

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 10th September, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Sessional Paper No.2 of 2009 on National Policy on Older Persons and Aging.

*[By the Assistant Minister for Gender, Children
and Social Development (Mr. Keya)]*

NOTICE OF MOTION

ADOPTION OF SESSIONAL PAPER ON NATIONAL
POLICY ON OLDER PERSONS AND AGING

The Assistant Minister for Gender, Children and Social Development (Mr. Keya): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts Sessional Paper No.2 of 2009 on the National Policy on Older Persons and Aging, laid on the table of the House on 10th September, 2009.

QUESTIONS BY PRIVATE NOTICE

Deaths of Convicts/Remandees at Kodiaga GK Prison

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Is the Vice-President aware that in the recent past there have been deaths of 18 convicts/remandees at Kodiaga GK Prison in Kisumu caused directly by lack of sufficient food, drugs, overcrowding, unhygienic conditions and poor water and sanitation?

(b) What action is he taking to punish officers who are responsible for this state of affairs?

(c) What action is he also taking to ensure that all prisons in the country are not death traps?

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

(a) I am not aware that there have been deaths of 18 convicts/remandees at Kodiaga GK Prison in Kisumu in the past seven days. This Question was actually asked severally so even the time dimensions have been changing.

However, I am aware that there have been 10 deaths in the past two months. There is sufficient food and drugs. Water and sanitation are at acceptable levels and subject to frequent testing by prison authorities and the District Public Health Office (DPHO) in Kisumu.

I admit that certain sections of the prison do accommodate an excess number of inmates above the recommended figure, but the situation is not critical.

(b) For prisoners who die while undergoing treatment in hospital, post mortem results will guide us to the cause of death. Other deaths in custody are subjected to both inquest by the police as well as post mortem. All the reported cases died in hospital, in this case. The results will guide us to any liability where pre-existing medical conditions are not the cause of death. As final results are awaited, no action is contemplated against the officer in charge or staff of Kodiaga Prison.

(c) I wish to assure the house that inmates in all prisons are accorded the same level of treatment obtainable in our public health institutions. The prison service works closely with the Ministry responsible for health and the Kenya Medical Supplies Agency (KEMSA) to ensure sufficient supply of medicine including anti-retrovirals.

Whereas the prisons have several seconded Ministry of Health staff, efforts are being made to increase these staff as well as to increase prisons medical staff through recruitment and training.

Medical camps with partners are also routinely held. The department has increased the scale and range of feeding, clothing and supplies for all prisoners to ensure that they enjoy provision of their basic human rights. It is a matter that we have been stressing, including last week when I was in Shimo La Tewa Prison.

Staff are undergoing continuous training and measures are being undertaken with stakeholders to reduce congestion and ensure adequate provisions for inmates.

Mr. Olago: Mr. Speaker, Sir, you will recall that two weeks ago an attempt was made to answer this Question by the Assistant Minister, Mrs. Kones. However, the Chair found the answer she gave unsatisfactory. Now, this is exactly the same answer the Vice-President and Minister for Home Affairs has read. It was found unsatisfactory because she admitted that the prison was holding above its capacity. She was asked to tell the House how many inmates it should hold. How many is it holding now? She was not able to answer those questions last time. The Vice-President has read the same answer.

Mr. Speaker: I am sure the hon. Vice-President and Minister for Home Affairs is equal to the task. He will be able to deal with any supplementary questions you have. So, just proceed and interrogate the answer.

Mr. Olago: Mr. Speaker, Sir, under those circumstances, I would wish to know the following:-

Originally, the prison was designed to hold how many inmates and how many is it holding now? What is their source of water? How adequate is it? How clean is the water?

Mr. Speaker: Order, Mr. Olago. I think you can only ask one supplementary question at a time. So we will take the first one which is: How many inmates was it designed to hold and how many is it holding now?

Mr. Musyoka: Mr. Speaker, Sir, I am so happy that you are trying to tame my learned friend. I think my Assistant Minister did her best. Due to the inadequacy of the information available at the time, she was able to report back that this matter has been referred yet again to this House.

The recommended capacity for Kodiaga Prison in Kisumu is actually 800. Unfortunately, currently this institution is holding 2,200 inmates.

Ms. Karua: Mr. Speaker, Sir, inhuman treatment of prisoners is a matter of concern to Kenyans. I have heard the Vice-President and Minister for Home Affairs say that they deal with any case of ill treatment of prisoners. Could he tell the House what action he took in the incident that occurred at Kamiti Prison early this year where 300 prisoners were paraded naked, beaten and was captured on amateur video? Have the police investigated or what action has been taken? We want to be sure that the Government is upholding human rights of prisoners and remandees.

Mr. Musyoka: Mr. Speaker, Sir, although I did refer to the issue of human rights, I am tempted to say that, again, my learned friend has asked a completely different question. However, she also knows that she raised this matter directly with me when it happened. I was in touch with the Vice-Chairman of the Kenya Human Rights Commission (KHRC), Mr. Omar, who actually brought to me what he thought was a video recording of what happened in Kamiti. Unfortunately when we played it, it was blank.

That notwithstanding, we are on top of things in Kamiti and we are trying to make Kamiti a very good institution, if indeed, one can think in terms of it being very good because it is still a prison. But we are seriously upholding the basic human rights of all the inmates. The other day, the Member for Chapalungu was wondering what has happened lately to some of the social on-goings there. For instance, just the other day I discovered that at Shimo la Tewa Prison, the suspected pirates are entitled to so many hours per day of sunlight. That they should be taken out there to enjoy that environment because you cannot keep a human being indoors 24 hours for seven days a week and 365 and a quarter days in a year. So these issues are receiving some very serious attention including in Kamiti.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. We appreciate the stories about the pirates, some light and everything. However, is the Vice-President and Minister for Home Affairs in order to fail to answer the specific question? What action has he taken on Kamiti, given the reports that were in the media?

Mr. Musyoka: Mr. Speaker, Sir, these learned friends of mine have a problem. I said that the purported video recording was blank. I know the Member for Gichugu was very furious, and rightly so, about what happened in Kamiti. All that notwithstanding, I was equally furious. We have been investigating that matter. We were, however, given a blank video recording.

Eng. Gumbo: On a point of order, Mr. Speaker, Sir. The question is in the public domain: Is the Vice-President and Minister for Home Affairs in order to avoid to answer the question as asked?

Mr. Speaker: Order, Eng. Gumbo! What has he avoided to answer in your opinion?

Eng. Gumbo: Mr. Speaker, Sir, the question put to the hon. Vice-President and Minister for Home Affairs is what action has been taken.

Mr. Speaker: What action has he taken over what?

Eng. Gumbo: Mr. Speaker, Sir, on matters pertaining to Kamiti Prison which are in the public domain.

Mr. Speaker: Order! Eng. Gumbo, you have not done very well!

(Laughter)

Ms. Karua: Mr. Speaker, Sir, with respect, I think the Vice-President and Minister for Home Affairs is avoiding to answer this Question. Action does not mean him, as a Minister, getting satisfied with the tapes. One would expect he would say the police are investigating the matter. Internally also, that disciplinary action is being taken. Three hundred men paraded naked is a violation of human rights. Being kicked around by warders--- We expect him to tell us that he found out who was on duty and what action he took.

Is he in order to refuse to answer the question?

Mr. Speaker: Order, Ms. Karua! Now you have got to where you should have been all along, and even your colleagues.

Your Excellency the Vice-President and Minister for Home Affairs, there is a claim that 300 prisoners were paraded naked and punished, including being clobbered. What investigations have you carried out and where are you on the case?

Mr. Musyoka: Mr. Speaker, Sir, may I undertake to get the latest on that matter and get back to this House? I want to get a thorough report on that matter to the satisfaction of the Member for Gichugu and of course my learned junior friend from Garsen.

Mr. Speaker: That is a very reasonable position. So, will you be ready by Tuesday?

Mr. Musyoka: Mr. Speaker, Sir, I think I will be out of the country and I want to deal with the matter myself. I do not think there is any urgency in the matter. I think it is important to get correct information. I did allude to the fact that we were given an empty tape, so it could be that the issue is not as dramatic as we were all made to believe. But be that as it may, I have given my undertaking; as soon as I am able to, I will be in a position to deal with that specific request by Ms. Karua, assuming we will still be sitting.

Mr. Speaker: Fair enough! Anyone else still interested in the matter?

Mr. Shakeel: Mr. Speaker, Sir, the Vice-President and Minister for Home Affairs said that the 18 convicts all passed away in hospital---

Mr. Chairman, Sir---

(Laughter)

Mr. Speaker: Order, Mr. Shakeel! You have asked your question. Allow the Vice-President and Minister for Home Affairs to answer.

Mr. Shakeel: Mr. Speaker, Sir, I want to explain why I am asking that question.

Mr. Speaker: No! Order, Mr. Shakeel! As I have directed previously on many occasions, when you ask a question you do not proceed to explain why you have asked the question.

Mr. Musyoka, you may respond!

Mr. Musyoka: Mr. Speaker, Sir, on a light note, my good friend Mr. Shakeel knows that you serve as the Chair of the House Business Committee (HBC) but you are sitting here as Mr. Speaker.

I want to give indications. It is important that we note that it is ten people who died and not 18 people as suggested by Mr. Olago. Life is life and I take a very serious view of any life that is lost in prison. Looking at the postmortem results, I can see that many of them died of a disease called *Gastroenteritis*. We are trying to dig deep and find out what is in Kodiaga, including a possible visit. I want to ask my learned friend, Mr. Olago, to visit Kodiaga Prison with me when the House is on recess so that we can look at the serious issues including what he said.

I do not think the solution is to fire an innocent officer but we need to look at the water levels. He asked the source of the water, which is a river. We want to see whether that water is treated sufficiently to be given to the inmates. I know they do a lot of filtration of the water. We are very sorry that we lost ten inmates, however, others died of natural courses.

Mr. C. Kilonzo: Thank you, Mr. Speaker, Sir. We are all looking forward to the reforms in the Prisons Service. I am due to be a beneficiary by having a prison in my constituency that was promised by His Excellency the Vice-President and Minister for Home Affairs. When people saw how 300 prisoners at Kamiti were beaten, they started having second thoughts about the prisons. What I heard the Vice-President and Minister for Home Affairs say was that he was given a blank video cassette. Is it possible that the Department is seeing no evil? How could he have been given a blank cassette when everyone else saw what happened?

Mr. Musyoka: Mr. Speaker, Sir, it is very true that we are very serious about reforms, not just in the Prisons Department but, as I keep on saying, this is reform time in this country. We must all be in the frame of reforms. Yes, indeed, we are hoping to put up a prison in Yatta. That does not mean that his constituents will end up going to jail. Let us pray that they do not get there. There is something about prisons that people do not like. If you promise people a prison facility, they think that you are a devil or something like that. If that is unparliamentarily, I want to quickly retract the remark. However, on a serious note, I have just said that I will be addressing this matter. I am sure that I will do it to the satisfaction, not just of my learned friends, but of the hon. Member sitting next to them, Mr. C. Kilonzo. It is important that we know what happened.

As I speak to you, I must say that I did not have an update position on it. However, on the other hand, the Kenya Human Rights Commission (KHRC), through a good friend of mine called Mr. Omar, brought it to me but it was blank. I wish it had contained some of those things. I know that others could have recorded the same from other facilities, but the one I was given by the KHRC was blank. I do not blame them because they could have sincerely believed that it had substance. Be that as it may, I promise to come back to this House.

Mr. Olago: Mr. Speaker, Sir, I wish to take the hon. Vice-President and Minister for Home Affairs very seriously on the issue of inviting me to visit the prison with him. I hope that we will do this and it was not just a public relations exercise. However, substantively, the core business of prisons in the Republic is rehabilitation of offenders, and second, keeping those awaiting trial in safe custody. Is the Minister satisfied that despite the good work the officer in charge of Kodiaga GK Prison is doing, with the little

he gets from the Government, that the core business of the prison is being met at Kodiaga Prison?

Mr. Musyoka: Mr. Speaker, Sir, I am happy that my learned friend feels that we should visit that prison. Indeed, when we will be on a recess, I will want to visit the prison with him. As he rightly pointed out, our core business is rehabilitation of offenders, always taking into account their basic human rights. We do not want to rehabilitate them by giving them corporal punishment everyday. There are ways that are set and that is what we want to do.

We have also realized that it is also their basic right to be given sufficient rations, some food; that is very important. When I appeared before the Departmental Committee on Administration and National Security I highlighted the fact that we have run short of the budget for giving food. In fact, the pending bills are in excess of Kshs800 million. However, we are doing the best we can. We will make do with the resources at our disposal and I am sure that the officer in charge of Kodiaga, with his colleagues, are doing the best they can within what we have budgeted for them. However, in terms of extra-curriculum activities and other things, these are things that we will see when I and Mr. Olago visit the prison.

DEMARCATION OF KIANG'OMBE SETTLEMENT SCHEME

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

(a) Does Kiang'ombe Settlement Scheme exist in the map of Kenya under Physical Planning Act, Cap 286 of the laws of Kenya, and if so, who is responsible for demarcating and allocating settlers in the scheme?

(b) Is he aware that the scheme has never been fully surveyed since 1989 and the allottees assigned their rightful positions, despite having been issued with allotment letters in 2003?

(c) What steps is he taking to ensure that the demarcation is completed and residents are issued with valid title deeds to enable them to develop their plots and ward off potential illegal encroachment?

The Assistant Minister for Lands (Mr. Bifwoli): Mr. Speaker, Sir, I seek the indulgence of the Chair. This Question was brought to me today. Therefore, we do not have a ready answer.

Mr. Speaker: Fair enough! Member for Juja?

Mr. Thuo: Mr. Speaker, Sir, I have no problem. I am giving them a bit of time to prepare. Therefore, Tuesday will be fine with me.

Mr. Speaker: Fair enough! Question ordered to be deferred to Tuesday next week.

(Question deferred)

DELAYED DISPATCH OF MEDICAL EQUIPMENT IMPORTED IN 2006

Dr. Khalwale: Mr. Speaker, Sir, I wish to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware that medical equipment (sutures) worth over Kshs40,000,000 imported in 2006 by Messrs Dol International Limited for the Kenya Government has not been dispatched to hospitals and the same risk expiry?

(b) What measures is he taking to forestall this eventuality and who will he held accountable?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I wish to reply.

(a) I am aware that sutures worth Kshs40,300,000 imported in the year 2006 by Messrs Dol International Limited for the then Ministry of Health were not received at the Kenya Medical Suppliers Agency (KEMSA), and, therefore, could not have been dispatched to hospitals. I am not aware that they are at risk of expiring because they are not in the custody of the Ministry.

(b) The Ministry is not in a position to take measures to forestall the expiry of the sutures because they are not in our custody. The Kenya Anti Corruption Commission (KACC) is seeking prosecution of the supplier and officers of the Ministry for the manipulation of the tendering process. Responsibility for expiry, therefore, will be borne by either the Government or the supplier after the determination of the legal tussle initiated by the KACC.

Dr. Khalwale: Thank you, Mr. Speaker, Sir. The hospital material I am talking about is used for purposes of operating on patients. I have carried, for purposes of helping the Minister, a copy of the said sutures that belong to the Government of Kenya, Ministry of Health. They were manufactured specifically for the Government in 2006 and they are marked to expire at the end of next year. The import of this is that by denying delivery of these sutures, you have occasioned an acute shortage to hospitals, and this automatically leads to patients dying when they are denied emergency surgery. I wish to lay on the Table a copy of this, so that the Minister can ascertain that they are his property and that they will expire at the end of next year.

(Dr. Khalwale laid a sample of the sutures on the Table)

After laying that sample on the Table, my question is: In view of the fact that the Minister now knows that the sutures are there and that they belong to the Government and to his Ministry, could he order that they be supplied to hospitals? Perusing through all communications between the Ministry, the KACC, the Attorney-General's Office and everybody, I do not see why he cannot order that the sutures be supplied to hospitals.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am very grateful to the hon. Member for bringing this matter to the attention of the House, and for seeking a solution to it. This is a matter which I am well seized of, and the statement made by the hon. Member, that there has been correspondence between the Ministry, the Attorney-General's Chambers and the KACC is correct.

The fact that he, as a doctor has examined the sutures and found them to be valid until the end of next year, I cannot contest because I do not think hon. Khalwale would bring that sample to the House without doing due diligence.

Having said that, I want to make the hon. Member aware of certain facts that have restrained the Ministry from receiving the sutures.

First, there was a tender, indeed, that Kenya Medical Supplies Agency then floated which was won by Doll International. After Doll International won the tender and was, indeed, in the process of supplying the sutures to the Ministry and import them, the Kenya Anti Corruption Commission (KACC) went into top gear to find out whether there was impropriety in the tendering process and whether Doll International gained the tender unfairly.

