender Board and approval of the DSG, has been awarding contracts. This is why shoddy jobs are being done in our districts and constituencies. What has the Assistant Minister done about the National Water and Pipeline Corporation which awards contracts without the knowledge of the districts and constituencies?

Mr. Kiunjuri: Mr. Speaker, Sir, the prioritisation of our projects comes from the districts. Therefore, the District Water Officers are involved in the prioritisation. On the issue of awarding contracts, the districts have nothing to do with it, because the prioritised projects are taken care of by the water service boards of the regions. Therefore, it is the water services boards that usually place tenders for construction. The National Water and Pipeline Corporation is only charged with the construction of dams.

However, when it comes to the issuance of contracts, the contractors are given work and supervised by the boards. That is why I am saying that the people who are presented in this report are the Northern Water Services Board. Therefore, the people who can be questioned on whether or not they were effectively done are the relevant service boards.

Mr. Nyamai: Mr. Speaker, Sir, I raised a similar Question to this one in connection with Kwa Tabitha and Kasue dams which had the same problems. The Assistant Minister promised that we would go to see them. However, my attempts to get him so that we can go and see them have not been successful. Now that he has just given my colleague an undertaking, could he confirm that he would be available for us to go and see those projects?

Mr. Kiunjuri: Mr. Speaker, Sir, the hon. Member is misleading the House. This is because I stayed with him for three days in Israel. We were very busy there and he never consulted me about those projects. However, I still remember that I promised him and I will make a programme two weeks after the Budget, so that I can tour as many constituencies as possible.

Mr. Chepkitony: Mr. Speaker, Sir, there is confusion between the National Water Conservation and Pipeline Corporation and the various services boards. I would like to know from the Assistant Minister whether money is given to the National Water Conservation and Pipeline Corporation or the water service boards.

Mr. Kiunjuri: Mr. Speaker, Sir, the prioritisation of projects is done by the water services boards, but the money is given to the National Water Conservation and Pipeline Corporation for it to either hire contractors or conduct the work itself. So, it depends on how they go about it. However, we get the money which goes to the water services boards and the National Water Conservation and Pipeline Corporation implements the projects.

Mr. Speaker: Last question, Mr. Letimalo!

Mr. Letimalo: Mr. Speaker, Sir, now that the Assistant Minister has promised to visit the projects and assess their status, does he have a provision for fencing these water pans for purposes of protecting the water points?

Mr. Kiunjuri: Mr. Speaker, Sir, it is unfortunate that the communities have refused completely, to protect the water pans and dams. We have cases where even after the Ministry fences the dams, the community goes ahead to remove the fences. Another example is where we even build the water troughs but the communities want to take their animals deep to the pans and dams. This makes it very difficult for the pans and dams to last for long. I would like to inform Members of Parliament, because we have taken it as an initiative, that from this year onwards, we shall never construct a water pan which will not be fenced and where there are no troughs for animals and water points for human beings. It is upon us now to educate our people and make sure that we are also responsible, so that we can protect the dams and pans.

Mr. Speaker: Next order!

MINISTERIAL STATEMENTS

IMPRISONMENT OF KENYAN STUDENTS IN CHINA

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I want to seek your permission and indulgence to make an unsolicited Statement on a matter I think and believe is of grave national importance to hon. Members and Kenyans.

This relates to Kenyan students in China. There is a development that is a bit worrying and as hon. Members and leaders, we have a duty to inform parents who send their children out so that we do not fall into this Chinese problem. We have 27 young Kenyans languishing in prison in China. Out of the 27, 22 are very young girls and most of them went to China either for studies or while studying in other countries, have been lured by criminal syndicates trafficking drugs to hire them as couriers. Out of these children who number 27, as I said, 22 are young girls. Five are young boys and five of the young girls have been sentenced to death; they are awaiting their execution. One boy has been sentenced to death and six of these young Kenyans, all of them girls, are serving life sentences and the rest are either awaiting trial or have been jailed for various jail terms running up to 18 years.

I sought this permission from you to tell my colleagues and the country that we all need to step up our war against drugs and drug trafficking and to advise our constituents whose children are going to study out of the country to be clearly counseled and advised against falling into hands of criminal syndicates, particularly from West Africa who have been luring these girls into couriers of hard drugs which carry a death sentence in China.

Mr. Speaker, Sir, as a Ministry, we are engaged in discussions with the Chinese Government and I intend to make an official trip there to see how we can engage them to commute those on death sentences to life sentences and possibly sign a protocol for prison exchange to have them come and serve their life sentences in Kenya.

(Applause)

But that is the end of it! The beginning of it is that we all must have a responsibility and duty to discourage advice and counsel our young people from falling into the hands of this criminal syndicate.

Mr. Speaker: We will allow three clarifications beginning with Mr. Mungatana!

Mr. Mungatana: Mr. Speaker, Sir, it is a very sad situation when you have young people leaving this country after their parents have saved so much money and then they end up in jail. This reflects a failure on the part of the High Commission, the embassies that are serving us abroad.

(Applause)

It is not enough for the Minister to tell us that he is going to visit there. What we want to know, even for the children who are leaving this country right now, is there evidence that the ambassador gathers from these people? They are new and they do not know what is happening in that country; that he talks to the students and warns them of the dangers in the new country they are going to.

Mr. Speaker: Is anybody else interested?

Mr. Mungatana: Mr. Speaker, Sir, is there any evidence of that or are they just leaving our children to---

Mr. Speaker: Order, Mr. Mungatana! You are now being laborious and repetitive.

Ms. Odhiambo: Mr. Speaker, Sir, I would also like to join my colleagues and indicate that it is, indeed, sad and I was shocked to see a girl I knew, we grew up with in Parklands who was in that report. She is not a student. What I have done since then is that I have called and I am informed that she did not even have a legal counsel and that they are having language barriers in terms of accessing justice in those countries. What is the Ministry doing to ensure that when you have young people who are facing such situations, the country avails legal counsel so that they get proper representation?

Mr. Speaker: Fair enough!

Mr. Chanzu: Mr. Speaker, Sir, could the Minister also confirm that these are not the only cases that have come to our attention? There have been similar cases before, where even some of the reported cases have been executed. What steps is he going to take to dig into this so that we can have all the information on the past incidences of this nature in China?

Mr. Speaker: Because of the level of interest and the public component in the matter, we will exempt the clarifications from the limit of three and take two more and then you will respond to all of them at once.

Mr. J.M. Kamau: Mr. Speaker, Sir, could the Minister tell us what they are doing to make sure that all the foreigners we have in this country, especially the West Africans are vetted before they can get into this country? It is a well known fact that most of these West Africans are criminals and when they get into this country, they are not checked and they are all over the place with many passports.

