

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 9th June, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Financial Statement of the Kenya Institute for Public Policy, Research and Analysis for the year ended 30th June, 2008.

(By the Minister of State for Planning, National Development and Vision 2030)

Report of the Kenyan Delegation to the 53rd Session of the Executive Council and the 31st Conference of the African Parliamentary Union held in Kampala from 25th to 30th November, 2008.

Report on the IGAD/IPU Kenyan Delegation to the 2nd Meeting of the IGAD/IPU Executive Council and the 2nd Conference of Speakers of IGAD member States held in Kampala, Uganda on 27th and 28th November, 2008.

(By Mr. Farah)

NOTICES OF MOTIONS

REQUIREMENTS FOR RECRUITMENT INTO DISCIPLINED FORCES

Mr. Kioni: Mr. Speaker, Sir, I wish to give Notice of the following Motion:-

THAT, aware that in the recruiting of officers into the disciplined forces, the following heights requirements apply:-

Armed forces - 5 feet 3 inches for both men and women, regular police - 5 feet 9 inches for policemen and 5 feet 3 inches for policewomen and in the Administration Police, 5 feet 8 inches for men and 5 feet and 3 inches for women; and concerned that this requirement is discriminative and is not within any legal framework; this House urges the Government

to dispense with this requirement in order to allow for equal opportunities of recruitment to all Kenyans who meet other minimum requirements.

ADOPTION OF REPORT OF 31ST CONFERENCE OF
AFRICAN PARLIAMENTARY UNION

Mr. Farah: Mr. Speaker, Sir, I wish to give notice of the following Motion:-

THAT, the House adopts the report of the Kenyan Delegation to the 53rd Session of the Executive Council and the 31st Conference of the African Parliamentary Union (APU) held in Kampala, Uganda, on 25th to 30th November, 2008.

QUESTIONS BY PRIVATE NOTICE

OUTBREAK OF CATTLE DISEASE
IN MARA AREA

Mr. ole Lankas: Mr. Speaker, Sir, I beg to ask the Minister for Livestock Development the following Question by Private Notice.

- (a) Is the Minister aware of the existence of the outbreak of a disease that is killing cattle in the Mara Area of Narok South District?
- (b) Could the Minister give the identity of the disease?
- (c) What is the Ministry doing to contain the disease?

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there was a disease outbreak which killed 400 head of cattle at a place called Aitong and Marianti in Mara Division of Narok South.

(b) On 24th April, 2009, farmers in Mara Division, Narok South District, reported an outbreak and a team of technical officers from the Department of Veterinary Service went and collected samples from the affected animals. The samples were taken to Kericho Veterinary Investigation Laboratory for testing, where the disease was confirmed to be East Coast Fever.

Since last year, that particular division and the whole of Narok South District, have been experiencing a severe drought and that has forced livestock farmers to move in search of pasture and water to graze their animals within the Maasai Mara National Park. In the process, the said livestock has been exposed to ticks, which transmit East Coast Fever from wild animals to livestock.

(c) Immediately the disease was confirmed by the Department of Veterinary Service, the Ministry advised the livestock owners to treat their animals against East Coast Fever and to undertake tick control measures by dipping or spraying their animals with the appropriate acaricides. The Ministry has issued drugs and sent enough personnel and a zoologist to go and treat the affected animals with a particular acaricide known as Dominex.

Recently, a zoologist was posted to that area in order to address the issue of tsetse flies in the greater Maasai region. In addition, the Ministry has been carrying out routine disease control activities in the country, including Narok South District. The Ministry has vaccinated livestock in Narok South District as follows: -

(i) A total of 10,783 herd of cattle have been vaccinated against the Contagious Bovine Pleuropneumonia (CBP).

(ii) A total of 3,800 herd of cattle have been vaccinated against Foot and Mouth Disease (FMD).

(iii) A total of 14,000 goats have been vaccinated against Contagious Caprine Pleuropneumonia (CCP).

(iv) In the last 15 months, we have vaccinated 4,400 goats and sheep against Sheep and Goat Pox.

Thank you.

Mr. ole Lankas: Mr. Speaker, Sir, these are some of the surprises that we continue getting in this House. The Assistant Minister is reading a different answer from the one that he has given to me! But I want to interrogate him on the one that I have.

In the answer that I have here, the Assistant Minister is talking about the death of livestock and not about the existence of the disease. I have asked him to confirm whether the department is aware that there is a mysterious disease that is killing livestock in the Mara region, which is related to the interaction between the wildebeest and cattle in the region.

Could he confirm the existence of that mysterious disease? It is not East Coast Fever as he said!

Mr. Duale: Mr. Speaker, Sir, we have confirmed that there is an outbreak of a disease in the Mara Division of Narok South District. That disease has been confirmed by the death of 400 herd of cattle at Aitong and Marianti in the same division. The laboratory tests at the Kericho Veterinary Laboratory and at our laboratory at Kabete have confirmed that the disease is East Coast Fever.

Mr. Bahari: Mr. Speaker, Sir, I live around national parks and, in particular Meru and Sanath National Parks. Around those areas, because of the wild animals in the national parks, the spread of tsetse flies is very high.

In spite of the fact that the Ministry has, perhaps, done some work in a number of areas, to try and contain East Coast Fever, it has continued to spread because the people who are responsible for wildlife management have not been keen in eradicating the source of the problem. What is the Ministry doing to liaise with the Kenya Wildlife Service (KWS) to ensure that the problem of East Coast Fever is eradicated once and for all?

Mr. Duale: Mr. Speaker, Sir, I agree with the hon. Member that the contact between wild animals and livestock in terms of disease control is a major challenge to the Department of Veterinary Service and the Ministry of Livestock Development. We have advised our farmers, and mainly those who have ranches along national parks, that this is our great danger. I am sure the Kenya Wildlife Service (KWS), through the Ministry of Forestry and Wildlife, will come up with a wildlife policy that will address all these issues. Along the same line, yes, there are areas in this country that are tsetse fly-prone. We are talking of Lambwe Valley, Lake Bogoria Basin, Meru National Park and Lamu Boni Forest. I am sure hon. Members are aware that there is a Pan-African Tsetse Fly

Control Project under our Ministry which is collaborating with the Government in order to control tsetse fly. But the issue of wildlife/livestock conflict and disease control is a challenge that the Government and the Ministry of Livestock and the Ministry of Forestry and Wildlife need to address.

Mr. Mututho: Mr. Speaker, Sir, that condition is malignant catarrh fever (MCF). It is age-long. Could the Assistant Minister tell us what the Government is specifically doing in terms of research so that they can control that disease?

Mr. Duale: Mr. Speaker, Sir, I want the hon. Member to repeat exactly what type of disease he is talking about.

Mr. Mututho: Mr. Speaker, Sir, this is a disease associated with an animal called “*Ingati*”. I am just being simplistic! *Ingati* is the wildebeest and they come around when they give birth. The disease causes thorough erosion of the internal mucus. It is called malignant catarrh fever.

Mr. Duale: Mr. Speaker, Sir, I have understood the disease the hon. Member is talking about but I want to assure him that he should not be worried. It is not a threat-related disease. It is not a disease that poses a big threat to the livestock sector like Rinderpest, PPR and the Rift Valley Fever (RVF) but I can assure you that the research institutions under the Ministry of Livestock Development and the Kenya Agricultural Research Institute (KARI) are handling that emerging disease that comes is transmitted from wildlife to livestock.

Mr. ole Lankas: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that this disease is not a threat while we have lost animals in their thousands in this particular region I am talking about?

Mr. Duale: Mr. Speaker, Sir, I think we are not aware of any disease that has wiped out thousands of animals in this country. If that was the case, then I do not think I should have been an Assistant Minister in that Ministry! For Mara South, Marianti and Narok South in general, the disease that has been reported, confirmed, diagnosed and is being treated in the hon. Member’s constituency, is the East Coast Fever (ECF).

Mr. ole Lankas: Mr. Speaker, Sir, from the answer that the Assistant Minister has given, he has confirmed that he has sent investigators to the area and that they are going to complete their investigations in two weeks’ time. Is this the correct position?

Mr. Duale: Mr. Speaker, Sir, I do not want to go round and round. I said the disease has been identified, diagnosed, confirmed and is being treated. I am sure that both our teams, the laboratory technicians and the general veterinary surgeons, are on the ground and the disease has been contained.

Mr. Konchella: On a point of order, Mr. Speaker, Sir. The Assistant Minister is talking about the wrong disease! The ECF is a known vector-borne disease but what we are talking about is as a result of births by the wildebeest; the placenta and the amniotic fluid, which are the cause of this problem and any cow that grazes on that particular point dies! Could the Assistant Minister undertake research to deal with this disease because that is not the issue? We have vaccines for ECF but there is no particular one for this disease. Could he also compensate the members of the community who have lost their cattle?

Mr. Duale: Mr. Speaker, Sir, the disease was confirmed as that of *theileriosis* which is a scientific name for ECF and it is spread by ticks. It is treated by through

acaricides. The one we are using now is Dominex. Unless the hon. Member is talking of a different one, the technical, laboratory and scientific reports we have are that of the ECF.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. The Assistant Minister is constantly giving wrong answers! Is he in order to continue referring to the ECF instead of malignant catarrh fever? They are completely different conditions!

Mr. Duale: Mr. Speaker, I think it is the hon. Member who is referring to different things. The Question I was answering for the hon. Member for Narok South relates to the ECF which is caused by ticks and is treatable using acaricides. The drug we are using now is Dominex.

Mr. ole Lankas: On a point of order, Mr. Speaker, Sir. The Assistant Minister has told the House that he had sent a team of investigators to investigate the disease and that they are going to come up with the results in two weeks' time. Why is he avoiding answering the Question and saying that he has confirmed that it is ECF while he has sent investigators to the ground?

Mr. Duale: Mr. Speaker, Sir, part "b" of my answer, and I want to repeat it for the sake of the hon. Member who did not get me right – maybe they were thinking of other places – on 27th April, 2009, our Kericho Laboratory researchers in collaboration with those from Kabete Laboratories went to the site after four head of cattle at the Marianti and Aitong died. On 27th April, 2009, 14 days later, the disease had been cited, diagnosed and confirmed as the ECF. Our team of investigators went to the ground on 27th April, 2009 to investigate this disease.

Mr. Speaker: Next Question!

(Mr. ole Lankas stood up in his place)

Order, Mr. ole Lankas! You have done fairly well!

Next Question, Mr. Linturi!

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

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

(a) What are the respective pumping 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 the contract signed?

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

Mr. Speaker: Order, Mr. Assistant Minister! The indication I have is that your answer is not exhaustive and the hon. Member is prepared to accommodate you so that this Question can be answered on Wednesday next week. Is that position now different?

The Assistant Minister for Energy (Mr. Keter): Mr. Speaker, Sir, it is in order. I can do it on Wednesday next week with the Questioner's permission.

Mr. Speaker: Fair enough!

Mr. K. Kilonzo: on a point of order, Mr. Speaker, Sir. You have ruled, time and again, that when a Question comes here it becomes the property of this House. This Question has been on the Order Paper for more than two times. Last time, you ruled that this is the last time it is going to be here. We have the answer here and we are ready to interrogate the Assistant Minister. Would I be in order to ask the Assistant Minister to first read the answer so that the House can hear and decide whether it kills the curiosity of this House before we just defer this Question?

Mr. Speaker: It will be out of order because, just like you are saying, I have ruled many times before that when a Question comes before the House, it becomes the property of the House. I have similarly ruled many times before, and so have my predecessors, that when a Minister does not have an answer that is satisfactory with the concurrence of the Questioner, a Question can be deferred until such time that the Minister has a satisfactory answer and the hon. Member is satisfied and ready to proceed with the Question.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. I have heard you and I do not want to contradict you in any way, but the answer has not been communicated by the Minister and since it is the property of the House, I am requesting for the answer to be communicated to the House because it is not the property of one hon. Member! It is after the communication that we will determine whether the answer is satisfactory or not!

Mr. Speaker: Mr. K. Kilonzo, my guidance will not differ because the precedent that I have cited, and I am aware that they are accurate in accordance with the directions that I have given--- Remember, I am not just the Speaker now; I also served in the Ninth Parliament and my memory serves me right even today! That Question is deferred to Wednesday next week. That settles the matter!

(Question deferred)

JUSTIFICATION FOR KENYA'S LARGE
DELEGATION TO GENEVA UN MEETING

Mr. K. Kilonzo: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) Could the Minister justify sending of a large delegation, including five Cabinet Ministers, to Geneva, ostensibly to articulate the Coalition Government's position on Prof. Phillip Alston's Report at the United Nations (UN)?

(b) What was the composition of the entire delegation as well as the total cost of the trip to the Government?

(c) Could the Minister consider instituting measures to recover the expenses incurred by the Ministers for Lands and East African Community, whose inclusion in the trip was unnecessary?

Mr. Speaker: Mr. K. Kilonzo, with respect to this Question, it appears it was slotted for today afternoon but the Deputy Prime Minister and Minister for Finance has actually sought permission from the Chair to be exempted from answering Questions, over the past one week, up to the time the Budget is read because he is fully preoccupied with the preparation of the Budget and so are his officers. So, the hon. Member and the House should note that the Speaker did accede to that request in writing. We understand

the position of the Deputy Prime Minister and Minister for Finance; he is new in that Ministry and he requires all the time to prepare his first Budget.

Mr. K. Kilonzo: Mr. Speaker, Sir, would I then get an indication as to when the Question is going to be answered?