In the opinion of the KACC, to make a long story so short, it deemed that Doll International did win the tender unfairly and, therefore, instructed the Ministry not to receive the sutures until the case was properly prosecuted. The Attorney-General's office, however, wrote to the Ministry with a copy to the KACC that since the Ministry had entered into a contract with Doll International and Doll International had gone ahead and procured the sutures, not receiving the sutures by the Ministry, would be tantamount to paying compensation to Doll International, should Doll International go to court and win the case. So, the Attorney-General chambers advised that the sutures should be received so that Doll International does not suffer loss or in the end if the sutures expired and Doll International suffered the loss, it is the Ministry or the Government that would bear the penalty. The KACC, however, was of the contrary opinion that so long as the case was in court, the Ministry could only take a step of receiving the sutures once the case was determined in court. We, therefore, as a Ministry are caught between the devil and a hard place. We need the sutures, but we cannot receive them.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that the blame goes to the KACC while there is a letter here which I will table, it clearly states that: "Be advised that the decision whether or not to accept your deliveries does not lie with the Director of KACC, but is a matter of contractual obligation with your client." Is the Minister in order?

(Mr. C. Kilonzo laid a document on the Table)

Prof. Anyang'-Nyong'o: I said exactly that, I do not think the Member of Parliament is contradicting what I said. I said that the advice was that we had a contractual obligation with Doll International. I said if we did not receive the sutures and they expired we were likely to bear the penalty. However, the KACC in a letter to the Ministry and the Attorney-General, and I would table the letter and all the documents concerned here, said that we must not receive the sutures until the case was determined in court. That is why our hands are tied. On one hand, there is a Government agency called KACC which has determined that----

Mr. C. Kilonzo: Mr. Speaker, Sir, is the Minister again in order to mislead the House? He wants to give the impression that it is the KACC that is running his Ministry. I have another letter here which is actually advising him on how to do his job. I want to read that particular paragraph. It says:

"Please note, it is not within the Commission's limit to authorise or clear any payments or receipt of goods for use by the Ministry."

Is he in order to put the blame where it does not lie?

(Mr. C. Kilonzo laid the document on the Table)

Mr. Speaker: Minister, try and deal with this matter exhaustively.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, if the hon. Member wanted me to read all the letters from the KACC, we may sit here until the cows come home. I could read them, but I was making a summary of those letters. My summary is as the following. I could read a paragraph from the same KACC, in a letter addressed to the then Permanent Secretary, Dr. Hezron Nyangito, which says---

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

Mr. Speaker: The Minister is responding to a point of order. Minister, proceed.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, it says:-

“We also hasten to add that the investigation on tenders under the subject inquiry entails some international aspects that consumed a lot of time thus slowing down our pace towards the conclusion of this investigation. Nonetheless, we are in the process of compiling a report with a recommendation for the Attorney-General's direction as mandated under the law. It would be premature to take a decision on matters of such paramount importance before a report based on concluded investigation has been presented to the Attorney-General for his consideration. In the intervening period, any payment would compromise all the efforts that have been made to save the Ministry of Health the impending loss and to stem the appalling manipulation of procurement procedures being perpetuated to the prejudice of the Government.”

Mr. Linturi: On a point of order, Mr. Speaker, Sir. The only institution that I believe is charged with the responsibility of determining whether procurement rules are complied with or not, is the Public Procurement Complaints and Review Appeals Board. It is this Board that is supposed to look at whether the tender was awarded competitively and openly or not. In this case, because there is that potential loss to the taxpayer in terms of contractual obligation by the Ministry of Health towards this particular tender, could the Minister consider accepting these goods without prejudice, so that the patients of this country can get this required equipment?

Mr. Speaker: Order, I am afraid, I have listened to you very intently and that does not amount to a point of order. It is a matter of argument. You have presented an argument that you want to the Minister to consider and, indeed, you have concluded by asking him: If he could “consider.” Nothing out of order, although it may be a very genuine concern. You have not put it properly.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Under the Public Procurement and Disposal Act, the only institution that deals with disputes of this nature is the Tender and Procurement Appeals Tribunal (TPAT). Is it in order for the hon. Minister to keep on wandering between the Office of the Attorney-General and the KACC. instead of going to where he should?

Prof. Anyang'- Nyong'o: Yes, Mr. Speaker, Sir, I agree with the hon. Member. I will give information on the efforts we made through the Public Procurement Oversight Authority (PPOA) to settle this matter. The PPOA---

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

Prof. Anyang'-Nyong'o: I am coming to your point. We cannot have too many points of order! You have to be orderly. I have to think straight!

Mr . Speaker: Order! The Minister has hardly said anything. He has only spoken for ten seconds.

Mr. Olago: Mr. Speaker, Sir---

Mr. Speaker: Order, Mr. Olago! Proceed, Minister!

(Prof. Anyang'-Nyong'o threw his hand into the air)

Order, Minister! Proceed and please address the Chair.

Prof. Anyang'-Nyong'o: *Pole*, Mr. Speaker. In order to go to the Tender and Procurement Appeals Board (TPAB) as the hon. Members says, we needed to get information from the PPOA. When we sought the advice of the PPOA, we were told that we were in order to receive all the goods and pay on the basis once the local purchase order was issued because this was a binding relationship. However, in the same vein, the PPOA became rather non-committal, noting that the authority to pay rested entirely with our Accounting Officer. This compelled the Accounting Officer to seek disengagement from the Kenya Anti-Corruption Commission (KACC).

An hon. Member: When?

Prof. Anyang'-Nyong'o: I am giving you the story because I was not there!

Mr. Speaker: Order, Prof. Anyang'-Nyong'o! Address the Chair! Could you relax? The Standing Orders protect you. The Standing Orders provide that you only address the Chair!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, by the way I am on their side although they do not realise this.

(Applause)

I sympathise with their concern but I am exercising an office which is not mine. The office is not based in Rata but in Nairobi.

Mr. Speaker, Sir, the latest communication from the Attorney-General on the matter – and this is what has made it difficult for us to go to the Appeals Board – tells us that the KACC has gone to court and we cannot do anything until the courts settle the issue. The courts are independent. If somebody can bring to me some magic on how to deal with the Appeals Board and the courts at the same time, I am prepared to do so.

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

Mr. Speaker: Order, Dr. Khalwale! Mr. Minister, have you concluded your response?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I rest my case there.

Mr. Speaker: Ask the last question Dr. Khalwale!

Dr. Khalwale: Mr. Speaker, Sir, I will combine my questions very quickly.

Mr. Speaker, Sir, Prof. Anyang'-Nyong'o has given us the impression that he is completely unable to run the Ministry. Instead of running the Ministry, he runs to the KACC which tells him – and the letter has been tabled – that they have no objection in him receiving the sutures. As far as this House is concerned, we are not interested in the legalese of whether the tendering process was fair or not. However, we want the sutures to be received, the patients who need them to use them and these people can decide which way to go. This is because if he receives the sutures and finds that the man stole, he should not pay not pay him. On the other hand, if the Minister receives the sutures and this man did not steal, he will still pay him. There is no way the Government will run away. As the Public Accounts Committee (PAC), we do not want to preside over an audit

query where the Government will be paying after it has been sued for breach of contract for sutures which would have expired.

Mr. Speaker, Sir, the Attorney-General---

Mr. Speaker: Ask the last question Dr. Khalwale!

Dr. Khalwale: Mr. Speaker, Sir, the Attorney-General wrote a letter to Prof. Anyang'-Nyong'o on 27th April, 2007 and told him to pay. The Minister overlooked the letter by the Attorney-General and sought the opinion of the Solicitor-General. So, this is clear---

Mr. Speaker: Dr. Khalwale, table that letter and ask your last question!

(Dr. Khalwale laid the document on the Table)

Dr. Khalwale: Mr. Speaker, Sir, when will the Minister receive the goods since the Principal Legal Government Advisor who is the Attorney-General, has told him to receive them? The KACC has also told the Minister that they have no objection in him receiving the sutures. When will he receive those items and pay?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, unless there are two KACCs in the country, I have not seen the letter from the KACC instructing the Ministry to pay. There is nothing like that.

An hon. Member: To receive!

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I have a letter here which I read to the House which says the opposite. That is why I am telling the hon. Member that if we read letters from the KACC, sometimes it depends on who writes them. The letters could be from Ms. Fatuma Sichale or Justice Ringera.

(Laughter)

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

Mr. Speaker: Order, Mr. Linturi! The Minister is responding to a point of order.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I have done my best to make sure that we receive those sutures, because we need them. However, when there is confusion as to who is corrupt and who is not, I will not be the donkey which bears that burden. So, until the Attorney-General, the Solicitor-General, Ms. Sichale, Justice Ringera and others get their act correct, Kenyans will suffer.

Mr. Speaker: Order! That Question is over. If hon. Members wish to revisit it, there are ways of doing so.

Let us move on to Question by the hon. Member for Gichugu!

DISAPPEARANCE OF MS. ASSUNTA
WANJIKU GICHUKI

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

What is the Government doing about the disappearance of Ms. Assunta Wanjiku Gichuki of Kibingo in Kerugoya Kutus Constituency who was taken away from her house by vigilantes on 11th June, 2009?

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

On 11th June, 2009, Mr. David Wachira reported to Kerugoya Police Station that his sister-in-law, Assunta Wanjiku Gichuki, aged 50 years had gone missing. The report was booked in the Occurrence Book (OB) No.19/11/6/09. Later, a signal of missing person was circulated to all police stations in Kenya vide OB.No.17/7/7/09. Preliminary investigations reveal that the said Assunta Wanjiku Gichuki was picked from her residence in Kibingo Village by persons whose identities are yet to be established and then taken to an undisclosed location. The lady has not been seen since.

Following her disappearance, a police Case File No.221/270/09 was opened and is pending under investigations.

Ms. Karua: Mr. Speaker, Sir, I have listened to the Assistant Minister very carefully claiming that this lady disappeared under the hands of unknown persons. On 16th June, after the lady had disappeared on 11th, a letter was written by the brother-in-law, Mr. Dominic Mutiro, to the Minister in charge of Internal Security, Prof. George Saitoti, Mr. Francis Kimemia the Permanent Secretary, Maj-Gen. Hussein Ali who was the then Commissioner of Police and the Criminal Investigations Department (CID) Director. I will table that letter which is duly signed.

On the same date, a letter was written to the President on the issue, indicating that it is known vigilantes who abducted this lady. Attached to the letter is a document bearing the registration numbers of the vehicles that collected her. These are KAE 993 P, KAP 023 P and KAB 535 B.

Mr. Speaker, Sir, I will also table an EMS acceptance of delivery indicating that these letters were received at the Office of the President on 27th June, 2009.

(Ms. Karua laid the documents on the Table)

Mr. Speaker, Sir, is it in order for the Assistant Minister to claim that the lady disappeared in the hands of unknown persons, when there was an indication that it was vigilantes and there are registration numbers of the vehicles that picked her? This information has been with the Office of the President and the Ministry since June this year.

Mr. Lesrima: Mr. Speaker, Sir, I do not have that information. So, I require time to---

Mr. Speaker: The documents have been tabled!

Mr. Lesrima: Mr. Speaker, Sir, I require time to look at the documents she has tabled.

Mr. Speaker: How much time do you require? Could you be ready on Tuesday?

Mr. Lesrima: Yes, Mr. Speaker, Sir.

Mr. Speaker: The Question is then deferred to Tuesday.

(Question deferred)

Ms. Karua: Mr. Speaker, Sir, I do not mind that, but it is also important that the Assistant Minister notes that his answer says that the signal for the missing person was circulated on 17th July while this lady disappeared on 11th June and the matter reported to

the police on the same day. The House would like to know why the signal for the missing person went out a whole month later and what the police know about the disappearance of this person.

Mr. Speaker: Fair enough. Member for Isiolo South!

BANDITRY ALONG ISILOLO-MODOGASHE ROAD

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

(a) How many incidents have been reported on Isiolo-Modogashe Road between June and September 2009, following security breach caused by bandits?

(b) What action has the Government taken to deal with this menace?

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

The following are the incidents which have been reported along the Isiolo-Modogashe Road between June and September, 2009;

On 23rd July, 2009 at around 1500 hours, one motor vehicle Reg. No. KSF, Isuzu Lorry, was attacked between Sharp area in Igembe District and Gabela area in Tigania District where 11 passengers were robbed of their belongings and cash money. Nobody was injured during the incident.

On the 25th of August, 2009 at about 1400 hours, two motor vehicles, Reg. Nos. KAC 188V and KAN 741R, were attacked by armed bandits between Gacuru area in Igembe and Sharp area in Tigania District. On board were Kenya Police Reservists (KPR) among other people, who exchanged fire with the bandits and managed to overpower them. No one was injured during the attack.

On 4th September, 2009 at about 1600 hours, one motor vehicle, Reg. No. KAT 610N, was attacked by armed bandits between Gabera and Sharp areas. The driver defied an order to stop and sped off forcing the bandits to open fire, and in the process two female adult passengers on board sustained bullet wounds.

On 4th September, 2009 at about 16.20 hours, one motor vehicle, Reg. No. KAB 949W, was attacked by armed bandits near Sharp area. The driver defied an order to stop and the said bandits opened fire. As a result one passenger on board the said vehicle sustained bullet wounds. He was rushed to Isiolo General Hospital and later died while undergoing treatment.

(b) The following are the measures the government has put in place to deal with the menace:-

- (i) provision of Security escort to all vehicles driving along the affected areas;
- (ii) mobile police patrols co-ordinated by the District Security Intelligence Committee (DSIC), Isiolo, have been intensified along the affected areas.

Mr. Bahari: Thank you Mr. Speaker, Sir. This is a very major road where supplies from Isiolo to the rest of the northern Kenya go through. From the Assistant Minister's answer, which is not exhaustive, it looks like this road has now become impossible for anyone to operate on. Why can the Ministry not go to the root cause of the problem, instead of addressing the symptoms, and follow up these bandits, as it is a very small area, and completely eliminate this problem?

Mr. Lesrima: Mr. Speaker, Sir, the Ministry is continuing to deal with this matter but the situation is aggravated by the presence of a number of grazers who do not even come from that area, and action is being taken to move them out of that area. The other action that the Government is taking is to strengthen the current police stations in the affected areas.

Mr. Abdirahman: Thank you Mr. Speaker, Sir. The Assistant Minister has addressed this problem very casually. I neighbour Isiolo South, and what is happening lately is not something we can take lightly, not only in Isiolo South, but also in the larger Isiolo District, and the environs. Could the Assistant Minister tell the House whether they have a concrete plan--- They are quick enough to finish people when they want to do so, but very slow when they want problems to continue. Can he tell us of concrete steps, and in what period, by which they will be able to stop this problem?

Mr. Lesrima: Mr. Speaker, Sir, we are working with communities in the area through their leadership, such as parliamentarians and peace committees, to deal with this matter. With regard to security on the highways, particularly on this road, we will continue to provide security escorts, and to encourage people travelling along it to report to the police station before they use the road. But we are pursuing the bandits involved in those areas to deal with them.

Mr. Mbugua: Thank you Mr. Speaker, Sir, I am very annoyed by the way this Assistant Minister is answering this Question. The casual manner in which the Assistant Minister is answering this Question is itself questionable. How can he involve the security forces in following bandits instead of looking at the problem?

Mr. Speaker: Assistant Minister! Mr. Mbugua is very annoyed with you.

Mr. Lesrima: Mr. Speaker, Sir, this hon. Member is fond of provoking me, but I will not get annoyed.

We need a multi-pronged approach to deal with the security issue in northern Kenya. We need community policing; we need to deal with the availability of small arms and grazing management. There are a number of issues that we need to tackle to deal with this particular problem.

Mr. Bahari: Mr. Speaker, Sir, this a very serious matter! In a span of three months, there have been so many incidents, and you can see the way the Assistant Minister has casually attended to this Question. The people in Isiolo cannot be involved in tackling that problem, because they are victims of this problem; so, the Assistant Minister's approach is wrong in the first instance. Could the Assistant Minister take this matter seriously, and ensure that the people of Isiolo are safe from this menace? The Ministry is handling this matter in a very casual manner.

Mr. Lesrima: Mr. Speaker, Sir, I will intensify the patrols in that particular area and increase security personnel to mop up the highway bandits. I also want to say that we need support from the communities living in that area, because the various communities are involved in criminal activities on that road. So we need information to come to the police.

ORAL ANSWERS TO QUESTIONS

Question No.336

STATUS OF HOLA-GARSEN ROAD PROJECT

Mr. Mungatana asked the Minister for Youth Affairs and Sports:-

(a) Whether she could provide the status of the implementation of the tarmacking of the Hola-Garsen Road;

(b) Whether she could account for the Kshs900 million that had been set aside in the previous Budget for construction of the road;

(c) Whether she could explain why the contractor has taken so long to complete the road and when it will be completed; and,

(d) whether she could consider replacing the National Youth Service and engaging a more efficient contractor in the project.

Mr. Speaker: Minister, Ministry of Youth Affairs and Sports! We will revisit that Question a little later. Mr. Lagat!

Question No.386

DELAYED WORKS ON MOSORIOT-KAPSABET/KAPSABET-YALA ROADS

Mr. Lagat asked the Assistant Minister for Roads:-

(a) if he could explain why the construction of Mosoriot-Kapsabet road has not commenced;

(b) if he could also explain why construction work on Kapsabet-Sirwa-Yala Road has also not commenced and whether the tender has been awarded; and

(c) when works on the above roads will commence.

The assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) The construction of Mosoriot-Kapsabet Road has not commenced because the design for the same is not complete;

(b) The construction of Kapsabet-Sirwa-Yala Road has not commenced because the design of the same road has not been completed.

(c) the construction works for that section of Eldoret-Kapsabet Road will commence as soon as the design is complete.

Mr. Lagat: Mr. Speaker, Sir, I think what the Assistant Minister is saying is not right because the Minister was there five months ago. They have started working on this road from Eldoret to Mosoriot and from Chavakali to Sirwa-Yala and yet it is one road. I do not know how complicated the design is from Sirwa-Yala to Kapsabet and also from Mosoriot to Kapsabet. The section that is left out is in my constituency. Both sides have been done but I do not know how complicated the design for this section in my constituency is.

Dr. Machage: Mr. Speaker, Sir, the Mosoriot-Kapsabet-Yala Road is part of the Eldoret-Kapsabet Road, otherwise referred to as C36. The design for Eldoret-Chavakali Road was awarded to M/s Vavas Engineering Consultants with Sogare Limited Consulting Engineers at a tender sum of Kshs51, 933,200. The design started on 6th April, 2009 and it will take nine months. Therefore, we expect completion of the same on 6th January, 2010. As soon as it is completed, the road project shall be procured and my

tentative programme - I want the hon. Member to listen carefully - I will advertise on 15th January, 2010, I will open the tender on 15th January, 2010, I will award it on 15th May, 2010 and sign the contract on 15th July, 2010. Construction will commence in July, 2010 and I expect it to be completed in July, 2011.

Mr. Chanzu: Mr. Speaker, Sir, one of the major problems in this Ministry is the disconnect between the Ministry head office and the field officers. A road like Stand Kisa to Khumusalaba was indicated as having been done when nothing was done. You know that very well. What is the Minister doing to ensure that there is proper linkage between the Ministry headquarters and the engineers in the field because there is lack of information between the field officers and the Ministry headquarters?

Dr. Machage: Mr. Speaker, Sir, to the contrary, I think the communication is not complete to the hon. Member. I am aware of all that. Let me continue to satisfy the hon. Member that I have actually allocated Kshs400 million for this development from the Development Budget in this year's budget and a Fuel Levy budget of Kshs150 million. I know that these roads are impassable. I have started a repair programme for this section and I am sure the hon. Member will soon see work on this section. I am using Kshs199,250,000 for the same

Mr. Lagat: Mr. Speaker, Sir, I think there are many contradictions in the answers given by the Minister because five months ago when the Minister came to the site, the machines had been brought, but they are just lying on the road side and yet he is saying that they are still doing the design. How can machines be brought to the site before the design is done?

Dr. Machage: Mr. Speaker, Sir, I am yet to prove that the machines that were brought to the site are for the purposes of my work.

Mr. Koech: On a point of order, Mr. Speaker, Sir. This road runs across my constituency and I want to confirm to the House that the Minister himself, the Permanent Secretary and I, went to the site and the contractors were on the ground and had started the work.

Is the Assistant Minister in order to come here and mislead the House by talking of a different tender when a tender has already been awarded?

Dr. Machage: Mr. Speaker, Sir, I have clearly said that I have started repair of the road for the purposes of making it motorable. I have clearly said that I have not started constructing this road for the purpose of fully building it.

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

Mr. Speaker: Order, hon. Member for Emgwen!

Question No.438

LIST OF PEOPLE UNDER *KAZI KWA VIJANA*
PROGRAMME IN LIMURU

Mr. Mwathi asked the Minister for Roads:-

(a) whether he could provide a list of people who worked under the *Kazi Kwa Vijana* Programme in Limuru Constituency showing the number of days each worked and how much was paid to each person;

(b) whether he could state the dates when the *Kazi Kwa Vijana* Programme started and when it ended, indicating the road works which were undertaken under this programme in Limuru Constituency; and,

(c) when an audit for the work done will be undertaken and who will undertake it.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg, to reply but before that, I beg for your indulgence because I had answered all of these Questions except for more information that I was to give to the House today as follows:-

The total money allocated to the Ministry of Roads for the implementation of the *Kazi Kwa Vijana* Programme is Kshs800 million. Out of these, Kshs770 million was distributed equally to all the constituencies of this country and this constituency received Kshs2.4 million. Kshs30 million has been allocated to the Kenya Urban Roads Authority for the purposes of maintaining the urban roads.

Mr. Speaker, Sir, the other information that I was supposed to give to the House is on the amount of money used for administrative purposes. No money was removed from this Fund for the purposes of administrative costs. The officers on the ground used the normal revenue allocated to the districts to administer this Fund. So, all the funds that were allocated for this purpose went to the work.

Mr. Mwathi: Mr. Speaker, Sir, I am fairly satisfied with the answer from the Assistant Minister, only that I have noted that in the previous time's answer, which I was not able to interrogate further, he gave only a span of two weeks for *Kazi Kwa Vijana* Programme in my constituency. That has elapsed and nothing else is going on. When is he likely to reintroduce this in every district, because this was an initiative to create jobs for the youths?

Dr. Machage: Mr. Speaker, Sir, whereas I would be very much of the same opinion as the hon. Member to have more of this work in the constituency, there is no provision for funds for *Kazi Kwa Vijana* this Financial Year as he knows because he participated in the passing of the Budget.

Question No.359

CRITERIA FOR CLASSIFYING ROADS IN THE COUNTRY

Mr. Mwaita asked the Minister for Roads:-

(a) whether he could state the criteria used in classifying roads; and,

(b) whether he could provide the per-district breakdown of classified roads across the country.

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

(a) There are five general classifications of roads based on geographic criteria for end points being connected to a particular road and this is as follows:-

Class A - Internal trunk roads – these are roads linking Kenya with neighbouring countries in the region.

Class B - National trunk roads – these are roads linking the international trunk roads to provincial centres.

Class C - Primary Roads which link provinces to provinces.

Class D - Secondary Roads which link provinces to districts.

Class E - Minor Roads which link centres of production within a district.

In addition, there are roads classified under special purpose roads which serve specific needs such as tea or sugar growing areas or a security road.

(b) I beg to table a list showing a breakdown of classified roads per every district in the country. The provisions that I have given to this House cover 70 districts. I used those 70 districts because there are many other districts that are coming up. I do not have the most recent data on them.

(Dr. Machage laid the document on the Table)

Mr. Mwaita: Mr. Speaker, Sir, I wish to thank the Assistant Minister for that elaborate answer. He has mentioned special purpose roads which link potential agricultural areas and those that serve insecurity areas that suffer from cattle rustling.

Could he consider improving, at least, one of those special purpose roads per every constituency as part of the stimulus package?

Dr. Machage: Mr. Speaker, Sir, that is a fair question. I will endeavour to do that. After I receive a consultant report that will give me the road mapping for the whole country, I will consider that. I expect to get that report by the end of this year. I am sure the Member will be satisfied with the results.

Mr. Mwathi: Mr. Speaker, Sir, I sit in the District Roads Committee (DRC) and we have been doing annual work plans. We still have unclassified roads which connect production centres. When will such roads be classified?

Dr. Machage: Mr. Speaker, Sir, I have authorized an international consultant M/s M and Carlo Bros. to give me a study over the same. I have spent Kshs137 million for the same purpose, so that I can be able to reach out to the roads that the hon. Member has talked about. I am sure he will be happy when I discover his demands.

Mr. Mwaita: Mr. Speaker, Sir, will the Assistant Minister consider the density of traffic and usage of those roads when he will be classifying them?

Dr. Machage: Mr. Speaker, Sir, yes, I will.

Question No.336

STATUS OF HOLA-GARSEN ROAD PROJECT

Mr. Mungatana asked the Minister for Youth Affairs and Sports:-

(a) whether she could provide the status of the implementation of the tarmacking of Hola-Garsen Road;

(b) whether she could account for the Kshs900 million that had been set aside in the previous budget for the construction of the road;

(c) whether she could explain why the contractor has taken so long to complete the road and when it will be completed; and,

(d) whether she could consider replacing the National Youth Service and engaging a more efficient contractor to do the project.

Mr. Speaker: Minister for Youth Affairs and Sports! Those of you on the Front Bench--- Maybe, the Minister for Justice, National Cohesion and Constitutional Affairs, are you able to explain the absence of the Minister for Youth Affairs and Sports?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I thank you for noticing me. But I am not the Leader of Government Business and so long as this House does not have a Leader of Government Business, I am really at a loss. But I have a lot of time for the hon. Minister. I will alert her that you were looking for her. I am sure she will present herself as quickly as possible. Thank you.

Mr. Speaker: The import of that is that no explanation has been offered to the House as to why the Minister nor the Assistant Ministers are absent. In those circumstances, therefore, the conduct of the Minister is disorderly and we will impose sanctions on her, beginning forthwith.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. This Question was on the Order Paper yesterday and the Chair ordered that it should come today. But, again, the Minister is not there.

Mr. Speaker will offer the sanctions but, again, there is no indication as to when the Question will come up. So, we may also suffer unfairly. So, I beg you to indicate when we could have it on the Order Paper.

Mr. Speaker: I direct that the Question be deferred to Tuesday next week. But in the, meantime, the Chair will deal with the Minister in accordance with the direction that I have already given.

(Question deferred)

Question No.102

STATUS OF CONSTRUCTION OF ARBOR/CHESUMAN
DAMS IN MARAKWET

Mr. Kaino asked the Minister for Water and Irrigation what became of the two dams that were to be constructed in Arbor and Chesuman locations of Marakwet District to assist the community of Kerio Valley in irrigation and power generation, considering that the funds were factored in the development plans for 1995/1996.

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

I am aware of the plans to construct the dam for irrigation and power generation in Arbor River Basin in 1986. Kerio valley Development Authority (KVDA) commissioned M/s Bebingg Consulting Engineers of Milan, Italy, to carry out a feasibility study for a multi-purpose scheme. The study indicated the suitability of the project to generate hydro-power and develop a potential area of about 6,460 hectares for irrigation. The project has not been implemented due to lack of funds. The cost of project implementation was estimated at US\$240 million. That is an equivalent to Kshs16.803 billion.

The KVDA has prioritized and revised that project design and it is seeking for funding. Once that project is implemented, it will add about 70MW of hydro-power to the national grid and enhance provision of water for food security in the region. The project will be implemented once the funds are available.

Mr. Kaino: Mr. Speaker, Sir, I am not satisfied with the answer that the Assistant Minister has given. My Question is very clear and it appears that the Assistant Minister was cheated by the officers who gave him the answer. I am aware that Kerio Valley Development Authority is under the Ministry of Regional Development Authorities. I would have directed this Question to the Ministry of Regional Development Authorities.

In 1995/1996, there were some plans to construct some dams in Chesuman and Arrow locations in Marakwet District. The implementation cost was factored in the Budget at that particular time. Where did that money go? That money was from the Japanese International Co-operation Agency (JICA).

Mr. Kiunjuri: Mr. Speaker, Sir, if I am not wrong, this is the Question that the Member asked. He asked what became of the two dams which were to be constructed in Aror and Chesuman locations in Marakwet District to assist the community in Kerio Valley in irrigation and power generation, considering that the funds were factored in the development plans of 1995/1996. In 1994/1995, they requested for 11 small dams which could not produce hydro-power. The only attempt that was ever been made in that area to have a dam for irrigation and production of hydro-power was in 1986. That is all that we have in the records.

Otherwise, they had requested for 11 small dams. I can table that information before the House. Those small dams cannot be used for either irrigation or hydro-power generation.

Mr. Mwathi: Mr. Speaker, Sir, I understand that there are dams that have been established for purposes of assisting people do irrigation. What plans do you have to establish dams in other constituencies, so that they can utilize arable land to produce food through irrigation?

Mr. Kiunjuri: Mr. Speaker, Sir, when we talk about dams that can be used for irrigation, we are talking about spending about Kshs1 billion per dam. Currently, the construction of Sasumua Dam is going on. It will cost the Government Kshs4 billion. The Badasa Dam will cost the Government Kshs2.5 billion. The Kiserian Dam will cost the Government Kshs800 million. The Umaa Dam will cost the Government another Kshs700 million. Those are among the dams that are being constructed. I believe we do not have additional funds to construct large dams.

Mr. Kaino: Mr. Speaker, Sir, I am not denying that Kerio Valley Development Authority project was not there. It is a project that only exists on paper in Marakwet, but not in other places. That one has already been dumped and put aside. Only two dams were supposed to be done in Chesuman and Aror locations. I will give the Assistant Minister time to go back and come back to the House with a proper answer. Otherwise, Mr. Speaker, Sir, you will allow me to bring the information about the funds that were used on those two dams.

Mr. Speaker: Fair enough. Mr. Assistant Minister, you have no question to respond to. Next Question by the hon. Member for Turkana Central!

*Question No.147*PROVISION OF X-RAY/HAEMOGLOBINOMETER/
BIOCHEMISTRY MACHINES TO LODWAR HOSPITAL

Mr. Ethuro asked the Minister for Medical Services:-

- (a) when he will provide X-ray equipment, Haemoglobinometer and Biochemistry machines to Lodwar District Hospital; and,
- (b) when he will upgrade the hospital to a referral status, given that it serves six districts in the North Rift.

Mr. Speaker, Sir, I noted that the Minister was getting agitated because he does not have an Assistant Minister since Mr. Mungatana resigned.

(Laughter)

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, my good friend, hon. Ethuro--- I was not agitated; I was just excited about your excitement!

(Laughter)

Mr. Speaker, Sir, I beg to reply.

(a) X-ray equipment, Haemoglobinometer and Biochemistry machines are available in Lodwar District Hospital. However, the hospital is occasionally unable to render services with those machines owing to breakdowns, lack of accessories or stock-out of consumables. Such interruptions may take time to address because service companies and suppliers of accessories and consumables are located far away either in Nairobi or Eldoret.

(b) It is true that Lodwar District Hospital is a referral hospital for six districts in the North Rift. It has been identified to serve that role because it is relatively more developed compared to the outlying facilities. To enhance its capacity to serve that purpose, the Ministry plans to progressively rehabilitate and upgrade infrastructure in the hospital in the coming years. That will be matched by progressive deployment of specialists in various fields of medicine, depending on the output of our training institutions.

As a beginning, Mr. Speaker, Sir, the Ministry will, in the current financial year, that is 2009/2010, allocate the hospital Kshs8 million for rehabilitation of buildings.

Mr. Ethuro: Mr. Speaker, Sir, I want to commend the Minister for giving a good answer and, particularly for being truthful.

Mr. Speaker, Sir, you have heard the Minister say that the machines are available but, occasionally, the hospital is unable to render services with those machines owing to breakdowns, lack of accessories and stock-out of consumables. Those are just management issues. He has also confirmed that the service companies and suppliers of accessories and consumables are located far away either in Nairobi or Eldoret. From Eldoret to Lodwar, it is 400 kilometers, while Lodwar is about 1,000 kilometers from Nairobi.

Mr. Speaker, Sir, what is the Minister going to do? He knows the distances involved. He knows the needs for that hospital to operate as a referral hospital. What contractual arrangements are you making with those companies and suppliers to repair and maintain those machines, knowing the importance of that equipment to the hospital? They should work in a good and reliable manner?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, it is unfortunate because the contractual agreements that the Minister had made with those suppliers before were not really very user-friendly. I accept that. The medical engineering departments of the Ministry and Kenya Medical Training Colleges leave a lot to be desired. Indeed, we should invest in medical engineering so that, we can have medical workshops in places like Lodwar to service the machines.

Secondly, Mr. Speaker, Sir, in procuring such machines, we should not involve ourselves in procuring too many makes and models that cannot be serviced. The situation in the Ministry at the moment is that we have too many makes and models of such machines. That is why you find that the suppliers are only in places like Nairobi and Eldoret. The market for suppliers is not that robust.

But, in the meantime, Mr. Speaker, Sir, I want to assure the hon. Member that the X-ray machine that had broken down three months ago has been repaired. Secondly, the Haemoglobinometer is currently in good condition. The engineers from Eldoret were called in to make sure that they service the machine regularly. They should not wait until it is too exhausted and breaks down. The Biochemistry analyzer is also in good condition at the moment. However, presently, it lacks accessories amount to about Kshs24,000. Instructions have been given to the Medical Superintendent to ensure that those accessories are purchased and fitted into the machine.

So, Mr. Speaker, Sir, I do appreciate the hon. Member's concern but, given the past history of procurement of medical equipment in the Ministry, the best we can do at the moment is to ensure that repairs and management are done promptly, and I am currently doing that.

Mr. James Maina Kamau: Mr. Speaker, Sir, in view of the current upgrading of constituencies into districts, what is the Ministry doing to make sure that such vital equipment as X-ray machines are provided countrywide?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, we have a very big demand for X-ray machines and they are not very cheap equipment. Secondly, the technology of X-ray machines changes very fast and rather than using the analog machines, it is now advisable to use the digital ones. I was in Kabarnet District Hospital on Monday, where there is a very good X-ray centre, but with no X-ray machines. That is because the old X-ray machine that belongs to the technology of the past has broken down. But we intend to buy a new analog machine to replace it. What we lack, as I have told this House over and over again, are sufficient funds from the Treasury to buy appropriate and adequate equipment for all our district hospitals. That is because in all district and sub-district hospitals, it is mandatory that they should have such machines as X-rays. I do hope that in the coming financial year, the Treasury will find it important to give the Ministry of Medical Services sufficient funds to equip the district and sub-district hospitals.