Mr. Imanyara: Mr. Speaker, Sir, while I congratulate the Minister for deeming it fit to come to the House at very short notice after this became public, my concern is that it is not just China that has Kenyan students who are jailed or awaiting execution after results of trials that do not meet internationally accepted standards of justice. And given that we have very many qualified lawyers in this country, could the Ministry of Foreign Affairs consider hiring these State counsel and equip every embassy outside Kenya with, at least, a State counsel who meets all Kenyan students traveling to these countries on arrival for an orientation class of, at least, two hours to inform them of the---

(Applause)

Could the Minister give us a comprehensive list of all cases involving Kenyan students worldwide so that we can appreciate the true significance? Finally, because we are dealing with a sovereign nation, could the Minister consider warning Chinese authorities that we, in Kenya, who are hosting thousands of Chinese workers will be expecting that unless they show clemency to these Kenyans who do not even appreciate, who have not even learnt the Chinese language to appreciate the seriousness of the legal system; criminal justice system in China, that we too reserve the right to take reciprocal measures when our students face death sentences in countries where the standards of justice relating to internationally accepted---

(Applause)

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, first, I am surprised by the reaction of Mr. Mungatana because I did say that some of these young Kenyans are students elsewhere and not necessarily in China but they are lured to traffic drugs to China and Hong Kong, which is currently part of China. In many situations, parents who can afford to take their children to study abroad, simply organize admissions with universities and send their children. They never come to the Ministry for advice. When they get to the countries where we have missions, they do not go to the missions to identify themselves. So, the missions learn of these problems when those young Kenyans have fallen into trouble.

Mr. Speaker, Sir, regarding Ms. Odhiambo's question, every time my Ministry has been notified of any Kenyan in trouble, we have taken very urgent steps to notify the families here and their friends. Where they can afford, they have raised funds to send through the missions to hire lawyers. For those who have been going through trials in Hong Kong, there is a common law jurisdiction with very high standards and high calibre judicial systems. Where they have been unable to completely raise capacity for defence, we have instructed our missions to assist them.

On the question of West Africans, of course, not all of them are criminals. There are just a few criminals who traffic drugs in collaboration with the nationals of other countries. Otherwise on the average, our brothers and sisters from West Africa are good people and we have a lot of contacts with them. In fact, we have diplomatic representation in countries like Nigeria and so on. Where there are wrong elements, we will exercise due diligence. What we must do as leaders is to send out clear messages to parents and students that when they encounter strangers out there, they must exercise extreme caution in dealing with them because those foreigners always lure our girls with money. Sometimes, parents also make serious mistakes. They raise money to send their children to universities abroad but once they pay the first fee installment, they never send any more money to their children. That tempts the children to fall into traps.

Mr. Speaker, Sir, with regard to the issue raised by Mr. Imanyara, we have a reciprocal relationship with China. We are working on a protocol for prison exchange. Once it is ready, we will be able to see how we can exchange prisoners. We also know that even in this country, we passed a law that prescribes very harsh penalties on drugs; both trafficking and consumption. Many countries have similar penalties and we cannot possibly interfere with their local jurisdiction.

However, we do believe that given the cordial and warm relations with China and the representation we have given to them, they will commute the death sentences to life imprisonment which we can negotiate to bring those young Kenyans to serve their sentences here. Thank you for allowing me to make a Ministerial Statement without a request from hon. Members.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I would like to know whether the Minister could consider posting state counsel to all our embassies.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, that is a very valid request and question. We have been recruiting lawyers in my Ministry and quite a number of missions are now staffed with one lawyer to assist when such issues arise. We will make sure that in countries with difficulties like China, we post more than one. In jurisdictions like Hong Kong where we have an honorary consular, we will

instruct him to retain the services of a lawyer who can assist Kenyans when they are in need.

Mr. Speaker: Next is a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government.

ALLOCATION OF NCC FIRE STATION
PLOTS TO PRIVATE DEVELOPERS

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I wish to issue a Ministerial Statement on an issue raised by the hon. Member for Kamukunji, Mr. Mbugua. He sought to know what happened to fire stations at Gigiri, Ruaraka and Imara Daima and specifically, he raised a number of issues. I would like to respond as follows:

Mr. Speaker, Sir, the Gigiri fire station plot was allocated to the then Nairobi City Commission in 1990 and later in the year, the said Commission allocated it to a private developer, Mr. Simon Mukula for commercial use. In 1995, the then task force appointed to run the City Council of Nairobi (CCN) allocated the same land to a Mr. Pargi Modi. The two parties are in court over ownership of the said land and the case number is H2156 of 2007 which involved Corpion Properties versus PI Modi. Unfortunately, there are no clear records to inform on the circumstances under which the transactions were executed.

Regarding the Ruaraka Fire Station plot, the plot size was 0.8 hectares and it was originally meant for a fire station but later alienated to a private property developer. This developer or property owner defaulted in rates and that prompted the CCN to file a case in court. A Vesting Order was issued by the court and the plot was sold by public auction by the Council to Rafiki Enterprises through Vesting Order dated 29th September, 1994.

On the Imara Daima Fire Station, as of now, there is no clear record of the fire station site in Imara Daima in the CCN's possession. However, there is a possibility that the Ministry of Lands which prepared a structural plan for Villa Franca Estate may have made such provisions. Nevertheless, no allocation is on record as having been made to the Council. On the investigation of various officers in the City Planning Department, all I can say is that, as of now, I have no official communication of any officers that are under investigation over corrupt practices. Nonetheless, officers of the department like all public servants, assist the agencies concerned when called upon to give professional input which will aid investigations of corrupt practices.

I wish to assure hon. Members and this House that my Ministry is committed to the protection of public property in accordance with the law and I would like to tell the hon. Member and this House that, if indeed, there is additional information which may be in the possession of another agency and is not necessarily in possession of the City Hall or the Ministry, we are ready to collaborate so that we can find a solution to ensure that public property reverts to the Council.

Mr. Mbugua: Mr. Speaker, Sir, the Ministerial Statement issued by the Minister is very evasive. In the case of Rafiki Motors, if you allow me, I will table a document before this House indicating that Rafiki Motors took that plot as a Temporary Occupation License (TOL) and then later colluded with council officers, who are well known, and

grabbed the same land. This document indicates that they took that land as TOL and afterwards they have grabbed it.

Regarding the issue of the land in Gigiri next to the United States of America (USA) Embassy, the land was designated for a fire station and considering the lives which have been lost in this country as a result of fires, it does not make sense for the Minister to tell this House that this plot was allocated to a private developer. It is a shame for the Minister to stand before this House and say that the land was allocated to a private developer.

Mr. Speaker, Sir, with your indulgence, I would like to cite a few cases of land grabbing by the same group of people; Rafiki Motors and a Mr. Chatur---

Mr. Speaker: Order! I will allow you to do so but you must be precise and brief. In summary form, indicate what areas you want clarification on from the Minister, arising out of the Ministerial Statement made. I want to restrict you to three clarifications. You have already sought one with respect to Rafiki Motors. I want you to seek two more.

Mr. Mbugua: Mr. Speaker, Sir, the plot in Gigiri next to the American Embassy was grabbed by Mr. Chatur. The Residents Association in that particular area wrote to the City Council protesting that they did not want it grabbed by a private developer.

I want to table a document here showing that this particular plot was planned and meant for a fire station. It was a public utility. About 50 residents protested against that plot being converted into a residential one.