Mr. Speaker: Yes! We can deal with it on Tuesday next week. It is a matter that has been pending for sometime and it is urgent since it is a Question by Private Notice. So, the Question is deferred to Tuesday next week.

(Question deferred)

KILLING OF MR. J. GACHAU
BY MAKONGENI POLICE

Mr. J.M. Kamau: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) What were the circumstances, in which police at Makongeni Police Station shot dead Mr. James Njuguna Gachau on 21st May, 2009?

(b) Could the Minister provide an update on the investigations into the killing, the identity of the killer(s) and state when the killer(s) will be arrested?

However, I have not received the written reply!

Mr. Speaker: Is the Minister of State for Provincial Administration and Internal Security here? If not, then we will leave that Question in abeyance and come back to it at the end of Question Time. I hope we shall have time to deal with it.

DEGAZETTEMET OF ILLEGALLY APPOINTED
CBK BOARD MEMBERS

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

(a) Why has the Minister not degazetted the illegally appointed Board Members of the Coffee Board of Kenya who were appointed on 3rd October, 2008 in contravention of Section 4(a) of the Coffee Act, 2001 as promised to the House on 5th November, 2008?

(b) When will the Minister degazette the appointments and appoint a new Board in compliance with the law?

Mr. Speaker, Sir, with your indulgence, I want to confirm that the Minister has consulted with me and the issue has been fixed.

Mr. Speaker: Mr. Assistant Minister, do I have your concurrence that his matter is settled for the moment?

The Assistant Minister for Agriculture (Mr. Ndambuki): Yes, Mr. Speaker, Sir.

Mr. Speaker: Fair enough!

Next Question by Mr. M'Mithiaru!

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

Mr. Speaker: Order, Mr. Baiya. Where you want to go, we have been there already!

ORAL ANSWERS TO QUESTIONS

Question No.189

COMPLETION OF LAND ADJUDICATION
IN IGEMBE CONSTITUENCY

Mr. M'Mithiaru asked the Minister for Lands:-

(a) why the process of land adjudication/demarcation which started more than 40 years ago in the adjudication units of Akirang'ondu, Amwathi 1, Amwathi 2, Naathu, A/Kiongo, Athiru Ruujine and Kawiru has not been completed; and,

(b) whether he could give a definite time-frame within which the process will be completed and title deeds issued.

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

(a) The Adjudication process has not been completed in these sections due to the complexity of the Land Consolidation Act, Cap. 283 which involves fragment gathering and consolidation of the same into viable units. This, in turn, has led to displacement of people and raising many land disputes therefore derailing the process of adjudication. Many adjudication sections were declared at the same time in the larger Meru District and since adjudication is a process, some have already been registered and the exercise is ongoing in other sections and at various stages.

Previously statutory provisions in the Land Adjudication Act required that all objections to the adjudication registered be heard before the adjudication sections could be finalized and registered. However, these provisions have not been repealed to enable the process to be expedited.

Elections and re-elections of committee members in some sections delay the work as the new committee members take time before acquainting themselves with the process of adjudication. The high number of court cases has also contributed to the delay as the officers are called upon to attend court sessions.

It should be noted that there is no adjudication section called Kawiru. This is a village within Athiru Ruunjine adjudication section.

(b) I cannot be able to give a definite time-frame within which the process will be completed and title deeds issued. The Ministry of Lands has written a proposal requesting for adequate funding to complete the adjudication process countrywide including Igembe North Constituency.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. M'Mithiaru: Mr. Deputy Speaker, Sir, I am not satisfied with the answer given by the Minister.

(Loud consultations)

Mr. Deputy Speaker, Sir, there are loud consultations in this House!

Mr. Deputy Speaker: Order, hon. Members! Please, consult in very low tones so that the hon. Member can ask his Question and be heard!

Mr. M'Mithiaru: Mr. Deputy Speaker, Sir, I am not satisfied with the answer from the Minister because he said that it is the complexity of the exercise that has caused the delay. This exercise started three years after Independence, that is, 1966. Since then, nothing has happened up to now. Even the first charge has not been completed. This is an area where the land officers have taken upon themselves, with impunity, to own land which they have not bought and hence the many objections that have been registered. Could the Minister confirm how many plots were registered in Akirang'ondy section and, out of those, how many objections we have so far?

Mr. Oremo: Mr. Deputy Speaker, Sir, I may not have a specific answer to that question but I have a schedule here which can take a long time to read. I can lay it on the Table because it includes all the details that the hon. Member requires. There is information as to what has happened in each section and in each village.

Mr. Ruteere: Mr. Deputy Speaker, Sir, one of the reasons why there are boundary disputes in parts of Meru is because the land has not been demarcated. What action is the Minister taking so that demarcation is hastened and people given their title deeds as a matter of urgency?

Mr. Oremo: Mr. Deputy Speaker, Sir, I am taking the issue of the larger Meru as a special problem area and, in the next month, I will be visiting the area not only to try and put measures in place to expedite the process but also to ensure that the problems that have beleaguered the process in the larger Meru are dealt with. I ask the hon. Member if he has any information about any public officers who are interfering with the process, to come and see me with specific cases. I will be able to deal with them directly without waiting until we have a solution for the larger Meru area.

I also want to say that this process in the entire Republic has been delayed. In fact, the process started before Independence and only about 20 per cent of the land in the country has been fully adjudicated and title deeds issued. A title deed being issued does not mean that they have been delivered to the owner. So, that is a big problem.

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

Mr. Deputy Speaker: What is your point of order, hon. Linturi?

Mr. Linturi: Mr. Deputy Speaker, Sir, it is not a point of order, but a supplementary question!

Mr. Deputy Speaker: Order! Order! You do not rise on a point of order and then ask a supplementary question!

Mr. Linturi: Mr. Deputy Speaker, Sir, it was a slip of the tongue!

Mr. Deputy Speaker: Proceed and ask your supplementary question!

Mr. Linturi: Thank you, Mr. Deputy Speaker, Sir. The problem of land adjudication in the entire Meru region is not only as a result of the problems that the Minister has raised. We have problems with human resource; that is land officers and lack of finance. I would want to know from him how much money he has set aside in the coming Budget for this purpose in this region. Land adjudication in Amwathi, in my constituency, is over and the AR maps are already in Nairobi. How much money has he allocated for this purpose in our district?

Mr. Orengo: Mr. Deputy Speaker, Sir, I do not want to anticipate what is in the Budget. However, the hon. Member will remember that when I was moving the Vote for this particular Ministry last year, I complained that, in spite of efforts that we have made to be given sufficient funds in order to process land adjudication, we were not able to get even 30 per cent of what we had asked for.

As I speak now, the Ministry of Lands is part of a larger component which includes the Ministry of Agriculture. So, the money is not given particularly in relation to my Ministry. We are treated as part of a component. We wait to know what allocation the Ministry will get when the Budget is read.

Mr. Mungatana: Mr. Deputy Speaker, Sir, the question of land adjudication is a problem all over the country, including Garsen Constituency.

If I remember correctly, the answer the Minister has given indicates that one of the reasons for the delay is that there are too many court cases and objections. We have heard him and his predecessors talk about bringing an amendment to the law, so that those who have no objections are allowed to register the land and those who have cases can wait. When will he bring this amendment? We have seen the Attorney-General bringing the Statute Law (Miscellaneous Amendments) Bill to increase his salary and yet, these problems of wananchi are continuing! Is the problem with him or the Attorney-General?

Mr. Orengo: Mr. Deputy Speaker, Sir, with respect to hon. Mungatana, I think he is sleeping on the job! That amendment has already been made. It is what has enabled us in Trans Nzoia and some areas of the Coast Province, where the process translates into title deeds being issued. In fact, in Kwale, in two or three weeks, we will issue more than 15,000 title deeds. This is specifically because these provisions have been reviewed. The problem is no longer there. We only have financial constraints.

Ms. Karua: Thank you, Mr. Deputy Speaker, Sir. The Minister may wish to agree that the problem in land adjudication is not merely money. It is the delay and corruption that has been fuelled by the many court cases. I hope he is aware that in Coast Province and many other areas, people who have previously worked in the Lands Office and some who are currently working there, have illegally allocated to themselves unadjudicated land and acquired such registration. What is he doing about the very many cases of that nature? Is he considering hiring a lawyer on behalf of the Ministry instead of relying on the Attorney-General whose officers always compromise those cases?

Mr. Orengo: Mr. Deputy Speaker, Sir, it is true that sometimes we are let down because a certain counsel fails to turn up or has not prepared the briefs correctly. We have no way of monitoring since the matters are being handled under the Office of the Attorney-General. I also agree with the hon. Member that there are some areas, particularly Malindi and parts of Kilifi, where 90 per cent of the problem has been caused by officials within the Ministry of Lands; some of whom have retired. The problems we deal with are not from those who have land claims in the Coast Province. However, a lot of them have to do with people who have become an institution in the Ministry of Lands whether they are there, or have left.

Indeed, in Malindi, I have put in place a process where we are looking at certain lands which were allocated to a particular person in various names, who is a lawyer and, I shall not name him. But 90 per cent of the problems in Malindi and Kilifi have occurred because of this single person. Nearly all the prime land in that area has either passed

through his hands or he is the one who determines how that land is dealt with. When you go to court, you find that he has his way in court most of the time. So, the door is closed in every respect. So, I have taken it upon myself to deal with that particular case as a unique case because it affects land in the entire Kilifi and Malindi districts.

Mr. Imanyara: Mr. Deputy Speaker, Sir, my good friend, hon. Orengo, has admitted that the problem of land adjudication is not just in one constituency, but bedevils the entire Meru region. I welcome his decision to visit that area, apart from meeting his in-laws, and see how he can address these problems.

Is he aware that part of the problems arise out of insecurity and the clan warfare that has characterized the political situation in the entire lower region of the greater Meru, and as a result of failure to adjudicate land in time and the methods the Government has resorted to dealing with it compounds rather than settles the problems? The issue of formation of a committee by the Minister of State for Provincial Administration and Internal Security has been going round there, now purportedly to deal with insecurity problems there, when all the members appearing before it, are raising issues of adjudication. Will he agree with me that the best way to deal with that problem is to get this money that the Ministry of State for Provincial Administration and Internal Security is spending on a committee that is going round the region? This money could better be utilised if it was made available to the Ministry of Lands to do the process of adjudication to complete it within the shortest timeframe. Will he agree with me that, that is the most practical way of dealing with this situation rather than sending security personnel and former PCs to deal with a problem that relates to land ownership rather than insecurity?

Mr. Orengo: Mr. Deputy Speaker, Sir, I want to agree with the hon. Member and that is why we have sought, so many times, to have this Parliament and the Government as a whole, give us a bigger allocation. For example, last year, we had asked for Kshs7 billion and we were given something around Kshs2 billion, despite the fact that, outside the Kenya Revenue Authority (KRA), the Ministry of Lands collects more money than any other Ministry. We were only able to get Kshs2 billion with which to carry out all the programmes under the Ministry of Lands. Therefore, this is an issue that, I think, the hon. Members raised during the last debate during the current financial year and specifically the point that hon. Imanyara is talking about. I have used those very same reasons to try and convince the Treasury that we deserve a bigger chunk of the cake when the money is allocated.

Mr. Konchella: Mr. Deputy Speaker, Sir, 40 years down the line, 11 group ranches in Trans Mara are yet to complete their adjudication process. In all those group ranches; lands officers are beneficiaries because they either allocate themselves plots or some pieces of land. What is the Minister doing to complete that process and punish some officers in his Ministry who are corrupt, right from the field up to his own office?

Mr. Orengo: Mr. Deputy Speaker, Sir, on the issues of corruption, I will ask the hon. Member to bring specific cases to me. I will not say that those cases are not there; they are there and there are ongoing investigations and prosecutions with regard to corruption. I am not going to carry the brief in trying to defend what has been a subject of many reports, including the Ndung'u Report. But I would urge hon. Konchella that, in Trans Mara, most of the time, we have a problem with the leadership. After the elections, when the leadership of the area changes, if you had a group ranch, you will find that---

Mr. Konchella: On a point of order, Mr. Deputy Speaker, Sir. The Minister knows that I am an hon. Member of Parliament and I am here to ask questions about my people's issues and problems because I am their leader. So, there is no issue or problem of the Maa--- They could be in the group ranches, but not in the political leadership or the district. I am asking this because they have mandated me to talk on their behalf and, therefore, to ask questions.

Mr. Orengo: Mr. Deputy Speaker, Sir, I am not talking about this specifically, but I am saying generally that, in that part of the world, the leadership of these group ranches tends to change whenever there is a change of political leadership. So, what was agreed during the previous leadership is not necessarily what would be agreed in the current or the subsequent leadership. So, we have many of those group ranches where, while we are just about to complete the exercise, a new scenario emerges that if you proceed and issue title deeds--- For example, there are one or two group ranches in Trans Mara that I know. If we dared to give out title deeds now, there would be violence. So, I think the onus is on the political leadership to bring their people together. I have seen it in some areas, especially in the Coast, where the political leadership has brought people together to expedite those processes. I would like to appeal to hon. Konchella that, at the end of the day, there is nothing to be gained if you have two groups, which are perpetually fighting over the same piece of property for the last 20 years. I think the best thing is to bring them together and find a middle ground so that we can give your people the title deeds, which they deserve.

Mr. Deputy Speaker: Hon. M'Mithiaru, ask the last question on this!

