

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 23rd July, 2009

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker
(Mr. Ethuro) in the Chair]*

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on Energy, Communications and Information on the Annual Estimates of 2009/2010.

(By Mr. James Maina Kamau)

Report of the Departmental Committee on Health on the examination of the 2009/2010 Estimates of the Ministries of Medical Services and Public Health and Sanitation.

(By Dr. Monda)

QUESTIONS BY PRIVATE NOTICE

APPOINTMENT OF TARDA MANAGING DIRECTOR

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Regional Development Authorities the following Question by Private Notice.

(a) What is the name, qualifications as well as the procedure the Minister used in the recruitment of the current Managing Director of Tana and Athi Rivers Development Authority (TARDA)?

(b) Was due diligence carried out in establishing his qualifications and suitability for the job and was the appointment in conformity with the Government regulations or guidelines regarding the appointment of such officers?

(c) Could the Minister confirm that the Managing Director is the subject of corruption related investigations arising from his conduct during his tenure in the diplomatic service?

Mr. Temporary Deputy Speaker, Sir, I have not received a written answer from the Minister.

The Minister for Regional Development Authorities (Mr. Gumo): *Hapana uliza maswali mengi hapa!* Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The name of the current Managing Director of TARDA is Mr. Francis Musumba Agoya. He is a Bachelor of Commerce Degree holder. The procedure that was used in the recruitment of the Managing Director was as follows:-

(i) The Board of TARDA advertised the vacant position in both the *Daily Nation* and *The Standard* newspapers on 3rd February, 2009. A human resource consultant, M/s Manpower Services Limited, was appointed to assist the Board in the recruitment process. A sub-committee comprising of a number of Board members, including the Chairman, was appointed to work with the human resource consultant in carrying out the recruitment process. Following the advertisement, 94 applications were received. The consultant shortlisted 11 candidates for further interview. The sub-committee, with the assistance of the human resource consultant, interviewed the 11 shortlisted candidates on 23rd March, 2009 and shortlisted the under-listed three suitable candidates, whose names were forwarded to my office by the Chairman of TARDA on 2nd April, 2009 for consideration.

In exercise of the powers conferred to me under Section 10(i) of the Tana and Athi Rivers Development Act, Cap.443, and in my capacity as the Minister for Regional Development Authorities, I appointed Mr. Francis Musumba Agoya to be the Managing Director of TARDA for a period of three years with effect from 24th June, 2009. As required by the law, the appointment was published in the Kenya Gazette Volume CX1, No.62 of 17th July, 2009. Giving due regard of that recruitment procedure, the appointment was in conformity with the existing Government regulations and guidelines.

(b) I believe that TARDA and the consultant were duly satisfied with the qualifications and the suitability of the three candidates that they had recommended to my office for consideration for appointment to the post.

(c) I am not aware and, hence, cannot confirm that the Managing Director is subject to corruption related investigations arising from his alleged commissions during his tenure in the diplomatic service.

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the Chair to enable me to take the Minister through what is happening within his Ministry. There are issues or matters that he may not be aware of or if he is, then he may be very ignorant of some of the regulations that are supposed to be observed in the appointment of parastatal heads.

I want to bring to his attention a circular from Amb. Muthaura regarding the procedure. Paragraph 2 reads:-

“The CVs of all persons to be appointed to these offices must be sent to the Office of the President for vetting in order that the people who are appointed do not have bad records which in future may be used to embarrass the Government.”

I am saying that because Mr. Agoya was dismissed from the Civil Service vide a letter dated 27th August, 1997, for theft. When he was working at the Kenya Embassy in France, he stole French Francs 246,000 from the Embassy. The Ministry of Foreign Affairs dispatched a team of detectives headed by Chief Inspector Chege Gathogo by whose recommendations, Mr. Agoya was sent back to Kenya for prosecution, which has never been done to date. Lastly---

The Temporary Deputy Speaker (Mr. Ethuro): What is your question, hon. Linturi?

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, could the Minister tell us why due diligence was not conducted to establish the character and the integrity of that particular person by the name Agoya? In the list of the three shortlisted candidates, there were candidates who even scored higher marks than Mr. Agoya as presented to the Minister by the Board of Management. Why was there no due diligence?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, first, the TARDA Act empowers the Minister for Regional Development, who is me, to appoint a Managing Director even without any advertisement. Therefore, any regulations that the hon. Member has quoted are not in the law. Secondly, I do not have to advertise. I can even appoint you tomorrow because the law is very clear here. Thirdly, what the hon. Member has said is not true. What happened in the Ministry of Foreign Affairs at that time happened before Mr. Agoya was appointed. I have the report which I can give to the House.

Therefore, those events are only being connected because the person they wanted was not appointed. When I am given three names, it is not my responsibility to go round looking at how many marks each one of them scored. It is not a classroom. They are not supposed to give marks. They are supposed to recommend three names and the Minister is supposed to appoint one out of the three candidates. That is what the law says.

Mr. Linturi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I find the Minister quite out of order. He is misleading this House. The report which I am about to table before this House was initiated by the Ministry of Foreign Affairs and was conducted by the Criminal Investigations Department (CID). They recommended that Mr. Agoya should be charged with fraud contrary to Section 331 of the Penal Code.

Is the Minister trying to say that because he has the power, he can even appoint thieves or thugs to head parastatals?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, these are things that happened 20 years ago. If the hon. Member was aware of this---- Since I was given the three names, I stayed with the information in my office for three months from March up to the other day. There was no complaint or report or anything until the day Mr. Agoya was appointed. That is when they came up with these reports which are not true. All these reports are not true. These things have been made in the streets and brought here.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! These are reports which have been produced in the House. The House is not the streets.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, it appears as if this is a country for the rich. If you look at the current advertisement for NYS recruitment, you will see that one of the things they are asking from that common man who wants to join the institution is a certificate of good conduct. There is a letter here dated 25th May, 2005, from the Director of CID asking why this man has not yet been prosecuted. It appears as if this man is well-connected. He can steal and not get prosecuted. The reason why he was dismissed is because he had a bad character. He was given a job and went away. He was dismissed according to the letter here dated 27th August, 1997, on account of desertion of duty. What we are asking is very simple: Does this Government not have some code of conduct or a guideline on ethics? How can we go on picking someone who is supposed to be prosecuted and yet he does not get prosecuted since he is well-

connected? Is the Minister suggesting that every hon. Member should bring one thief so that he can recruit them?

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

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I am not aware of the documents that they are referring to. Lay them on the Table so that we can look at them. I am not aware. If there was any complaint, they should have written a letter with regard to the issue earlier to my office or complained to the Board. Why did they have to wait until the appointment was done and the name gazetted so as to bring the issue here? I am not aware of all these documents. Let me look at them.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, it does not matter how long it takes to highlight a crime that has been committed. The Members are perfectly in order to adduce and produce the accusations that have been made. Some of them the accusations are even from your own Government Departments which you should be aware of.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I sympathize with the Minister who said that he was not aware. However, now that he is aware and I can see in this same letter a remark that the Ministry of Foreign Affairs should recover Kshs3 million. Could the Minister promise this House that he will liaise with the Ministry and confirm to this House whether or not the Kshs3 million that was to be recovered from Mr. Agoya has been recovered and what action he will take now that he knows that he hired someone whose integrity is in question? This is a time when the Government is being rightly accused of aiding and abetting, not just corruption, but also economic crime.

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, as I said earlier, I was not aware. Let me peruse the documents because documents can come from any place or anywhere. Let me look at the documents first. They did not even send copies of those documents to me.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I wish to urge the Chair to yield to the request by the hon. Minister because he said that he is not aware. Now that the documents are available, the Question should be deferred so as to give the Minister time enough time to look at the documents and come back to the House when he is aware.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Minister! I think hon. Members are making some serious allegations. Part "b" of the Question is about due diligence. I know that the issue of appointments to public offices requires that the Government carries out due diligence. In view of the fact that you are not aware of this documentation, it is the view of the Chair that we defer this Question so that you can acquaint yourself with the documentation and come back and give an appropriate answer.

Mr. Gumo: Thank you, Mr. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Mr. Ethuro): When will you be available to answer the Question?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, let me look at the documents first. Would you give me about three weeks?

hon. Members: No!

The Temporary Deputy Speaker (Mr. Ethuro): Order!

Mr. Gumo: Mr. Temporary Deputy Speaker Sir, let me verify whether the information in the documents is correct.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! I think this matter is quite straightforward; that we defer the Question. All we are asking now is when the Minister will be available. I think we have all agreed that he does not need the three weeks. Mr. Minister, next Thursday!

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I want to find out whether these documents are authentic and that may take a lot of time.

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Because of the intervening period which the hon. Minister has asked for, would I be in order to request that the appointment be held in abeyance as he investigates this very serious circumstances against that officer?