(Mr. Mbugua laid documents on the Table)

Mr. Speaker: You are tabling documents, but what clarification do you want from the Minister?

Mr. Mbugua: Mr. Speaker, Sir, I want him to confirm if, indeed, he is aware that that particular document was presented to the Nairobi City Council. Why did they issue a change of user?

Mr. Speaker: Finally, the last one!

Mr. Mbugua: Mr. Speaker, Sir, I have a document here showing there were about 240 objections filed with the City Council by the residents. However, a private developer by the name of Jamili who is also known as Chatur of Diamond Plaza is now developing a school against the wishes of the residents of that area. The plot was surrendered in the 1980s for a public school and a health centre. Is the Minister aware that many plots in Nairobi meant for public schools have all been grabbed by private developers? What is he doing to stop these trends?

With your indulgence, this is a very serious case. This country will turn into a ghost town if we are not ready to tackle this issue of land grabbing. All parks and school compounds will go. I do not know where we are going.

Mr. Speaker: Order! Order! It is statements time. All you are supposed to do is to seek clarification. Not debate. Not argue!

You have done excellently, so far, as far as I am concerned. Three clarifications leave it to the Minister to respond.

Mr. Mbugua: Mr. Speaker, Sir, with your indulgence. This is a grave matter.

Mr. Speaker: You have done well. Let your case rest there! You will wait for the Minister's response!

Yes, Mr. Jirongo!

Mr. Jirongo: Mr. Speaker, Sir, just to pick up from where the hon. Member has left. This particular plot in new Muthaiga, I actually live six houses away from it. Initially, it was meant for public use.

If you have been to Diamond Plaza, it is not actually a school that they are putting up. They are trying to turn it into kiosks. The Canadian High Commission has actually written various complaints. The Environment Management Authority (NEMA) has actually issued a report banning those people from constructing. Last week, I visited the Town Clerk. Mr. Chatur knew I had visited the Town Clerk. Actually, 200 of us objected. What is the Minister doing to save some of us from crooked officers at the City Hall?

Dr. Eseli: Thank you, Mr. Speaker, Sir. This issue seems to be related to the grand corruption that has ravaged this country for a while. This is an issue of fire stations. Now that the Minister has accepted that these fire stations were allocated to private developers and they are not actually putting up fire stations, what is he doing to repossess them or allocate alternative plots in the similar areas for constructions of fire stations?

Mr. Speaker: Minister, you may now respond. Note that the Chair has had a look at those documents as tabled by the Member for Kamkunji. All those documents are authenticated. That means that the matters canvassed, therefore, are grave and supported by evidence.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir.

I would like to take this as a very positive position from the hon. Member. I would like to seek the indulgence of this House that I have an opportunity to scrutinise these documents, so that I can also come and respond further to this particular issue.

Mr. Speaker, Sir, I say so, because the issue of public land or public utility land, whether in Nairobi or any other local authority, is a very serious matter if it is particularly taken away and used for other uses that were not designated in any given area. So, I would like to request that the House allows me to scrutinise these documents and then come back here with further statement on this particular issue.

Mr. Mbugua: On a point of order, Mr. Speaker, Sir.

Mr. Speaker, Sir, under Standing No.198, I would like this issue to be referred to the relevant departmental Committee, so that it can be investigated further.

Mr. Speaker: At this stage, that request would be premature. It will be anticipatory and pre-emptive. That, I will not allow.

Mr. Minister, when will you come with the statement because you need time to study these documents? Similarly, Members of Parliament now that the documents are tabled, will have an opportunity to study them. So, we would allow two more clarifications after you make your statement.

Mr. Waititu: Mr. Speaker, Sir, thank you for giving this chance.

I would like the Minister to also consider Eastlands which has had so many fires. Plots meant for fire stations in Eastlands have also been grabbed. There is one plot meant for a fire station along Outering Road. It has been grabbed. There is also another plot on Enterprise Road which is being fenced off right now. It was meant for a fire station.

Mr. Speaker: Fair enough! The Minister has been accorded time to come and respond to these matters after he has studied these documents. The Minister will also deal

with that aspect which I believe he has taken note to do so. If he has not, the details would be in the HANSARD.

(Mr. Ruto stood up in his place)

What is it, Mr. Ruto? It has to be a different matter. This one must now rest. We are deferring this statement to Wednesday, next week, for the Minister to come with the statement.

(Mr. Shakeel stood up in his place)

Clarifications, Mr. Shakeel, after the Minister makes the statement.

Mr. Issac Ruto, this matter must rest there.

Mr. Ruto: Okay, knowing how harsh you can be, Mr. Speaker, Sir, I withdraw.

(Laughter)

Mr. Speaker: Fair enough!

Minister for Foreign Affairs, you have a statement which is due today, sought by hon. Dr. Khalwale!

Are you ready? We will allow just ten minutes for this statement because we are running out of time.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I want to seek your indulgence. The Statement is not wholly ready because we have not received the details of the cost of the trips from the Office of the Prime Minister.

Mr. Speaker: When will it be ready? Tuesday next week?

The Minister for Foreign Affairs (Mr. Wetangula): Yes, Mr. Speaker, Sir.

Mr. Speaker: It is so ordered!

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. With all due respect, I think the Minister for Foreign Affairs is evading this issue because, in fact, while you were not in the Chair, he started answering the Question. Then the Chair advised him that it was better that he comes when he is slightly better prepared.

Mr. Speaker: Order, Dr. Khalwale! With the benefit of hindsight and the passage of time, the Minister has indicated that he requires more time to bring an exhaustive answer. What you are now trying to do is very dangerous. You are trying to think for the Minister when, in fact, the Minister has said what his thoughts are! So, even as a doctor, I do not think you have the capacity to think for the Minister!

So, the Ministerial Statement is deferred to Tuesday next week at 2.30 p.m.

Next Order!

MOTIONS

ADOPTION OF REPORT ON APPOINTMENT OF KACC ASSISTANT DIRECTORS

Mr. Abdikadir: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the appointment of Assistant Directors to the Kenya Anti-Corruption Commission laid on the Table of the House on Thursday, May 28, 2009.

Mr. Speaker, Sir, the KACC is a body corporate established under Section 6(1) of the Anti-Corruption and Economic Crimes Act. Pursuant to Section 8(1) and (2), the positions of the Director and Deputy Director are provided for. The Commission shall have a director who shall be the Chief Executive Officer of the Commission and who shall be responsible for its direction and management. The Commission shall also have four Assistant Directors to assist the Director. The Director and the Assistant Directors shall be persons recommended by the KACC Advisory Board and approved by the National Assembly for appointment to the respective positions. On the approval of a person by the National Assembly under Sub-Section 3, the President shall appoint the person concerned to the office in respect for which the approval was given.

Mr. Speaker, we have had views that since an earlier approval had been given for a number of those Directors and Assistant Directors, that ought to suffice. The view from my Committee is that, that is absolutely not the law and that, once the contracts are done, then new contracts must go through the same process for them to be valid. The advertisements are done, the nominations are done by the KACC Advisory Board and that this House will then approve them for appointment to the respective positions.