M'Mithiaru: Mr. Deputy Speaker, Sir, the answer I have received is very unsatisfactory. I know that the Minister is new in that Ministry, but the root cause of the problem in that area started 43 years ago. It is mainly corruption on the part of the lands officers. In the areas that I have mentioned, Akirang'ondy and Amwathi 2, the lands officers own the land there. They never bought the land. They snatched it from the people! It is not only the lands officers at the adjudication section but even officers at the Ministry Headquarters in Nairobi are involved! Today, my people come here in delegations because they have land complaints that have not been settled.

Mr. Deputy Speaker, Sir, I asked the Minister how many parcels of land were demarcated in Akirang'ondy. He did not have the figures. But the objections are 5,300 out of 6,000 plots which were surveyed. That was 43 years ago! That shows clearly that the problem is in the Ministry. I would say that since this is a problem that is afflicting all Kenyans, I am asking for your intervention, Mr. Deputy Speaker, Sir. You can have a House Committee to look into those issues because now, we can never trust the lands officers in that matter.

Mr. Orengo: Mr. Deputy Speaker, Sir, I did tell the hon. Member that I have a schedule here. I do not want to read it through but in Akirang'ondy, there are about 5,209 objections. Those objections need not delay the exercise. I would urge the hon. Member that if he has any name of a lands officer - because they are not entitled to allocate land to themselves--- Even if they are using the name of a relative or a friend, if you can give me those names, that would be dealt with as soon as that evidence is received.

M'Mithiaru: On a point of order, Mr. Deputy Speaker, Sir. Names of those lands officers are already in memorandums that are in his office!

Mr. Orengo: Mr. Deputy Speaker, Sir, the names are not in my office. The hon. Member has been to my office, but he has not given me a memorandum which specifically gives the names of those who allocated themselves land or who have obtained title deeds.

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. One of the hon. Members, hon. Linturi, informed this House that when they took up a portion or a section of that area under the Constituencies Development Fund (CDF), they completed the process and now, they are finalizing that process. Is it in order for the Minister to continue allowing that process to drag on, if we have solutions that can be given by hon. Members? Why would the Minister not allow that process to be taken over by the CDF? For that to happen, also allow a Committee of Parliament to look at those issues and establish why it has taken 43 years and yet the exercise has not been completed.

Mr. Orengo: Mr. Deputy Speaker, Sir, I cannot stand on the way of this Parliament. If Parliament wants to establish a Committee, I cannot stand on the way. All that is required is a resolution.

Secondly, Mr. Deputy Speaker, Sir, on the idea of using the CDF, it has been used very effectively by some hon. Members who have come to see me. They have offered, because of constraints in finances, to spend a little money from their CDF to expedite either the demarcation or the issuance of title deeds. That has happened in several places.

Mr. Deputy Speaker: Next Question, Mr. Kaino!

Question No.097

LAND ADJUDICATION IN
MARAKWET WEST

Mr. Kaino asked the Minister for Lands when the Ministry will send officers to Tunyo, Tot and Tirap divisions of Marakwet to undertake land adjudication.

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

The Ministry has officers in Tirap Division undertaking land adjudication. The same officers will be deployed to Tunyo and Tot divisions once they complete the adjudication work in Tirap Division. In order to be clearer on this issue, I should point out to the hon. Member that the work which was being done in Chepkung Adjudication Section, which was declared on 18th March, 1996 was suspended because of insecurity. In Maina Adjudication Section, the demarcation process is almost complete and there are 54 arbitration board cases pending. However, that need not stand on the way towards the completion of the exercise because the relevant legal provisions have been amended. In Chesoi Adjudication Section, the records, particularly the preliminary index diagrams, were stolen in 2006, but I ordered that the process be recommenced on 4th May, 2009.

Mr. Kaino: Mr. Deputy Speaker, Sir, the officers who are in Tirap Division of Marakwet District have stayed there for the last 30 years and there is nothing the Ministry has done to transfer them elsewhere. Going by the answer the Minister has given us, I wonder how long it will take to adjudicate the land in Marakwet District alone if we have to wait for another 30 years.

Mr. Deputy Speaker: Mr. Minister, how much longer will you take?

Mr. Orenge: Mr. Deputy Speaker, Sir, it depends on whether we get money from the Treasury. We cannot do the work if we do not get the money. For example, the money that we got last year was not enough for us to undertake this process.

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. It is very dangerous for Ministers in the Government to come here and tell us that they have not been given enough money and yet they are the ones who prepare the Budget. Is the Minister suggesting that we do not approve the Budget simply because he was not allocated the Kshs7 billion? How does this Government work? Is he not supposed to have consulted, given that land adjudication is given priority when it comes to allocation of money?

Mr. Deputy Speaker: Mr. Mungatana, you have made your point!

Mr. Mungatana: There is confusion in this Coalition!

Mr. Deputy Speaker: Order, Mr. Mungatana! The collective responsibility is there!

Mr. Orenge: Mr. Deputy Speaker, Sir, there is an ongoing consultation within the Government and we deserve a higher allocation. We are trying to raise more funds by improving on our collections. The consultations that are going on within the Government are to the effect that we deserve to be allocated more money in order to settle people. For example, the squatters in Coast Province require about Kshs10 billion to be resettled. Other Government departments will suffer if the Government gave out the money for that province. There must be an understanding that we have a limited kitty and there is competition over these funds. There is also priority over their use.

There is one issue that Mr. Kaino raised which is very critical. I would like hon. Members to inform me about the Ministry of Lands Officers, particularly Land Adjudication Officers, who have stayed in any particular area for more than ten years. I am carrying out that exercise and let me know about them. This is because there are some Land Adjudication Officers who have become institutions in particular areas. This has made them interfere with the smooth and expeditious running of the land adjudication exercise.

Ms. S. Abdalla: Mr. Deputy Speaker, Sir, could the Minister tell us the criteria the Ministry uses to carry out land demarcation and adjudication? Why is land in historical areas like Lamu declared Government land?

Mr. Orenge: Mr. Deputy Speaker, Sir, I think the question Ms. S. Abdalla has asked has to do with settlement. This is what concerns her most. Where we are carrying out settlement, particularly of the landless or those who require land, they must satisfy two conditions. They must be landless and poor.

With regard to the people who get this land, 60 per cent must be from that particular area or district. Only 40 per cent can come from outside the district. Of course, in implementation, I would rather be comfortable in a situation where more than 80 per cent of the people come from the local area. The remaining 20 per cent can be allocated to anybody else who is landless and requires land in a particular area. The bulk of the land should be allocated to the local community.

Mr. Kigen: Mr. Deputy Speaker, Sir, the issue of land adjudication is of great concern and we are surprised that even as hon. Members rise to point fingers at where they think there is a problem, particularly the corruption perpetrated by officers in the Ministry of Lands, the Minister, apparently, does not seem to address that. He is stating

obvious issues! For example, he has said that we should inform him of officers who have worked as Land Adjudication Officers for more than ten years in one place. On the contrary, he should know his Ministry better instead of relying on information from other people.

Secondly, one settlement scheme in my Constituency was bought by the Government, subdivided and letters of allotment issued. What informed the decision by the Government to cancel the allocation and recruit fresh people from outside the settlement scheme? Those outsiders are now being settled at the expense of the large number people who have been squatters on the land for a long time. The Minister has been informed of this matter several times. We even have a court order which has been ignored by the Ministry. It has been served to him. His officers have also been served and so has the Provincial Administration. However, the Ministry is using armed security personnel to allocate this land to outsiders.

Mr. Orengo: Mr. Speaker, Sir, I have said categorically that when it comes to my knowledge that any particular officer has overstayed in his or her station, I normally take the necessary steps. However, working in a large Ministry like I do, I am prepared to deal with any cases that may escape my attention. There are some hon. Members of Parliament who have come to me with specific cases which I have dealt with. I urge Mr. Kigen to come to me with specific cases. This is because I do not want to punish or move staff on mere allegation.

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker resumed the Chair]

Mr. Kigen should also realise that my hands are tied once a matter is taken to court. The issue he has talked about is a matter which is before court and I cannot comment on it in the House without violating the *sub judice* rule. However, I stand advised by the Attorney-General. All those papers are with the Attorney-General so that he can advise me as to whether or not there is a court order which requires any particular officer to comply with or it is just a general court order which does not require some kind of compliance. On the case Mr. Kigen has talked about, I have a team comprising of my officers and those from the Attorney-General's Chamber who are sitting down to determine whether there is any specific order that requires compliance by any particular officer and to whom it was directed. I have looked at that order and, therefore, invite Mr. Kigen to look at it properly. I know that he has reported that case to other Ministries and the Attorney-General. Mr. Kigen needs to seek the Attorney-General's view because he is now handling the matter and not me. He has taken other proceedings to bring about compliance. I think Mr. Kigen should follow those proceedings to the end so that if there is a court order that should be complied with, then the court should make a ruling on it.

Mr. Speaker: Last question, Mr. Kaino!

Mr. Kaino: Mr. Speaker, Sir, I have two issues that I would want the Minister to clarify. The first one is that there is now peace in the Kerio Valley. Insecurity is what hindered him from going to Chesuma Location of Marakwet District, in the Kerio Valley. Now peace has come. When will he send adjudication officers to sub-divide the same land? Secondly, the Minister has now been made to understand that adjudication in

this country is a serious matter. There are so many ways in which the Minister can get money from the Treasury to do this job in the country. He can now see from the Order Paper that there are so many cases of land adjudication problems in this country. Could he look for money from the Treasury, so that this problem can be sorted out?

Mr. Orengo: Mr. Speaker, Sir, I have asked for the money. I will get the answer on Thursday, as to whether we have the money.

More importantly, we are trying to harmonise and amalgamate all legislation affecting land, because at some point, whether or not we have finished adjudication or not, the land laws that we have in this country are so many, and are in conflict. The exercise we are undertaking is meant to bring harmony, which will include a more expeditious way of handling adjudication processes, so that they do not take too long or the 40-50 years that the process has taken since Independence. As I stand here, I am not happy that 50 years after Independence, the majority of the people in this country do not have title deeds. That is a mandate that I must fulfil to ensure that those who are entitled to title deeds get their title deeds.

Mr. Speaker: Hon. Members, on Question No.023, the Member for Nyakach is away on Parliamentary business. Can I have an indication from the Minister, if he is ready to answer the Question, so that we can defer it to Tuesday, next week?

(Mr. Ochieng stood up in his place)

Aha! Ask Question No.023.

Question No.023

UPGRADING OF OBOCH DISPENSARY
TO HEALTH CENTRE

Mr. Ochieng asked the Minister for Public Health and Sanitation what plans she has to elevate Oboch Dispensary in Nyakach Constituency to a health centre, considering that the facility serves many patients.

Mr. Speaker: Order, hon. Members! My taking-over notes from my able deputy say so. That is why I thought that the Member of Parliament for Nyakach was away.

Minister for Public Health and Sanitation! Is that the hon. Beth Mugo?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, apparently, none of them is present. We undertake to pass the message to them.

Mr. Speaker: Hon. Members, we have a written request for leave, in accordance with the Standing Orders. The Minister and her Assistant Minister are both out of the country on Government business. So, they are not available. We will, therefore, defer this Question to Thursday, next week.

(Question deferred)

Next Question, Mr. Ethuro!

Mr. Ethuro: Mr. Speaker, Sir, this Question was deferred last week and, again, in a row, there is no written answer. Nevertheless, I will ask the Question.

*Question No.145*CRITERIA FOR AWARD OF STATE
COMMENDATIONS

Mr. Ethuro asked the Minister of State for National Heritage:-

(a) whether he could table the number, names and home districts of Kenyans awarded State commendations since Independence, indicating the various categories; and,

(b) whether he could outline the criteria for such State awards and commendations.

The Minister of State for Public Service (Mr. Otieno) Mr. Speaker, Sir, again, we undertake to draw the attention of the Minister to the Question, if you defer it to Wednesday next week.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Mr. Otieno needs to apprise the Chair as to why he thinks he can deliver the Minister of State for National Heritage better than the Minister for Co-operatives Development, Mr. Nyagah, who conveyed the same message last week but who has not delivered here the Minister of State for National Heritage.

Mr. Speaker: Mr. Dalmas Otieno!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, this time round, I will accompany him to the House.

Mr. Speaker: Fair enough!

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. This Question has been here on three other occasions. On the last occasion, the Minister was here and he took off. Standing Order No.46 is very clear. So, I am asking the Chair to use this particular case to serve as an example to other Ministers.

Mr. Speaker: Mr. Dalmas Otieno, does the Minister for National Heritage have an Assistant Minister?

The Minister of State for Public Service (Mr. Otieno): Yes, he has, Mr. Speaker, Sir.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. The Minister of State for National Heritage and Culture does not have an Assistant Minister. His Assistant Minister was the former Member of Parliament for Bomachoge, Mr. Joel Onyantha Omagwa, who is my very good friend, and whom I wish well, so that he can be back in Parliament sooner than later.

Mr. Speaker: Mr. Dalmas Otieno, the Minister of State for National Heritage is out of order. His conduct amounts to disorder, in accordance with the Standing Orders, more so, given that this is the second time that the Question is on the Order Paper and an undertaking was given to ensure that the Minister is available.

So, in the absence of neither explanation nor mitigating circumstances of whatever nature, I order that this Question appears on the Order Paper tomorrow, Wednesday, in the afternoon. The Minister must be present with an answer, failing which he shall not be allowed to transact any business in the House until an explanation is given, inclusive of even presence during the Budget reading on Thursday.