Mr. Gumo: Mr. Temporary Deputy Speaker, Sir, I must find out the authenticity of these documents so that I can give a proper answer.

Mr. Linturi: On a point of order, Mr. Temporary Deputy Speaker, Sir. As the Minister tries to acquaint himself with the contents of this letter, I think it would also be important that he goes further and finds out whether the same Mr. Agoya run away with money from BNP Paribas Bank of France and from a motor dealer for staff and hence the Members of staff at the Kenyan Embassy in France can never access any loan from the bank due to the conduct of Mr. Agoya?

Hon. Members: Shame!

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We defer the Question to next Thursday. That is sufficient time for you to peruse the documents.

Mr. Gumo: Thank you.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question by Mr. Chanzu!

CRITERIA FOR APPOINTMENT OF PCS/SDPC

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

- (a) What informed the recent appointment of Provincial Commissioners and Senior Deputy Provincial Commissioners?
- (b) Could he provide brief resumes of each of the appointees?
- (c) Was merit, length of service and regional balance taken into account in the respective appointments?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, where is the answer?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, the answer should have been here an hour ago.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Chanzu, will you allow the Assistant Minister to reply without giving you a copy of the answer?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, that is a contravention of the rules of this House but let him continue.

The Temporary Deputy Speaker (Mr. Ethuro): That is why we are asking you so that if you are not prepared, we can always---

Mr. Chanzu: No, we can go on but I wanted that to go on record!

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

His Excellency the President has appointed these officers due to their competences and wealth of experience in managing public affairs. The mandate of this Ministry includes the promotion of statehood and nationhood, co-ordination and supervision of Government activities in the field, maintenance of security, law and order, mobilization of local resources for development and providing a secure environment for Kenyans to realise speedy socio-economic development. Since Independence, 46 years ago, the organizational structure of the Provincial Administration has remained the same despite the growth in population from 8 million to approximately Kshs40 million and the increase of districts from 74 in 2008 to 254 in 2009, following numerous demands by leaders and *mwananchi*.

As part of the on-going reforms in the Provincial Administration, it has become necessary to re-invent the organizational structure of the Ministry with the objective of enhancing continuous improvement of responsive services and results to Kenyans.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not answered the Question I asked. If the Chair could remember briefly people celebrated in this country in 1978 when President Moi took over because they thought there would be change. People fought in this country in 1992 over elections because of the sharing of resources. The same thing happened in 1997 and 2007. That is why this Question is important.

We are going against the same laws that we make in this House. The other day, we established the Interim Independent Boundaries Review Commission (IIBRC). Why did the Office of the President go against what the Commission is supposed to conduct?

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, part “a” of the Question is about why Provincial Commissioners are reshuffled, while part “b” of the Question is why senior officers were appointed. Part “c” is whether merit was followed. I have answered this Question in brief. I have said that it is the prerogative of the President to reshuffle Provincial Commissioners and appoint senior officers in the administrative cadre. So, I do not see anything unusual in the President appointing officers within the scheme of service and posting them. This is an executive matter which should not be discussed here. This is because these are not constitutional office holders.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Question clearly asks for the brief resumes of all the officers who were appointed. As a House, we need these resumes to be able to ask supplementary questions. Could you save us by ordering the Assistant Minister to give us the resumes so that we may arm ourselves to ask supplementary questions?

The Temporary Deputy Speaker (Mr. Ethuro): That is correct. Mr. Assistant Minister, part “b” of the Question was---

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, this is the first time that resumes of civil servants in a particular Ministry are required. These are 28 senior officers. It is a colossal task to be asked to give their resumes in one hour. For the appointment of Provincial Commissioners (PCs) and District Commissioners (DCs), the resumes are very clear. They must have served as Senior District Commissioners, passed some examinations and interviewed by the Public Service Commission---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! The Question is very specific. You are supposed to provide brief resumes of each of the appointees.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, I do not have the resumes. I need time to do this. This Question was brought to my office only one hour ago.

Mr. Chanzu: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has worked in the Civil Service up to the position of a Permanent Secretary, including being appointed the Permanent Secretary in the Ministry of Finance. He should tell this House whether he worked in the Civil Service without qualifications. Is he in order to tell us that we do not need resumes for civil servants? He should give us their resumes in order for us to ask supplementary questions.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, as my former Chief Architect in the Ministry of Public Works, I am sure that the hon. Member is also familiar with the operations of the Public Service. Their resumes are summarised. However, I require time if the House insists that I bring the 28 resumes.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! This is not a new request. It was part of the original Question. You were asked to provide brief resumes of each of the appointees. If you need more time, I am sure hon. Members will grant you that request.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, I do not have their resumes. However, the Chair will appreciate that to present to the House resumes of 254 DCs requires a bit of time. I require time to do that.

Mr. Chanzu: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are not asking about DC's resumes yet. We want resumes for the eight PCs and 22 Senior Deputy Provincial Commissioners.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, when will you answer the Question properly?

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, on Thursday, next week.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Chanzu, the Assistant Minister has said that he will answer the Question next Thursday. What do you have to say?

Mr. Chanzu: That is okay, Mr. Temporary Deputy Speaker, Sir. However, he should assure this House that will be done because Ministers and Assistant Ministers are fond of carrying forward Questions and yet they are urgent. I oblige.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Chanzu, you have made your point. The Question will be answered next Thursday!

Mr. Affey: On a point of order, Mr. Temporary Deputy Speaker, Sir. As the Assistant Minister attempts to answer this Question, I want him to come with information particularly regarding the former Acting PC for North Eastern Province, Mr. Maingi, who served in the Province for two years. The Government did not pay him any acting allowance and yet he was relieved of his duties when he was qualified to be confirmed as a PC. So, as the Assistant Minister comes with the answer, he should tell us why he did not pay him acting allowance for two years. The Assistant Minister should also tell this House why he failed to confirm Mr. Maingi and yet he deserved it.

Mr. Lesrima: Mr. Temporary Deputy Speaker, Sir, that is a different Question. However, I assure the House that Mr. Maingi and two other PCs have been re-deployed

in the public service. The position of the PC is not necessarily the senior most position in the public service. With regard to Mr. Maingi, he did an excellent job. He was not confirmed as a PC but has been re-deployed. I will provide facts with regard to his acting allowance next week.

The Temporary Deputy Speaker (Mr. Ethuro): The Question is deferred to Thursday, next week!

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, this is the third time I am asking this Question!

Question No.035

DISCHARGE OF RAW SEWAGE INTO INDIAN OCEAN BY COAST HOTELS

Mr. Mututho asked the Minister for Environment and Mineral Resources:-

(a) if he could confirm that luxury tourist hotels at the Coast still discharge raw sewage into the Indian Ocean;

(b) when he will ensure that the National Environment Management Authority (NEMA) carries out all the recommendations made regarding disposal of raw sewage into the Indian Ocean and all inland water; and,

(c) how many people the NEMA has taken to court over this offence to date.

The Assistant Minister, for Environment and Mineral Resources (Mr. Kajembe): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that luxury hotels at the Coast still discharge raw sewage into the Indian Ocean. However, I confirm that luxury hotels at the Coast discharge their raw sewage into septic tanks---

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to save the time of this House. This Question was answered. All the Assistant Minister is supposed to do is to table the report of his investigation when he went to inspect the hotels in Mombasa.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister. If you recall, the hon. Member while asking he said; "for the third time." So, just deal with the unfinished business.

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Mr. Temporary Deputy Speaker, Sir, I am very much prepared this time. Yes, I did answer the Question last time and I was directed by the House to bring a comprehensive report, which if you allow me, I want to lay it on the Table of the House.

(Mr. Kajembe laid the document on the Table)

The Temporary Deputy Speaker (Mr. Ethuro): Well done!
Mr. Mututho!

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, could I be allowed to go through the report and then let the Question come back on Tuesday?

Mr. Kajembe: Mr. Temporary Deputy Speaker, Sir, I have laid the report on the Table. It is a very comprehensive report. So, this matter should not be hanging in this House every now and then. I am asking the House, through your, to let us conclude this business today.

The Temporary Deputy Speaker (Mr. Ethuro): I cannot agree more. I plead with Mr. Mututho to look at the report and before the end of Question Time, I will give you the opportunity to raise any issues arising so that we can conclude this matter today.

Hon. Members, Question No.150 is deferred to next Tuesday.

Question No.150

BOUNDARY DISPUTE BETWEEN
POKOT AND TURKANA COMMUNITIES

(Question deferred)

Next Question by Ms. Chepchumba!

Question No.202

COMPENSATION TO PERSONS ARRESTED
FOR ARSON ON KIAMBAA CHURCH

Ms. Chepchumba: Mr. Temporary Deputy Speaker, Sir, I wish to state that this Question has been overtaken by events. The suspects were released and I do not intend to do further interrogation.