Mr. Speaker, pursuant to Paragraph (1) of the First Schedule of the Anti-Corruption and Economic Crimes Act, the KACC Advisory Board advertised in May, 2008, and carried out interviews for the positions of Assistant Director, Finance and Administration and Assistant Director, Investigation and Asset Tracing. The KACC Advisory Board recommended Mr. Wilson Kiprotich Sholei for Assistant Director, Finance and Administration and Dr. John Mutonyi for Assistant Director, Investigation and Asset Tracing. The KACC Advisory Board then sent its Report to the National Assembly through the Ministry of Justice, National Cohesion and Constitutional Affairs.

Mr. Speaker, Sir, the Departmental Committee on Administration of Justice and Legal Affairs, by that time, had proposed, through this House, a new set of names for the KACC Advisory Board. That list of names was approved by the House and that list was, by that time, with the Office of the President. The Committee then was of the view that due to the critical nature of the appointments that were being made by a Board whose term had essentially expired and who were by then, in any event, legally in office, and by virtue of the fact that we were going to have a new Board in place, this decision be for that new Board.

Mr. Speaker, on 19th February, 2009, the Committee made that resolution and waited for the names for the new Board to be appointed so that this process could then be done by the new Board. By May, 2009, that list had not come back from the Office of the President and we had a request from the KACC saying that their work was being impacted negatively by virtue of the fact that those substantive positions had not been filled and that the holders were doing it on an acting capacity. We looked into the matter and deliberated on the need to re-open that matter and move this process forward with the current list. Following deliberations, the Committee, in its sitting of the 21st May, 2009, reconsidered the matter and agreed that for KACC to operate optimally, we ought to

move ahead with the proposals done by the KACC Advisory Board as it is currently constituted.

Be that as it may, Mr. Speaker, Sir, it is the strong view of the Committee that the Office of the President must act with speed and give effect to proposals from this House with respect to the Advisory Board that had been approved by this House in December, 2008. In any event, the Committee observed that the vacant positions were that of Assistant Director, Finance and Administration and Assistant Director, Investigation and Asset Recovery. In accordance with the provisions of Section 8(3) of the Anti-Corruption and Economic Crimes Act, the Committee scrutinized the qualifications and credentials of the nominees and confirmed that the two were qualified for the positions.

Mr. Speaker, Sir, the two nominees are Mr. Wilson Kiprotich Sholei and Dr. John Mutonyi. Dr. Mutonyi holds a PhD, whose thesis was: "Approachings to the Control of Corruption to the Public Procurement Systems in Kenya and Institutional Analysis". Dr. Mutonyi also holds an MSc in the study of Security Management, which he obtained in 1999. Dr. Mutonyi was the Deputy Director of the Criminal Investigations Department (CID) between 2003 and 2004, and held the position for which he is currently being considered between 2004 and 2008.

Mr. Wilson Sholei holds a Masters of Business Administration and a Bachelors of Commerce (Accounting Option) from the University of Nairobi. He is a Certified Public Accountant (CPA-K) and a Certified Public Secretary (CPS).

Mr. Speaker, Sir, be that as it may, the Committee's attention was drawn to the salaries obtaining in the KACC currently for the Director and Deputy Directors. While the salaries are set by the Advisory Board according to the law, we are of the view, as a Committee, that the levels of those salaries are unacceptable and inappropriate. In the circumstances, we have sought and gained assurances from the Ministry of Justice, National Cohesion and Constitutional Affairs that they, indeed, will pick up that matter with the Advisory Board. It is our proposition that if that does not happen, the Committee will then propose amendments to the law to require that the salaries be in line with the realities obtaining in our economy.

Mr. Speaker, Sir, the Committee recommends to the House that in conformity to the provisions of Section 8(3) of the Act, the following two nominees be considered and approved for onward transmission to the President to fill in the two vacant positions: 1. Mr. Wilson Kiprotich Sholei for Assistant Director, Finance and Administration; and, 2. Dr. John Mutonyi for Assistant Director, Investigation and Asset Tracing.

[Mr. Speaker left the Chair]

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

Mr. Speaker, Sir, on behalf of the Members of the Committee, I wish to present to the House the Report of the Committee and the names of the two individuals above, who we believe are qualified candidates for further consideration and subsequent admission by the House.

Mr. Speaker, Sir, I beg to move.

Mr. Speaker, Sir, hon. Ruto will second.

Mr. Ruto: Thank you very much, Mr. Temporary Deputy Speaker, Sir. As ably moved by the Chairman, indeed, the sentiments he has expressed reflect what the Committee agreed on. Indeed, KACC, in its operations and output, has been a serious let down to the Kenyan people. There were a lot of expectations from the Justice Ringera-led group that corruption will be a thing of the past. We expected that they would seal some of the cracks that had been a serious drain to the Exchequer in the past, but those issues have continued unabated, notwithstanding the heavy salaries that they have continued to draw from the Exchequer.

Mr. Temporary Deputy Speaker, Sir, we were of the view that there is need to address the aspect of salaries, considering the fact that the rest of the public service operate way below the salaries they get. This is the case and yet we have no measure output of what the Ringera Commission has done or whether we expect anything better from them.

In terms of how the Advisory Board works, we are also not satisfied that they have done their best. The delay in giving a new Advisory Board is with the Office of the President. We are wondering why they have kept it. At one stage, we also thought we could wait for them, but unfortunately, we were going to become accomplices in delaying the work of KACC. We, therefore, decided that we better discharge our mandate and we have done this. We have issued the names and we believe those two Kenyans will improve on the efficiency. We expect better results.

Nevertheless, I do not know what happened about performance contracting. I also do not know whether KACC actually performs and whether it should not be disbanded for having let this country down. However, that is a story for another day. I only rose to second the Motion before the House. That is actually what we did as the Departmental Committee on Administration of Justice and Legal Affairs.

(Question proposed)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to air my views on this important Motion. As the temporary acting Leader of Government Business, we support this Motion.

I would also like to take this opportunity to commend the Departmental Committee on Administration of Justice and Legal Affairs for the way they have handled this issue. An event is good as the procedure. I think they used the right procedure. They interviewed many people and these two, namely Mr. Wilson Kiprotich and Dr. John Mutonyi came out the best.

We must also commend the KACC headed by Justice Ringera for the manner in which they have tackled corruption in this country. I know they have been unable to eliminate corruption, but the vice has reduced. We now have cases where top Government officials have been taken to court. The accusation has always been that the net of the KACC catches the “small fish” only. The “big fish” is now unable to slip through the net. We have had cases of not only retired Permanent Secretaries, but also current ones being taken to court. That shows that the Commission is working. We have had cases where retired Ministers and parastatal heads have been taken to court. So, it is

not true to say that the net of the KACC only catches the “small fish” while the “big fish” slip through.