Let that be communicated to the Minister and we shall, firmly, execute that direction.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. While appreciating your ruling, since I am the most adversely affected person, I also seem to appreciate that the old man is a *babu*. Give him until next week.

(Laughter)

Mr. Speaker: Order! Order! Mr. Ethuro, beyond pleading with the Chair to ensure that the Minister lives within the Standing Orders, you have no other powers. The direction of the Chair, therefore, will stand. Mr. Dalmas Otieno, please, convey those directions to the Minister.

The Minister of State for Public Service (Mr. Otieno): I will do so, Mr. Speaker, Sir.

Mr. Speaker: If, for any reason, the Minister is not able to be here tomorrow, then he should delegate to any of you, so that, under the ambit of collective responsibility, any of you can come with the answer.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Given that the undertaking to bring Mr. Ole Ntimama to Parliament was given by another Minister, who is also not present, could the direction also apply to Mr. Nyagah, who undertook before the House, when I was on the Chair, and he suffers the same consequences that Mr. Ole Ntimama will suffer, because we do not know what took place.

Mr. Speaker: Hon. Members, let us have some goodwill towards the Executive. I believe that, in the absence of Mr. Ole Ntimama, another Minister will come to the House, equipped with the answer to the satisfaction of the House.

(Question deferred)

Next Question, Mr. Yakub!

Mr. Yakub: Mr. Speaker, Sir, before asking the Question, I would like to inform you that I have not received a written answer to it.

Question No.126

TERMINAL DUES FOR KENYAN EMPLOYEES
OF DEFUNCT EAC

Mr. Yakub asked the Deputy Prime Minister and Minister for Finance:-

(a) what became of the country's entitlement in the defunct East African Community as well as the terminal dues of the Kenyan employees in the country;

(b) how much the British Government paid as terminal benefits for Kenyans who worked for the defunct community;

(c) whether he could tell this House the recipients, amount paid and dates of payment to all ex-staff of the Corporations of the defunct East

African Community (amongst them, E.A. Cargo Handling Services, E.A. External Communications, E.A. General Fund Services, E.A. Customs, E.A. Railways, E.A. Airways, E.A. Harbours, E.A. Posts and Telecommunications); and,

(d) whether he could tell the House the medium used to inform all the former employees or their beneficiaries.

Mr. Speaker: Mr. Yakub, this will fall in the same category as the Question by Private Notice No.3. The same circumstances apply in respect of this Question. We have given indulgence to the Deputy Prime Minister and Minister for Finance until after he has delivered the Budget Speech. So , we will defer this Question to Thursday, next week.

(Question deferred)

Question No.132

ENFORCEMENT OF MARKETING STANDARDS
FOR AGRICULTURAL PRODUCE

Mr. Speaker: Mr. Deputy Prime Minister and Minister for Local Government, my notes state that the Member for Molo is away on parliamentary business and is, therefore, unable to be here to ask this Question. Are you comfortable if I defer this Question to Wednesday, next week?

The Deputy Prime-Minister and Minister for Local Government (Mr. Mudavadi): I have no problem with that, Mr. Speaker, Sir. That is quite in order.

Mr. Speaker: It is so ordered. The Question is deferred to Wednesday, next week. Next Question, Mr. Namwamba.

(Question deferred)

Question No.173

HALTING OF LATF REMITTANCES
TO LOCAL AUTHORITIES

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

(a) if he could confirm that the Government, as communicated vide Circular MLG No.4/2009 dated February 23, 2009 intends to halt remittance of LATF support to all local authorities which have failed to eliminate their outstanding debts/liabilities by the commencement of the Financial Year 2009/2010

(b) if he could justify the reason for this short notice and state why the notice should not be extended for five years; and

(c) to state the rescue plans for financially vulnerable local authorities and if he could consider paying chief officers and councilors from the Consolidated Fund to ease pressure on local resources.

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

(a) The Minister for finance, in consultation with the Minister for Local Government, in a special issue of the Kenya Gazette supplement No.20 and Legal Notice No.22 of 22nd April, 2004, notified all the local authorities that starting the 2009/2010 Financial Year, no amount of LATF funds shall be disbursed from the LATF Fund unless the authority has paid all outstanding debts. There is also Circular No.MLG No.4 of 2009, dated 23rd February, 2009, from the Ministry of Local Government which further reminded the Local Authorities of the said legal provisions.

(b) I would like, for the notice of the House, to note that the initial provisions for eliminating the outstanding debts within a period of five years was first issued through a Legal Notice No.142 of September, 1999, under the LATF regulations. It was later extended by the Minister for Finance for another five years in the Financial Year 2004/2005. This was due to a request from the LATF Advisory Board. The notice to the local authorities to settle the debts has, therefore, been in place for the last 10 years. This cannot be a very short period.

(c) The Ministry operates within the confines of the Local Government Act (Cap.265). The Act gives me powers to merge or create certain local authorities, towns or municipal councils, depending on the viability. To pave the way for more strategies, my Ministry has completed a process of reviewing the Local Government Act and the draft is ready for presentation to the Cabinet and, ultimately, to Parliament. The proposed Act provides for a number of rescue strategies. However, it will be premature for me to discuss the full details of that draft which is yet to undergo the due process before it is used as a legal document.

However, I would like to add that apart from this, the Ministry has been supporting local authorities through the LATF funds to settle some of their statutory debts. We are also helping them to get into a debt swap arrangements where they will update their records say, with the National Housing Corporation, so that they can eliminate some of the debts that are due to the National Housing Corporation. In addition, we have also introduced under the Kenya Local Government Reform Programmes, major systems to assist local authorities in improving their financial management, and debt resolution is one of the issues we are focusing on.

Mr. Namwamba: Mr. Speaker, Sir, the ramifications of the action contemplated by the Minister would be seismic if they were to be implemented within the time frame that he proposes. Knowing that this is one action that would affect virtually all local authorities in the country, without exception, and knowing that the Ministry has already put in place a reform process that is already rolling, and that we are also in the middle or that we have already started the process of reviewing boundaries in the context of an anticipated new constitutional dispensation, why is the Ministry rushing this process? Why can they not wait for completion of this whole reform process that has been instituted both by the Ministry and by this House in pursuit of a new arrangement? Why can they not await completion of that reform before these changes are undertaken?

Mr. Mudavadi: Mr. Speaker, Sir, it should be noted that this extension has been granted twice already. At the same time, I would like to assure hon. Members that we are not as a Ministry going to do away with the LATF fund. In fact, we think to a certain extent, it is an important mechanism of revenue sharing between the Central Government and the local authorities.

The point that I want to put across is that it is a proposal that we, as a Ministry, can look at, in consultation with the LATF advisory board and the Minister for Finance, if there could be need for further extension of that duration. The duration that we are coming to amend in 2010 is one that had been granted much earlier.

Mr. Bahari: Mr. Speaker, Sir, if we want this country to develop we cannot afford to ignore local authorities. The transformation of local authorities is long overdue. As much as the Minister is handling other reforms through the Cabinet, could he institute immediate measures as this House has already done by establishing a Committee to look into the accounts? Could he institute immediate measures to improve on the performance of councils because there is a lot of leakage in terms of finance by the local authorities? There is a lot of unaccountability. Could he move with speed and institute measures to improve financial management of the councils?

Mr. Mudavadi: Mr. Speaker, Sir, as I said, we are not necessarily waiting for the Act. Under the Kenya Local Government Reform Programme, there are already over 56 local authorities that we have been placed under this programme. This is basically the financial management manual and guidelines for them to improve their financial management. This is an ongoing programme. We intend to roll it out to all the other local authorities.

In addition to that, all local authorities must now have an audit committee. This was the committee that was never there. We would have the usual finance committee, the planning committee and so forth. We have given directions that all local authorities must have an audit committee to help them improve their financial management.

In addition to that, we have programmes that work on capacity building for the local authorities. We are trying to find mechanisms of improving the capacity of the personnel who particularly handle matters of finance in local authorities.

Mr. Olago: Mr. Speaker, Sir, while we appreciate the efforts the Ministry is taking to empower the local authorities, what Legal Notice No.142 of 1999 and Legal Notice No.22 of 2004 mean in concrete terms is that any local authority that has a debt will not receive LATF funds. Which local authority in Kenya does not have a debt? Even the Government has debts. In the circumstances---

Mr. Speaker: Order, Mr. Olago. It is Question Time.

Mr. Olago: Mr. Speaker, Sir, in the circumstances, what is the Ministry doing in concrete terms, to empower local authorities to manage their finances well?

Mr. Mudavadi: Mr. Speaker, Sir, I would like to tell the hon. Member that one of the most interesting things out of the LATF Fund is that this carrot and stick approach has greatly improved the financial management of a number of local authorities. Quite a good number of them have actually taken serious steps in reducing their debt. I think it is an important tool that the Ministry has been using to get the institutions to become more accountable.

The other point is that when the local authorities know that they are likely to incur penalties, because under the LATF Act, there is also provision for penalties if you do not

meet your obligations in terms of debt resolution, we have found that they have become more prudent in managing their debt. This is something that I think we should continue to strengthen in terms of improving the financial management of local authorities.

Mr. Mungatana: Mr. Speaker, Sir, I want to join other hon. Members in congratulating the Deputy Prime Minister and Minister for Local Government for the serious work he is doing in terms of giving capacity to local authorities. However, on the same issue, at the time the last extension was given, the situation was not as bad as it is today. The Minister lives in this country and he knows that we are under a global recession that is affecting not only the Central Government but also the local authorities. The LATF is doing a lot of work on the ground in Garsen just as the Constituencies Development Fund (CDF) is. If the Tana River County Council is going to be disbanded, we will suffer irreparable damage. In view of the current circumstances; the global recession and the political violence that we had, could the Minister give an undertaking to this House that they will give a further extension, which could be the last, before they effect these tough measures on local authorities?

Mr. Mudavadi: Mr. Speaker, Sir, the good news is that Tana River County Council is not one of the defaulting local authorities. It has been doing a very good job in ensuring that the issues of debt resolutions or penalties do not come their way. I want to commend them for that. The other aspect is that, I agree that this is a position that can be reviewed. However, it should not be taken for granted by the local authorities that there shall be an automatic review. It is, definitely, a matter I am willing to take up with the Advisory Board of the LATF and the Ministry of Finance.

(Applause)

Mr. Namwamba: Mr. Speaker, Sir, I want to appreciate the very pragmatic position taken by the Minister. The only assurance that local authorities would want to hear from the Minister, from Nairobi to Port Victoria Town Council, is whether after Thursday, as we commence the Financial Year 2009/2010, they will be looking forward for LATF remission from the Ministry.

Mr. Mudavadi: Mr. Speaker, Sir, I would like to give the assurance. We have made the appropriate requisition to the Treasury and we anticipate that there will be a budgetary provision for LATF, for local authorities.

Mr. Speaker: Next Question by Mr. Moses Lessonet!

Question No.139

TREE HARVESTING BY COMPLY/
TIMSALES/RAIPLY COMPANIES

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

- (a) whether he could confirm that only M/s. Comply, M/s. Timsales and M/s. Raiply conduct tree harvesting activities in the forests in Koibatek and that the local saw millers have been denied licenses; and,

- (b) when the Ministry will ensure that this exercise is extended to incorporate the "*Kazi Kwa Vijana*" efforts in the area.

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

(a) Yes, I confirm that only M/s. Comply, M/s. Timsales and M/s. Raiply conduct tree harvesting activities in the forests in Koibatek and that local saw millers are not licensed to do so.

Mr. Speaker, Sir, this is because the three firms were exempted from the forest ban imposed in 1999 on the premise that they will provide value -added products such as wood panels, fibre boards and wood laminates that would have to be imported. The companies employ a large workforce and are involved in replanting of the areas they clear.

My Ministry has, however, gone through a pre-qualification process for local saw millers with a view to licensing them once the ban is lifted.

(b) My Ministry has no intention to involve *Kazi Kwa Vijana* initiative in saw milling. However, *Kazi Kwa Vijana* programme will be involved in replanting the cut or harvested areas and other reforestration activities such as seedling production, planting, weeding, thinning, pruning and forest protection.

Mr. Lessonet: Mr. Speaker, Sir, the Assistant Minister has clearly indicated that he has no intention of lifting the ban. I want to confirm to this House that we have small scale saw millers in Eldama Ravine and Koibatek who are able to do value-addition to wood products. However, they have been locked out through the restriction on tree harvesting. Could the Assistant Minister confirm to this House that he is being unfair to local saw millers?

Mr. Nanok: Mr. Speaker, Sir, let me mention to Mr. Lessonet that we are not unfair. Let me also state that so far, we have about 38,000 hectares of mature commercial plantations that are due for harvesting. We have put in a request to the Cabinet so that the ban is lifted. Right now, we have placed a management plan through the Cabinet. This is to plan on how we can be able to replant the 38,000 hectares in the view that it will be harvested. We hope that many more saw millers will qualify to harvest the trees once the ban is lifted.

Mr. Sirma: Mr. Speaker, Sir, could the Assistant Minister confirm that M/s. Comply, M/s. Timsales and M/s. Raiply are one and the same thing practising monopoly in this country? The Government locked out companies which were doing value-addition to wood, including Elgeyo Saw Mills, Ply and Panel Mills and Super Ply Mills, because of monopoly and corruption.

Mr. Nanok: Mr. Speaker, Sir, when the ban was put in place in 1999, I think it was as a result of destruction of forests which had resulted into a huge percentage of forest land going down. However, the Government of that day agreed to maintain the three main saw millers and Pan African Paper Mills since they had value addition. Secondly, they invested in technology and the Government had 90 per cent recovery.