Mr. Speaker: Ask your last question, hon. Ethuro!

Mr. Ethuro: Mr. Speaker, Sir, the Minister, in answering part "b" of the Question, talked about progressive deployment of specialists. When are you going to

deploy those specialists? How many are you going to deploy? You have talked about allocating Kshs8 million for rehabilitation. But you know that you owe suppliers over Kshs6 million. When are you going to ensure that the suppliers are paid? Could he also ensure that the money allocated to the hospital is adequate to maintain its status as a referral hospital?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I would like to assure the hon. Member that all pending bills in the Ministry, especially in the district hospitals are currently being addressed. The district hospitals need to combine forces with the Ministry to use some of the cost-sharing resources that they have to deal with this issue. This is because some of the pending bills like those of food and consumables are payable from the cost-sharing kitty.

With regard to specialists, I am aware that there is a surgeon at the Marsabit District Hospital at the moment. There is also one gynecologist and three medical officers. A hospital as big as Marsabit should also have an Ear, Nose and Throat (ENT) specialist and a physician. I know it should have more than that at the moment, but basically, that should be the minimum requirement. The problem at the moment is that our universities do not produce as many specialists as we should have. For example, there are very few anesthetists being produced at the moment. We have succeeded in getting the University of Nairobi to admit more anesthetists than they have done before. However, this is an on-going struggle and I hope that as we improve the terms of service of doctors in the Ministry of Medical Services, we will attract many more doctors from the private sector who will join us so that we can fill the gap that exists amongst specialists.

Mr. Speaker: Hon. Members the balance of the four Questions on the last page of the Order Paper are deferred to Tuesday, next week at 2.30 p.m. They will take priority over Questions that are due then.

Question No.285

IRREGULAR PROCUREMENT OF ENTERPRISE
RESOURCE PLANNING SYSTEM

(Question deferred)

Question No.196

DISMISSAL OF MR. JOHN WACHIRA KIHIA

(Question deferred)

Question No.212

MEASURES TO ENSURE COMPLIANCE
WITH PERSONS WITH DISABILITIES ACT

(Question deferred)

Question No.383

PENSION DUES FOR LATE
INSPECTOR BENSON JUMA

(Question deferred)

POINTS OF ORDER

GOVERNMENT EXPENDITURE ON AGOA CONFERENCE

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. You will recall that you directed that the Question that was answered by the Assistant Minister for Trade, Mr. Omingo on African Growth and Opportunity Act (AGOA) appears on today's Order Paper. That did not happen, although the Question was partly answered. The Assistant Minister had promised to give a complete answer today. I request that the Question also appears on the Order Paper on Tuesday, next week so that the answer can be completed.

Mr. Speaker: That is fine. It is so ordered.

PROVISION OF HEALTH FACILITIES IN TURKANA REGION

Mr. Ethuro: Mr. Speaker, Sir, on a similar issue, on 27th August, 2009, you also ordered the Minister for Medical Services, Prof. Anyang'-Nyong'o to come with a complete answer to the Question about health facilities in the larger Turkana region. You gave him two weeks which are due today.

Mr. Speaker: It is also directed that, that Question appears on the Order Paper on Tuesday, next week. Similarly, it should take priority over Questions scheduled for that day.

Next Order!

MINISTERIAL STATEMENTS

UPSURGE OF CASES OF CHILD SEXUAL ABUSE\EXPLOITATION

Mr. Speaker: We will take one Ministerial Statement from the Minister of State for Provincial Administration and Internal Security because we do not have time for more.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I would like to issue a Ministerial Statement sought by Ms. Odhiambo on child sexual abuse. The hon. Member wanted the following issues clarified. Whether I could present the statistics disaggregated by gender of children who have reported cases of sexual abuse and exploitation this year. She also wanted to know how many cases that were reported have successfully been prosecuted resulting into convictions. Why have the police refused to arrest Father Kizito who is alleged to have

sexually abused children in this City even after a report was made to the Criminal Investigations Department (CID) on 5th June, 2007? She also wanted to know whether I could clarify if Father Kizito is being accorded police security. Further, the hon. Member wants me to explain the proactive measures the Ministry has taken to equip the police to deal with such cases because the officers do not seem to be competent to deal with them. I shall deal with these issues in turn.

First of all, I have a table of statistics here. So that I do not take too much time of this House, I will capture the salient features in the metrics. The others will come later on.

(a) The table which I am referring to, and which can be perused, shows that 197 cases are pending before court. There are 52 cases under investigation and 24 accused persons are yet to be arrested. The convictions obtained are 139 while those acquitted for lack of sufficient evidence are 12. In total 123 cases have been reported since the beginning of this year.

(b) I would like to point out that 139 reported cases have since been successfully prosecuted and convicted across the country.

(c) On the issue of Father Kizito, a report was received at the CID Headquarters, Nairobi, on 5th June, 2009 and investigations were commenced immediately. The CID Inquiry File No.39/2009 was open and subsequently several witnesses recorded statements. The victims recorded statements and were taken for medical examination. Preliminary investigations by the police do not warrant the arrest of Father Kizito for any case. However, due to the seriousness and the nature of the allegations, the file has been re-forwarded to the Attorney-General for perusal and further guidance. I am in a position to confirm that on perusal of the file, the Attorney-General has ordered further investigations.

(d) The Government is not aware of the security being accorded to Father Kizito.

(e) In an effort to equip the police with the necessary skills to handle matters related to child and sexual abuse, the Children's Act and the Sexual Offences Act, 2006, have been included as part of the training curriculum at the Kenya Police College, the CID Training School, Administration Police Training College and all provincial police training centres. Officers have been trained and sensitized on the best practices of handling victims of sexual offences.

In addition, all police stations are equipped with special children and women desks. Police training has also been supplemented by support from other non-State actors which include the United Nations Children's Fund (UNICEF), the African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN), Children's Legal Action Network (CLAN), Save the Children - Sweden, Girl Child Network, Save the Children - UK, Save the Children - Finland among others. These organizations have been training police officers on issues pertaining to the rights of the child and child abuse through numerous seminars and workshops that have been held locally and abroad.

Mr. Speaker: We will only take three clarifications. Is there anybody who is interested? Yes, Ms. Odhiambo!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Minister clarify why the Government always seems to be applying different standards when alleged abusers are of different races from the general population of this country? I have been dealing with cases of children for a long time, since the time I was the Director of CRADLE. Every

time we dealt with a case of a white person, the police used a different standard. Could the Government indicate whether there are different policies for black people and white people?

Mr. Speaker: Minister, please, take notes. We will allow three interventions. Dr. Khalwale!

Dr. Khalwale: Thank you, Mr. Speaker, Sir. I tabled in this House, two documents – an affidavit from Khaminwa & Khaminwa Advocates, which showed that these children had appeared before him and actually indicated that, having given the initial information, they were coerced by their parents, having been induced with goodies, so that they could reserve the evidence, which they did retract. The second document I tabled in this House was a video tape, and the Chair ruled that the Minister may use the resources at his disposal to make sure that he authenticates the two documents that I tabled. Could the Minister tell us what the findings of the Government were in respect of this matter?

Dr. Nuh: Mr. Speaker, Sir, could the Minister clarify how many of the 139 convicted cases involved high profile personalities and how many involved peasant Kenyans?

Mr. Speaker: Minister, please, respond!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, in reference to the clarification sought by Ms. Millie Odhiambo, I am not aware that the police used different methods in addressing these cases on the basis of race. However, I would appreciate to be given information on that matter that would enable me to ascertain the truth about it. I want to promise this House that if, indeed, there has been racial discrimination – which in itself is an offence – involving any officer, appropriate action will be taken.

Dr. Khalwale referred to some sworn affidavit as far as Farther Kizito's matter is concerned. I have already informed this House that, indeed, the Attorney-General has ordered further investigations into the matter. I believe that this affidavit should actually be presented to the Attorney-General, because the file is now open.

Mr. Speaker, Sir, regarding the matter of disaggregation of those who have been convicted, in terms of those who are high profile people and those who are not, I do not have that information. The point of the matter is that these people have been prosecuted. They have been dealt with as offenders, and not whether they are high profile or low profile personalities.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I beg that the Minister responds to the question on the findings of the Government on the video tape that I tabled in this House.

Mr. Speaker: Order! I think the Minister has responded that all these matters have been referred to the Attorney-General, who has directed that further investigations be carried out in the matter pertaining to Mr. Kizito. It is possible that the matter will end up in prosecution. So, that matter is dealt with.

Hon. Members, I had directed that we would take one Ministerial Statement, but we have a matter that has been pending before this House for the past two months. So, I think we will have to accommodate the Minister for Lands to deliver that Ministerial Statement. He said he would do so in four minutes.

FATE OF MT. ELGON HOSPITAL LAND IN KITALE

The Minister for Lands (Mr. Orenge): Mr. Speaker, Sir, I am grateful. I will make this Ministerial Statement at the request of Mr. Wamalwa.

Mount Elgon Hospital land in Kitale was initially held by the District Council of Trans Nzoia for a term of 99 years, from 1st May, 1937. The land measures approximately 8.11 acres and was allocated specifically for hospital use. Pursuant to Legal Notices Nos.338 of 1957 and 453 of 1962, the land was vested in Kitale County Council with effect from 18th June, 1997. In 1963, Kitale County Council transferred the said land to Mount Elgon Hospital Trust to manage as trustees. In 1990, a new list of trustees was presented for record purposes, and they were Messrs. Philip Matanya, Nathaniel Tum, Aradi, Peter Kinyanjui, Chief Noah Akuto, Mr. Enock Imbuye and Mr. G.B. Ruto.

In 1996, an application was made by the trustees for consent to have the land transferred to Mount Elgon Hospital Limited, and consent was granted. The land was subsequently transferred to Mount Elgon Hospital Limited on 20th September, 1996 at a consideration of Kshs1.2 million, which was far below the market value. An application to charge the same land by Mount Elgon Hospital Limited was made and consent granted, and the property was charged to Standard Chartered Bank of Kenya Limited to secure a loan of Kshs4.06 million.

On 20th September, 2005, a Government caveat was registered on the title, following a request by the Kenya Anti-Corruption Commission (KACC) to prevent further transactions being effected. The Ministry is now looking for ways of reverting the property back to the public and have the hospital managed by trustees as originally envisaged, without compromising or undermining the interests and rights of the public.

Mr. Speaker, Sir, it is true to say that this is one of the transactions that were, on the face of it, fraudulent, because under Condition No.7, on the title, it is stated that the “guarantee shall not sub-divide the land in any manner whatsoever, and shall not sublet, assign or otherwise dispose of any portion thereof or any building erected thereon.” Consequently, in our view, the consent to transfer the property was wrongly granted. I assure the hon. Member that we are doing everything possible to have this hospital and the land revert to the people.

Thank you.

Mr. Wamalwa: Mr. Speaker, Sir, is the Minister aware that these illegal occupants of Mount Elgon Hospital are in the process of disposing of assets belonging to the hospital, including cutting down over 20-year old trees – over 20 of them have been cut down and sold – including selling of staff quarters and other assets on this property? If so, what remedial measures is the Government putting in place to ensure that the public interest in this property is protected?

The Minister for Lands (Mr. Orenge): Mr. Speaker, Sir, first, there can be no transactions to transfer or in any way deal with an interest in the land itself. On that one, I can assure the hon. Member. I have had an occasion to visit the hospital, and I know the degree of waste that is going on, in fact, not only in terms of the permanent structures and the trees but also in terms of some of the equipment that was inherited from the old management. I have sat and talked with the Minister for Medical Services. We are

looking into this matter very seriously. If he gives me a month or two, I will give him a permanent solution, so that this land reverts to the county council.

Mr. Speaker: Order, hon. Members. Those who want to seek Ministerial Statements can do so now.

POINTS OF ORDER

RESETTLEMENT OF INTERNALLY DISPLACED PERSONS

Ms. Karua: Mr. Speaker, Sir, I wish to ask for a Ministerial Statement from the Minister of State for Special Programmes in respect of Internally Displaced Persons (IDPs). I would like the Minister to inform the House the number and location of IDPs still in the camps. What plans does she have to have them resettled before the impending *El Nino* rains? How much money does she require? How much has been availed this year? Have the integrated IDPs been factored in any of her plans?

I would also like to know how much money has so far been used to resettle IDPs and the numbers of those settled.

Mr. Speaker: Could I have an indication on when that Ministerial Statement will be availed?

The Minister of State for Special Programmes (Dr. Shaban): Mr. Speaker, Sir, I will issue that statement on Thursday, next week.

Mr. Speaker: Fair enough. It is so ordered.

APPOINTMENT DISMISSAL OF KEBS DIRECTOR

Mr. K. Kilonzo: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Industrialization regarding the appointment and subsequent dismissal of the Director of Kenya Bureau of Standards.

Mr. Speaker, Sir, in seeking this Ministerial Statement, I would like the Minister to confirm to this House that three months ago he appointed, on recommendation of the board, one Dr. Kioko Mang'eli. Dr. Mang'eli was reappointed after recommendation of the board and subsequent appointment by the Minister.

I want the Minister to confirm to the House that on the 8th of this month, a letter was sent to his Permanent Secretary (PS), copied to him by the PS, Secretary the Cabinet and Head of the Public Service, Amb. Francis Muthaura which reads as follows:-

“I have been directed to inform you that the Government has decided to relieve Eng. Dr. Kioko Mang'eli, the Managing Director of Kenya Bureau of Standards of his duties in the public interest.”

I wish to table the document.

(Mr. K. Kilonzo laid the document on the Table)

I want the Minister to tell us, if according to the Standard Act he is the appointing authority, where does Amb. Muthaura get powers to ask for the removal of one Dr. Mang'eli? This House is very much aware that Dr. Mang'eli stood firm when the scandal

of maize, which was contaminated, was brought to this House. He refused to be moved by the powers which are up there. He even feared that he would be sacked.

Here is a letter where Dr. Mang'eli has been sacked. We, as a House and country, want to know why Amb. Muthaura can purport to write this letter and sack one Chief Executive, Dr. Kioko Mang'eli.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Yes, Mr. Shakeel.

(Mr. Shakeel went to the Dispatch Box)

Order, Mr. Shakeel. Hon. Members, those of you in the Back-bench, all these microphones work. So, I do not see why we lose time struggling to come to the Front.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. The microphones are defective.

Mr. Speaker: Order, Mr. K. Kilonzo. If there is any defect in the microphones then it should be rectified.

Proceed, Mr. Shakeel.

IMPLEMENTATION OF ICT ECONOMIC STIMULUS PACKAGE

Mr. Shakeel: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Information and Communications regarding the implementation of the ICT Economic Stimulus Package for all constituencies which was proposed by the Deputy Prime Minister and Minister for Finance when presenting the Budget for the Fiscal Year 2009/2010.

In the Statement I would like the Minister to address the following issues:-

- (i) If the Ministry can confirm that it plans to acquire a bus for each of the 210 constituencies at the cost of Kshs6 million each to serve as a mobile computer centre and indicate where from;
 - (ii) Whether the buses have been ordered. If so, the cost and component of each bus and whether the relevant Government procurement procedures have been followed;
 - (iii) To confirm if each of the buses will be fitted with 12 computers and a solar panel and indicate what the cost will be respectively;
 - (iv) The arrangement that he has made for the payment of remuneration for each of the drivers of these buses and the cost of maintenance and fueling;
 - (v) What justification does the Minister have for importation of these buses when locally-assembled buses can serve the same purpose equally well?
 - (vi) What is the viability of the project, especially considering that the cost of each bus constitutes over 85 per cent of the project cost?
- (i) How does the Minister propose to serve between 15 and 30 secondary schools per constituency when the IT bus can only hold 12 computers.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Fair enough. Deputy Prime Minister and Minister for Finance, this seems to be your baby, is it not?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): No, it is for the Minister for Information and Communications.

Mr. Speaker: Even then, you are the senior-most now on the Front Bench.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, a Ministerial Statement will be issued on Thursday, next week.

Mr. Speaker: It is so ordered.

Minister for Industrialization, will you indicate when you will bring the Statement pertaining to the Managing Director of the Kenya Bureau of Standards?

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I did not quite hear exactly what is required of me. I think I can issue a Statement sometimes next week---

Mr. Speaker: Order, Mr. Minister. Where were you? I thought you were in the House?

The Minister for Industrialization (Mr. Kosgey): I was not, Mr. Speaker, Sir.

Mr. Speaker: It is a request for a Ministerial Statement on the fate of the Managing Director of the Kenya Bureau of Standards as to why his services have been terminated apparently wrongfully and a letter has been tabled which you can look at.

The Minister for Industrialization (Mr. Kosgey): Mr. Speaker, Sir, I will issue the Statement on Wednesday, next week.

Mr. Speaker: Fair enough, it is so ordered.