Mr. Temporary Deputy Speaker, Sir, an issue was raised about the Advisory Board and the delay by the Office of the President. We must appreciate that the Office of the President has a lot of matters in its hand, including current issues such as famine and so on. There is also need to vet the names proposed by the Committee and this is not an easy exercise. So, this would explain the delay. This also comes to what I have always been saying; whether as Parliament, what we are doing is the right thing. If you look at other systems of Government, for example, the Presidential or Parliamentary system, it is the Head of Government who nominates members of the Board and its Chief Executive Officer. It is the role of Parliament to vet the names and approve or disapprove them. The delay has been as a result of Parliament doing the interviews and the recommendations. This Parliament needs to make a decision. In my view, what we are doing is not right. It is the Executive that should nominate people and bring their names here. This Parliament should then vet the names and approve or disapprove those names. As far as I am concerned, that is the right procedure that should be followed.

Ms. Odhiambo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead us about the process? In this process, the Parliamentary Committee actually does not nominate, neither does it interview. The persons were nominated by respective professional bodies and then approved by Parliament. The names were then sent to the President. Is the hon. Member in order to mislead this House?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I have never misled Parliament and I have no intention of doing so. However, my friend Ms. Odhiambo is actually confirming what I have said. This nomination should have been done by the Executive and then send the list to Parliament which ought to have vetted them. However, we are doing things the other way round, but I do not want to belabour that point. That is the law as of now. In the Statute Law (Miscellaneous Amendments) Bill which is normally brought to the House in October or November, this will be one of the things that we need to make a decision on, as Parliament. What exactly is our role?

With regard to salaries, the salary of the Director of KACC was formulated by the Advisory Board. If there is a person to be blamed for the high salary, then it is that Board. It is the one that came up with this salary. The intention was to insulate the Director from temptation. I think to that extent, they have succeeded. However, his salary has been questioned and probably, it is the new Board, as soon as it is gazetted, for it to look at all these salaries. Salaries should be done in relation to other bodies. I have said before that the President being the Chief Executive of the Government and all the parastatals, nobody should earn more than him. Period! If we were to make that decision, then the salaries for Chief Executive Officers of parastatals, the CBK, the Kenya Revenue Authority, Commissioner-General and even Ministers will fall under the President. That will make sense.

Mr. Temporary Deputy Speaker, Sir, we also need to reform our salaries. At the moment, the only people who get huge salaries are those who have some leverage on the Government; that is, those who can negotiate their salaries. What about those who cannot negotiate their salaries? How will they achieve meaningful salaries? We need to reform

our salary structure. We need a body that will come up with a structure where they will do job grading and job assessment so, that the equivalent salaries are given.

For example, in Singapore, they have pegged their salaries on the private sector scales. They have said: “The Prime Minister of Singapore will earn the salary of the head of the biggest bank in Singapore.” Ministers’ salaries are pegged on what senior managers in international banks earn. So, increasing salaries is a way of insulating people from pressure. Time has come for us to do the same. We need to reform our salary structure for the public service.

With those words, I beg to support the Motion.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Dr. Laboso): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to, reluctantly, support the Motion, because none of us has seen the effectiveness of the Kenya Anti-Corruption Commission (KACC). It is common knowledge that although the Commission claims to have apprehended people, nobody even knows who they are. You have to search through your memory to know a person who has actually been apprehended. So, I will simply support the Motion just for continuity. These offices were held by persons before. So, for the purpose of continuity, I will support the Motion.

However, what is very clear to all Kenyans is that, really, that organisation needs a new mandate. We must come up with very clear guidelines as to what it is that we want the KACC to do for this country. We want a new mandate and new blood injected into the Commission, so that we are able to see some results. What we are looking for is a team that can actually do something for Kenya, which has forever been under corruption. The current team has nothing to show for the huge amount of money invested in the Commission in the form of salaries. What do they have to show for it? To be very honest, I think many Kenyans are asking the same questions.

Mr. Temporary Deputy Speaker, Sir, none of the people responsible for the Goldenberg scandal has been apprehended. Nobody responsible for the maize or oil scandals has been apprehended. We have not heard anything from them. All we know is that some “small” clerks have been apprehended for stealing small amounts of money. I am not saying that it is right for “small” clerks to steal anything. We are saying, we want them to show that they are actually doing something.

ADJOURNMENT OF DEBATE UNDER STANDING ORDER NO.25

Mr. Mungatana: On a point of Order, Mr. Temporary Deputy Speaker, Sir. I rise under Standing Order No.25, which allows us to postpone, to some future occasion, further discussion of a Question that has already been proposed by the Chair.

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

THAT, the debate be now adjourned.

Mr. Temporary Deputy Speaker, Sir, we have been informed here, unfortunately rather late, by Mr. Jirongo that the spouse of one of the persons whose name is proposed for approval by the President is involved in very questionable deals within the Ministry of Defence. The most unfortunate thing is that the evidence that was supposed to be tabled here, because this Motion was not anticipated today, has not been brought.

I am, therefore, moving that the debate be now adjourned to a future date – even if it is up to tomorrow – so that that information can be brought here in order for the House

to make an informed decision. We have been informed that contracts in the Department of Defence are being tilted towards one of the spouses of the persons whose names are proposed here. We are saying, if one of these persons is given such a senior position, we will be starting on a position of being defeated in terms of investigating corruption, even before this person starts executing the duties of that office. The House wants to support this Motion, but it does not have this information. I have no doubt that Mr. Jirongo will table this information and inform the House accordingly, because the House should make decisions on the basis of available information.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mungatana, before I allow you to even have the Motion seconded, you are moving it on the basis of hearsay. You are telling the House that “you have been told” and I do not see Mr. Jirongo here. It is not coming from you. You are relying on hearsay.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, the only reason is that he has had to move out to try and get that evidence, and he is not yet back here with us.

The Temporary Deputy Speaker (Mr. Imanyara): Should he not have been the one to move the Motion and you then you seconded it? The fact that Mr. Jirongo is not here puts the Chair in a very difficult situation

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I was merely raising a very important issue.

The Temporary Deputy Speaker (Mr. Imanyara): Do you have anybody seconding the Motion?

Mr. Mungatana: Yes, Mr. Temporary Deputy Speaker, Sir.

(Mr. Ruto stood up in his place)

The Temporary Deputy Speaker: Are you seconding?

Mr. Ruto: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Githae, what is the Government’s position on this one? You said that you are the Temporary Acting Leader of Government Business?

The Minister for Nairobi Metropolitan Development (Mr. Githae): That is right, Mr. Temporary Deputy Speaker, Sir. This is not---

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. Once a Motion has been moved and seconded, it has to be proposed. He cannot stand and just contribute. Now, what is he speaking on?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mungatana, I am perfectly in order. Your seconder did not even utter a word. That is why I wanted an indication from the Government side before proposing the Motion. The final word rests with the Chair. So, please, I just want to hear what the Temporary Acting Leader of Government Business has to say.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, actually, this Motion is not quite in order for three reasons: One,---

The Temporary Deputy Speaker (Mr. Imanyara): No; I do not want you to oppose it now; once I make up my mind on the Motion, it will be subjected to the normal rules of the House.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, we want the debate to continue.

The Temporary Deputy Speaker (Mr. Imanyara): Very well.