With regard to the second part of his question, I want to deny that the Government has been unfair to the other saw millers.

Mr. Sirma: On a point of order, Mr. Speaker, Sir. How can the Assistant Minister deny that it is not unfair yet it is one family that owns these companies? Could the

Assistant Minister confirm that the three firms are one and the same thing? He should answer that question because the practice of monopoly in this country is---

Mr. Speaker: Order, Mr. Sirma! Your point is made! The Assistant Minister has not confirmed! Mr. Assistant Minister, are you able to confirm that these three are the same company owned by the same people?

Mr. Nanok: Mr. Speaker, Sir, all the three companies belong to what is famously called the Rai Group. As I said, the Government of that day, which Mr. Lesrima was serving, is the one that gave those companies the right to harvest the trees.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, you heard what the Assistant Minister has said? The Assistant Minister was referring to the hon. Nominated Member, Mr. Musa Sirma, and not Mr. Lesrima. I want the record corrected.

Mr. Speaker: Fair enough! The hon. Member who is nominated is Mr. Musa Sirma. The hon. Assistant Minister is Mr. Lesrima. That is corrected.

Mr. Sirma: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister confirm that he is not imputing improper motive on my personality? Being a Member of a former Government which was corrupt does not mean that I was part and parcel of a Government which practised such discrimination against Kenyans.

Mr. Speaker: Mr. Assistant Minister, do you have any response at all?

Mr. Nanok: Thank you, Mr. Speaker, Sir. First of all, I want to correct the fact that I was referring to Mr. Musa Sirma and not Mr. Lesrima.

Secondly, just to state clearly, the four companies which have been given the harvesting rights since the ban was imposed are only harvesting an average of about 5, 000 hectares annually. We have 38,000 hectares which have matured and are ready for harvesting.

Mr. Speaker: Order! Mr. Assistant Minister, all that Mr. Sirma wants you to do is to confirm that he was not part of the cartel that led to that wrongdoing.

Mr. Nanok: Mr. Speaker, Sir, I think he was a Member of the party that had formed the Government at that time!

Mr. Lesonnet: Mr. Speaker, Sir, I also want the Assistant Minister to confirm to this House that one of the directors of the Kenya Forestry Service is actually the owner of the three companies we are discussing, which means that they are harvesting all the trees and have taken over the directorship. They are actually running the Kenya Forestry Services.

Mr. Nanok: That is an easy one, Mr. Speaker, Sir. In the Board of Directors of the Kenya Forestry Service, there is a representative of the private sector who is a representative of saw millers. That is the reason why one of the directors is involved in this.

Mr. J.M. Kamau: Mr. Speaker, Sir, could the Assistant Minister deny or confirm that some of the owners of these companies are foreigners? If they are not, could he lay on the Table their names?

Mr. Nanok: Mr. Speaker, Sir, I do not have that information now. However, if the House decides that I have to lay the information on the Table, I think I can do so.

Mr. Sirma: On a point of order, Mr. Speaker, Sir. The Saw Millers Association which is the private sector that was referred to in the Act was supposed to nominate a Member to the Board. But instead of doing so, they nominated one of their own who is

now colluding with the Kenya Forestry Service. Could he undertake to remove that name and give the private sector an opportunity to elect one of their own?

Mr. Speaker: Order! That is a point of argument and not a point of order. Mr. Assistant Minister, you need not to respond. The hon. Sirma stood on a point of order but it does not fall in that classification.

Next Question, Mr. Baiya!

Question No.204

DETENTION OF MILK DELIVERY LORRIES
IN GITHUNGURI

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

(a) The circumstances under which police arrested and detained motor vehicles which were delivering fresh milk to the factory in Githunguri on 21st May, 2009; and,

(b) What action he will take to compensate the Githunguri milk farmers for the loss and ensure that such incidence is avoided in future.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Speaker, Sir, I beg the indulgence of this House for a deferment of this Question to tomorrow morning when hon. Ojode, who is held up uncountr on official duty, will be here to answer the Question.

Mr. Speaker: Fair enough! The attention of the Chair has been drawn to the fact that the Assistant Minister, Ministry of State for Provincial Administration and Internal Security, Mr. Ojode, who would have answered this Question is held up in western Kenya on Government business. He was expected to be back here this afternoon but he has not managed to do so. That will also apply to the Question by Mr. J.M Kamau, Member for Kandara. The Assistant Minister is trying to get back here but he has not succeeded. So, we will defer the Questions by Messrs. Baiya and J.M. Kamau to Tuesday next week.

(Question deferred)

Mr. Baiya: Mr. Speaker, Sir, he had indicated that he will be ready to answer my Question tomorrow. First, it had been listed as a Question by Private Notice and then again converted to an Ordinary Question.

Mr. Speaker: We are just trying to provide a safeguard against any eventuality. He is held up on Government business of such nature that it may spill over into tomorrow. So, we are just being cautious. The Question is deferred to Tuesday next week. It is so ordered!

Mr. Baiya: Thank you, Mr. Speaker, Sir.

Mr. Speaker: Mr. J.M. Kamau, please take note.

Mr. J.M Kamau: Mr. Speaker, Sir, although the Assistant Minister had agreed to give us an answer tomorrow, my issue is a bit serious. Why can we not have it discussed tomorrow or Thursday?

Mr. Speaker: I have it in mind that Thursday is Budget day.

QUESTION BY PRIVATE NOTICE

KILLING OF MR. J. GACHAU BY MAKONGENI POLICE

Mr. Baiya: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) What are the circumstances under which the police at Makongeni Police Station shot to death Mr. James Njuguna Gachau on 21st May, 2009?

(b) Could the Minister provide an update on the investigations into the killing, the identity of the killers and state when the killers will be arrested and charged in court?

(Question deferred)

ORAL ANSWER TO QUESTION

Question No.131

REPAIR OF KISII-MIGORI-ISEBANIA ROAD

Mr. Pesa asked the Minister for Roads what immediate plans he has to repair and improve on the Kisii-Migori-Isebania Road, especially at the road between Kisii/Kisumu Junction and Kakrao.

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

My Ministry is currently undertaking the repair works on the Kisii-Migori-Isebania Road. The works involve site clearance, cleaning of the drainage, gravelling of shoulders and pothole patching. The contract commenced on 7th April 2009, and is due to end in October 2009.

Mr. Pesa: Thank you, Mr. Speaker, Sir. I want to appreciate the answer given by the Assistant Minister regarding the work they have started on this road. In fact, they have even started putting up bumps from Kisii to Suneka. The areas to the southern part of this area, Migori, Rongo and Awendo, have a high population of students that use this road. However, bumps have not been erected on those roads. Could the Assistant Minister undertake to instruct his officers to erect bumps between Kakrao on the northern part of Migori and Hassan Johnson Primary School because we have had many lives lost on this road?

Mr. Kinyanjui: Thank you, Mr. Speaker, Sir. It would be inappropriate for me to say that we will erect bumps on all roads so as to reduce accidents. That is just one of the ways to reduce accidents. However, we will send our officers on the ground and get the

best approach of seeing that is done. We have seen that every time we have a new road, there is an increase in accidents in that area. If we were to do that every time we had a new road, our roads would be full of bumps.

Eng. Gumbo: Thank you, Mr. Speaker, Sir. The road in question is one of the main arteries to Tanzania through Isebania. I happen to use this road very often. One of the major problems on this road, especially between Nyachenge and Rongo, is the fact that it is very narrow. It is like the size of one lane. I would have expected the Assistant Minister to indicate when he intends to do this road and if he has any immediate plans to widen the lanes because a number of accidents have occurred on that road because it is very narrow.

Mr. Kinyanjui: Thank you, Mr. Speaker, Sir. I want to concur with the Member that indeed, this road is narrow. However, in view of the finances available at the moment, we have set aside Kshs55, 706,000 for the repairs. We are in the process of securing more funds in the future to make sure that the road is expanded to accommodate the heavy traffic, especially the sugar cane area and the people going to Tanzania.

Mr. Kigen: Mr. Speaker, Sir, I have heard the Assistant Minister talk about new roads being associated with many accidents. However, he was not candid about the measures he will take to reduce the road carnage we experience every day. For example, we have a problem between Kabarak University and Kampi Ya Moto. Many children are crashed at that point. Last week, we lost four children who were hit by one vehicle which was speeding. There have been proposals to the effect that bumps should be erected at that section. The Ministry officials have been on the ground but no action has been taken. What will the Assistant Minister do to reduce accidents in black spot areas?

Mr. Kinyanjui: Mr. Speaker, Sir, it is not correct to say that we are doing nothing. Indeed, one of the biggest causes of such accidents is lack of pedestrian paths where pedestrians can walk and leave the road. Most of the roads that we are constructing in Nairobi and most urban centres have footpaths which pedestrians or cyclists can use and, therefore, leave the roads for motorists.

Secondly, I have also stated earlier on that we are expanding the shoulders of the roads so that the people who are walking or using bicycles will not use the actual roads. Indeed, we have done a lot. We will also construct foot bridges where they are required so that people can use them to cross over roads. We are also sensitising people on road use and safety.

Mr. Chanzu: Mr. Speaker, Sir, road signs and markings have been a very important component of road finishes. Could the Assistant Minister ensure that road signs and markings continue being components of road construction and finishing on all roads that are being constructed or re-done?

Mr. Kinyanjui: Mr. Speaker, Sir, we have ensured that road markings are on all the roads that are currently being rehabilitated. However, because they are normally made of metal, which has become very precious, many Kenyans have a habit of picking and selling them as scrap metal, which has, of course, endangered many Kenyans. However, we will ensure at all times that we mark the roads when we rehabilitate them.

Mr. Speaker: Last question, Mr. Pesa!

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has given a good answer, but I think he should inspect this road. This is because when he refers to this road as a new road, it shows that he is unaware of what it is like. I insist that this old road, which is an

international road, should be given more attention. We have many trucks that pass through Migori to Tanzania. We also have trucks around Awendo. This morning I drove to Parliament from Migori---

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

Mr. Pesa: Mr. Speaker, Sir, I would like the Assistant Minister to assure this House that this road will be expanded.

Mr. Speaker: Mr. Assistant Minister, you need not respond to that question! It is clearly repetitive. The same question has been asked and you have responded to it earlier on. Mr. Pesa, just check the HANSARD for the answer to that question!

Let us move on to the next Order!

MINISTERIAL STATEMENT

ALLEGATIONS OF CORRUPTION/NEPOTISM AGAINST PSC

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I would like to make the following Ministerial Statement regarding the Public Service Commission (PSC) following the contribution by hon. Martha Karua, the Member for Gichugu. On 27th May, 2009, she singled out the PSC as a body that does not believe that, alongside other institutions, it needs reforms. She said that the PSC has continued to encourage corruption and nepotism in appointments and has refused to embrace reforms almost ten years since the reform mood came into this country.

POINTS OF ORDER

INTRODUCTION OF A MATTER RESOLVED BY THE HOUSE

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I rise on a point of order under Standing Order No.70. The Minister is an old Member of this House and he knows that all addresses in this House are made through the Speaker of this House. Therefore, the PSC has no *locus standi* to send either the Minister, by itself or messenger, to come and answer any contribution to debates in this House.

Mr. Speaker, Sir, if you look at the provisions under Standing Order No.75, you will find that they are very clear. The Standing Order says that if there is anything out of order in my contribution or that of any hon. Member, any Member within this House, including the Minister, or collectively, the Government, are supposed to rise on a point of order to make that correction at the time that I am making that contribution. In fact, that Standing Order is very clear because it says that immediately I stand on a point of order, the other Member is to sit down, so that if there is anything out of order, it is corrected on the spot. It is completely out of order for the Minister to come, ten days later, and purport to correct a debate in this House. What will happen to this Parliament? The floodgates will be open and every department of Government will send a Minister here after we have debated, to try and make corrections.

Mr. Speaker, Sir, Standing Order No.79 (2) says that it is completely out of order to introduce any argument on any matter on which the House has already taken a

decision. This debate was done during the Statutes Miscellaneous (Amendment) Bill and a decision of this House has been taken. Therefore, Mr. Otieno cannot purport to come and debate or make corrections on a debate on which the House has already taken a decision. If he bothered to look at the listing, the Statutes Miscellaneous (Amendment) Bill is now awaiting the Committee stage of this House.

Mr. Speaker, Sir, I invite you to rule him completely out of order and not to stifle debate. This Parliament is a different Parliament. We will not allow Ministers to try and stifle debates in this House. You need to protect the dignity and debates of this House. We will not accept the derogation of the responsibilities we have been given by the people who elected us to this House.

(Applause)

Mr. Speaker: Point made! Mr. Minister, do you have any reaction to that before I make my ruling?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I was not in the House at that time. I would not be surprised if the hon. Member did not check that Mr. Dalmas Otieno was absent before making the allegation that she did.

As to the matter of the point of order---

Ms. Karua: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Just allow him to proceed! What is it hon. Karua?

Ms. Karua: Mr. Speaker, Sir, is Mr. Otieno in order to suggest that I checked to see whether he was out in making my contribution, when he knows that he just neglects his parliamentary duties?

(Applause)

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, as to the point of order, I think it is in the interest of the House and the public in general that where an allegation that is unfair and really unfounded is made, and more so, by somebody who should have known better, but decided to do otherwise, it should be corrected in good time. I have been trying to make this correction from the following day after these allegations were made.