(Question withdrawn)

Question No.215

REHABILITATION OF SULTAN HAMUD POLICE STATION

Mr. Kiilu asked the Minister of State for Provincial Administration and Internal Security what plans the Government has to rehabilitate the over-stretched police cells in Sultan Hamud Police Station, which were constructed during colonial era to cater for only a small number of suspects.

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

The local community, through the Community Policing Initiative, raised funds in a bid to build two additional cells at Sultan Hamud Police Station but due to inadequacy of funds, they only managed to go up to lintel level leading to a stalled project. The Government has identified the stalled project for rehabilitation and evaluation has been done. A request for Kshs450, 000 has been made and it is awaiting approval upon which construction will commence immediately.

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for appreciating that this is an important project which needs to be expanded. As you can realize, Sultan Hamud police cells were constructed during the colonial time and were meant to hold a maximum of 13 inmates. On a normal day, the cells are now holding two or three times that capacity. At times, we have lost inmates as a result of congestion and being put in inhuman conditions.

The Temporary Deputy Speaker (Mr. Ethuro): Please, ask your question, Mr. Kiilu.

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us how much money was contributed by the community to assist the Government in rehabilitating these cells?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the community contributed some funds through a funds drive. They used the same funds to extend and expand the cells. That particular amount could not be enough. So, they have requested the police, if they could be allocated some funds. We sent our people on site and a valuation report was done. It requires Kshs450, 000 in order to be completed. We are considering approval of that amount in order for us to complete the project.

The Temporary Deputy Speaker (Mr. Ethuro): Last Question, Mr. Kiilu!

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, as the Assistant Minister considers allocating some Kshs450,000, could he also consider setting aside some money for rehabilitating the police houses which are also in a deplorable and inhabitable condition?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, if the accounting officer from that particular department writes a letter to the police that they require some more money for the renovation of the police houses, we will consider it because we do not know how much they want.

Question No.054

PROVISION OF NEW FERRIES AT LIKONI CROSSING

Mr. Mwakulegwa asked the Minister for Transport when the Government will provide new ferries at Likoni crossing, in view of the poor state of the ferries at the crossing and the danger posed to the users.

The Minister for Transport (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, the Government will provide two new ferries in December this year, 2009.

Mr. Mwakulegwa: Mr. Temporary Deputy Speaker, Sir, from the Minister's answer which is like a statement, I beg your indulgence so that the he can lay some

information on the Table. The Minister is on record in this House promising that the two ferries were going to be delivered before June this year. It is in the record. It is in the HANSARD and also in the public domain. In the month of March this year, the Chairman of Kenya Ferry Services (KFS), Mr. Joseph Kingi, travelled to Germany to inquire why there was a delay in delivering the two ferries which were supposed to have been delivered by June. Upon his return, the Inspector of State Corporations, under the Office of the Prime Minister, instituted investigations in terms of why the ferries had delayed.

In the report of 18th May, 2009 the ferries tendering board had awarded a company in Germany to deliver the ferries but the Chairman had gone ahead to award the tender to another company. Immediately upon his return, the Minister suspended the Managing Director of the Kenya Ferry Services.

The Temporary Deputy Speaker (Mr. Ethuro): What is the question, Mr. Mwakulegwa?

Mr. Mwakulegwa: Mr. Temporary Deputy Speaker, Sir, why is the Minister shifting goalposts over the June deadline to December this year? What has prompted that delay? The House needs to be informed.

Mr. Mwakwere: Mr. Temporary Deputy Speaker, Sir, I beg to make a correction here. The trip to Germany was made by none other than myself and in the delegation were the Chairman of the KFS, the Managing Director of KFS, the Chief Engineer of KFS, senior officers from the Ministry of Finance and other officers from the Ministry of Transport. We were concerned with the delay because it was inconveniencing everybody.

Having said that, we will have those ferries delivered in December. When I was there, I was totally disappointed to discover that the managing director had placed an order for two ferries; not a small one of 48 metres and a big one of 60 metres in length but without the authority of the Board and without my concurrence as the Minister in charge. He placed orders for two large ferries of 60 metres in length each. That added an additional cost of Kshs400 million. That was done without my authority and the authority of the Board. As a result of that, amongst other reasons, I suspended the Managing Director; Kshs400 million is a lot of money for one to commit on behalf of the Government without appropriate authority.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! The question was why you are delaying the release from June to December.

Mr. Mwakwere: Mr. Temporary Deputy Speaker, Sir, the delay was occasioned by the additional length of the ferries. It should have been one of 48 metres and another one of 60 metres in length. But the two ferries ordered were 60 metres long. The Lloyd Surveyors from London have to give their authority. There are certain technical aspects that they must clear before any construction is undertaken.

The Temporary Deputy Speaker (Mr. Ethuro): Fair enough!

Mr. Gunda: Mr. Temporary Deputy Speaker, Sir, we have known why the earlier MD was suspended. Could he also tell us why the immediate former acting MD, Mr. Deche Kashero, was suspended?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Minister, I think you had already answered that question.

Mr. Gunda: Mr. Temporary Deputy Speaker, Sir, the Minister told us about the MD who was there. He then appointed an acting MD who has since also been suspended.

The Temporary Deputy Speaker (Mr. Ethuro): Sorry, Mr. Gunda! After the trip, you suspended one and then you appointed an acting one whom you have suspended again.

Mr. Mwakwere: Mr. Temporary Deputy Speaker, Sir, there are three officers whom I suspended pending further investigations and for them to show cause why further disciplinary action should not be taken against them. They were the Managing Director, the Acting Managing Director who has been mentioned by Mr. Gunda and the Chief Engineer of the Kenya Ferry Services (KFS). After looking through the audit report that we received from the Government, we discovered many anomalies which cannot be allowed to continue in any institution. Similar audits will be carried out in all parastatals that operate under the Ministry of Transport and similar action will be taken, if need be.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for giving us an assurance that in December we shall have those ferries in place. But we have had a lot of scares of possible accidents; a lot of stalling of those ferries that are operating in the Likoni channel. In the interim period between now and December, there is a big possibility that, in fact, we could lose a lot of lives like it has happened before. What safety measures and guarantees is the Minister giving us to protect life and limb and the thousands of poor Kenyans who cross the channel on a daily basis to earn their living?

Mr. Mwakwere: Mr. Temporary Deputy Speaker, Sir, regular repairs and maintenance on the ferries which are plying the Likoni channels continue to be undertaken. Those ferries are old; we have five of them in operation. We have the MV Mvita, which was commissioned in 1969, the MV Pwani, 1974; MV Nyayo, Harambee and Kilindini which were put in operation in 1990 but they were bought as second-hand vessels. All in all, these vessels should have been replaced 20 years ago. However, I would like to assure the House that every action is being taken to ensure that there is safety despite the state of the vessels. There are six items that we take into consideration to ensure safety. We have life saving equipment such as life crafts, life packets, life buoys and other floaters and demonstrations are carried out regularly as part of the drill, hopefully, to save as many passengers as possible. We have radio contacts which can be made with harbour authorities in case the ferries drift off the creek through VHS. This will, of course, temporarily avoid collusion between the vessels and any ship. Our staff undergoes training to meet international safe keeping standards as required by the International Maritime Organization (IMO) and ferries are manned by qualified people. Security is provided on board and at the point of loading. Finally, I would like to assure the House that those ferries cannot sink easily. I am not saying that they cannot sink at all but they cannot sink easily because they have flat bottoms unlike the Mtongomwe Ferry which capsized that has a V-shaped bottom. These ones are flat-bottom and they cannot sink easily. Probably, you can even say in confidence that they cannot sink but they can run adrift and that can cause a little bit of scare and confusion.

Mr. Mwakulegwa: Mr. Temporary Deputy Speaker, Sir, you should have allowed other hon. Members because they have shown some interest in this matter. Could the Minister indicate which company was awarded the tender and for how much?

Mr. Mwakwere: Mr. Temporary Deputy Speaker, Sir, it was competitive! These ferries would have been delivered in 2006. Unfortunately, the two German companies which were the last after looking at the technical bids took each other to court here in

Kenya. There was an injunction that delayed the construction and final award of the tender for many years, up to 2007. That is what caused the delay. The company that won the tender was sourced competitively. Even local companies applied including the African Marine and General Engineering in Mombasa. The name of the company is a German name and I must admit it is very long but I am going to table it on Tuesday or even later this afternoon, I have it in my files. It is a long complicated name but it is a German company that is constructing the ferries sourced competitively. The total cost would have been Kshs900 million but because of the extension of the small ferry; the 48 metre long ferry to 60 metres, the total cost is now Kshs1.3 billion. Otherwise the original total cost was Kshs900 million.