(Question, that the debate be now adjourned, proposed)

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I stand to strongly oppose the proposed Motion for the following three good reasons. One, since you proposed the Question of the main Motion, only two people have contributed, and Mr. Jirongo is not one of them. Therefore, whatever else is being said is hearsay. No document has been tabled concerning this lady. I do not know who it is.

Secondly, to me, this amounts to gender bashing. Every person must carry his or her cross. This person, whose name we have not even been told, should not have her sins attributed to the husband. It will amount to gender bashing. It will amount to collective punishment. We need to continue with the Motion before us.

Mr. Temporary Deputy Speaker, Sir, again, we have no evidence of her wrongdoing. Getting a contract in the Ministry of Defence---

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

The Temporary Deputy Speaker (Mr. Imanyara): What is it, Mr. Namwamba?

Mr. Namwamba: On a point of order Mr. Temporary Deputy Speaker, Sir. I seek the Chair's guidance as to whether the hon. Minister is in order to debate a Motion that has not even been seconded.

The Temporary Deputy Speaker (Mr. Imanyara): This Motion was seconded. Mr. Namwamba, you are certainly out of order! This Motion was seconded and I proposed the Question.

Mr. Githae, please, proceed!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, we should not visit the sins of a husband on the spouse. A person is known by name, not as the husband or wife of so and so. Therefore, let us continue with the Motion before us. We need the Kenya Anti-Corruption Commission to be up and running. It will not do that unless it gets competent officers.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir, I stand to oppose the Motion on the Floor of the House on two grounds. One is on the ground of hearsay. The person who is being quoted as having the circumstantial evidence is not here and he has not spoken about it.

Mr. Temporary Deputy Speaker, Sir, more important and fundamental is that these people who have been proposed by the Committee have not been at work. If there is an irregular procurement in the Ministry of State for Defence, action should have been taken by now. The fact that it is now coming out that some spouse, whom we have not been told, which is leaving us to speculation because the Mover of this Motion did not expound the hearsay as to who the spouse is. We do not want to be a House of speculators and rumour mongers. We should go to the point.

The point is that, it is not the appointment of these two that is going to investigate what is going on in the Ministry of State for Defence. It cannot be. This is because if there was a legitimate agency that was supposed to take action, they should have taken action by now. I find it very clumsy that at the point at which---

QUORUM

Ms. Odhiambo: On a point of order, Mr. Temporary Deputy Speaker. Sir. I would wish to draw the attention of the Chair to the fact that we do not have a quorum.

The Temporary Deputy Speaker (Mr. Imanyara): It is true and the rules must be obeyed. There is no quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! We now have a quorum.

You may proceed, Mr. Kenneth!

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir, the point I was trying to put across before the Division Bell was rung is that, what we are dealing with here are unsubstantiated issues. This House must not be held at ransom by issues that have not been raised.

The second issue is that, what the Committee has brought here for nomination by this House are people who, I believe, have not been in the office. If there are issues that have happened in another department that is unrelated to this, they were people acting in those positions who should have taken action. It would not look fair to this House if, when we have hearsay and unsubstantiated reports, we are going to be moving Motions of adjournment or Motions deferring issues. We must stand here with dignity and honour and say: "This is the point. This is what I substantiate" and we move.

Therefore, I beg to oppose the Motion.

Mr. Ruto: Mr. Speaker, Sir, I also believe that unless we have evidence before the House, we should not hold the House business at ransom because we are simply looking for time to bring evidence. If anybody has any issues, it should be brought before the House. I think there was enough time for that as soon as this was noticed. To the best of our knowledge in the Committee, I am not aware of any issue having been brought before us. If we are talking about other people who are not even on this list, then I do not know where we are heading to as the National Assembly.

Mr. Temporary Deputy Speaker, Sir, if there is any substantive evidence, I would not mind looking at it. But if there is no substantive evidence so far, we should not hold the business of the House.

(Question put and negatived)

(Debate on the original Motion resumed)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! If you are dissatisfied with the Chair's ruling, you know what to do. We may continue with the debate now!

Who was on the Floor? Nobody wants to contribute! Dr. Laboso, you were on the Floor. Please, continue!

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Dr. Laboso): Mr. Speaker, Sir, I reluctantly support this Motion because it is very clear any time any aspersions of corruption are made or any time we are trying to get a person to join KACC, we have information to consider.

The Assistant Minister for Information and Communications (Mr. Khaniri): Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion, but reluctantly as my friend, Dr. Laboso, did. I am sure that you noticed yourself that even the Secunder of the Motion to adjourn debate, Hon. I. Ruto, stood up to oppose it. He had nothing to say in support the Motion, instead, he ended up opposing the Motion throughout his speech. So, it is very difficult for us who are not Members of the Committee, to come out strongly and support the Motion.

Nevertheless, let me take this opportunity to, first of all, congratulate the Committee and the Anti-Corruption Advisory Board for the good work they did in processing the names of the applicants and the rigorous interviews they conducted and eventually came up with the two names that they presented to this House.

I do not know the individuals, but I had a chance to look at their Curriculum Vitae (CV). Looking at their CVs, I have no doubt that these are qualified Kenyans who can do this particular job. The positions to which we are appointing these two individuals are very sensitive. These individuals will be entrusted with the heavy responsibility of fighting and prosecuting corruption cases in the Republic. Knowing the monster that corruption has become in the Republic, I know that it is not an easy job. It is not an easy job at all to fight corruption because the individuals involved in this vice are mostly the high and mighty in the society. Therefore, for KACC to fight this vice, we have to come up with individuals of very high integrity, with a clean record and people who are above reproach.

As it is now, I want to state that Kenyans have lost confidence in this organization called KACC. Kenyans feel that they are not getting value for their money. We have individuals whom we know are earning a lot of taxpayers' money and are holding offices where we have the most highly paid people. However, we are not getting value for the money we pay these individuals. When you look at the record of the cases that KACC has been able to prosecute, not just successfully, but just to prosecute, you will get discouraged and wonder why we should not disband this particular organization and come up with a totally new outfit to fight corruption in our Republic. It is my hope that the new appointees that are going to get into the organization will bring in new blood and give it the strength that they require, so that we can deal with ravaging corruption in our Republic.

I said I support the Motion reluctantly because I realized that one of the key individuals being appointed today is one who has been in this Commission for the past five years. We have not seen any results in the past five years. So, why should we renew his contract? It is my sincere opinion that KACC must be overhauled. The whole

organization must be overhauled. We need to get some new blood and new individuals who can be entrusted with the responsibility of fighting corruption in our Republic.

I reluctantly support the Motion.

The Assistant Minister for Trade (Mr. Omingo): Mr. Speaker, Sir, I rise to support this Motion because I believe that there has to be continuity. Before we have reforms, we must deal with the existing institutions. We have been talking about corruption for a long time. Indeed, the CEO of KACC did say corruption is a vice that fights back. It is a dragon that has many heads. We must fight it from all fronts to give Kenyans value for their taxes.