(Mr. Mungatana stood up in his place)

Mr. Speaker: Order, Mr. Mungatana! You have made your point. Persistence will not help! Let us just ensure that there is decorum and integrity. When you say "point of order" and I am looking at you, I have, no doubt, seen you. You have caught my eye, so you wait until permission is granted! Can you now proceed!

(Laughter)

Mr. Mungatana: Yes, Mr. Speaker, Sir! It is very wrong for someone to say that an allegation was made in this House by a person who should have known better and then nothing was done. He is imputing a very serious allegation against the Chair; that the

Chair was not attentive, that this House was not attentive; that the Chair was not in control of that debate and, therefore, a Minister is supposed to now come many days later to correct. We are not going to allow Members to impute improper motives on the Chair--

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Mr. Speaker: Order, Mr. Mungatana! You have already made those points!

Mr. Mungatana: Can I continue?

Mr. Speaker: No! Where you are going is now not permissible.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Given that there is collective responsibility on the part of all Government Ministers including Assistant Ministers, is it in order for the Minister to suggest that because he may have been absent from the House, there was nobody else who could have responded in the House to the so-called allegations rather than wait to come and take advantage of Ministerial Statements?

(Applause)

Mr. Speaker: Hon. Members, I am able to give directions on that matter. First, that Standing Order No.79 (2) does not apply in so far as this matter is concerned because the House did not make a resolution on the contribution by Ms. Karua *per se*. The House made a resolution on the Bill but not on the contributions *per se*. With respect to the attempt by the Minister to exonerate his officers as served in the Public Service Commission (PSC), I am afraid that, that will not be permitted because the Minister is presumed to be present in the House when debate proceeds, so that if there was anything that was out of order; anything that was misleading; anything that would be inaccurate, then the Minister had an opportunity to challenge that inaccuracy or disorder.

(Applause)

So then, Mr. Minister, in those circumstances, if you are challenging the accuracy which, in fact, you are moving towards, then you had an opportunity to do so when the contribution was being made by the hon. Member. So in those circumstances, apply the test of the Standing Orders to the point that you are raising, *ipso facto*, it is out of order! I am afraid you will not proceed but there are other ways that you can revisit that matter.

(Applause)

The Minister of State for Public Service (Mr. Otieno): Exactly, Mr. Speaker, Sir, I sure will, on this matter!

Mr. Speaker: Yes, you will be permitted to do so as long as you live within the Standing Orders!

Any other Ministerial Statements?

(All hon. Members remained seated)

There are none! Are there any requests!

FRACAS DURING MEETING OF MERU CENTRAL
COUNTY COUNCIL

Mr. Imanyara: Mr. Speaker, Sir, this morning, there was a very serious disturbance within the Chamber of the County Council of Central Meru at a time when a purported election was supposed to take place leading to certain injuries. I think the matter right now is in the hands of the police. I would like the Deputy Prime Minister and Minister for Local Government to issue a Ministerial Statement clarifying on whether the election period for local councils is now on.

Secondly, what is he planning to do regarding the administrative officer who exercised the duties of a Town Clerk without any qualifications in order to prevent an ugly situation from recurring in Meru and in many other local authorities in the country?

Mr. Speaker: Mr. Deputy Prime Minister and Minister for Local Government!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, indeed, Mr. Imanyara had also raised this matter with me and I wish to state as follows:-

At the moment, no election should be taking place within the local authorities. Elections, in accordance with Cap.265, should commence on 30th June up to 15th August, 2009. This is for either election of mayors or chairmen of committees. So, anybody who is purporting to conduct elections at this time is acting illegally and the clerks of all local authorities must be aware of this. A circular will be issued from the Ministry reminding them that the election dates shall be between 30th June and 15th August, 2009. That has to come out very clearly in accordance with the Act.

The second point is that I will take up this matter, both with the police and also with my officials in the Ministry so that any officer who is purporting to be breaching the law shall be dealt with accordingly.

DISAPPEARANCE OF QUESTIONS RE-DIRECTED
TO PRIME MINISTER'S OFFICE

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. If you recall a while ago, there were two Questions that I forwarded to the Office of the Prime Minister which were redirected and since then, they seem to have disappeared. There was a Question to the Ministry of Transport and the other one to the Ministry of State for Public Service.

Secondly, a while ago, on the issue concerning Government dealing with Kenol/Kobil, you ruled that the Minister for Energy should lay on the Table the court judgment but he has never done that.

Mr. Speaker: Anybody holding brief for the Ministers? Mr. Deputy Prime Minister and Minister for Local Government, but I see there is an Assistant Minister for Energy.

The Assistant Minister for Energy (Mr. M. Mahamud): Mr. Speaker, Sir, I undertake to lay the court order on the Table next week.

Mr. Speaker: When next week?

The Assistant Minister for Energy (Mr. M. Mahamud): Mr. Speaker, Sir, on Wednesday.

Mr. Speaker: Mr. C. Kilonzo, is that fine?

Mr. C. Kilonzo: Mr. Speaker, Sir, I will be away on Parliamentary duties. I would like it to be deferred to another week.

Mr. Speaker: The week after?

Mr. C. Kilonzo: Yes, Mr. Speaker, Sir.

Mr. Speaker: It is so ordered, Tuesday the week after! Minister of State for Public Service? Which is the other Question you were talking about?

Mr. C. Kilonzo: Mr. Speaker, Sir, the two Questions had been forwarded to the Office of the Prime Minister but I have no objection since he has declined to answer the Questions. I have no objections if they are forwarded to the Ministries.

Mr. Speaker: Which Ministries?

Mr. C. Kilonzo: Mr. Speaker, Sir, one of them is the Ministry of State for Public Service and the other is the Ministry of Transport.

Mr. Speaker: Mr. Minister of State of Public Service, will you prepare to answer that Question?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the answer is ready and can be---

Mr. Speaker: The week after next week?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I will be out of the country.

Mr. Speaker: Are you able to answer it tomorrow?

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I will do it tomorrow afternoon.

Mr. Speaker: Mr. C. Kilonzo, will you be there tomorrow?

Mr. C. Kilonzo: Yes, Mr. Speaker, Sir.

Mr. Speaker: Fair enough!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the answer is ready and I will deliver it tomorrow.

Mr. Speaker: It is so ordered!

INTIMIDATION OF HON. MEMBERS/WITNESSES OVER INVESTIGATIONS INTO KIRINYAGA MURDERS

Ms. Karua: Mr. Speaker, Sir, I rise to seek clarification from the Chair. On 27th May, 2009, I sought a Ministerial Statement from the Minister in charge of internal security. It was given on 28th May, 2009, regarding the security situation in Kirinyaga where 43 people had been murdered by vigilantes and, previously, 30 people had been massacred at Karatina, bringing the total number of people dead in Kirinyaga to 73 regarding that incident.

You will recall that you directed that the Departmental Committee on Administration and National Security investigates the matter. Today, the Committee led by Mr. Kapondi was at Kerugoya to investigate this matter. I did not go because it was not necessary for me to be there, the matters having arisen from Kerugoya/Kutus Constituency and Ndia Constituency. I have learnt that the District Commissioner, Kerugoya Central, Mr. Warfa, the police, together with a local politician, organized a demonstration against me by vigilantes which is the height of impunity. Therefore, I am seeking your directions on three issues. What hon. Members of this august House should

do when processes of Parliament are going on; investigations by a Committee and there is intimidation of either an hon. Member or witnesses.

Mr. Speaker, Sir, I want to personally say that I am not intimidated or moved about witnesses who could not dare come forward in this pandemonium that was created in Kerugoya Town today. I also want to seek direction. You will recall that the Minister of State for Provincial Administration and Internal Security, Prof. Saitoti, on my request gave assurances that security will be maintained in Kirinyaga. What should the House do when a Minister gives assurances that are not honoured because this incident creates tension and insecurity.

Thirdly, I seek directions on the rights of hon. Members like myself when we raise national issues in this august House, should we be subjected to intimidation by security agencies because this is organized by the District Commissioner (DC) who has turned into a politician together with the police because they feel that this issue is highlighting the inefficiency of the security administration? It is a serious matter and so, I seek your direction.

Mr. Speaker: Fair enough! Directions will be given on Thursday next week.

GAZETTEMMENT OF KACC ADVISORY BOARD OFFICERS

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Last week, I sought a Ministerial Statement from the Ministry of Justice, National Cohesion and Constitutional Affairs regarding the gazettement of officers of the Kenya Advisory Board to the Kenya Anti-Corruption Commission (KACC). Assurances were given that the Ministerial Statement would be issued, but the following day, the President proceeded to gazette names, leaving out one name.

I am seeking your directions on what we are supposed to do when the President is in contempt of the House, like in this incident where the House passed a resolution in accordance with the law which requires the President to gazette names within 14 days. He waited until the issue was raised in the House and then the following day, he gazetted them, leaving out one name. I am seeking your directions on whether the President is not in gross disorder himself and what the position regarding the conduct of the President when he breaches Standing Orders of the House is.

That matter relates to the constitutional exercise of power by the President and it is not a light matter, given that when this House passes resolutions or laws, the President or the hon. Member for Othaya is bound by those laws like everybody else and only enjoys immunity. So, I am seeking your clarification on what the House is supposed to do on circumstances where the President holds the house in contempt by failing to gazette names or acts in accordance with the law as ordered or directed by this House.

Mr. Speaker: Order, Mr. Imanyara! You cannot seek clarification from the Chair on that matter. You can only seek direction from the Chair.

Mr. Imanyara: Mr. Speaker, Sir, if you wish me to direct the Question to the Government, then I will seek a Ministerial Statement from either the Prime Minister---

Mr. Speaker: No! You seek directions from the Chair.

Mr. Imanyara: I stand guided. May I seek directions from the Chair on what we shall do in circumstances like those when the President is in contempt of the House.

Mr. Speaker: Directions shall be given on Thursday after Thursday next week. Mr. Chanzu! Although the Chair has no notice that you would be seeking a Ministerial Statement.

CAUSE OF KAPSABET PLANE CRASH

Mr. Chanzu: Mr. Speaker, Sir, last week, for the third or fourth time, I sought a Ministerial Statement on the circumstances surrounding the aircraft accident in Kapsabet. Last week, the Assistant Minister, Mr. Lesrima, issued a Ministerial Statement. I asked whether the aircraft was insured and you ruled that he makes available that information. So, that is what I am seeking.

Mr. Speaker: Fair enough! I direct that the Minister furnishes the House with that information on Tuesday next week because that was a clear order made by the Chair.

TRIAL OF SOMALI PIRATES IN KENYA

Mr. Baiya: On a point of order, Mr. Speaker, Sir. I also have an outstanding Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the issue of Somali Pirates. He promised to deliver it but it is now more than three weeks and they have not done so.

Mr. Speaker: I direct that the Ministerial Statement be availed on Tuesday next week because I am aware that it has been pending for quite sometime.

PERSONAL STATEMENT

IMPUTATION OF IMPROPER MOTIVE TO HON. MEMBERS

Mr. Ruteere: On a point of order, Mr. Speaker, Sir, it is in the public domain that there are hon. Members who it is said---

Mr. Speaker: Order, Mr. Ruteere! That point of order is pursuant to what Standing Order?

Mr. Ruteere: It is pursuant to Standing Order No. 76. I want to make a Personal Statement.

Mr. Speaker: You may proceed!

Mr. Ruteere: Mr. Speaker, Sir, it is in the public domain that there are hon. Members who have been construed not to be speaking in this House. They are mute. According to me, the mute are those who are deaf and I have not yet come across an hon. Member who is deaf.

Mr. Speaker, Sir, I am among those who are said not to speak, ask Questions, participate in debates in the House and contribute to Motions in the House. That kind of insinuation is very malicious and defamatory. I want to say that it touches on my personal character and it is something that cannot be understood. Since I came to this Parliament, I have moved Motions, including Motions of Adjournment. I have also asked numerous Questions. I have about two files with HANSARD reports that have come to my office for me to see if there are any corrections. So, I do not know why it was said that I do not

contribute in the House and when I come to the House, I sit at the back where I cannot be seen. I know I sit at this Front-Bench every time I am in this House.

Mr. Speaker, Sir, I evaluate on what to speak on and what not to speak on but I am always a very active Member of this House. So, whoever thought I am not and that I cannot speak, let them know that I can contribute and I will continue contributing and I am also very active in my constituency.

TABLING OF UNSIGNED DOCUMENTS
BY MR. LINTURI

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): On a point of order, Mr. Speaker, Sir. I also stand to seek direction from you. On 4th June, 2009 some documents were laid on the Table of the House by Mr. Linturi on the issue relating to the cemetery land being purchased by the Nairobi City Council. I had not had time to look at those documents but there was one piece of paper purporting to have a list of names of alleged beneficiaries. That document does not have any signature, date or anything to show its authenticity.

I just want to seek your clarification and direction over what is admissible under such circumstances. We should not, at any time, use the privilege of laying documents on the Table of the House to just present issues that have no basis or justification. I want to seek your guidance on this matter because it would be very wrong for a document that cannot be authenticated to be used as a basis either by any committee or organization.

COMMUNICATIONS FROM THE CHAIR

PROCUREMENT OF CEMETERY LAND BY
NAIROBI CITY COUNCIL

Mr. Speaker: Order, I have a number of Communications to make, beginning with communication with respect to the matter that has been raised by the hon. Deputy Prime Minister and Minister for Local Government as follows.