Question No.082

REHABILITATION OF SCHOOL-AGE STREET CHILDREN

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

(a) what steps he is taking to rehabilitate school-age street children in line with the Government policy of removing children from the streets, considering their increasing number in market centres; and,

(b) what he is doing to ensure that this group benefits from the free/compulsory primary education policy.

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

(a) Yes, it is true that the number of street children has increased within market centres in Kenya at an alarming rate. The Ministry has, therefore, formed the Street Families Rehabilitation Trust Fund, to address this phenomenon. The Fund is chaired and largely composed of members of the private sector. The Trust Fund, in collaboration with the local authorities, is addressing the issue of the street children through re-integrative and rehabilitative processes in line with the Government policy. To start with, the Ministry has opened centres in Nairobi, Mombasa and Nyeri and other local authorities have been directed to initiate the same.

(b) The Ministry has initiated drop-in centres, which you may call rehabilitation centres in various local authorities as a stop-gap measure. Those centres provide essential services to street children such as counseling, screening, detoxification, temporary shelter, medical attention, feeding programs and access to education within primary schools under the local authorities.

Key to success is access to free or compulsory primary education for school-age street children. That is being undertaken in Nairobi where over 500 children are accessing education at Morrison Primary School at the Bahati Area. The main attraction is the sustainable feeding program, provision of school uniforms, learning materials and accommodation.

Mr. Temporary Deputy Speaker, Sir, more drop-in centres have been opened under the Municipal Council of Mombasa in collaboration with UNICEF. Other centres are in the process of being set up in Malindi, Kisumu, Eldoret and Garissa under the same initiatives. More local authorities are taking up the responsibility of ensuring that street

children have access to schools through initiatives such as the ones that I have mentioned in Nairobi and Mombasa.

Mr. Ruteere: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Deputy Prime Minister and Minister for Local Government for a very detailed and comprehensive answer to my Question.

However, Mr. Temporary Deputy Speaker, Sir, I would like to know what criteria is used in identifying drop-in centres in various markets or towns. He knows very well that Meru is not covered and yet, it is the hub of development East of Mt. Kenya. Street children come to Meru from Isiolo, Maua, Chuka and all the way from Nanyuki. How come Meru is not considered among the drop-in centres, Mr. Minister?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, as I have said, we have actually communicated to all local authorities to take up those initiatives. It is a new initiative and the towns that have started are not the only ones that will be considered. We do hope that Meru will take it up as a Municipal Council. I will definitely raise this issue with the Street Families Rehabilitation Fund so that they can discuss with the Meru Municipal Council and look into ways of supporting it in establishing a drop-in centre.

Mr. Mbugua: Mr. Temporary Deputy Speaker, Sir, the Minister has told us that those are short term measures. What are the long term measures towards the rehabilitation of street children? Most of the street children are in social amenities like social halls. What is he doing to ensure that those street children are fully rehabilitated?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, we have to start somewhere. That requires a very comprehensive answer. But I would like say that if we can start by educating those street children and, indeed, even giving them skills so that they can fend for themselves, it is a more sustainable way, in the long run, to enable them to live a decent life. Ultimately, the problem of street children is also a matter of high levels of poverty in the country. So, it has to be a multi-faceted approach to providing a long term solution to the street children.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, hon. Ruteere!

Mr. Ruteere: Thank you, Mr. Temporary Deputy Speaker, Sir. I thought there would be more hon. Members asking questions. Otherwise, my last question is: Is the Minister aware that some Non-Governmental Organizations (NGOs) which claim to be caring for the street children are encouraging them to stay in the streets? They do not want them to move out of the streets because that is how they benefit. They pretend that they are feeding, clothing and taking care of the street children? What will you do to such NGOs which are encouraging street children to stay in the streets in the guise that they are helping them?

(Applause)

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, that is very unfortunate. If there are some unscrupulous NGOs who are actually using the children as a commercial venture, if they can be identified, I believe we can collaborate and make sure that such organizations are reported to the National NGO Council for deregistration. That is one way that such institutions, where we have evidence, can be dealt with. But, at the moment, I want to state that, on the part of our Ministry, this year, we have been allocated Kshs19 million by the Treasury for that Fund. That money will be used to help

with the problem of street families. But I can tell you that, if there is any evidence that any particular NGO was involved in that--- That is one form of trafficking and, surely, the laws are there. Once the evidence is available, we should be able to deregister such NGOs.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. K. Kilonzo!

Question No.125

INTRODUCTION OF DROUGHT RESISTANT CROPS
IN MUTITO CONSTITUENCY

Mr. K. Kilonzo asked the Minister for Agriculture what plans he has to ensure that drought resistant crops such as millet and sorghum are introduced in Mutito Constituency.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

My Ministry plans to deliver 10 tones of assorted seeds of drought resistant crops such as millet, sorghum, cowpeas, pigeon peas and green grams to benefit farmers in Kitui District, which includes Mutomo Constituency for the October/November short rains.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, you realize that, indeed, that answer is very brief, just for the reason that the Assistant Minister is not taking this Question seriously and yet, the people of Ukambani are dying. One of the reasons why I am convinced that my good Assistant Minister here is not taking his work seriously is that the Question I have asked talks about Mutito Constituency. But in his answer, he refers to the Ministry having plans to deliver 10 tones of assorted seeds to Kitui District. I want to remind the Assistant Minister that there is no district called Kitui. I come from Mutito District and Nzambani District. Now that those seeds are going to Kitui District, could he be specific on how much of those assorted seeds will be going to Nzambani and Mutito districts, respectively?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, by the time the Question was asked, there were no Mutomo or Nzambani districts. But what I can assure the hon. Member is that we are in the process of bulking seeds. We have signed an agreement with Kenya Agricultural Research Institute (KARI) for those drought resistant crops. In the last season, we had invested, hoping to have 600 metric tonnes but we ended up having 113 metric tonnes because of failure of rain.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! The question was “how many tonnes of drought resistant crops to Mutito constituency”. Just answer the specific question.

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, if we talk about the districts, they share, but I can assure the hon. Member that at that time his constituency got five tonnes of assorted seeds.

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am being very specific. This Assistant Minister cannot get away with half-baked answers. The question is about Mutito constituency. Could he be specific as to how much he is

going to give to that constituency? He should not generalise. This is a matter of life and death.

The Temporary Deputy Speaker (Mr. Ethuro): Fair enough, Mr. K. Kilonzo!

Mr. Assistant Minister, the Question on the Order Paper is actually very clear. It is about drought resistant crops introduced in Mutito constituency.

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, I said that Mutito constituency will get five tonnes of assorted drought resistant seeds.

Mr. Thuo: Mr. Temporary Deputy Speaker, Sir, yesterday, on the authority of the Prime Minister, we were informed that we have had the fifth successive season of rain failure and, therefore, crop failure. If we did not have rain in the last season, and in the two seasons before the last season, it is probable that we will not have rain in the next two seasons. What is the Ministry doing, as it has been asked here, not only for Mutito constituency but also for other areas? What specific measures is the Ministry taking to popularise drought resistant crops, so that we do not keep on waiting for what will not happen?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, as I said, in the last season, we invested Kshs240 million in drought resistant crops but we got only Kshs113 tonnes, which were shared to all the districts in ASAL areas. We have already signed another memorandum of understanding with the Kenya Agricultural Research Institute (KARI) for bulking of similar seeds. However, due to rainfall failure, we might also end up having a similar problem to the one we have, that is not having enough seeds to give to every district.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, about three months ago, the Assistant Minister was in a very powerful delegation of very senior politicians that passed through my constituency of Yatta and informed everybody that they were giving a very big cheque of Kshs10 million from Equity Bank for the same purpose of buying millet and sorghum seeds. When will we get the seeds from the Equity Bank funding?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, that was not an issue of the Ministry. This was a donation that was given by a bank to Ukambani districts. What happened was that the money was given to the Ministry, which then went to KARI for bulking of seeds. We expect that the 17 constituencies will get seeds out of this cheque of Kshs10 million.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, Mr. K. Kilonzo!

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, clearly, the good Assistant Minister comes from Ukambani, and I sympathise with him if he does not take this matter very seriously. It has now just come to light that he was actually given a cheque of Kshs10 million to get sorghum and millet seeds to Ukambani. Now he says that the cheque went to KARI. Could he now confirm to this House whether that allocation of Kshs10 million is part of the allocation for the five tonnes of seeds that he said will be coming to Mutito Constituency? Moreover, since we have four constituencies in Kitui District, if Mutito constituency is going to get five tonnes of seeds, how much seeds are Kitui West and Kitui Central constituencies going to get?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, first, I would like to correct the hon. Member. I was never given a cheque of Kshs10 million for bulking of seeds. However, I know that there was a donation of Kshs10 million to Ukambani, and that it was given to the Ministry---

The Temporary Deputy Speaker (Mr. Ethuro): You have already explained that bit. Proceed.