CONTRACTUAL ARRANGEMENT FOR HARAMBEE STARS COACH

Mr. Namwamba: Mr. Speaker, Sir, for about three months I have been expecting a Ministerial Statement from the Minister for Youth Affairs and Sports on the appointment and contractual arrangement for the coach of the national soccer team Harambee Stars, Mr. Antoine Hey. That Statement has not been forthcoming for over three months now. Could you kindly give an indication on when that Statement can be tabled in the House?

Mr. Speaker: Is there a Minister or Assistant Minister for Youth Affairs and Sports? They were not here earlier on.

Mr. Deputy Prime Minister and Minister for Finance, unfortunately, the record we have is that your Minister for Youth Affairs and Sports together with the Assistant Ministers are really not rising to the challenge of their offices. Are you able to give an indication when this Statement will come and what you are doing about their performance?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, the Statement has been pending for a while. We, however, will make sure it is brought to the House next week on Wednesday.

Mr. Speaker: Fair enough! The Statement will be brought on Wednesday next week!

PERSONAL STATEMENTS

LIST OF HON. MEMBERS UNDER KACC INVESTIGATION

Mr. Jirongo: Mr. Speaker, Sir, I rise under Standing Order No.76 to make a Personal Statement in regard to what is appearing in the media today and the documents Tabled by the Minister for Justice, National Cohesion and Constitutional Affairs in this House yesterday.

Mr. Speaker, Sir, I have had a four-month encounter with the Kenya Anti-Corruption Commission (KACC). That was immediately after National Rainbow Coalition (NARC) took over the Government after the 2002 General Elections.

The issues they wanted to find out from me were three. One of them was to look at all the contracts I have ever had with the Kenya Government. They perused a contract I had with the Kenyan Government involving a company in which I was the Director; Sololo Outlets Limited. After four months of thorough work, they looked at the contract we had signed to sell 400 houses to the National Social Security Fund (NSSF) at approximately Kshs3 million each, amounting to a total of Kshs1.2 billion. The houses which had actually been transferred to the NSSF were 627. They advised me to go back to the NSSF and get my 227 houses back.

The second issue was to do with the payment of land rent for a property that I sold to the Kenya Medical Research Institute (KEMRI). They did insist that I had not paid land rent amounting to Kshs8 million. After a lengthy explanation, they agreed with me, and nobody ever came back to tell me that it was me who was supposed to pay the land rent on the property that I sold to KEMRI.

Mr. Speaker, Sir, the third issue was to do with a letter. When I was the Minister for Rural Development, I wrote a letter to Prof. Ongeru requesting him to honour a pledge of Kshs10,000 which he had made in a *harambee* I had in my constituency.

(Loud consultations)

Mr. Speaker, Sir, Members are consulting so loudly, I cannot even hear myself.

Mr. Speaker: Order, hon. Members! Can we please lower the level of our consultations?

Proceed, Mr. Jirongo!

Mr. Jirongo: Mr. Speaker, Sir, on the letter I wrote to Prof. Ongeru requesting him to honour a pledge of Kshs10,000, I argued that Prof. Ongeru was a very senior Minister and there is no way I would have used my position to harass him. Prof. Ongeru honoured his pledge and paid the Kshs10, 000.

After four months of staying in my office, they found me to be clean and left my office. What is disturbing is that when one reads what is on the headline of the *Daily Nation* newspaper today, one believes that, that is the team that has looted this country and brought it to its knees and not people who are being questioned for failing to honour Kshs10,000 for *harambee*.

Mr. Speaker, Sir, in my view, the 'big fish' that all of us were referring to is the Kshs158 billion of the Goldenberg, the Kshs7.5 billion of Anglo Leasing and the money stashed in banks outside this country. This money is able to run this country for five years.

If one looks at the names that are on the headline of the *Daily Nation* newspaper today, one wonders what the purpose of the Minister was and what the intention of Mr.

Ringera is. We really know the culprits that have brought this country to its knees. Why it was impossible for the Minister to table the names of the actual thieves in this country, one wonders! I do not need to dwell on the Minister. I will leave others to remove the log in his eye.

Mr. Speaker, Sir, we have experiences from Justice Ringera. When he came into office he went to destroy a number of judges. He sacked or caused the sacking of Justice Aganyanya, Justice Waki and Justice Mbogholi. Later, these people were found to be innocent. I am worried that his hate campaign being directed at certain leaders from certain corners of this country might have been the cause of the post-election violence that we experienced in this country.

Mr. Speaker, Sir, I would wish that the Minister for Justice, National Cohesion and Constitutional Affairs clears his personal name first before he targets innocent people.

Thank you.

(Applause)

INCLUSION OF HON. WAITITU'S NAME IN LIST OF MEMBERS
UNDER KACC INVESTIGATION

Mr. Waititu: Mr. Speaker, Sir, I rise to make a Personal Statement under Standing Order No.76.

I, hon. Waititu, MP Embakasi, was charged by the KACC for a case of conflict of interest when I was the Deputy Mayor of Nairobi. The case went the full process of the court and I was found innocent. I would like the records to be set straight. I have no case pending with the KACC. I would urge the Minister for Justice, National Cohesion and Constitutional Affairs to update his records so that in future, he does not include my name in such a list, like he did yesterday in this House.

His Statement was highlighted in today's newspapers. It was both damaging to my character and image as the MP for Embakasi.

Mr. Speaker, Sir, I further request that when the Minister updates his records, he apologizes to me as the aggrieved person.

CONSIDERED RULING

UNSIGNED TABLE DOCUMENTS ARE INADMISSIBLE

Mr. Speaker: Order, hon. Members! Hon. Members, I have taken time to peruse the documents tabled yesterday by the Minister for Justice, National Cohesion and Constitutional Affairs. I have found that according to the practice and directions that have been given in this House on admissibility of documents, the following documents are not authentic and their source cannot be verified as they are unsigned:-

(i) Schedule Title Cases filed by the KACC for Recovery of Embezzled funds; 76 cases – the schedule is unsigned.

(ii) A document with the heading, “Department of Public Prosecutions Recent Convictions in Corruption and Economic Crime Cases as at 31st August 2009” – the paper is unsigned.

(iii) A schedule titled – “Cases filed by KACC for Recovery of Public and Illegally or Corruptly Acquired 293 Land Cases” – the paper is unsigned.

So, those, I am afraid are inadmissible and they will not be allowed to go into the records of this House.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Mr. Speaker, Sir. Would I be in order to suggest that this is a matter of very serious national interest and that it be approached with sobriety?

In my tabling of those documents, I did not read a single name and I explained that by saying---

Mr. Speaker: Order, Minister! Note that those Members who stood under Standing Order No.76 made Personal Statements and they are not open to debate! Maybe you want to deal with the documents I have ruled inadmissible.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I am not going there.

Mr. Speaker: Okay, fair enough!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, the tabling was driven by a request by a hon. Member who requested that he be shown the respect of what he wanted. If you feel that any of those documents were not authenticated, allow me to table the ones which are authenticated because I have them. This is a matter of national interest.

Would I be in order to say a request for a Ministerial Statement does not expire until satisfied?

Mr. Speaker: Order, hon. Minister! With respect to the documents that I have found to be inadmissible, if you now have documents that you think are admissible, you may proceed to lay them on the Table but they will not immediately be admitted until I have had time to peruse them.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I respect that and I accept your ruling.

You may proceed!

(Mr. M. Kilonzo laid the documents on the Table)

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. In view of the fact that the documents that you refused to admit were purported to come from Government sources, and in view of the fact that the Minister is a Minister of the same Government, I wish to invoke Standing Order No.97(f), which provides that if a Member of this House deliberately gives false information to the House, then the Member is grossly out of order, and can then, under Standing Order No.98, be named.

Mr. Speaker: Order, hon. Members! I have looked at the Standing Order that the Member for Ikolomani is citing for the demand that the Minister be named. First, so that it is clear, the Chair did not refuse to admit documents. The Chair has found the documents not to be admissible. I have no reason to refuse to admit documents. As to

whether or not the Minister deliberately gave false information to the House, I would like to hear him out before I make any finding.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I did not give anything deliberately false. First of all, it was not false. The only thing lacking was the signature of the Director of the Kenya Anti-Corruption Commission (KACC) initially, which I have now rectified. The material is legitimate. Moreover, this material has been tabled by my predecessors, the former Ministers for Justice, National Cohesion and Constitutional Affairs. They have continued to lay on the Table of this House, the Reports of the KACC. If they have not done so, I stand to be corrected. However, the fact of the matter is that this is not false material, nor did I do this deliberately. In fact, you will recall that I mentioned to you, before I sat down, that if you felt that there was something that I had overlooked, you could let me know. I did that yesterday. I had no intention of misleading the House, I have no such intention and I will not do so.

(Mr. Ruto stood up in his place)

Mr. Speaker: Order! some matters must rest when they have been clearly put.

Mr. Minister, you may proceed to lay on the Table those documents and I will peruse them, consider them in the light of what has transpired in the House this afternoon and make further findings on them.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Mr. Speaker, Sir, I have already laid them on the Table.

Mr. Speaker: Fair enough! I will look at those documents and give directions as necessary.

Hon. Members, before we move to Order Nos.8 and 9, I have the following communication to make.

Please, bear with me for it might be a bit long.

COMMUNICATION FROM THE CHAIR

RE-APPOINTMENT OF JUSTICE AARON RINGERA AS KACC DIRECTOR

Hon. Members, you will recall that on Tuesday 8th September, 2009, the Chair directed the Departmental Committee on Justice and Legal Affairs and the Committee on Delegated Legislation to proceed with dispatch and consider the matter of the reappointment of the Director of the Kenya Anti-Corruption Commission (KACC) and report back to the House within two weeks.

You will also recall that a report on the matter had been laid on the Table of the House earlier that afternoon by the Chair of the Committee on Delegated Legislation, and that, in my ruling of the same day I held that the tabling of the Report was not incompatible with my directions to the two Committees. Thereafter, the hon. Mutula Kilonzo, the Minister for Justice, National Cohesion and Constitutional Affairs rose on a point of order, requesting the direction of the Chair that the matter be held to be *sub judice* in terms of Standing Order No.80.

In support of this proposition, the Minister tabled a number of documents among them a copy of petition No.535 of 2009 filed on 7th September, 2009 at the High Court in Nairobi. The petitioners in that matter are listed as the Nairobi Law Society and 15 other individuals, while the respondents are listed as the Attorney-General and the KACC. Hon. Members, among the orders sought in the petition are a conservatory order stopping, or staying, the operations of Gazette Notices Nos.9300 and 9301 of 31st August, 2009, reappointing the Director and two Assistant Directors of the KACC, pending the inter-parties hearing of the petition. The petition further seeks temporary orders restraining, or prohibiting, the said officials from assuming office, or acting in such positions, pending the hearing and determination of the petition. The Minister informed the House that the matter would come up for hearing on 15th September, 2009.

In addition to tabling the said document, the Minister made submissions urging the Chair to find that the House should not debate the Report until the court seized of the issue makes a determination. The Minister also advanced the view that if the House debated the Report, such a debate would go to the merits of the matter and undermine the citizens' right to a fair hearing. Several Members contributed to the ensuing debate, giving their respective positions on the matter. The House also benefited from the contribution of the hon. learned Attorney-General, who informed the House that he was himself a party to the case that was filed in court, and that in his view, the case was active because a hearing date had been set for 15th September, 2009.

The Attorney-General argued that although it was not automatic that all matters that are filed in court lead to invocation of the *sub-judice* rule, the matter and issue was complex and required a careful balancing act of the roles played by the various organs of Government, so that no organ is seen to be interfering with the other, but all organs should work harmoniously to ensure that the country functions on the basis of constitutionalism. The Attorney-General urged the Chair to consider in particular the danger of prejudice to the courts and took the view that although Parliament could render a non-binding opinion on the matter, only the courts could make a final determination on the issue, binding on all persons.

Hon. Members, the term "*sub judice*" can be translated loosely from Latin to mean "under judicial consideration". In the Commonwealth tradition, the *sub judice* rule arose out of a desire by Parliament to prevent its comment and debate from exerting an influence on courts and thus prejudicing the positions of parties and witnesses in such court proceedings. The doctrine is also premised on the constitutional principle of separation of powers by which Parliament should not be seen as trying to deal with matters that properly belong to the Judiciary. In Kenya, this principle has been observed for a long time. On 1st November, 1966, for example, Speaker Humphrey Slade had this to say when a similar matter arose in the House:-

"I think the principle is that parliaments and courts of justice must respect each other and parliaments must not interfere with or prejudice, by their own discussions, the proceedings of a court of law any more than they expect (the courts) to interfere with the proceedings of Parliament".

The *sub judice* rule is one imposed voluntarily by Parliament on itself and is exercised, subject to the discretion of the Chair, with the object of forestalling prejudice of proceedings in the courts. It is important to note that as relates to the National

Assembly, the *sub judice* rule does not find expression in the Constitution or in any other law.

In the House of Commons of the United Kingdom, the *sub judice* rule provides that matters awaiting the adjudication of a court of law should not be brought forward for debate in the House, but this is subject to the discretion of the Chair and the right of the House to legislate on any matter or to discuss any matters. As a result, both Houses of the United Kingdom Parliament have adopted a qualification to the *sub judice* rule by which discussion is permitted on a matter relating to a ministerial decision as well as issues of national importance. That last part underlined. Those at the bar may come in.

(Several hon. Members walked in the Chamber)

Order hon. Members! Those of you who want water may access it. Assist the Member who is at the back. Clerks-at-the Table, could you pass some water to hon. I. Muoki. Please do that quickly.

(Some water was availed for hon. Members)

(Loud consultations)

Order hon. Member! This House has recently re-considered the scope and application of the *sub judice* rule and the rule now finds expression under Standing Order No. 80 of our new Standing Orders. There are three main elements to the rule. The first is that for a matter to be *sub judice*, it should relate to active court proceedings. The second is that there must be a likelihood of prejudice to the fair determination of the matter by the reference to it in the House. The third important element is that the Chair has discretion to allow reference to a matter notwithstanding that it is active and that there is a likelihood of prejudice to its fair determination by the courts.

Hon. Members, there are, therefore, three issues for determination by the Chair. These are:-

(a) Whether Petition No. 535 of 2009, the documents whereof were tabled by Mr. M. Kilonzo, constitutes active court proceedings within the meaning of Standing Order 80(3);

(b) If there are, indeed, active court proceedings, whether the discussion of the report by this House is likely to prejudice the fair determination of the case by the courts; and

(c) Regardless of the answer to the first two issues, whether the Speaker should exercise his discretion in favour of allowing debate on the report of the two Committees of this House.

Hon. Members, civil proceedings are deemed to be active under Standing Order 80(3)(c) when arrangements for hearing such as setting down a case for trial have been made until the proceedings are ended by judgment or discontinuance. I have no doubt in my mind that a case has been filed relating to the matter of the re-appointment of the Director and two Assistant Directors of the Kenya Anti-Corruption Commission (KACC). However, despite the claims of both the Hon. Minister for Justice, Constitutional Affairs and National Cohesion and the Hon. Attorney-General that a

hearing date had been set for 15th September 2009, no evidence was produced to this effect.

(Applause)

The Chamber Summons attached to the documents presented by the hon. M. Kilonzo is blank in the space provided for indicating the date on which all parties concerned should attend for hearing of the matter. No Hearing Notice or other evidence is provided. As I have recently ruled, Standing Order No.80(4) imposes a duty on a member claiming that a matter is *sub judice* to provide the requisite evidence. It may well be the case that there is, indeed, such evidence. However, at this point in time, no such evidence has been presented to the Chair.

On the question of the likelihood of prejudice to the fair determination of court proceedings, it is useful to note that the legal term “prejudice” finds expression in many areas of the law and may be described in a myriad ways. The concept is supposed to operate to prevent procedural and substantive injustices, not to create them. Allegations of prejudice must be scrutinized carefully. The specific allegations of likelihood of prejudice should be detailed with sufficient particularity to allow the Chair to make an informed decision on the merits of the allegation.

It must be noted, Hon. Members, that court proceedings are presided upon by judicial officers properly trained in law and who have taken an oath to discharge the functions of their office without fear or favour and without extraneous influences being brought to bear on their work. In the ordinary course of affairs, judicial officers of any repute are very unlikely to be swayed by what is said in Parliament. It does not inspire confidence in the able and learned men and women who serve in our Judiciary if we allow the propagation of a view that the Judiciary are always looking over their shoulders at what Parliament has said or at the view that Parliament may take on a matter before making their determinations. It will, probably, itself be an affront on the principle of separation of powers if one arm of Government were to take such a view of another arm of Government. In my considered view, in a properly functioning democracy with a sound and professional Judiciary, the burden of the evidence required to show that there is a likelihood of prejudice to the fair determination of any matter by the courts should be set very high indeed. I do not see that this has been proved.

Hon. Members, it is important to distinguish the capacity in which the Judiciary and the Legislature operate. This House, by virtue of the mandates bestowed on it by the Constitution, has powers of legislation, oversight and representation. These are the capacities in which the House functions. The Judiciary, on the other hand, neither legislates nor represents nor has oversight over other arms of Government. Its functions are adjudicatory. This distinction is important in understanding the different capacities in which the two organs of the Government operate.