Hon. Members, I confirm that the Chair was made aware of the documents referred to by the Deputy Prime Minister and Minister for Local Government that were laid on Thursday, 4th June, 2009 by the hon. Mithika Linturi. Indeed, the hon. Deputy Prime Minister and Minister for Local Government called my office on the same issues. These papers were laid in the context of hon. Linturi's Question to the Deputy Prime Minister and Minister for Local Government on the procurement of cemetery land by the Nairobi City Council.

Hon. Members, the practice of this House which has been restated in various communications and rulings of the Chair is to the effect that whenever a Member seeks to lay a paper before the House, the paper be availed to the Chair to determine the authenticity of the paper. The paper shall not be deemed as having been laid in the House until after examination the Chair confirms its authenticity. In line with this practice, I have examined the bundle of papers laid by the hon. Linturi. From my examination, I have found that one of the papers titled: "Beneficiaries" does not meet the test of

admissibility. No indication is given as to the author of the document. The document bears no date and neither is the document signed by nor for its author.

Hon. Members, I, therefore, rule that this paper is inadmissible and order that it be expunged from the records of the House. The paper shall forthwith be returned to the hon. Member and shall not be considered part of the records of this House.

Regarding the other papers laid by the hon. Member, I have on examination found these papers to be admissible. These documents should, therefore, be deemed to have been properly laid before the House.

I thank you.

NAMING OF DEPUTY PRIME MINISTER
AND MINISTER FOR FINANCE UNDER
PROVISION OF STANDING ORDER NO.98

The Second Communication hon. Members, is with respect to a matter which was raised by the Member for Garsen, hon. Danson Mungatana.

Hon. Members, last Wednesday, 3rd June, 2009, the Member for Garsen invited the Chair to name the Deputy Prime Minister and Minister for Finance under the provisions of Standing Order No.98 on the account that he had failed to respond to a Ministerial Statement sought on financial regulations for foreign investors. The Member for Garsen claimed that the Minister had failed to issue the Statement as requested on three occasions.

Hon. Members, let me appraise the House on the details of the matter in question. The Statement was sought by the Member for Garsen on 14th May, 2009 and is related to exposure of members of the Kenyan public to risks by foreign companies that come to the country, advertise certain services, demand forward payment and then close and take-off with deposits, occasioning massive losses. The member wanted to know what protection is afforded to the public who fall prey under such circumstances.

The Deputy Prime Minister and Minister for Finance was not in the House at the time and the Minister for Foreign Affairs undertook to communicate the information and also pledged to have the statement issued on Thursday, 21st May, 2009.

Hon. Members, the matter was again raised on Thursday, 21st May, 2009, but the Minister was not in the House to provide the Statement. The Chair consequently directed that the statement be issued on Wednesday, 27th May, 2009. On that material day, the Assistant Minister for Finance, hon. Dr. Oburu was in the House and expressed his intention to deliver two statements, the first relating to the Capital Markets Authority and the second on financial regulations for foreign investors. However, too much time was spent on the first Statement, leaving no time for the second.

Hon. Members, it is, therefore, clear that the Minister should have ideally responded on the 21st May as pledged by the Minister for Foreign Affairs, whether or not the Minister was accordingly and timeously briefed on the request but certainly, you cannot fault him for failure to issue the statement on 27th May as it was the House that ran short of time for statements on that particular day.

The provisions of Standing Order No.98 (1) which I have been invited to invoke apply to instances of gross disorder. There is ample doubt going by the sequence of events captured herein above that the hon. Minister was aware of the requests and/or

demands of the House. Indeed, when he was made aware, he was, through the Assistant Minister, the hon. Dr. Oburu, prepared to give the Statement on the 27th of May, 2009.

Taking all the circumstances into account, therefore, and doing the best I can to fairly and justly exercise the discretion vested in me by Standing Order No.98, I decline to name the Deputy Prime Minister and Minister for Finance.

Finally, Hon. Members, I wish to put all Ministers on notice that the House is keeping track of requests for Statements by members and undertakings made in the House. I direct that the statement in question be made on Wednesday, the 17th June, 2009.

Thank you.

PROCEDURE OF CONDUCTING BUSINESS DURING PRIME MINISTER'S TIME

Hon. Members, the final communication is in respect with issues raised by Members with regard to the Prime Minister's Question Time.

As you will recall, the Chair issued a communication on 22nd April, 2009, guiding the House on procedure of dealing with questions directed to the Prime Minister pursuant to the provisions of Standing Order No.40, given that it was a new development emanating from the implementation of the new Standing Orders. The communication, by and large related to questions directed to the Prime Minister. As Members are aware, the Standing Order cited also makes provision for statements by the Prime Minister. For the benefit of members, Standing Order 40(2), states as follows:

“(2) During the Prime Minister's Time-

- (a) the Prime Minister may make a statement, or
- (b) questions may be put to the Prime Minister

relating to matters of Government policy or the general performance of the Government and Government agencies.”

Honorable Members will further recall that last Wednesday, 3rd June, 2009, there were no questions for which notice had been given for the Prime Minister who instead, on his own motion, decided to issue a Statement regarding an initiative within government, known as, “Prime Minister's Round Table Meetings”.

It was in the course of making the statement that several Members objected and argued that they will not be in a position to interrogate the Statement as they did not know in advance the subject matter of the Statement. The members were in essence proposing that they should be given notice of such statements to facilitate adequate preparation.

Hon. Members, as I noted in my earlier communication, Prime Minister's Time is a new innovation and, therefore, we have not developed precedents or practices, as it has just been introduced in our procedure. The House is, therefore, tasked with the responsibility of developing operational principles. The situation is further compounded by the fact that our political system is unique and, therefore, there are no parallels, especially in other more developed parliamentary jurisdictions.

Let me start by drawing your attention to the fact that the Prime Minister's Time is subject to Standing Order No. 41 (1) which states as follows:-

“Questions may be put to a Minister relating to public affairs with which the Minister is officially connected, to proceedings in the House or to any matter of administration for which the Minister is responsible”.

The functions of the Prime Minister are provided in the National Accord and Reconciliation Act of 2008. Section 4 (1) (a) of the Act, states as follows:-

“The Prime Minister shall have authority to co-ordinate and supervise the execution of the functions and affairs of the Government, including those of Ministries;”

That is the end of the quote.

The Questions and Statements sought from the Prime Minister must be restricted to the mandate of the Office as defined by the above Act. The Prime Minister is essentially dealing with issues that are cross-cutting over Ministries. This makes the subject of notice of Questions to the Prime Minister critical as information has to be collected and collated from several ministries and departments.

Hon. Members, on the question of notice of Statements to be made by the Prime Minister, I have not found any instances in other countries requiring notice to be given to Members before-hand, except as responses to Questions filed by Members. However, Members must take cognizance of the very peculiar circumstances in which we find ourselves and some of the procedures we are now experimenting on are, therefore, unprecedented. In my view, it would be useful for members to have an indication of the subject matter in advance so that they can prepare to effectively interrogate the Prime Minister.

(Applause)

I, therefore, direct that the general subject or theme should appear in the Green Paper in the Order Paper along the lines of Questions to his office, whenever the Prime Minister intends to issue a statement in the House.

I thank you.

Next Order!

MOTION

ADOPTION OF REPORTS OF ACP-EU JOINT PARLIAMENTARY ASSEMBLY MEETINGS

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

THAT, this House adopts the Reports of the 14th, 15th and 16th Sessions of the ACP Parliamentary Assembly and the 16th and 17th ACP-EU Joint Parliamentary Assembly (JPA) Meetings held in November 2008, Port Moresby, Papua New Guinea; February 2009, Brussels, Belgium and April 2009 in Prague, Czech Republic laid on the Table of the House on Wednesday, 3rd June, 2009.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, the Kenyan delegation to the 14th Session of the African, Caribbean and Pacific (ACP) Parliamentary Assembly and the 15th Session of the ACP-EU Joint Parliamentary Assembly (JPA) Meetings was represented by hon. Musikari Kombo and Prof. Kamar, as leader of delegation, and we had Mohamed Ali, a Clerk Assistant, representing our Secretariat.

Mr. Temporary Deputy Speaker, Sir, the ACP-EU, as it is known in this House, is composed of 77 Members of the European Parliament and 78 Members from the ACP group of states.

Mr. Temporary Deputy Speaker, Sir, I will start by making comments on the Report of the 15th Session that took place in Port Moresby, Papua New Guinea from 20th to 28th November, 2008.

Mr. Temporary Deputy Speaker, Sir, the ACP Parliamentary Group and the ACP-EU JPA works through three different committees; the Committee of Political Affairs, where Kenya sits in; the Standing Committee on Economy, Finance and Trade and the Committee on Social Affairs, Finance and Trade.

Mr. Temporary Deputy Speaker, Sir, during the meeting of November, 2008, the ACP-EU Standing Committee of Political Affairs deliberated on various issues. They received expert views on the challenges of democratic accommodation of ethnic, cultural and religious diversity in the ACP as well as the EU countries, matters which are very important to us as a country.

Mr. Temporary Deputy Speaker, Sir, the experts on the area of democratic accommodation of ethnic, cultural and religious diversity made presentations to the Committee, whose views were also exchanged at the Parliamentary Assembly. In the presentations for the Committee of Experts, it was noted that within the ACP States, such diversity as ethnic, religious and cultural diversity has brought in a lot of challenges such as political exclusion, laws that exclude others and skewed development. It was also noted that the EU countries, having gone through this much earlier than the ACP countries, were now able to institutionalize devolution, education and employment opportunities, specifically meant for minorities. Laws have been prepared to safeguard that. It was, therefore, discussed and agreed that there was need for a North-South interaction so that we can learn from one another as the ACP-EU Parliamentary Group and the countries that are involved. The same Committee exchanged views on the political situation in the ACP and EU countries. Specifically, we exchanged views on the situation in Fiji, Sudan, DRC, Mauritius and Zimbabwe.

Mr. Temporary Deputy Speaker, Sir, the Committee also debated on a report on the Resolution on the Protection of Civilians during peace keeping operations by the United Nations and regional organizations, an area that has faced a lot of challenges. A lot of issues have been raised by civilians who have been affected during those peace keeping operations. The resolutions were passed on this report and they underscore the need to develop specific rules of engagement and training for the peace keepers, involvement of the ACP-EU contact teams in such operations - that is the contact persons at the countries' levels - and the need to prioritize the protection of civilians during peace keeping missions. The Committee adopted the resolutions instructing its co-presidents to

forward the resolutions to the ACP-EU Council of Ministers, the African Union Commission and the Pan-African Parliament.

Mr. Temporary Deputy Speaker, Sir, the standing Committee on the Economic Development, Finance and Trade deliberated on a number of issues. Resolutions were passed on aid effectiveness. The definition of development aid was also given. This topic attracted a lot of debate because of the ineffectiveness of the aid that is received by the developing world. The resolutions of the same have been attached to this Report for hon. Members who would like to familiarise themselves on aid effectiveness and development aid.

There was an exchange of views on the Economic Partnership Agreements (EPAs) and their potential impact on the ACP-EU countries. I will be handling that in the Report for the 16th Meeting. Exchange of views on the monitoring of the development of the food crisis by the ACP National Parliament was also very attractive, bearing in mind that the food crisis affected most parts of Africa in the last few years. Kenya was affected more than ever before in the last two years. We had a very lively session, discussing how the food crisis issue could be dealt with. We also looked at the issue of diverting food sources for fuel. In the subsequent meeting, a number of resolutions were passed. I will touch on that later on.

Mr. Temporary Deputy Speaker, Sir, the Joint Committee on Social Affairs and the Environment discussed a number of issues. The two main issues that were discussed concerned the social and environmental consequences of climate change in the ACP countries, knowing that most of those countries are developing. These countries still require wood fuel as well as fuel from petroleum products while the developed world is supposed to be moving towards reducing pollution of the atmosphere. That also generated a very lively debate. I will be talking about climate change a little later.

One of the topics that was hotly debated was a report on the social consequences of child labour and the strategies to combat it. Child labour seems to be widespread. I know that the civil society and NGOs in Kenya have raised issues concerning child labour. In this discussion, our delegation realised that most countries are suffering from the disastrous use of children as labourers in various places, notwithstanding the fact that they have been used even in times of war.

I will now talk about the meeting in Brussels. In between the ACP-EU Joint Parliamentary Assembly (JPA) Meetings, we normally have a Parliamentary assembly for the ACP States. They prepare and exchange views on various issues. We held a meeting in Brussels, Belgium and exchanged a number of views, again, through the various committees. We were preparing ourselves for the next meeting that would take place in the Czech Republic.

The Standing Committee of Political Affairs in that meeting reviewed the expert views that had been received on the democratic accommodation of ethnic, cultural and religious diversity in the ACP-EU countries. We exchanged views on the political situation in various countries in the ACP-EU. A discussion also ensued on the International Criminal Court (ICC) and its procedures. This was a heated debate, especially on the specific case of the indictment of the President of Sudan, Mr. El Bashir and the danger such a procedure portends for sustainable peace in the region. The Kenyan delegation supported the AU stand that we give Sudan a chance to resolve the conflicts within the country because of the new peace initiatives that are already on the ground.

The Standing Committee on Economy, Finance and Trade deliberated on a number of issues again in preparation of the meeting that was coming up. The main issues were the EPAs, the impact of financial crisis on the ACP States as an emerging issue and the regional strategy papers. We were able to participate in a regional meeting with the East African Parliamentarians on the same.

The Committee on Social Affairs, Finance and Trade also deliberated on several topics. There was an exchange of views on the participation of the youth in social and cultural integration. The issue of the youth is widespread. It is not just a Kenyan issue. The attention that most States have given the youth has been very low. While exchanging these views, we realised that, like Kenya, most countries are grappling with how to deal with the issue of unemployment and accommodation of the youth both in the social and economic sectors.