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, in return, the Ministry gave it to KARI for bulking of seeds. The five tonnes I talked about are from the Ministry. The Kshs10 million is not from the Ministry.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, Mr. Washiali!

Question No.136

NATIONAL INDUSTRIALIZATION STRATEGY

Mr. Washiali asked the Minister for Industrialization:-

- (a) if he could table the National Industrialization Policy Strategy as well as the distribution of development projects in Kenya; and,
- (b) what the industrial potential for Mumias Constituency is and the projects the Ministry plans for Mumias.

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The National Industrialization Strategy was formulated last year and launched on 28th January, 2009; I laid it on the Table of the House. We have also written a policy, which is with the Government. It will come before this House for debate. Our development strategy includes alcohol processing, value addition to our agricultural produce, so that we do not sell our products before they are processed.

We also intend to develop machinery for processing of produce as well as venture into the area of electronics and ICT sector, broader development and market diversification for commercial crafts under the Business Sector Programme Support in the North Rift. The eastern region of Kenya will further assist in introducing new products to the export market.

We will also undertake commercialisation of finished leather under the Business Sector Programme Support, that is being spearheaded by the Ministry through the Kenya Industrial Research Development Institute (KIRDI), finished leather and hides and skins in Nyanza, Thika and North Eastern Province, promotion of the informal sector, which is the main contributor to our labour force, programmes against counterfeits, because this is also a very important sector to protect our industries, rehabilitation of infrastructure that leads to industrial areas, strengthening collection and disclosure of industrial statistics for policy making and investment, which we undertake, in conjunction with the Kenya Investment Authority.

Other activities include promoting access to industrial information for industrial development, the Micro, Small and Medium Enterprises Competitiveness Project, a wide project covering---

An hon. Member: Mr. Temporary Deputy Speaker, Sir, every hon. Member has a copy of the answer. Could he just summarise?

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, the Question actually asks for all this information.

The Temporary Deputy Speaker (Mr. Ethuro): That is correct, which you have supplied! You can only---

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I have supplied it, but the Question asks about distribution of development projects in Kenya. They are quite a number. I was not even going to cover the lot. I was just going to touch on a few.

We have a new programme called “One Village, One Product”, which we are going to introduce in the whole country, covering all the constituencies. We are undertaking development of industrial parks, starting with Mombasa, as an industrial area. We are looking for land. We have almost identified a place.

(b) Mumias has the potential for soya beans processing, vegetable oil processing, making of farm tools, hides and skins tanneries, biogas production in Mumias Town, recycling of waste paper, food solids and sewerage sludge, household utensils, making of ceramics and other porcelain products. The whole of the western region has the potential for that, because it has good clay soil, from which we can produce very good cutlery; other activities will involve hatchery and poultry, animal feeds production and so forth.

We can also create an enabling environment. We are doing that in Mumias area. The Question asks about the potential of that area and projects planned there. We do not really plan projects, but we provide an enabling environment for both local and foreign investors to invest.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank the Minister for that elaborate answer. I would also like to inform the House that he is scheduled to visit Mumias later in the year. Maybe, that is when he will find out the other potential that Mumias has.

Part “b” of the Question is very specific on Mumias Constituency. I expected to hear from him whether Mumias has the potential of establishing industry that will produce power alcohol and cardboard because of the sugar cane that is readily available in the area. When will the Ministry do the studies to find out the potential of Mumias?

Mr. Kosgey: Mr. Temporary Deputy Speaker, Sir, I have already mentioned the potential of Mumias in areas of vegetable oil processing. The alcohol production that the hon. Member is referring to is already being done by Mumias Sugar Company. We could have other competition. Already, Mumias Sugar Company is producing energy. At the moment, they are producing six megawatts of energy through the burning of biogas. Power alcohol has got potential. In order to make sugar production in Kenya viable, all factories must not only concentrate on production of sugar, but they must produce power alcohol and energy, so that it becomes an integrated factory that can make them viable.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, what happened to the Kenya Industrial Estates Programme that was in this Ministry which today seems not to be taking place? What plans does he have to introduce the same programme in Mumias?

Mr. Kosgey: Mr. Temporary Deputy Speaker, Sir, there was a Question that was asked about Kenya Industrial Estates earlier this---

The Temporary Deputy Speaker (Mr. Ethuro): The Minister was about to remind the hon. Member that that Question was handled by the House.

Mr. Kosgey: Exactly, Mr. Temporary Deputy Speaker, Sir. It was answered very elaborately.

The Temporary Deputy Speaker (Mr. Ethuro): But maybe, for the specific brief of Mumias.

Mr. Kosgey: Mr. Temporary Deputy Speaker, Sir, regarding the specific brief of Mumias, we do not have an industrial estate in Mumias. We have it in Bungoma. There are 42 industrial estates countrywide.

The Temporary Deputy Speaker (Mr. Ethuro): Fair, enough Mr. Minister. The Question has been answered.

Next Question, Mr. Were.

Question No.208

ARRESTS MADE PURSUANT TO SEXUAL OFFENCES ACT

Mr. Were asked the Attorney-General:-

(a) how many arrests and/or convictions have been made pursuant to the Sexual Offences Act, 2006 since its enactment; and,

(b) what challenges have been met in the implementation of the said Act, as well as the plans he has to overcome them.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The number of criminal cases since the commencement of the Sexual Offences Act on 26th July, 2006 to June, 2009 are 5,537.

(b) The number of challenges are many. They include:-

- a. Reluctance of victims to report and/or destruction of evidence by victims due to ignorance
- b. Poor investigations of sexual offences due to lack of capacity and sufficient tools
- c. Unavailability of doctors to give evidence. Medical evidence is crucial in successful prosecution of sexual offences.
- d. Lack of one-stop centres to deal with sexual offences
- e. Stigma associated with sexual offences
- f. Lack of DNA data bank

The challenges are being addressed in many ways including the following:

(i) Development of the Sexual Offences Training Manual for investigators and prosecutors

(ii) Training of police investigators, prosecutors and judicial officers. Four such training workshops have been held in Nairobi and others have been held in Machakos, Mombasa, Nyeri, Nakuru and Kakamega involving about 70 police prosecutors; 80 police investigators; 73 state counsel and 38 magistrates. The exercise is ongoing. I believe one is planned for Kisumu.

(iii) The multisectoral task force on the operationalisation of the Sexual Offences Act was constituted by the Attorney-General and is currently preparing the policy framework for the effective implementation of the Act. This task force is being chaired by hon. Justice (Rtd) Effie Owuor who was the first lady magistrate and the first lady Judge at the High Court in this country. She was also the first lady Judge of the Court of Appeal and also chairperson of the task force to review all laws relating to women, including some of the Bills which have been enacted in this Parliament. She has taken over from hon. Justice Joyce Aluoch who as we all know and we are

very proud of it, is currently a Judge of the International Criminal Court (ICC) at the Hague. So, the task force set up by the Attorney-General is working very hard. We have chosen some very committed people to deal with this issue of sexual offences.

(iv) The Attorney-General has established a section on Sexual Offences, gender violence and victims' rights section in the office of the Director of Public Prosecutions to enhance the department's capacity to prosecute and render quality service in respect of sexual offences.

(v) Amendments are being considered to the Sexual Offences Act to address the various pitfalls identified in the Act.

(vi) A consultant has been availed by the United States Department of Justice to help us set up a DNA data bank.

Mr. Were: Mr. Temporary Deputy Speaker, Sir, the Attorney-General has indicated that there are many challenges that they are facing. In addressing these challenges, he has talked of a multi-sectoral task force that is headed by Justice Effie Owuor. When do you expect a report from this task force?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, I can inform you that this task force has been extremely active. As of now, I have already received more than three reports from the task force. The regulations to operationalise the Sexual Offences Act were put together by this task force. I received a report on that. The task force is currently engaged, as you can see, in the training of prosecutors and investigators and have now held such training workshops in nearly all the provincial capitals of this country. Very soon, I am expecting the policy framework document to come out from the task force. I am very encouraged and they are working very hard. They are also advising on the on-going cases which are in court.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, what efforts is the Attorney-General making to make sure that at least in every district hospital, it is possible, in the interest of the complainants together with the offenders, to have access to DNA testing?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, it is very important that we have the DNA bank. As I stated, we now have an in-house consultant kindly brought to us by the Department of Justice of the United States of America (USA) and we are involved on how data bank should be set up not only in Nairobi but also throughout Kenya. So, the exercise is on-going and that is the objective.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, Mr. Were!

Mr. Were: Mr. Temporary Deputy Speaker, Sir, the Attorney-General has indicated that since 2006 to date, we have had 5,537 criminal cases. Out of this, how many have been concluded?

Mr. Wako: Mr. Temporary Deputy Speaker, Sir, out of the 5, 537 cases, 1,894 have been finalised. That leaves 3,643 cases pending before the courts. Of the 1,894 cases which have been finalised, 1,364 resulted in convictions, 315 resulted in acquittals and 215 were withdrawn.