Hon. Members, it will be recalled that this House was first seized of the matter of the re-appointment of the Director of the Kenya Anti-Corruption Commission (KACC) on Thursday, 3rd September, 2009 when the Mr. Isaac Ruto raised the issue in this House. At that time there was no known pending court case regarding the matter. I take the view that as a general proposition, this House, in line with precedents from other similar jurisdictions, should not abandon a matter over which it is seized on the ground only that

the matter has become the subject of litigation in a court of law. Indeed, as my learned predecessor, Speaker Kaparo, had occasion to say on 13th April 1995, *inter alia* :-

“The effectiveness of the National Assembly will be seriously undermined if Members should pre-empt debate on matters before the House by resorting to Court.”

If this House, as happened in the present case, begins to consider any matter before it is the subject of litigation, the House will not give up jurisdiction of the matter easily or at all, for the reason only that some litigation has subsequently commenced on the matter. To hold otherwise would be to invite every person who is apprehensive of the action that this House might take on any matter to rush to court and thereby gag the House from further deliberation on the matter. This surely cannot have been the intention of the rule. The Chair will guard carefully against the abuse of the procedures of this House in that manner.

Hon. Members, from my pronouncements above, it has become clear that although the case to which the House has been referred by the honourable Minister for Justice, National Cohesion and Constitutional Affairs, may subsequently be shown to be active by production of evidence to that effect, this has not been done at this point in time. It has also become clear that the Chair is not persuaded by the argument that the deliberations of this House on this matter will cause the judicial officer or officers who have to determine any case to which the matter might relate to be unable to determine it fairly and will, therefore, prejudice its fair determination.

I wish to conclude this Communication by reference to Standing Order 80(5) which vests, in the Speaker, a discretion to allow reference to any matter whether or not the matter would otherwise be *sub judice*. My determination on this question may have a bearing on the significance to be attached to my findings on whether there are active court proceedings and also on the question of the likelihood of prejudice.

In this regard, let me at the outset emphasise that I hold the firm view that the discretion given to the Speaker should be exercised with the utmost caution and must not be resorted to except where exceptional circumstances so require. I am guided in determining whether to exercise my discretion in terms of the Standing Orders, by the words of Sir Fredrick Jordan, Chief Justice of the New South Wales, who in a 1937 case had the following to say:-

“The case may be one in which as between competing matters of public interest the possibility of prejudice to a litigant may be required to yield to other and superior considerations. The discussion of public affairs and the denunciation of public abuses, actual or supposed, cannot be required to be suspended merely because the discussion or the denunciation may, as an incidental but not intended by-product, cause some likelihood of prejudice to a person who happens at the time to be a litigant.”

I am clear in my mind that in a matter of immense public interest, where there is a doubt, unless sound grounds are advanced, a presumption should exist in favour of allowing debate in the House as opposed to the application of the *sub judice* rule to suppress debate. I am also clear in my mind that it is not consistent with the purposes for which parliaments are established that at a time of intense public concern over a matter calling into question important constitutional principles and the legitimate inter-play between the Executive and the Legislature on the appointment of the person to superintend the anti-corruption machinery in the country, this House should be the only place in Kenya, where the matter cannot be debated. If, however, in the course of debate

it should become clear that any Member is clearly foraying into a domain outside what is legitimately the province of this House, it will still remain open for the Chair to call them back to line.

I want to repeat that. If, however, in the course of debate it should become clear that any Member is clearly foraying into a domain outside what is legitimately the province of this House, it will still remain open for the Chair to call them back to line.

Hon. Members, in exercise of the discretion conferred upon the Chair by Standing Order 80(5), I rule that, notwithstanding any provisions of Standing Order 80(1), (2), (3) and (4), I do hereby allow debate on the Report of the Joint Sittings of the Departmental Committee on Justice and Legal Affairs and the Committee on Delegated Legislation on the Appointment of the Director and Two Assistant Directors of the Kenya Anti-Corruption Commission laid on the Table of the House on 8th September 2009.

Thank you.

(Applause)

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Thank you very much for your ruling. Although I have fallen victim of the same ruling, I welcome it today.

However, I rise under Standing Order No.36 which talks about the business of the House as set out on the Order Paper. Standing Order No.36 (2) states:-

“Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenient of the House, direct.”

Mr. Speaker, Sir, I now wish to invite you for the convenience of the House that you re-arrange the Order Paper so that we may then invite the Chairman of the Committee on Delegated Legislation to move that we discuss this Report.

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

Mr. Speaker: Is it related to the same matter?

Mr. Olago: Partly, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Olago!

Hon. Members, I have listened to the point of order raised by the hon. Member for Chepalungu and I am satisfied that he has a genuine concern. Similarly, I am satisfied that the business falling under Orders No.8 and No.9 are of equal national importance. What is significant is that the business falling under Order No.8 was partially transacted yesterday. So, in terms of what should take precedence and priority over the other, given the relatively equal public interest component, I think the matter which has already been partly transacted will have priority.

Mr. Kioni: On a point of order, Mr. Speaker, Sir. During the debate, I did raise an issue under the Constitution. I did specifically point out Section 17. You promised to include it in your ruling. I was fairly attentive but I did not hear it.

Mr. Speaker: Hon. Members, the matter that Mr. Kioni is raising pertains to the concept or doctrine of collective responsibility, particularly in relation to Ministers and Assistant Ministers in respect to actions that are taken by the Executive, more so, specifically His Excellency, the President.

This is a matter on which, in fact, already there are rulings from the history of this House. The position, as far as I am concerned, ought to be clear to hon. Members. But in

the event that it is not, I will give further direction. This is a matter on which there are rulings. In fact, many of them are documented in the HANSARD of this House. So, if hon. Members care, they may want to acquaint themselves with those rulings because they are public documents.

However, for whatever it is worth, even if it is superfluous, I will give further directions. But for purposes of business today, that has no bearing.

Next Order!

MOTION

ADOPTION OF REPORT ON CONSERVATION OF MAU FOREST COMPLEX

THAT, this House adopts the Report of the Government's Task Force on the Conservation of the Mau Forest Complex laid on the Table of the House on Wednesday 12th August, 2009.

(The Minister for Forestry and Wildlife on 9.9.2009)

(Resumption of Debate interrupted on 9.9.2009)

Mr. Speaker: Hon. Members, we will continue with contributions from where we left from. Those of you who had not contributed are at liberty to do so.

Ms. Karua!

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Ms. Karua: Mr. Deputy Speaker, Sir, thank you for giving me a chance to contribute. From the outset, I wish to say that I support the Motion.

As rightly argued by Mr. Namwamba when he was moving the amendment, the Government does not need the adoption of this Report to take action but in order that the Government does not have an excuse for failing to act on Mau, I believe we should pass this Report which contains good recommendations.

Mr. Deputy Speaker, Sir, I believe that the concerns that were raised by the hon. Members who wanted the amendment could still be taken care of, even when the Report has been adopted. As Mr. Speaker has ruled previously, the Committee of the House is not a stop from inquiring further into the matter, even as the Government proceeds with its action. I want to state that the Government's handling of the Mau Saga has been less than satisfactory and it is the Government that is causing the tension.

(Loud consultations)

Mr. Deputy Speaker, Sir, the consultations are too loud!

Mr. Deputy Speaker: Order! Order, hon. Members!

Ms. Karua: Mr. Deputy Speaker, Sir, as I was saying, the handling of the Government of this Mau saga has been less satisfactory. It is the Government's ineptitude

that has caused tension between Members of Parliament supporting different positions. All Members are agreed that we need to save the Mau Forest. It is how to go about the matter that is in dispute. I have not seen any serious effort by the Government to bridge the various positions by hon. Members. The Government on its part has given mixed signals. One time, the Government is ready to have the Mau Forest saved and the next time, it is playing politics, inviting sections of the Members of Parliament living around Mau Forest leaving out others, thereby creating the divisions that we have seen. I am asking the Government to act responsibly and stop the divide and rule tactic and take up the issue of the Mau Forest. Also, once and for all, take decisions on issues of social justice.

Mr. Deputy Speaker, Sir, I support the recommendations contained in this Report to the direction that all those holding title deeds ought to be compensated. I am talking of those holding title deeds issued by the Government and those who were genuinely allocated as squatters. Those who grabbed land knowingly should not be compensated. There is a third category which is not included in this Report but who should be compensated. Those are squatters who are on the land. Genuine squatters are Kenyans. They cannot disappear into thin air. So, when they get out of the Mau Forest, the Government needs to take adequate measures on where to relocate them. It is not just about the Mau Forest, this Government lacks a policy on social justice.

Mr. Deputy Speaker, Sir, any Kenyan who is destitute and has nowhere to go should never be moved to a roadside, whether it is from the informal settlements, Mau or the internally displaced persons (IDPs) camps. Some of the people who are still in IDP camps are squatters who have no land to return to. We, therefore, do not need *ad hoc* decisions. We need a policy on social justice which will guide the Government any time it needs to relocate Kenyans who have no alternative places to go. I am, therefore, suggesting to the Government – and it should be obvious to them - that in order to make the Mau available for tree replanting in the October season when we expect the rains, they should provide alternative land where those who genuinely have nowhere else to go should relocate to, even if temporarily, pending the Government's permanent resolution of the matter.

I want to state categorically that the Government has to show that it is not now playing politics with the Mau and that, it is serious to act by taking measures that will help resolve this issue once and for all. It is also presumed, in all the actions that the Government takes, that the Government is guided by the rule of law as set out in the Constitution and our laws. Any individual who feels aggrieved by the Government action has a legal recourse. He or she can always go to a court of law and justify his or her case. I believe, as hon. Members, we should give way to the saving of the Mau, knowing that even if we replant the trees in the coming rainy season in October, it will take us not less than four years of hard work to start reversing the negative effects of the deforestation that has taken place.

Finally, the Government should take action to save all the water towers; namely, the Mau, the Aberdares, Mount Kenya and others. As I speak now, there are loggers in all our water towers. Some of them enter legitimately with letters from the Forestry Department to harvest the plantations. But, in the course of those with legitimate papers entering the forests, other loggers enter and all the forests are in need of rehabilitation. We are asking that measures be taken and that the work of replanting be given to our

many jobless youths. We do not want a situation where a few individual contractors get the work and those who are in dire need of livelihoods fail to get the work of replanting and maintaining those trees.

I want to urge Members to stop contributing to this debate as though the fight is between Members of Parliament. Let us not fall to the divide and rule by the Government. Let us all unite and support the saving of the Mau and ask the Government to take care of all Kenyans who need to be taken care of.

With those remarks, I beg to support.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. Notwithstanding the very well reasoned submissions by hon. Members yesterday and today, I wish to kindly, with all humility, urge you to invoke the provisions of Standing Order No.216, which says that:-

“A Motion may, with the approval of the Speaker, be moved by any Member, either with or without notice that the proceedings on any specified business be exempted from the provisions of Part VII (Sitting and Adjournments of the House), Part X (order of business)---“

In relation to that Standing Order, I wish to ask that the debate on this subject be terminated now and we proceed to next Order by invoking the provisions of Standing Order No.216.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to oppose what my Learned Senior, hon. Olago, is urging you to do. We know that the matter of Kenya Anti-Corruption Commission (KACC) is very important, but we also know that, equally important, is the matter of the Mau and the environment in this country.

Indeed, we are not just addressing the Mau. You will hear some of us talk about many catchment areas that have been destroyed through the reckless management of the environment and our forests in this country. It is a matter of peoples' livelihoods. I do not think that we should start re-arranging the order of business in the House simply because we want to dispose of the matter of KACC. We will still be here on Tuesday. If we finish the debate, the issue of KACC will come after this. I want to urge the Chair to reject the application by hon. Olago. It has no basis, no rationale and no meaning. It is simply meant to cause confusion in the House. We are all here to contribute very intensely to the issue of not only the Mau, but all the water towers in this country that are under threat and that spell doom to the future of this country.

I beg to oppose.

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Deputy Speaker, Sir. I also want to oppose that proposal by hon. Olago.

Mr. Deputy Speaker: Order, hon. Members. Hon. Olago, indeed, hon. Ruto sought the Chair to invoke the provisions of the Standing Order No.36. The Chair issued a directive here that the business will continue. So, that matter has rested. So, let us proceed! Hon. Githae!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion on Mau. Kenyans will recall that 20 years ago, one Prof. Wangari Maathai went round this country telling Kenyans that in the next 20 years, we were going to pay dearly for mismanaging our forests, cutting down trees, polluting our rivers and

not taking care of our environment. She was dismissed as “that woman” and people asked: “What is that woman telling us?” Her prediction has now come true. We are now paying dearly for not listening to Prof. Wangari Maathai. We are now paying dearly for dismissing Prof. Maathai’s warning.

Mr. Deputy Speaker, Sir, there is nobody in this House or in this country who does not want the Mau Complex to be conserved. There is not. That is an important water tower. The mess that we are creating in Mau is affecting our neighbours. The Tanzanian Prime Minister was here the other day. He said that we should put our house in order because Lake Natron, which is in his country, is drying up because we have messed up the Mau. Indeed, if we are not careful, we will start seeing Egypt threatening this country and saying that by messing up the Mau Forests, we are affecting their security because they depend on water that originates from the Mau. So, I think there is nobody in this House or in the country who would not want Mau to be conserved.

However, Mr. Deputy Speaker, Sir, it is clear that we are putting too much emphasis on Mau. We have got other water towers which must equally be conserved. If there are squatters in any forest, they must be evicted immediately. We must conserve all the water towers, not just the Mau. If we do not do that, we are going to pay even more heavily. So, we must do it.

Mr. Deputy Speaker, Sir, as we try to conserve the Mau, we must also take other conservatory measures. It pains me that after every rainy season, all our water runs down to the Indian Ocean. We do not dam that water. There are many other countries that are drier than Kenya. I will give an example of Spain. In Spain, it is a Government policy that not a single drop of water should reach Mediterranean Sea. They, therefore, build dams on all those small rivers. There is a dam after five kilometers. They even build dams on empty valleys so that when rain falls, water is conserved there.

Mr. Deputy Speaker, Sir, even here, if we look at the water from our house roofs, not a single drop of water is collected! The water that can be collected from the roofs of our houses is actually more than enough to meet the needs of this country. But those conservatory efforts have not been made! In fact, it would be in the interest of hon. Members to know that the Nairobi City Council by-laws prohibit the harvesting of rain water. They prohibit! I can understand that the intention was to create revenue for the water department. But now, we are facing a dire shortage of water. We, therefore, need to take any conservatory measure to conserve our water.

Mr. Deputy Speaker, Sir, our rivers have dried up and, again, that is a fact. Our river bends have no water and our swamps have been cleared of water. So, we also need to protect our wet areas. It pains me to see some houses in Nairobi that are built over rivers. Some rivers have been covered. Some houses have been built on wetlands and riparian reserves. So, we must take action in total, not just in Mau. People are talking about Mau only because we have seen the devastating effects of its destruction.

Mr. Deputy Speaker, Sir, if Mau is not conserved, two very important lakes are going to dry up – Lake Naivasha and Lake Nakuru. If there is no Lake Naivasha, there is no Naivasha! If there is no Lake Nakuru, there is no Nakuru! Those towns will come to an end. They will cease to exist. The only reason why they exist is because of those lakes and the number of tourists that go to visit them. Therefore, this is not a laughing matter! This is a serious matter.

Mr. Deputy Speaker, Sir, what is very clear is that the efforts that have been made to conserve forests have not been very straight forward. For example, in the Mt. Kenya area, about 15 years ago, a decision was made to surround the forest by Nyayo Tea Zones. Initially, it is true that we were not happy with Nyayo Tea Zones. It meant that people were evicted from forests. They were not given alternative places to settle. Their cows and other livestock were confiscated by the Government. But with hindsight, I think we should thank the former President for making that decision to have Nyayo Tea Zones. It is very clear in Mt. Kenya that if you cross the Nyayo Tea Zones, you are in the forest. So, the issue of boundaries--- I have seen in the Report that it is mostly talking about boundaries. Nobody seems to know the boundaries. So, which year are you talking about the boundaries? So, I think we should also make it a policy that, first of all, we should demarcate our forests. We should put proper beacons and fences. We should surround them with a tea zone so that, when you cross that tea zone, you know that you are now encroaching on the forest.

Lastly, Mr. Deputy Speaker, Sir, there are squatters in the Mau. There are also people with title deeds. We must respect title deeds!

(Applause)

The only reason why the people in Mt. Kenya were not compensated was because they were told that they did not have title deeds. So, those settlers who have title deeds should be compensated because they are to move. There should be no two ways about it. However, those who are there illegally and cannot show a title to their land should be evicted immediately. That is what happened in other forests.

Thirdly, Mr. Deputy Speaker, Sir, it is now a Government policy that before you evict people, you should show them some alternative place to settle. There are so many farms in Rift Valley. I would urge the Department of Forestry to buy those farms and settle the people who will be evicted from Mau.

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

Mr. Konchella: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this very important Motion.