Mr. Temporary Deputy Speaker, Sir, there was also an exchange of views on the Commission's follow-up on the resolution of the social implication of child labour and strategies for combating the same. Resolutions were drafted for the subsequent meeting. During the same meeting, resolutions were passed on the social and environmental implications of climate change.

I would like to mention at this stage that the issue of climate change is one that is very urgent. As we approach the review of the Kyoto Protocol in November, it is very important that this Parliament takes interest in the area of climate change. Most Parliaments are discussing the changes that they will introduce in the Kyoto Protocol. I urge our Departmental Committee on Lands and Natural Resources to take keen interest in this matter. We know that our Members of Parliament from the Pan African Parliament have been very active on the issue of climate change. They have had meetings here. As a delegation, we know that we will have an African session in West Africa very soon so that we can come up with proposals about what changes we would like to introduce when the Kyoto Protocol is reviewed.

Mr. Temporary Deputy Speaker, Sir, the last Report I am presenting today is the one for the 16th Session of the ACP Parliamentary Assembly and the 17th Session of the ACP-EU Joint Parliamentary Assembly and related meetings. The membership of the delegation was mentioned previously, except for the Clerk Assistant, Mr. Emegen. The tradition is the same. We received reports from various committees. I would like to highlight a few points from the various committees.

The Standing Committee on Political Affairs met before making a presentation before the Joint Assembly. They deliberated on the challenges of democratic accommodation on ethnic, cultural issues and diversity of development. The Joint Assembly passed the resolutions on the same. The resolutions are therein attached. It is important that our committees look at them for purposes of borrowing or using them as individual Members.

The Standing Committee on Economic Development and Finance, apart from the other issues that were brought from the previous meeting, had a lengthy discussion on the Report on the state of play of the EPAs which are agreements between the EU and the ACP countries.

There has been debate as to how these agreements were drafted. I also want to mention that, as a delegation, we also realised that there was a lot that was known to our

parent Ministry than it was to the delegation and even to Parliament. I want to invite this House to take interest in the matter.

Mr. Temporary Deputy Speaker, Sir, the standing Committee on Social Affairs and Environment discussed, finalised and presented the resolution on the social and environmental impact of climate change in the ACP countries. As I had mentioned earlier, it is very important that we put our act together when it comes to the issue of climate change.

This House must come up with a position. We want to ask the Committee to give us a Report that can be digested in this House because, as it is currently, discussions on climate change in this House are still very low. So many other Parliaments adhered towards finalising their Reports for the November meeting on the review of the Kyoto Protocol. So, as a delegation, we asked ourselves: "Who is going to take the views of Kenya, and how will they have been arrived at?"

Mr. Temporary Deputy Speaker, Sir, we are raising this issue because the oversight function of Parliament is very important. Hon. Members must take interest in some of these aspects, so that whatever position Kenya will take will be one that will have been articulated for the nation through Parliamentary, and not a stand from technocrats.

I would like to end at that and request that my colleague and Member of the Delegation, Mr. Kombo, seconds the Motion.

Mr. Kombo: Mr. Temporary Deputy Speaker, Sir, I beg to second the Motion that Prof. Kamar has moved, as it is on the Order Paper.

Kenya is a member of the ACP Group that was created many years ago to coordinate co-operation amongst its members and the European Union. Amongst the objectives of the group of the ACP are promotion of new, fairer and more equitable world order; promotion of solidarity amongst the ACP countries and promotion of regional integration.

Mr. Temporary Deputy Speaker, Sir, there are many issues that the ACP countries are interested in. The organs of the ACP-EU are Heads of Governments, Council of Ministers, Council of Ambassadors and the Joint Parliamentary Assembly, which Prof. Kamar and I do attend, and we thank the Kenyan Parliament for having given us the privilege to do so.

At the Joint Parliamentary Assembly, we concentrate mainly on the role of National Parliaments in various fields that affect the people they represent. In the recent few meetings, we have looked at the role of Parliament in so far as aid effectiveness from European countries, and particularly, under a programme called the "European Development Fund (EDF)".

The EDF is a major fund that the European countries use as a mechanism of passing on aid to ACP countries, and they are country programmes. However, our country programme on the EDF is never brought to Parliament for Parliament to be able to interrogate that programme or to even know what is happening. I would suggest that Parliament and its relevant Departmental Committees look at such programmes, because these are some of the agreements that our Government enters into without Parliament playing any role whatsoever.

Mr. Temporary Deputy Speaker, Sir, we also looked at the EPAS, which Prof. Kamar has mentioned, and on which I will dwell at length later on. The question of

climate change is important to the world today. In November, there is a major conference in Copenhagen on climate change. Parliamentarians in the ACP countries, working together with EU partners, are trying to say: “As we go to Copenhagen, what is the role of Parliamentarians around the world on the issue of climate change?”

As Prof. Kamar has rightly said, our Parliament, and particularly the Departmental Committee concerned, should take a critical look, at the situation of climate change, so that we can join hands together with those who are in the Pan African Parliament (PAP), in which the Chair is, we can work together and have one position, as Parliament, when that question comes up. There will be a conference in Yaoundé, on 25th June. It is basically an ACP meeting during which Members of the Committees concerned – once formed – and the PAP will team up and discuss issues relating to these areas.

Mr. Temporary Deputy Speaker, Sir, we also discussed, in the last few meetings, the political situations in various ACP countries such as Somalia, Mauritania, Zimbabwe and so on. I always find that when it comes to this situation, as a delegation, we are sometimes left in the situation because our own Government does not constantly inform Parliament what positions they hold on various issues relating to certain countries.

Especially, when Zimbabwe was being discussed, you would find yourself sitting back, not knowing which way to go because, within the Government, there were varying voices, with some saying “this is right, this is wrong”, and so on and so forth. So, for that purpose, it is, sometimes, important that the Government brings to Parliament into the act, so that when our delegations go out, we are able to debate meaningfully.

Mr. Temporary Deputy Speaker, Sir, I said that I will deal mainly with the EPAS. I am doing this specifically because I believe that EPAS are great instruments – instruments that provide the process between the ACP and EU, so that they can be able to come into arrangements on how to do business together. The EPAS are extremely important, because they did find the future relationship, especially in economic terms and trade, between ACP countries and EU countries.

Like I said of the EDF, Papers have been controversial. Some countries have initial fully, while others have only partially initial. Kenya has partially initialed but, again, that agreement was never brought to the House for debate. So, as Parliament, we have no idea why the Government did what it did. Most countries, especially the EACP countries are committed in implementing EPAS because it is a good programme. I think the condition should be that the EPAS really helps to deepen regional integration and also contributes to broad-based development within the ACP countries. It should provide preferential market access and improve competitiveness with the European Union.

Mr. Temporary Deputy Speaker, Sir, unfortunately as I said, less than half of the EACP countries have actually initialed the agreement because they realize they have problems. The main reason for rushed initialing was that, probably, there was a sword hanging on a number of countries. The main reason for initialing was to avert trade disruption after 31ST December, 2007. That was the deadline that was given and the agreements were actually initialed under pressure.

As a result, it has become very evident that there are serious imbalances in the agreements and some clauses now should either be re-drafted or completely eliminated. There have been promises within the European Union which now has a new Commissioner. She has promised that these clauses that cause imbalances will be looked

at. I think mere promises are not good enough. There should be a firm written commitment from the European side, so that we can ensure that what they are saying is true. Otherwise, we should negotiate first before we initial.

Some of the problems of the imbalances are that EPAS is supposed to look at what they call the World Trade Organisation (WTO) Rules Compatibility. It is very apparent that some of these compatibility clauses with the WTO, sometimes it depends on who is saying it is compatible or not compatible. What the developed countries would call compatible, the ACP countries may not think so.

One of the apparent imbalances in the provision that the parties should look at in respect of WTO dictation is the silent issue of the ACP countries rights in the WTO. The EPAS as drafted today wrote most rights under WTO. For example, if the interim EPAS had taken on board the levels of development the least developed countries would have been afforded the opportunity to open up their trade in fewer products than they are being forced to do under the EPAS. After all, the WTO at its meeting in Hong Kong, did agree to grant least developed countries duty free access without reciprocation.

Mr. Temporary Deputy Speaker, Sir, in our own region, the imbalances come out more glaringly, especially after the meeting in Kampala where the leaders of the East African Community, SADC and COMESA approved an expeditious establishment of a common free trade area with the ultimate goal of establishing a single customs union. The summit further did direct the three regional communities to co-ordinate and harmonise their position on EPAS. You will find that the East African countries and some of the SADC countries have initialed while others have not. So, until all these things have been harmonized, one would wish to see that our Government gets it very clear and right and also brings it to Parliament, so that we discuss and look the imbalances that we are referring to.

In terms of regional and economic integration, one would wish to see that EPAS ensures actual integration. In our own region, we have been split into the East African Community, ESA, COMESA and SADC. In the end, we are not working towards integration at all, but in fact, disintegrating. There are many issues within the EPAS and I think the Minister should bring a paper on EPAS in the House, so that we can debate fully on the pros and cons before we finally initial.

Mr. Temporary Deputy Speaker, Sir, I just want to conclude by saying that working within the ACP-EU umbrella, there are many issues that we can benefit from. I would like to see that Parliament takes seriously, the reports that we lay on the Table here, so that we can benefit more effectively within the ACP-EU. With those few remarks, I beg to second.

(Question proposed)

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I rise to support the adoption of this Report. The first reason that I would like to support it is that the Government and the country spend a lot of taxpayers' money to send Members of Parliament to meetings that are very important for our country and region. The deliberations held there must be adopted and recognized by this House.

The second reason for supporting this Motion is that listening to the Report that has been tabled here by the Leader of the Delegation it covered an issue that I have been

dealing with at the Pan African Parliament as the Chair of the Parliamentarians Initiative on Climate Change that was also discussed at this forum. I rise to use this opportunity also to elaborate why it is important for this issue of climate change to be taken seriously by this House, but more importantly, to be taken seriously by Africa as a continent.

Towards the end of this year, there will be a meeting in Copenhagen that will review the Kyoto Protocol. The Kyoto Protocol was signed by many countries, Kenya being one of them, that discussed the impact of climate change and the implications on the economies of countries, especially on the issue of food security and sustainability of development in countries. During this conference, major decisions will be made on the way that climates change and what accompanies climate change, especially the issue of food security and disasters. These are issues that will be discussed. It is imperative for us to note that we, as a country, have not taken the issue of climate change as seriously as we should.

The focal point for climate change in our country is the National Environmental Authority (NEMA). The contribution of NEMA to such an important meeting would obviously not be in line with what the countries are expecting of a country such as Kenya which has been in the lead on many issues. Kenya is really recognized and respected as a country. We are expected to be on the frontline. The negotiators and experts who are laying down the paper for Africa, those who are bringing the position for Africa to follow, are actually professors of Kenyan origin.

It is therefore, a shame that as a Government, we do not put the importance that is needed to be at the forefront and lead during negotiations.

Mr. Temporary Deputy Speaker, Sir, I am imploring this House to up pressure on the Government to quickly come up with a position of Kenya towards the Copenhagen meeting. It would be a shame for us to go to this meeting without a clear position for Kenya. Two of the issues that are going to be discussed there involve the issue of economic empowerment and poverty eradication in this country directly. I would like to add my full support for the adoption of this Report, especially because that issue is of importance and is urgent.

I beg to support.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion because it is extremely important that, as a nation, we need to recognise what is happening all over the world.

Mr. Temporary Deputy Speaker, Sir, I know everybody is very familiar with the words "global village". Therefore, it means, we do not live in isolation. Consequently, issues that our Members of Parliament have been engaged in continentally should be taken seriously. These are the things going to determine the direction the world will take.

I want to emphasize the issue of environment as pertains to the environmental changes that have taken place globally. In some parts of this country, this matter has not been taken seriously. This is particularly so when we look at the debate on Mau Forest and other water catchment areas in this country. The Aberdares, Mt. Kenya region and all other water catchment areas have been badly interfered with. Settlements have come up in these places and as a result, this country is facing serious environmental degradation and water shortage.

Mr. Temporary Deputy Speaker, Sir, this matter is going to have an impact on the future generations. This is not in the far future. In fact, it has caught up with our

generation. Charcoal burning is still a problem. It has been allowed in this country. There are countries in which the issue of charcoal burning has been taken as a capital offence. Those involved in cutting trees and settling in catchment areas are considered as capital offenders and their lives can be taken. I am not saying we do the same but we must move as a country, to ensure that issues of environmental degradation and climate change are put at centre stage. I think in this country we have just been talking. There is the case of Nairobi River, which is completely polluted. We have raw human and industrial waste flowing into the Indian Ocean, yet we know that it is a very important resource that God has given us.

Mr. Temporary Deputy Speaker, Sir, it is high time that these issues were brought to the centre stage and taken very seriously.

With those few remarks, I beg to support.

QUORUM

Mrs. Shebesh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Before you give the opportunity for the mover to respond, I would want to bring to your attention the fact that we do not have a quorum.

I believe that this is such a sensitive and important issue. I do not, therefore, think it would be fair to continue with this debate without the quorum.

The Temporary Deputy Speaker (Mr. Imanyara): Indeed, we do not have a quorum! Ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! There being no quorum, the House is, therefore, adjourned until tomorrow, Wednesday, 10th June, 2009 at 9.00 a.m.

The House rose at 5.50 p.m.