Question No.265

ROLE OF DISTRICT JOINT LOANS BOARDS
IN FACILITATION OF SMES

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, hon. Aluoch Olago's Question has been deferred to Wednesday morning!

(Question deferred)

The Assistant Minister for Trade (Mr. Omingo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I did consult Mr. Olago Aluoch and it is for the same reason I am here. I should have been with the President today. Mr. Olago informed me that he had asked somebody else to ask the Question on his behalf. In the interest of Parliament's time, could you allow that?

The Temporary Deputy Speaker (Mr. Ethuro): The Chair has a different communication from yours and the Chair's ruling is final! The Question has been deferred to Wednesday morning.

Next Question!

Question No.305

UPDATE ON TRITON OIL SCANDAL

Ms. Karua asked the Minister for Energy:-

(a) if he could update the House on the progress of the Ministry's internal investigations into the Triton Oil scandal as well as the measures he has taken to ensure that such an incident does not recur;

(b) what action he has taken against employees who may have been complicit in the matter; and,

(c) how much money the Kenya Pipeline Corporation and/or the Government lost in the scam.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) When the irregular release of petroleum products to Triton Petroleum company was unearthed in December 2008, the Ministry instituted the following internal investigations to ensure such an incident does not occur again:-

1. All staff members previously involved in the collateral financial arrangement (CFA) were interrogated by the Staff Disciplinary Committee of the company's Board and three of them immediately suspended to await detailed investigations.

2. The KPC Board has by resolution, resolved to restructure the operations and finance department of KPC, with a view to streamlining operations in the two departments with regard to product accountability and controls.

3. All approvals for release of products held under CFA were elevated to the level of Acting Managing Director and all communication to KPC relating to CFA management, were required to be in original or scanned documents of respective company letterheads.

4. The Kenya Anti-Corruption Commission (KACC) and CID were invited to conduct investigations by the Ministry of Energy in January 2009. The result is that eight people, three of whom were from KPC and the rest from Triton Petroleum Company and

the Kenya Commercial Bank (KCB) have been arraigned in the Anti-Corruption Court vide Case No.18 of 2009.

5. A forensic audit has been carried out by PriceWaterhouseCoopers (PWC) and the recommendations therein, are being currently implemented.

6. Oil companies' product entitlements are being closely monitored through the implementation of Systems Applications Programme (SAP) - which is a new software - companies without allocations are not allowed to lift products in any of the KPC depots.

7. Collateral financial arrangements and processes have been renewed by KPC management, while external lawyers and PWC are to ensure checks and controls. The process has been documented as per the ISO certification requirements for continuous monitoring, and audited by SGS in June, 2009, and found to be in conformity with ISO 9001:2000.

(b) Since the investigations into the Triton incident started, action has been taken against employees who may have been complicit in the matter as outlined below:-

1. The chairman of the Board of Directors was dropped. The Managing Director was suspended and subsequently, his services were terminated. Four directors were also dropped. Therefore, the Board has been restructured.

2. The then Managing Director and Company Secretary were relieved of their duties while three managers and three key operations staff have also had their services terminated.

3. The Operations Manager and two employees in the schedule section were suspended from duty and have since been arraigned in court by KACC.

4. Employees implicated in the PWC forensic audit were relieved of their duties.

(c) As concerns possible loss to the KPC or the Government, I wish to assure Members that, to date, there has not been any monetary loss either to KPC or the Kenya Government. However, KPC and by extension, the Government is exposed to an extent of Ksh5.55 billion being claims lodged in court by various parties and a further Kshs122.6 million on expected legal expenses related to the case.

Thank you.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister lay on the Table, the report of PriceWaterhouseCoopers (PWC) to enable us to ask follow-up questions? As to the statement that the Government has not lost anything but is exposed to loss, could the Assistant Minister confirm or deny that in matters of this nature, the bill will be paid by the Government at the end of the day, unless the Kenya Pipeline Company is able to attach the assets of Triton? To that extent, could he tell us whether civil proceedings have been undertaken to freeze the assets of Mr. Devani and all his co-directors and to name such other co-directors?

Eng. M.M. Mahamud: Mr. Temporary Deputy Speaker, Sir, as regards the first question, I hereby lay on the Table, the report of PWC.

(Eng. M.M. Mahamud laid the document on the Table)

Two, I agree with the hon. Member that KPC is exposed to lose money to the tune of Kshs5.5 billion as I said earlier. In fact, we are aware that should this be established, either the KPC or the Government will have to pay. With regard to the assets of Triton, one of the financiers; the Kenya Commercial Bank, has attached properties and assets of

Triton valued at Kshs2 billion for the settlement of a bill of Kshs1.1 billion owed to the Kenya Commercial Bank by Triton. The balance, of course, from the assets of KPC which we are still also tracking so far is about Kshs880 million. This will be used to settle other claims. The foreseen KPC's potential exposure, therefore, will be Kshs3.55 billion, if the Kshs880 million assets which the Kenya Commercial Bank has attached is deducted.

With regard to the proceedings we are conducting, currently, there are 10 companies that are placing claims to KPC. One is Total Kenya Limited - Kshs367.8 million, Kenya Shell - Kshs288.3 million, the Kenya Commercial Bank - Kshs1.194 billion, Engen (K) Limited - Kshs23.8 million, Petro Oil (Kenya) Limited - Kshs78 million, Glencore Energy of UK - Kshs1.2 billion, Enoc Singapore - Kshs1.7 billion, Gapco Kenya - Kshs7.4 million, Eco-Bank, Kshs193 million and Fortis Bank Kshs493 million, coming to Kshs5.55 billion. The Kenya Commercial Bank has attached the properties of Triton and we are privy to a draft bill for settlement which was drawn between the two. We have, therefore, objected to their claim against KPC. If they are attaching properties against Triton, then they should have no claim against KPC. For Total Kenya Limited, the case is before arbitration which was referred to by both KPC and Total Kenya Limited. For hon. Members' information, we have, as a Ministry, come to the view that we must do this through a process of arbitration so that an arbitrator agreed on both parties can agree on the quantum. What we know today are the figures in terms of litres of oil.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Assistant Minister! I think you have fairly answered the Question. Let us allow hon. Members to make a follow-up.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, the Energy Act (2006) which was created by this House established the Energy Regulatory Commission. In his list of remedies, I will be interested to hear what he has done about the following. What are you doing about this Commission that completely failed to protect the public interest? Secondly, Triton has a past history of transactions that this House, one day, found bordered on money laundering. This specific incidence was where we found that large amounts of money had been moved from Charter House Bank and Triton was involved. During the opening ceremony of Triton's LPG's Depot, the ceremony was attended by none other than the Vice-President and Minister for Home Affairs, the Prime Minister of Kenya and the Deputy Prime Minister and Minister for Finance, Mr. Kenyatta, and a total of eight Ministers. It is quite obvious that the director of Triton was highly-connected to the political bigwigs. So, if you really want to make sure that you bring to an end this kind of scandal from recurring again, could you tell us what your investigations have established as the role played by the politicians who were obviously connected to this director?

Eng. M.M. Mahamud: Mr. Temporary Deputy Speaker, Sir, I seek your indulgence as to whether I can answer the last part of the question because I do not think I have the answers to all those questions.

With regard to part one, the role of the Energy Regulatory Commission, the Commission had no role in this and they are not supposed to play any role anyway. What happened here was failure by the KPC staff to adhere to standing instructions and agreements which were signed between the KPC and the companies to the effect that no

funds would be released without the financier's authority. This is failure on the part of the company and the staff and ERC had no role.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is quite obvious that the Assistant Minister is ignorant of the same law we created in this House. Could you, with your indulgence, allow me to quote for him the functions of the Energy Regulatory Commission? I will quote only one. They are several. The one I am quoting says:

This Commission is expected to monitor and ensure that implementation and observation of principles of importation, distribution and protection of the consumers and competition are upheld.

The Temporary Deputy Speaker (Mr. Ethuro): Dr. Khalwale, are you quoting?

Eng. M.M. Mahamud: Mr. Temporary Deputy Speaker, Sir, I agree with what the hon. Member has said. It is correct. However, I stand by the assertion that, that is not what we are talking about. We are talking about importation by companies. It says that the companies must meet the quality and quantity and all the other specifications. The storage and transportation between the KPC and the companies was governed by separate agreements. This was failure on the part of KPC to honour the collateral financial arrangement.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I want to ask for time. We are trying to go through the PWC report and it has over 100 pages. It is not possible to go through it and ask all the questions. The Assistant Minister has still not answered the question whether KPC has tried to attach Mr. Devani's properties and those of his co-directors to secure the monies we are likely to lose. In view of that, may I request that the Question be deferred to enable us to get the gist of the content of the records and make proper follow-up, including the supervisory powers of the Minister and the PS as a Member of the Board as the State Corporation's Act which we cannot deal with without dealing with the report?