Mr. Deputy Speaker, Sir, the issue of Mau is a crisis in this country. Many people are trivializing the matter. They are looking at it as if it is a normal issue or problem. But we are sitting on a disaster. It is a disaster because there are communities that will be extinct in Kenya in the next 50 years. They will either move out of Kenya or invade others in their places. So, we have a choice here of either protecting or destroying ourselves. Indeed, we are in a path of destruction. I have heard other hon. Members saying: "Let us move quietly in a way which will be humane", or whatever! We are not saying that the responsibility of humaneness will be on the Government. First and foremost, that is an issue of corruption and impunity. If we go back to history, today, the entire pastoralist community of the Maasai has lost all their entire livelihood. Where they used to go for rotational grazing of their animals during the dry periods has been occupied by other people. Some people have cultivated the land. The moment you move your cattle across there, you will be arrested for trespassing. Most of those title deeds are in the hands of the people. We are saying that we should respect the sanctity of title deeds. Yes, but let us also respect corruption. That is corruption and, as the nation of

Kenya, the world is watching us! If we are not able to address corruption and impunity, surely, the leadership of this country has no business to be where they are. People are going to die or be extinct! I do not know whether it pleases anybody to walk along the streets of Nairobi and highways and see ten or 20 dead animals crushed by lorries. Those people have not brought these cattle because they want to be here in Nairobi. This is the only property that they own and yet nobody seems to understand or appreciate that we are causing a disaster.

Mr. Deputy Speaker, Sir, the problem of Mau Forest emanated from the people who were allocated land in that forest. I would like to talk about the land that was allocated to the Maasai in Mau Forest. The land was allocated to “big” people, some of who are in this House. Over the years, they sub-divided the land and sold it to other people so that they could have money in their pockets.

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member substantiate his statement? He has said that some people in this House were allocated land in the Mau Forest. Could he name them?

Mr. Konchella: Mr. Deputy Speaker, Sir, the names are in the Report.

Hon. Members: On which page?

Mr. Konchella: You just need to get---

The Assistant Minister for Energy (Mr. Keter): Mr. Deputy Speaker, Sir, this is a very serious issue.

Mr. Deputy Speaker: Mr. Konchella, you will have to substantiate your allegations. You cannot impute improper motive against other Members of Parliament, either singularly or collectively, without bringing evidence before the House.

Mr. Konchella: Mr. Deputy Speaker, Sir, I withdraw those remarks because my colleagues are agitated.

Mr. Deputy Speaker: Withdraw and apologise!

Mr. Konchella: Mr. Deputy Speaker, Sir, I withdraw and apologise, knowing that history will judge me right in the future.

Mr. Ruto: Mr. Deputy Speaker, Sir, on a point of information!

Mr. Deputy Speaker: Does the hon. Member want your information?

Proceed!

Mr. Ruto: Mr. Deputy Speaker, Sir, he wants my information and that is why he has gone to sit down.

Mr. Konchella: Mr. Deputy Speaker, Sir, I have not allowed the hon. Member to inform me.

(Laughter)

Mr. Ruto: Mr. Deputy Speaker, Sir, I would like to inform the hon. Member that it is Mr. ole Ntimama who has land in Mau Forest.

Mr. Deputy Speaker: Order, Mr. Ruto! Did I hear you impute improper motives against Mr. ole Ntimama? Did the Chair hear you do that?

Mr. Ruto: Mr. Deputy Speaker, Sir, I was informing the hon. Member who was on the Floor that some of the people who live within Mau Forest include Mr. ole Ntimama. That is a fact. He allocated himself that land when he was the Chairman of Narok County Council. I can bring the details of that farm if I am required to do so.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): On a point of order, Mr. Deputy Speaker, Sir. Could the hon. Member show this House where my name appears in this Report? I have no land in the Mau. I have no land anywhere including Ndabibi. I am a very clean man. The hon. Member sub-divided his land and sold it to his constituents. That is why he does not want them to get out of Mau Forest. The hon. Member took their land at home and now he does not want them to go back to their shamba.

(Laughter)

Mr. Deputy Speaker: Order, hon. Members! The Chair will not tolerate this anymore. Mr. Ruto and Mr. ole Ntimama, you understand the Standing Orders. You cannot discuss the conduct of an hon. Member or impute an improper motive without bringing a substantive Motion. Could we have a civilized debate in line with our Standing Orders?

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): On a point of order, Mr. Deputy Speaker, Sir. We will not go out of this unless Mr. Ruto shows us the page where my name is mentioned in this Report.

Mr. Deputy Speaker: Order, Mr. ole Ntimama! Whereas the Chair was willing to do that---

Mr. ole Lankas: On a point of Order, Mr. Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Member!

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

Mr. Deputy Speaker: Order! When the Chair tells you order, you should be orderly! Order, hon. ole Lankas!

Mr. ole Ntimama, whereas the Chair was in a perfect position to make sure that Mr. Ruto either apologises and withdraws on the imputation of improper motive against you, you also did the same. Under the circumstances, you are both at fault. Let us have a civilized debate on this matter. Two wrongs do not make a right.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): On a point of order, Mr. Deputy Speaker.

Mr. Deputy Speaker: What is your point of order, Mr. ole Kapando!

(Laughter)

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I appreciate that you know that my heritage is originally from the Maasai.

Mr. Deputy Speaker: Indeed, you have confirmed your heritage is from the Maasai. So, I was not at fault to say "ole Kapando".

Proceed!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, it is very important that when issues of such magnitude and significance to this country are raised by Members of Parliament, even if they accuse each other, it is not enough for them to just apologise and withdraw the remarks they have made. They should actually substantiate those remarks. If Mr. ole

Ntimama has risen on a point of order and indicated that Mr. Ruto, indeed, allocated his constituents land, I think this country deserves greater substantiation and truth.

Mr. Deputy Speaker, Sir, I respect you, but on this one---

An hon. Member: And vice versa!

Mr. Deputy Speaker: Order, hon. Members! You have to acquaint yourselves with not only the rules, but also the practice of this House. We have been in this House for over one year now. Mr. Kabando wa Kabando, you know exactly what to do. It is not the Chair to ask an hon. Member to substantiate his or her remarks. It is you to stand up in your place and seek the substantiation. The Chair has given a ruling on that. You waited until the Chair gave a ruling on that matter and then rose on a point of order.

Hon. Members, the Chair will enforce the Standing Orders of this House. In no way, will the Chair allow this thing to get out of control. You know that very well.

Proceed, Mr. Konchella.

Mr. Konchella: Thank you, Mr. Deputy Speaker, Sir. Hon. ole Ntimama is a respected leader of the Maasai people. I know he has defended the Mau Forest for the sake of mankind and not because of his own interests.

It has taken environmental experts one year to come up with this Report. We, the leaders from the Mau region have been called to attend numerous meetings held by the Prime Minister in his Office. We have addressed this issue and agreed that the problem of Mau Forest can only be solved if we adopt this Report which covers all the problems all of us here are addressing. So, this is a Report that we must respect, as a House and I urge all hon. Members to support it. This Report is not cast on stone. We can still amend it where necessary as we implement it. However, the Government should have the resources voted by this House in order to implement the eviction of people from the Mau Forest.

Mr. Deputy Speaker, Sir, we hoped that before the rains set in, nobody should be in Mau Forest. If you go there, you will see destruction going on and it is time we phased out this problem. I would like this House to know that the Maasai Mau has the largest forest cover and if it is destroyed, we will not have water for our cattle. There will also be no rain for the people who live in Kericho and their tea and other crops will not grow.

It has taken one year to do this Report. Even if we asked the relevant Departmental Committee to go through this Report as they wanted yesterday, they will not be able to do what has been done by more than 20 institutions to produce this document. This document covers the entire Mau Complex because the rivers that flow to Lake Baringo, Lake Natron and the Mara River have dried up. I invite hon. Members of this House to visit the Maasai Mara so that they can see what has happened. Zebras and Wildebeasts are crossing---

Mr. Kiuna: On a point of order, Mr. Deputy Speaker, Sir. Due to the sensitivity of this Motion and since many hon. Members want to contribute, I request the Chair to limit the time a Member takes so that many Members can get a chance to contribute.

Mr. Konchella: Mr. Deputy Speaker, Sir, I would like to turn to Recommendation "F" on page 47 of this Report. The Task Force recommended that the Maasai Mau Trust Land Forest should be gazetted and managed by an autonomous body contracted by the Narok County Council. This is trustland which belongs to Narok County Council. I recommend that the Kenya Wildlife Service (KWS) and the Narok County Council form a task force--- This is because even if you go to the Mau Forest

right now, you will realise that the loggers have licences which have been issued by forest officers.

Indeed, the corruption going on in the destruction of our forests is because of lack of protection of this resource. In fact, the Taskforce has recommended, in the introductory part of its Report, the issue of institutions that are weak. Institutions are weak because of lack of commitment by the Government. We do not know who is supposed to give instructions. I would have expected the Minister for Forestry and Wildlife, or the Minister for Environment and Mineral Resources, to handle this matter. I think we should give one Michuki the responsibility of handling the Mau issue. That is the person we need to give this job to because, as far as I am concerned, we are just playing around. Nobody seems to take any action or take responsibility. The other day, the President himself ordered that those people who are destroying forests should be arrested.

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

Mr. Deputy Speaker: What is it?

Mr. Konchella: Mr. Deputy Speaker, Sir, who has been arrested so far? Nobody has been arrested. So, if the President issues orders---

Mr. Deputy Speaker: Order, Mr. Konchella! An hon. Member is on a point of order.

Mr. Lessonet: On a point of order, Mr. Deputy Speaker, Sir, the hon. Member has just indicated to us that there is one Minister who can perform better than other Ministers. Is he correct to give the opinion that one Minister is better than the other?

Mr. Deputy Speaker: Proceed, Mr. Konchella!

Mr. Konchella: Mr. Deputy Speaker, Sir, we are talking about performance here. We have performance contracting in the Government. Probably, some public officers are failing very badly. However, that is a side issue. The issue before the House is very serious.

I want to end my contribution by asking hon. Members to support the Motion. It is not an issue of one community against another. It is an issue that will affect our children. We will be judged harshly by our children in future. Those who are of the view that we delay protection of the Mau Forest Complex know that we will be judged by our societies and by the international community.

Mr. Deputy Speaker, Sir, wars are always started because of water. There will come a time when people will say; "no", and take arms to protect themselves. So, let us not reach there because we will be blamed as a House, a people and leaders at this time.

Thank you.

Ms. A. Abdalla: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I wish, on the outset, to support the contents of the Report on Conservation of Mau Forest Complex.

Much has been said regarding why the Mau Forest Complex needs to be conserved. Conserving the Mau Forest is not only a livelihood issue, but it is also a food security issue. It is, in fact, an international boundary security issue, given that the destruction of resources of the Mau Forest Complex are affecting the entire Nile River Basin.

Having said that, I wish to, again, say that I do support the removal of settlers from the Mau Forest. However, debate on the Mau Forest has been made an emotional

debate that is more of preservation than conservation. Preservation is for antiques, where you preserve an antique so that it is able to increase in its value. That is why you do not look at other issues pertaining to that item.

Mr. Deputy Speaker, Sir, we have over-focussed this debate on the removal of the settlers in the Mau Forest. In the process, we have neglected other issues that have caused the degradation of that forest. The problem in the Mau Forest Complex is wider than the settlers therein. The problem in the Mau Forest Complex is an issue of institutional failure. I am afraid that the Report on the Conservation of the Mau Forest Complex has not done justice to that component.

The degradation in the Mau Forest, as in any other water catchment, is a factor of three issues: Catchment degradation that can be caused by settlement such as the illegal or legal settlements in the Mau, and extraction of the resources in that area, such as the water that is being removed to the flower farms and the rest. In my view, the destruction of the Mau Forest is more of an issue of institutional failure, because the people who undertake logging do not do so in the farms where people have already settled. They undertake logging inside gazetted forests.

Mr. Deputy Speaker, Sir, what has the change in the name of the Forestry Department to Forest Service achieved in terms of reducing logging activities in the Mau Forest? Yesterday, officials from the Ministry of Forestry and Wildlife, and the Ministry of Environment and Mineral Resources were at the UNEP, showing the donor community a video showing logging. I wish to tell the Minister for Forestry and Wildlife, who is here, and who should have had his technical people seated on the Civil Servants' Benches, that he should not show the international community logging activities on video when it is a reflection of his weakness and his institutions, as he is not an ordinary *mwananchi*.

The Ministry should have shown the international community what it has done, as an institution, to conserve the part of the Mau Forest that is not yet de-gazetted, so that it can move to the other areas that it wants to re-capture by removing the illegal or legal settlers from the forest. I support the removal of the people who have illegally settled in the forest, particularly those who do not have title deeds. I support the criminalisation and whatever measures can be taken against loggers and land speculators.

The problem of the Mau Forest is not lack of legislation. It is the weakness of the existing institutions in not enforcing the laws that we already have. We are now providing an opportunity for a political fight amongst communities, because leaders in this country are used to sitting on the fence, and do not want to make bold decisions.

(Applause)

Mr. Deputy Speaker, Sir, if I were in a position to make a decision, I would, first of all, clean up the systems that exist. I would deal with the Forest Service and make sure that it is answerable. I would deal with the institutions that have to deal with large-scale extractors of natural resources, and not over-focus on just removing a population out of the Mau Forest. They should be removed but we must do it in a manner that is consistent with our Constitution.

The Government already has a lot of Internally Displaced Persons (IDPs) that it has not taken anywhere. The Government is now going to remove people with title deeds from Mau Forest, yet the same Government is not able to conserve the forest.

Mr. Deputy Speaker, Sir, “conservation” means the natural environment living in harmony with people. The Ogiek have, for generations, lived in harmony with the environment. When we talk about blanket removal, what measures are we putting in place to ensure that people who conserved the environment for generations are not lumped together with land speculators or illegal squatters, who are able to benefit from the system because they are more pro-system than the Ogiek?

I wish to urge that the recommendations in this Report clearly tell us what we are going to do to the Ogiek community in the Mau Forest, who are going to suffer the consequences of the actions recommended in this Report. I had the misfortune of being in this House when the 2,500 title deeds were issued to the Ogiek as a response to an answer to a Question that was raised in this House. So, there is need for the Government to give us a specific way of dealing with the Ogiek. That is why I was saying that the people from the Ministry should be sitting on the Civil Servants’ Benches, so that they can incorporate our views in the Report for further action.

Mr. Deputy Speaker, Sir, I was talking about large-scale extractors of forest resources. Lake Naivasha has receded by 100 metres, because of the extraction of water resources by flower farms. We talk about Kshs30 billion for conserving the Mau Forest. The extraction that has been allowed to go on in Naivasha by the National Environmental Management Authority (NEMA), through their environmental audits, has killed a low input fishery sector that was worth Kshs5 billion.

We are concentrating on moving human beings when we have already destroyed the livelihoods of such a big population at such large scale that we do not look into. I wish to focus on the institution called “NEMA”. I am focussing on NEMA because, out of the 67 hotels in the Mara Forest, only two have sewage treatment systems, yet NEMA gives each one of those hotels an environmental audit yearly, saying that they do not do anything to harm the environment.

Mr. Deputy Speaker, Sir, the sewage and chemicals coming from the hotels and the flower farms is killing the wildlife that we are claiming we are going to protect by preserving the Mau Forest Complex. Until we solve this problem, we are not going to resolve the conservation problem that is the Mau.

We should accept that the population that settled in the Mau Forest needs to be removed. The Government should show us what they have done with the laws and powers that they already have – the legislation that has been passed by this House conserves what is already gazetted. We need to convince everybody, including the hon. Members who were calling for the amendment of this Report so that; they can see we are dealing with this matter in a transparent manner.

Mr. Deputy Speaker, Sir, the Mau Taskforce, for once, was led by somebody who is an administrator. I am not saying this because I am tribeless. A lot of the problems of conservation in this country are caused by the fact that we do not give conservation efforts a multi-sectoral approach. You either have a forester, who wishes to hug trees, leading such a campaign, or you have a water technical person, who is busy wanting the floor to be clean or have a certain bacteria content. So, having a multi-sectoral person is good. Having a multi-sectoral person is a good thing. But for how long will you always

have a new institution for every new problem that we have in this country? Every time we have a new institution, it becomes a darling of everybody.

Mr. Deputy Speaker, Sir, yesterday, I was very disappointed by the contribution by an hon. Member who said that the international community is willing to help us and that is why we should conserve the Mau Forest Complex. The Mau Complex is not an international community business. It is a livelihood and food security business for all of us in this House and for anybody who claims to be a leader.

As we have these fancy names for institutions, my take would be: Why do we not sack the head of the forest service? Why do we not deal with the head of National Environment and Management Authority (NEMA), recruiting competitively, so that he is able to tell the hotels that: "Sorry, you will not get an environmental audit unless you establish "x", "y" and "z". This House should strengthen the departmental Committee on Lands and Natural Resources. We should vet the Director of NEMA. If he is vetted and his name is brought to this House and we prove that he has given environmental certificates to all the flower farms in Naivasha and all the hotels in the Maasai Mara without respecting the fact that they did not meet the lowest threshold set out internationally and the provisions of the NEMA Act, then we can recommend for his dismissal.

Mr. Deputy Speaker, Sir, whereas we talk about removing people, let us widen this debate to not just removing squatters from the Mau Complex. We should look at the Mau Complex as more multi-sectoral issue than just whether we like Isaac Ruto or Mr. ole Ntimama's points of argument. This matter is bigger than Isaac Ruto or Mr. ole Ntimama. Let us look at this matter for the seriousness that it is. It is wider than all of us in this House. It is wider than the political lifespan of anybody.