It is true that we have been talking about reforms in our judicial system, Executive and Parliament. However, essentially, until such a time when we put in place institutions that are running, we cannot afford to run down the institutions we have today because we may cause a situation of anarchy.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, you need to protect me because hon. Members are consulting a little too loudly.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Hon. Members, you should lower your tones while consulting, so that the hon. Member can be heard.

The Assistant Minister for Trade (Mr. Omingo): Thank you for that protection.

We have been talking about reforms in our judicial system and the Police Force. However, until such a time when we have those new institutions in place, we must respect those that we have for the sake of continuity, lest this country is thrown into confusion and anarchy. I remember one time when we cast aspersions on one institution of governance--- you give power to one hand. We leave that other institution weakened, then we have no systems at all.

I know that when we present cases of corruption for investigation, it is very difficult for anybody to investigate a situation in a high office when the person serving in the high office is the controller or holder of great power. It is the leadership that must be overhauled. I plead with fellow Kenyans that when they are electing us, they need to know who they are electing. This is because more often than not, we are told that there is no stone that will be left unturned. Yet no single stone has ever been turned simply because those in high positions, involved in mega corruption are the same ones sitting on the stones to be turned.

If reforms are to happen, we must start them from an electoral procedure. We must reform the entire Judiciary, the entire Police Force and the entire Executive, so as to give Kenyans value for their money. It is critical as we raise these matters, we also need to address how dangerous it can be, when we are actually ignoring and running down institutions.

It is true that KACC has not done much. That is a fact. However, KACC has its handicaps, including prosecutorial powers. If I hold somebody to account and pass him on to be prosecuted, it may be possible that whatever I intended to do, may not be carried out to a logical conclusion. However, it is critical also that even the efforts and frustrations done by KACC need to be brought to us. Kenyans need to know that they have tried and failed. For example, the case of Anglo Leasing has been haunting this

country. The Anglo Leasing scandal will not go away, until its head is crashed in this country. We know that during my tenure as the Chairman of PAC, there was Kshs7.2 billion wired back to the Treasury.

It was obvious and, therefore, critical that, that Kshs7.1 billion should have been reflected in the subsequent budget. I do not want to assert by some doubt in my mind that, that money may have come in and gone out, because Kenyans never felt the impact of Kshs7.2 billion wired back because it was never in any specific account and we do not know what project it was used on. For example, we are told that, that money that was posted from the so-called Laico Regency is going to do a port at Dogo Kundu. What did the Kshs7.2 billion, wired back from the Anglo Leasing scam, do to this country, so that we can be sensible enough and follow up corruption to the last man?

Mr. Temporary Deputy Speaker, Sir, the most unfortunate thing is that - and I said this here - those in high offices in the Government and outside, are still the same "big boys". I also sympathise with the investigators of corruption because the same person who pays their bills is the one we are sending them to prosecute. It is not doable! It is also important to note that if I give the Kenya Anti-Corruption Commission (KACC) the legs to run so that it can get hold of me, I will be in danger and the best I can do is to hold its legs. We need to reform and give autonomy to the KACC, to be able to prosecute and give Kenyans value for their taxes.

Mr. Temporary Deputy Speaker, Sir, I also want to say that even the little we were supposed to have seen, we did not see it in the KACC. Since it is this Parliament that created the KACC, it is our responsibility to either amend that Act that gives it the powers to operate or do away with it all together. This is because we cannot have our cake and eat. Our country has become a place where we keep postponing problems by creating commissions upon commissions. Kenyans are getting impatient and we take responsibility as the leadership of this country that it will not be finished by badmouthing one another or bickering. It must be stopped by serious decisive action, however painful those decisions are.

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

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I rise to oppose this Report. The facts are very simple. The Committee has worked diligently, but with a lot of limitations. They were, therefore, not able to do a thorough job.

Mr. Temporary Deputy Speaker, Sir, this Parliament should start re-examining the role of the House---

QUORUM

Mr. Mbugua: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

The Temporary Deputy Speaker (Mr. Imanyara): It is true there is no quorum. Please, ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! We have a quorum now. Who was on the Floor?

Proceed, Ms. Karua!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, may I once again say that I rise to oppose the Motion for the simple reason that although the Committee may have tried to do good work, it was ill-equipped to embark on a task of this nature. We are talking about the national anti-corruption body. We must be very sure that individuals nominated to work in this body are totally above reproach. If they have been serving in the body and we are renewing their contract, we must be certain that their work was exemplary.

Mr. Temporary Deputy Speaker, Sir, every person in this country is now talking about reforms. Reforms must begin in this Parliament. When Parliament looks at people who are to man our institutions, it must do that with the lens of reforms. We cannot continue with business as usual when hiring for a body like the national anti-corruption body. The Committee ought to have assessed the performance of the KACC so far, and if they are satisfied that the said Commission has performed to its best capacity, then they can think of confirming or re-employing people who have worked there. If the Commission has worked below par, then they have no business hiring anybody who has worked there.

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

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

They should also thoroughly check the background of each of the candidates. It is not enough for us, as Parliament, in our usual polite mode, to pass the names merely because they have been submitted. Once the slightest doubt has been raised, then the Report ought to go back to the Committee, which can then scrutinise and decide whether it wants to re-advertise or have better information to bring to the House. I am saying this because doubts have been raised over the nominees who are now in this Report. Parliament ought to reject it and await either further clarification from the Committee or fresh investigations.

Mr. Temporary Deputy Speaker, Sir, I have an issue with the way the body has worked so far. It is true that they have no prosecutorial capacity but even on investigations alone, the time taken to investigate things that are not so difficult like the maize scandal, the oil scam and many other scams appears inordinately long. The time taken to investigate mega crimes--- They seem to have done very well on petty crime but not on the mega crimes. Innovation is required and I would say that I am not satisfied that it is only due to the limitation of the power to prosecute.

Mr. Temporary Deputy Speaker, Sir, it is also due to the methodology and the commitment of the various personnel working in this commission. Alongside other institutions, an overhaul is called for. I would like to support a colleague who has called for a total overhaul. This time the Departmental Committee on Administration of Justice and Legal Affairs, which is charged with employing for the top cadre in the Kenya Anti-Corruption Commission (KACC), should come up with clear criteria that are in consonance with the law to make sure that they are able to get people of demonstrated integrity, people of demonstrated excellence in the work of investigations, this being an

investigation body. You cannot be excellent in one job and not in the next. It is not enough that one either be of police background or a lawyer. They should have some demonstrated experience in carrying out successful investigations, and/ or analysis of cases. They should have a sound background in criminal law.

I feel that one of the problems we are having with the KACC is under-capacity, not in terms of academic qualifications but in terms of the professional know-how. Yes, they try to be professional, but I am not satisfied that this is the sort of body we are looking for. I would urge Parliament to take its time. Let us not be driven by a hurry to say that we need these names. Let the Departmental Committee on Administration of Justice and Legal Affairs do some extra work. They will be supported by other hon. Members with information, so that we can hire officers who are going to help with a turnaround in the way we investigate anti-corruption cases.