The Temporary Deputy Speaker: I noticed that the document is quite bulky.

Eng. M.M. Mahamud: Mr. Temporary Deputy Speaker, Sir, with all due respect to the Questioner—

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! I thought you would do that initially but since you were just looking at me, I decided to give my comments, so, wait for them. Given that this is an issue that involves a lot of money, you will agree with the hon. Member that, they need to look at the document and interrogate further. The Question is, therefore, deferred to next week, Wednesday afternoon.

(Question deferred)

Hon. Members, we have received communication that Mr. Olago had actually indicated in writing to Mr. Chanzu to ask the next Question on his behalf.

Proceed, hon. Chanzu!

Question No.265

ROLE OF DISTRICT JOINT LOANS

BOARDS IN FACILITATION OF SMES

Mr. Chanzu, on behalf of **Mr. Olago**, asked the Minister for Trade:-

the role of the District Joint Loans Boards in the facilitation of Small and Medium Enterprises (SMEs) in the constituencies;

(a) what steps he is taking to ensure that the Boards are sufficiently funded; and,

(b) the compensation of Kisumu District Joint Loans Board and the funding it has received for each year in the last 3 years.

The Assistant Minister for Trade (Mr. Omingo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The role of the District Joint Loans Boards in facilitating the SMEs is accelerating trade and finance for the SMEs. So far, the Joint Loans Boards have disbursed Kshs578 million to 40,000 entrepreneurs out of which Kshs124,971,851 has come from the Central Government and Kshs7.5 million from the local authorities. The responsibility of the District Joint Loans Boards is to increase employment opportunities by giving entrepreneurs capital to invest in order to reduce poverty in our midst. The other role of the District Joint Loans Boards is to enhance business management by the SMEs. It also makes contribution to the national development because the SMEs contribute a lot in terms of national development and thus alleviate poverty.

The steps taken by my Ministry to ensure that the boards are sufficiently funded are:-

(i) We have consistently asked for disbursement from the Treasury so that we can increase funding to the SMEs for economic growth. In the 2007/2008 Financial Year, we were allocated Kshs9 million and Kshs10 million in the 2008/2009 Financial Year. Forty million has been factored in the 2009/2010 Financial Year. You will appreciate that this is not sufficient to spur the economy, but given the kind of devolved funding now with synergy we can spur development and growth using the SMEs.

(ii) The scheme is also a revolving fund because we get back monies upon collection from people in advance for onward lending.

(b) Kisumu District has two Joint Loans Boards. That is the Kisumu Development Joint Loans Board which serves traders in Kisumu Rural. There is also the Kisumu Municipality Trade Development Joint Loans Board that serves the municipality. The composition of the Kisumu Trade Development Joint Loans Board is as follows. Ms. Dorcas Akinyi Obunga is the Chairlady; Kisumu DC - Ex-Officio member; District Trade Development Officer –Secretary and the Chairman of the Kenya National Chamber of Commerce and Industry, Kisumu Branch.

As for the Ministry of Local Government appointees for the Kisumu Municipality, we have Councillors Christopher Odhiambo Opiyo, John Obonyo Oginga and Martin Owiti Omogo. The term of these members has expired and the Ministry is in the process of renewing it.

As to funding, Kisumu Town Rural has received Ksh204,000 in the 2006/2007 Financial Year; Kshs204,000 in the 2007/2008 Financial Year and Kshs357,000 in the 2008/2009 Financial Year.

As for the Kisumu Municipal Trade Development Joint Loans Board Members, the Central Government appointees are Mr. Charles Otieno Angugo who is the Chairman, Ms. Jane Odhiambo - Member; Kisumu DC - Ex-Officio member; District Trade Development Officer – Secretary and the Chairman of Kenya National Chamber of Commerce and Industry, Kisumu Branch. The Ministry of Local Government appointees include Councillors Bernard Walter Amuga and Tom Mboya Ogola and the Town Clerk. The term of the above members is still valid.

The amount of funding received by the Kisumu Municipality Joint Loans Board is as mentioned above.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for the comprehensive response. However, in view of the fact that we are now in the trend of devolving, could he consider giving information on all the boards, the way it has been done by other Ministries, like the new Ministry for Youth Affairs and Sports, so that the disbursement of this money to various districts can be in public knowledge?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, part of the responsibility of my Ministry is to ensure that we build capacity on SMEs. Our Ministry's core responsibility is the facilitation of trade and investment. Indeed, as an overseeing body of the Government, it is critical that we synergize our thought process so that even the Youth Enterprise Development Fund can also be overseen or we advise the SMEs which benefit from the process of devolved funds. Unfortunately, we are not co-ordinated. This is why we had a co-ordination function under the Prime Minister's Office.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! The question was when will you give the allocation countrywide, like is the practice of other Ministries?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, the Joint Loans Boards are spread in over 49 districts. We have been unable to expand due to meager funding to this sector. We appreciate the fact that initially, this programme was not constituency-based but district-based. Because of the expansive and fast growing nature of our districts, which are now constituencies, we have not developed as fast as that growth, but we endeavour to do that because that is our mandate. The only handicap is the limited funding we receive from the Treasury. We only receive a minimal amount of money as opposed to what we propose.

The Temporary Deputy Speaker (Mr. Ethuro): Let us move on to the next Order!

Yes, Mr. Oparanya!

POINT OF ORDER

TABLING OF REPORT ON PYRAMID SCHEMES

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Just before we went on recess, the Chair ruled after I rose on a point of order in respect of the pyramid schemes, that the Minister for Co-operative Development and Marketing may table the report of the task force to this House. The Minister promised that he will table it this week.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! The Chair has already given the Minister of State for Planning, National Development and Vision 2030 this opportunity. You should allow him to finish his Statement before you raise your point of order, seeking something else from another Ministry.

It is time for the Minister of State for Planning, National Development and Vision 2030 to issue his Ministerial Statement!

MINISTERIAL STATEMENT

RECRUITMENT OF 2009 CENSUS SUPERVISORS/ ENUMERATORS

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Thank you, Mr. Temporary Deputy Speaker, Sir. The Member for Saboti, Mr. Wamalwa had requested for a Ministerial Statement on the recruitment of supervisors and enumerators during the census exercise. Thereafter, I met him and the problem he had was sorted out. So, I do not know whether I should proceed with the Ministerial Statement or not. We can save time if the hon. Member is here and is in agreement that I sorted out his problem.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I am very satisfied that---

Mr. Temporary Deputy Speaker (Mr. Ethuro): Mr. Wamalwa, you have heard the hon. Member and also the Chair. If you could save us time, then we would appreciate.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I want to appreciate the prompt action of the Minister. I am very satisfied and I hope the other affected areas of the country will also receive the same attention.

The Temporary Deputy Speaker (Mr. Ethuro): Well done!
Mr. Thuo!

NATIONAL POLICY/IMPLEMENTATION PLAN TO REDUCE ROAD CARNAGE

Mr. Thuo: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement. You will understand that I am done with details because this issue involves several Ministers and therefore, I think it should be properly before the Prime Minister. It has to do with road carnage in Kenya which continues unabated and Kenyans continue to lose lives and property. I wish, at this very early stage, to mention that I am interested to the extent that I am an investor in the road transport sector.

If you look at the photos of the most recent accident in Narok---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Thuo! Put the request to the Prime Minister!

Mr. Thuo: Mr. Temporary Deputy Speaker, Sir, I would like the Prime Minister to tell us what he is doing with regard to putting together the stakeholders in the sector to come up with a national policy and an implementation plan to reduce the carnage.

In doing so, I would be seeking that he addresses himself to the following factors: First, the enforcement of the existing legislation. This is a task for the police. The second one, and I wish you to indulge me, if you look at the photos of the vehicle that rolled yesterday, the roof has curved in. I know that it is a bit technical but allow me to explain

that any passenger seated towards the end of the vehicle even if he was belted, complied with the rules or the vehicle was moving at less than 80 kilometres per hour, the collapse of the roof would have killed him or her instantly because this country lacks what we call roll-over standards. This means that when a vehicle rolls, the passengers are protected from the caving in of the roof and therefore have a higher chance of survival. I would like him to address what we are doing with regard to such standards.

Mr. Temporary Deputy Speaker, Sir, I would also like to bring to his attention that even though we tend to think that we have Passenger Service Vehicle (PSV) drivers in this country that are professional, there does not exist a single PSV facility in Kenya for testing of either the trainers or the drivers by the Kenya Government. None exists and I stand to be corrected. To that extent, the drivers on the road with PSV licences have been tested on pick-ups or tracks and have graduated to carrying human beings by driving a couple of metres at the bus park.