Mr. Munya: It is even bigger than this Parliament!

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, Mr. Munya is telling me it is even bigger than Parliament.

Mr. Deputy Speaker, Sir, I wish to support the report on the Mau Complex. We need an expansion of this matter.

Thank you, Mr. Deputy Speaker, Sir.

The Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to support this Motion and the report.

I want to plead with my colleagues that the issue of the Mau Complex is not about tribes---

Mr. Deputy Speaker: Order, Mr. Wetangula. Hon. Members, this is a Sessional Paper. Under the circumstances, the rules are very clear; we cannot limit. I will have to leave it to your own conscience to limit the time. If you can give your contributions in five minutes time to allow more Members to contribute, then fair enough. You will have to basically regulate yourselves.

Proceed, Mr. Wetangula.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, I never raised any issue on time.

This matter is very important. We should not trivialise it. We should not bring it to the level of communities. We should not bring it to the level of political inclinations. Contrary to what my good friend Ms. Abdalla has said, this is a matter with international proportions and dimensions. Tanzania is affected. We share Lake Victoria with Uganda

and therefore, Uganda is affected. River Nile flows to Sudan and so, it is affected. Egypt is also affected. It is an international dimension issue.

Ms. A. Abdalla: On a point of order, Mr. Deputy Speaker, Sir. I think the Minister is misinforming the House. I said that it should not be the international communities' resources deciding whether we should conserve the Mau Forest Complex or not. That is what I have a problem with.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, the other day we had the Prime Minister of Tanzania visiting Kenya and one of the highlights of his speeches was to cry about the Mau Forest and its effects on the Serengeti National Park.

Last week, I met the President of Tanzania in Libya and the first thing he asked me was, what we are doing about the Mau which affects the Serengeti National Park.

Mr. Deputy Speaker, Sir, if you go to Lake Victoria today, in the last ten years, the lake has receded in some parts by up to 100 metres. You go to Lake Naivasha, apart from the river that comes from Kinangop, all the inflows from the Mau have dried up. Go to Lake Nakuru, it is virtually dried up. There is not a single river. The only river that used to flow in; the Molo River, has dried up. Sondu-Miriu Hydroelectric project is now operating at less than 15 per cent capacity. You look everywhere and you will see that we have mismanaged the environment.

(Mr. Ruto interjected)

The Minister for Foreign Affairs (Mr. Wetangula): I will come to that!

Mr. Deputy Speaker, Sir, can you restrain Mr. Ruto from interjecting in my contributions?

When you look at what we have done to our environment since Independence, at Independence we had 12 per cent forest cover in this country; today, we have only 1.7 per cent. It is diminishing even more. It is like we are at war with our own country.

Mr. Deputy Speaker, Sir, when you talk about what must be done with those who invaded the Mau Forest Complex, I agree that buyers for value without notice can be compensated. I agree that the poor of the poor who went to the Mau Forest Complex to get an acre or half an acre should be resettled elsewhere. Even if they are not compensated by monetary terms, they should be found alternative settlement. However, we also have people who have abused their offices. We have people who have grabbed public land. We have people who have grabbed forests. I do think these are a category of people who should fall within the category of taking public resources and we should not reward them for wrong doing.

Persons in positions of responsibility, persons who have used their offices for self gain, persons who have gone and excised the forest and awarded themselves hundreds of acres of land, persons who have made money out of the illegal occupation of the Mau Forest Complex do not deserve any compensation whatsoever. I think this Parliament should make it very clear that we are not going to rubber-stamp and reward wrong doing.

There is the untold story of the damage done; not just for Mau Forest Complex, but many other parts of the country. When you look at the destruction of the Mau Forest Complex, the wonder that is the Maasai Mara Game Park is gone; the tea industry that has been the hallmark of our economy is under threat the generation of power at the

Sondu – Miriu Hydroelectric Power Plant is no more, the fishing on Lake Victoria is under threat and Lake Naivasha is under threat. You find some of our colleagues turning the issue of the Mau Forest Complex into a ping pong; a trivial matter where we are throwing tirades against each other as if it is not a serious matter.

Once we reclaim the Mau, we must move to other water catchment areas that have been destroyed by the greed of Kenyans. I have in mind the Cherengany Water Catchment Area, the Mount Elgon Catchment Area, the Mount Kenya Catchment area and the Aberdares. This House must rise and save this country for tomorrow.

Kakamega Forest has been cleaned off. If you fly over the Rift Valley from Nakuru as you go towards Kapsabet--- As you drive along the road, you will think that it is a forest; but when you fly over the area, all you see are patches and patches, showing how forests have been wiped out, yet we stand here and trivialise things.

I was born on the slopes of Mount Elgon, and up to 20 years ago, the rivers that flow from Mount Elgon were very heavy and very clean. Today, 60 per cent of the streams that run from Mount Elgon to Lake Victoria are seasonal. Some are so tiny and some are seasonal. The few that have been left flowing look like flows of blood because of land mismanagement. We have to decide what we have to do with our environment.

If you look at a country like Japan, 45 years ago, the forest cover for Japan was 20 per cent. Today, it is 70 per cent. Why can we not borrow a leaf from this? As we restore the Mau, I want to urge the Minister for Forestry and Wildlife, who is here, not to move into the Mau and start planting exotic trees. Those exotic trees only have a life span of about 18 to 20 years. Eventually, they will either die or we will let in loggers to go and harvest them. We must restore our natural forests with natural trees that live and withstand the test of time. In fact, I want to suggest that we do not plant trees in some parts of the Mau. If we limit human activities, the forests will regenerate by themselves within no time. This has been proved in many parts of the world.

I would want to urge this House that we shoulder our responsibilities as soon as we finish with the Mau. I invite you, hon. Members, to turn your attention to Mount Elgon and to Mount Kenya. It is a shame that all the Seven Folks Power Stations are closed and are producing zero power. We have had more severe droughts than this one and we have never closed all the seven folk's power stations. Now, they are all closed. If you travel along the Highway to Mombasa, you will see no water flowing in Athi River. This also applies to many other places. The Tana River is gone. Where are we headed? It is our collective duty, as well as our collective shame. The leaders of yesterday and the leaders of today stand indicted, and this indictment will haunt many of us for a long time to come. Those of us who have spoken recklessly in defense of the occupation of the Mau, I want to urge you to stand up, be counted, repent and see the way forward, that the future of this country will not rely on our reckless public political speeches. However, it will depend on our responsibility as leaders and as custodians, trustees of the Kenyans of today and tomorrow. The privilege we have been given to lead this country excludes our recklessness.

Mr. Ruto: On a point of order, Mr. Deputy Speaker. Much as I have tried to restrain myself so as to respect the hon. Minister for Foreign Affairs, is it in order for him to presume that he is the Moses in the Bible, and start preaching and pontificating on the Floor of the House, and imputing that other leaders have been reckless, when it is the Government that he represents that allows logging and perpetrates the destruction of the

environment? Is it in order for him to be reckless, in his speech, on the Floor of the House and pontificate on hon. Members, yet we are expected to listen to him with respect?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, there is a saying that if you want to know the owner of the dog, you beat it. Then you will very quickly know who the owner of that dog is.

Mr. Deputy Speaker, Sir, the passion with which I am speaking is the passion with which any Member here can speak about our environment. We should speak with equal passion. I have made my points. I hope my colleague Ruto will see the sense.

I now leave the Floor for others and beg to support.

Mr. Deputy Speaker: Order, hon. Wetangula! Hon. Ruto is not the subject of debate.

Mr. Twaha: Mr. Deputy Speaker, Sir, while I rise to support the Motion, I would like to urge the country to proceed with caution.

Mr. Deputy Speaker, Sir, the largest purchase that any individual would make is to purchase his piece of land and house. The value of stock of all the land in the country is threatened if we will be discriminative. If we say some people will be compensated and others will not be compensated, will be setting a very bad precedent. Some people are arrogating themselves to the powers determine who will be compensated and those who will not be compensated. There is no provision for such powers in the Constitution. Whether a piece of land is owned by a company or an individual, all have right to be compensated. Those companies are represented by shareholders. If we rubbish title deeds, the value of all land in Kenya will go down and the country will be impoverished as a result of that action.

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order really to mislead this House? Section 70 of the Constitution guarantees a citizen of Kenya, protection to his life, liberty, security, freedom of conscience and property. If we are to sit here to debate compensation, whose compensation should we be debating? Is the Member in order to suggest compensation? Section 70 says---

Mr. Twaha: Mr. Deputy Speaker, Sir, I have the Floor.

Mr. Deputy Speaker: Order, hon. Assistant Minister. What is out of order?

The Assistant Minister for Industrialization (Mr. Muriithi): Is the hon. Member in order to mislead the House that the debate before us is about compensation?

Mr. Deputy Speaker: Order, hon. Assistant Minister. You are out of order!

Mr. Twaha: Mr. Deputy Speaker, Sir, the report touches on compensation. I support that the Mau Forest should be conserved. What I am urging is that we proceed with a lot of caution. We do not have to be reckless and do foolish things which we will regret later. Two mistakes or wrongs do not make a right. In the past, one Minister of this Government said, a title deed is just a piece of paper. We know we have compensated people with those pieces of paper. So, print money and compensate them. But for heaven's sake, uphold the Constitution which you stood there and swore to defend it.

Mr. Deputy Speaker, the business of conservation is sometimes used as sojourn horse by people with ulterior motives. Somebody has a game lodge in the Maasai Mara. Since he does not want Ms. Abdalla to build another game lodge there, I declare the place a leopard's breeding ground. This is because he does not want competition with his hotel.

This has happened. The concept of conservation has been abused. So, we need to proceed with caution. Tomorrow, I do not want a certain community in my constituency, I might declare it a water catchment area and it becomes ground for something else. We want to preserve political demographic and you evoke something else. So, we do not want to see Mau Complex issue be opened to abuse in the name of conserving it.

We know a title deed is printed on a piece of paper. Money is also printed on a piece of paper. One is printed by the Government Printer while the other one is printed by De La Rue.

With those few remarks, I beg to support.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I rise to support the Report of the Mau Task Force.

I will attempt to bring this debate to another level. The debate has revolved around the political intrigues and competition for too long. Unfortunately, it is even finding its way into party politics. However, the level of debate for us should really be: What is the best we want out of the conservation of Mau, relocation of the people who live in Mau and eventually, conserving the environment for our country?

Mr. Deputy Speaker, Sir, I have heard people speak about the speed at which this issue is moving. As a Member of the Pan-African Parliament, who is also privileged to chair the Parliamentarians Association that deals with issues of climate change in Africa, and that will lead parliamentarians to negotiate at Copenhagen for the African common position, we have until December to get our act together during the 15th meeting to be able to get compensation from donors. That is the bottom line. That is what we need to understand and hear. Even as we speak to donors to give us Kshs30 billion, if we go to Copenhagen without clearly saying what we will do towards conservation of our forests, we will be ignored and we will not be taken seriously. That is the first reason we should act with speed.

Mr. Deputy Speaker, Sir, we know that Africa is using afforestation in this continent as the main negotiating tool. If we are not aware of that, then we should be aware. We should be aware that Africa, of which Kenya is privileged to be one of the negotiators, will take a position of afforestation as being a component of the Western world paying it for polluting the environment. This is because, as you know, the West has contributed 97 per cent of the carbon gases that have caused the climate change problem that we have.

The Minister for Foreign Affairs (Mr. Wetangula): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Do you want to be informed?

Mrs. Shebesh: Yes, Mr. Deputy Speaker, Sir.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, may I thank the gracious lady and inform her that, in fact, Africa has now designated the Prime Minister of Ethiopia as our lead spokesman in Copenhagen. We will demand that 3.6 per cent of the Gross Domestic Product (GDP) of the developed countries and the pollutants be assigned to Africa to save the environment.

(Applause)

Mrs. Shebesh: Thank you, Mr. Deputy Speaker, Sir. I believe those are the kind of issues we should be discussing in the House. The issues that we have discussed, important as they are, do not give us real solutions, because what we are looking for are real solutions. I am sure that all Members of Parliament who have been debating here are looking for solutions for their people, but they will not come by the kind of arguments we have been having, nor will they come through any other method except being prepared to go and negotiate for a position that will give us the benefit that the Minister has spoken about.

Mr. Deputy Speaker, Sir, I would like to say that we may have questions or gaps in this Report but its spirit is what is important. The Government wants to take seriously, issues that it has neglected for long. I agree with the speakers who have spoken before that this is a Government problem perpetuated, of course, by the politics of the country. The Government must take responsibility and, therefore, start a process that is fundamentally well-researched and with clear guidelines. That is why we support this Report. However, we know that we will address any gaps that we feel could be in this Report, through the Secretariat that has been set up.

Mr. Deputy Speaker, Sir, I would like to finish by saying that on the issue of humane eviction from Mau, the women parliamentarians gave this statement which I would like to repeat. We said that every time there is any method of eviction somewhere, women and children suffer the most. We have said clearly that the Secretariat must put in place a mechanism---

The Minister for Medical Services (Prof. Anyang'-Nyong'o): On a point of order, Mr. Deputy Speaker, Sir. I apologise to the gracious lady. However, since most opinions and ideas have been expressed about this issue, could I be in order to ask that the Mover be called upon to reply?

Mr. Deputy Speaker: Order, hon. Members!

Proceed, Mrs. Shebesh!

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I want to finish by saying, and I wish this could be taken very seriously, that the secretariat that has been set up to look into the process, must look into the issue of evictions that must not in any way be an avenue for violence that is perpetuated against women and children in the way of rape which always happens whenever such situations arise.

Mr. Deputy Speaker, Sir, I am urging this House that time for politics and competition is over. We are at the crucial stage where we need to make decisions that will affect our people for the good of this country. Adopting this Report is the beginning of a good direction in terms of conserving our environment.

The Assistant Minister for Energy (Mr. Keter): Mr. Speaker, Sir, thank you for giving me the opportunity to contribute on this Motion. From the onset, I want to say that nobody is not for the conservation of forests. Nobody of sane mind can say that forests should not be conserved. So, I subscribe to those who are saying that the Mau Forest and all the other water towers or water catchment areas in this country must be conserved.

Mr. Deputy Speaker, Sir, however, the point that has been belabored, that by adopting this Report we will be conserving Mau Forest, is what I am saying no to. I say so because if we are rushing to adopt this Report so that we can conserve Mau tomorrow, I think we are wrong and we need to be fair. Unless you are saying that we want to adopt

this Report so that it can be used as an excuse to victimise and evict people. So, we need to be clear on that.

Mr. Deputy Speaker, Sir, I say so because in this Report on page 18, we differ with the methodology of how it is to be done. That is given on page 18, whereby the Committee divided itself into four sub-committees. Page 18(17) clearly states:-

“The Committee invited external experts to provide technical information and expertise in line with the mandate of the Task Force”. (*The reports of the sub-committees are in Annexes 1 to 5*)

When you look at this Report, there is no Annex 1 to 5. Is this the Report that we are debating and saying that we want to adopt? That is why some of us were cautious and wanted it to be taken to the relevant Departmental Committee of Parliament so that they can get the Annexes 1 to 5.

It goes ahead to state:-

“The studies focus on the following core issues: Assessment of critical water catchment, assessment of biodiversity hotspots and institutional framework for the sustainable conservation and management of Mau Forest Complex”. (*The report of the studies is in annexes 6 to 8*)

Mr. Deputy Speaker, Sir, in the Report, there are no Annexes 6 to 8 and yet, this is very vital.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. With this serious evidence that this Report is definitely not the Task Force’s Report, is it in order for us to be debating an Executive summary, when the Government has deliberately withheld the actual Task Force Report from the House?

Mr. Deputy Speaker, Sir, this document that purports to be the Task Force Report has been signed by the Chairman only. We have information that the actual Task Force Report was signed by all the members. Are we debating the correct document? There appears to be a possibility that Parliament is actually being taken for a ride or somebody is actually withholding information from Parliament so that we can provide a veneer of approval for an illegality that they wish to perpetuate. Yesterday, we asked that the Committee ventilates and fills in the gaps, but this Government with impunity, continues to ride roughshod even over Parliament. It is the impunity that we are saying “no” to.

Could you rule on whether this particular document is the one that is being referred to?

The Minister for National Heritage (Mr. ole Ntimama): On a point of order, Mr. Deputy Speaker, Sir. The first point is that we finished the issue of submitting this Report to the Departmental Committee yesterday and the people who suggested it were defeated and we must not go back to that anymore. Secondly, is the hon. Member in order to try and delay the system of preserving and conserving the Mau for the interest of the people who are there? Is he really right? The bottom line and I know all the hon. Members are aware, is the timing of removing and stopping the destruction of the Mau Forest and not all the dilly-dallying on the Report. That is the most important.

Is he in order to say that we should delay the adoption of this Report?

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Members! The direction will be delivered by the Chair on Tuesday next week.

ADJOURNMENT

Hon. Members, it is now time to interrupt the business of the House. This House, therefore, stands adjourned until Tuesday, 15th September, 2009 at 2.30 p.m.

The House rose at 6.30 p.m.