We are talking at a time when the nation is impatient with the pace of reforms and the Government; although it is currently talking so much about reforms, it is behaving in a manner clearly to indicate that reforms are totally unwelcome. I would, therefore, say that it would be wrong for Parliament to join the Government as yet another anti-reform institution. I honestly believe that passing this report will make Parliament go down as another anti-reform arm of Government. We already know the Executive has distinguished itself as anti-reform. There is no need for Parliament to go for such dubious credentials.

(Applause)

Let Parliament assert its authority! Let us have this report well worked out. I once, again, want to say that I appreciate that my colleagues in the Committee, who are very hard working, were limited in the capacity to enquire fully into these matters.

With those words, I beg to strongly oppose this report.

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

I think it is high time Parliament respected documents that are placed on the Table of this House. The anti-corruption institutions in this country are of paramount importance to the nation. Unless we build on our current institutions, unless we strengthen the laws we have in this country, and unless Parliament asserts itself in giving the KACC prosecutorial powers, then the war against corruption will be a mirage.

The Committee has submitted two names and, as a Member of this House and the Government, I have no problem with two competent Kenyans whose qualifications and CVs have been placed on the Table in this Report. If there is anybody – or any hon. Member in this House – who has good and valid reasons to believe that the said persons are not fit for this particular job, the best thing that hon. Member can do is to give us hard evidence and information that will make us not approve this report.

Mr. Temporary Deputy Speaker, Sir, we should not politicize the war against corruption. We should not personalize the war against corruption. We should not give it a political parties face. We should not give it a regional face. I want to urge my colleagues in Parliament that when names of competent Kenyans are submitted in this House, when names of Kenyans whose CVs went through Parliamentary Committees, are put on the Table of this House, the best or natural thing that we can do to those names is to look at

them in terms of their individual competencies, careers and the institutions they are going to work for in this country. I agree with my colleagues that the war on corruption by the KACC after so many of years' of its existence, has been wanting. A number of reasons for this can be advanced. The role of the Executive, Parliament and those individuals who are entrusted with that institution, the Kenyan people, the legislative framework that the KACC works under, are all aspects that we can re-look at as a country and find out where the rain started beating us, as far as the war on corruption is concerned.

But I want to thank the Departmental Committee on the Administration of Justice and Legal Affairs, the Kenya Anti-Corruption Advisory Board who went through a very vigorous process and felt that the posts of the Finance and Administration and Investigations and Asset Tracing can be handled by the two presented to this House. I want to repeat that if we politicize the war on corruption, if we give it a political parties face, if we give it a regional dimension and perspective, I can say it here that---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not wish to interrupt Mr. Duale, but I can see that we are repeating ourselves. Will I be in order to ask you to call upon the Mover to respond?

The Temporary Deputy Speaker (Prof. Kaloki): Order! Mr. Duale, complete your remarks.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I want my good friend, Mr. Mbadi, to give hon. Members time. They were elected so that they can contribute and work for the people of Kenya for the stipulated hours.

In conclusion, I want to say that names have been presented and the Departmental Committee on Administration of Justice and Legal Affairs did its work and if people feel that they have a contrary view or incriminating information not available to this House, that should have been availed.

With those few remarks, I support the Motion.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this Motion. The Kenya Anti-Corruption Commission (KACC) is a very important body for this country. It was formed to stop corruption and that is the job that we want to see it doing. As I stand to support this Motion, I want to say that corruption in this country is still high. Two members of the KACC cannot change the situation in this country. We must come and think of reconstituting the whole KACC. The two people mentioned here have been out of KACC for about nine months now and yet, the problems in KACC still persist. As a House, we should send a serious warning to the KACC that they must be seen to be doing what they are supposed to do. We should approve these names with the stern warning that I have just mentioned. We do expect the President to do his part as per the mandate given to this Committee that; on the approval of the person by the National Assembly under Sub-section 3, the President shall appoint the person concerned to the office in respect of which the approval was given.

With those few remarks, I beg to support.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I raised a point of order, but you have not made a ruling on it.

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! I am trying to gauge the mood of the House on this particular Motion but I think it is only fair that I put the Question to the House on whether to continue debating or vote on it.

(Question, that the Mover be now called upon to reply, put and agreed to)

Mr. Abdikadir: Mr. Temporary Deputy Speaker, Sir, I would like to confirm that the sentiments heard in the House were very clearly shared in the Committee. The Committee is of a strong view that the KACC has not done a job worth writing home about. That, we must state very clearly. There are very serious structural problems as far as the work of the KACC is concerned, including the prosecutorial functions that they usually hand-over to the Attorney-General. Let me also confirm that in selecting the names for the Advisory Board, the Department Committee on Administration of Justice and Legal Affairs shortlisted nine names and all of them were new. So, every individual serving on the Board currently has been replaced as far as our proposal is concerned. Change is not only about individuals. The institution ought to change as a whole. In the absence of information to deny the two individuals a chance, we were convinced that they should go forward.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Justice, National Cohesion and Constitutional Affairs wrote to us and stated that they were pleased to forward the names from the Advisory Board.

With those few remarks, I beg to move.

(Question put and agreed to)

MOTION

ADOPTION OF 119TH IPU ASSEMBLY REPORT

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

THAT, this House adopts the Report of the Kenya Delegation to the 119th Inter-Parliamentary Union Assembly and Related Meetings, Geneva, Switzerland, from 13th to 15th October, 2008, laid on the Table of the House on Tuesday, 16th December, 2008.

Mr. Temporary Deputy Speaker, Sir, this Report has been on the Floor of the House for a long time and it would be good that we all go through it, debate and discuss it. This Report is the summary of the proceedings and resolutions of the 119th Assembly of the IPU which was held in Geneva International Conference Centre, Switzerland, on Monday, 13th to Wednesday, 15th October, 2008. In accordance with Article 11 of the Statutes and Laws of IPU the Speaker, on behalf of the Executive Committee of the Kenya National Assembly group nominated the following Members to represent our Parliament during the 119th IPU:

The hon. Marende, The Speaker
The hon. Wambugu, Leader of Delegation
The hon. Midiwo, MP
The hon. Chepchumba, MP
The hon. Dr. Nuh, MP

Mr. J.N. Mwangi, Assistant Deputy Clerk and Deputy Director, Legislative Services

Ms. E. Lumallas, Personal Assistant to the Speaker

Ms. R. Kairo, Clerk Assistant and Secretary to the Delegation.

Mr. Temporary Deputy Speaker, Sir, on behalf of the delegation, I want to thank you for according us the opportunity to represent the National Assembly---

QUORUM

Mr. D. Muoki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Although the Leader of the Delegation is moving a very important Motion, it seems that he is talking to an empty House. It seems there is no quorum.

The Temporary Deputy Speaker (Prof. Kaloki): Indeed, could the Clerk-at-The-Table confirm whether we have no quorum in the House.

(The Clerk-at-the Table counted Members present)

Indeed, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! Hon. Wambugu, you will have 22 minutes to move your Motion.

Hon. Members, there being no quorum, the House stands adjourned until tomorrow, Wednesday, 3rd June, 2009 at 9.00 a.m.

The House rose at 5.35 p.m.