Mr. Temporary Deputy Speaker (Mr. Ethuro): What are you requesting?

Mr. Thuo: Mr. Temporary Deputy Speaker, Sir, I would like him to address the issue of the training standards for PSV drivers in Kenya, given the importance of human life. I also want him to address the road conditions that contribute to the carnage on the roads of Kenya, both in terms of the quality of the build of the road, as well as obstructions, either by natural cause by our not giving enough clearance on the road reserves or caused by vehicles that have stalled and which can be repaired on the road. You will realize that you can repair a truck on a Kenyan road for 24 hours without having to move it because nobody cares. This is a hazard to road users.

Mr. Temporary Deputy Speaker, Sir, further, I wish him to address the issue that we have seen more recently; of tankers rolling and fuel leaking and Kenyans die. We can keep pleading with Kenyans not to go and collect that fuel, but unfortunately they will still go. So, it is important that we protect them by bringing standards that exist in other countries. For example, there are tankers which have generally been made so that when they roll, they do not leak. Again, these are building standards for the bodies that constitute the tankers. What is the Government doing to also take care of these issues?

Mr. Temporary Deputy Speaker, Sir, I wish that the Prime Minister could address this issue as a matter of urgency and of national concern and also explain whether he finds it necessary to call a genuine national stakeholders' conference, where the issue can be discussed and a way forward found.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I had made my first point of order which was to request the Chair to direct the Minister to Table that report. The Chair had allowed me to also rise to request for a Ministerial Statement, which I am now doing.

Mr. Temporary Deputy Speaker, Sir, I am seeking for a Ministerial Statement from the Minister—

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! What was the first one?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I can see the Minister for Co-operative Development and Marketing here. Would you like him to respond before I seek the second one?

The Temporary Deputy Speaker (Mr. Ethuro): Just go ahead with the second one, then he will respond.

CLOSURE OF KENYATTA UNIVERSITY

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, the second one is a request for a Ministerial Statement from the Ministry of Higher Education, Science and Technology with respect to the events that led to the disturbances at the Kenyatta University in March, 2009 resulting in the closure of the institution. I am seeking for the following clarifications:-

(i) What were the findings of the following committees that were created over the same?

1. The Departmental Committee on Education
2. The *ad hoc* committee set up by the senate of the university
3. The *ad hoc* committee set up by the University Council.

(ii) I would like her to clarify what administrative and governance reforms she has prescribed at Kenyatta University to ensure high standards of both learning and teaching and to guarantee peace and tranquility in that institution.

(iii) I would also like her to clarify that recently, only four out of 13 schools at this university have elected deans. Is she going to ensure that before the university re-opens, the rest of the schools shall have elected deans?

(iv) I would like her to clarify the following:-

1. Is she going to direct the University Council to appoint a substantive Deputy Vice Chancellor in charge of academic affairs before the re-opening of the university because this position has remained vacant for over two years from the time Prof. Ongong'a left?
2. Who will bear the cost of the reconstruction, estimated to be over Kshs100 million?
3. When will the over 23,000 students who attend this university be recalled since they were sent home indefinitely?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Nyagah, since you have to respond to Dr. Khalwale's first issue, you may also wish to confirm a communication on the request by Mr. Thuo to the Prime Minister and then the second one by Dr. Khalwale to the other Minister.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Which one is the other Ministry, Sir?

The Temporary Deputy Speaker (Mr. Ethuro): It was the Ministry of Higher Education, Science and Technology.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I will communicate with my Prime Minister as to the request that has been made by the hon. Member for Thika.

An hon. Member: Juja!

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Sorry, Mr. Temporary Deputy Speaker, Sir. It is Juja whose capital is Thika. He is one of the hon. Members that has four District Commissioners (DCs). I will also communicate with the Minister for Higher Education, Science and Technology, Dr. S. Kosgei on the request made by the hon. Member for Ikolomani.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Let us just finalise those ones. Any indicative dates as to when you think they can bring the responses?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, next week, during the Prime Minister's Time, I shall arrange for him to issue this Ministerial Statement. As to the second one, I will ask Dr. Kosgei to issue the Ministerial Statement on Thursday next week. She will be in a position to do it. I will go and look for them in addition to the help that I will get from the secretariat.

MINISTERIAL STATEMENT

TABLING OF REPORT ON PYRAMID SCHEMES

Mr. Temporary Deputy Speaker, Sir, as far as pyramid schemes are concerned, I did commit to the public when I launched the task force led by a former Minister, Mr. Nyenze, that I will go public. In fact, I received the report on 24th June, 2009. I then informed the public that I had received it and that I was studying it; and that as soon as I had finished studying it, I would release it to them as soon as possible and I released it. Already, the public has the report. But in between, I was taken to court by the Kenya Business Community Co-operative Savings and Credit Society Limited (KBCCSC). They have sued the Attorney-General, the Minister for Co-operative Development and Marketing, John Nyenze and the entire team (they even got the name wrong because he is Francis Nyenze) and all the people who were in the Taskforce that I had appointed. An order was issued barring me from releasing that report to Kenyans in so far as this applicant is concerned. So, I have a problem! This report that I have, and which is I released before I got this court order, has named many people. One of them is the KBCCSC Limited. What do I do? I do not wish to go against the court order. Could you guide me, please, because I do not wish to be arrested?

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. We do not know whether, indeed, that kind of order exists. But even if does and if it the Minister goes ahead and lays the Report on the Table---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Khalwale! You cannot say you do not know and the Minister has just informed the House that it exists; so, we know.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): I even have it here!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, as he lays on the Table that court order, from what he has read, the court order is very specific that he should not release the report to the public. The order does not prohibit him from obeying this House and laying the Report on the Table so that we can consume it. Unless the Chair thinks through this particular request by the court, it is just going to be furtherance of what has been going on because highly connected individuals; some of them politicians, members of the Cabinet and hon. Members are in that report. They are going to do everything to make sure that they are not brought to book for the theft they visited on innocent non-suspecting members of the public.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Linturi, as I contemplate on the request by Dr. Khalwale!

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, it is very unfortunate that the Madoffs of this country would want to continue gagging Parliament.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Linturi! I am not interrupting you. Mr. Minister, first, lay the documents on the Table so that as hon. Members contribute we may also be looking at it.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, because I am not a lawyer, I am laying three different documents on the Table that basically proof that point that I made. They are the mention notice, Notice of Motion and Order. So, I am presenting the three of them. I am not a lawyer, so I do not know which ones are useful!

(Laughter)

(The Minister laid the documents on the table)

(Ms. Karua stood up in her place)

Order, Ms. Karua! You cannot even speak before the Chair has seen you!

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, before I was interrupted, I was just saying that it is really unfortunate that the Madoffs of this country would want to gag Parliament. The Madoffs are the people who have stolen from the Kenyan public like the KBCCSC that is being talked about. These are people who have stolen from people and are walking freely in this city when Kenyans are sleeping hungry. Kenyans want to know the truth. The order that has been given, with all due respect to the courts and the judge who gave the order, they know that there is separation of power between Parliament and the Judiciary.

(Applause)

So, this Parliament cannot be prevented from exercising its legislative role by an order. In any case, Parliament is not the public. So I am praying that the Minister lays the report on the table and then we will proceed.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, just to reinforce the point made by Mr. Linturi, Parliament is supreme. It cannot be enjoined from conducting its business by the courts. Separation of powers demand that Parliament be able to get on with its business, the same time the court is getting on with its business. We know that the courts have been unable to operate because they have paralysed themselves with orders. This House must jealously guard itself from contracting that very contagious disease of internal paralysis from the courts.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we are urging you to order that the report be laid on the table of the House. You may wish to consider so as not to interfere with the court that it be laid for the consumption of Parliament only. But we should be able to get on with our business without contracting that very contagious paralysis from the courts.

Mr. Thuo: On a point of order, Mr. Temporary Deputy Speaker, Sir. While I wish to associate myself fully with the comments and remarks of my colleagues and also confirm that I am not a lawyer, the Minister started by saying that he had already released the report publicly before the order came. I am sure there is such a thing as an order having been overtaken by events. There is such a thing as the order, therefore, being superfluous. To that extent, I see no problem with the Minister proceeding to lay the report on the Table so that we can discuss it since it is already public.

(Applause)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Let us not debate this matter further. The Chair has looked at those documents. I would like to request for additional time so that by Wednesday, the Chair will make a ruling on this matter. Please, bear with the Chair. I am sure all your view points will be taken into account.

Next Order!

PROCEDURAL MOTION

EXTENSION OF SITTINGS DURING SUPPLY DAYS

Mr. Thuo: Mr. Temporary Deputy Speaker, Sir, I beg to move:

THAT, notwithstanding the provisions of Standing Order No.20(2), this House orders that the Sittings of the House, during the 14 days allotted for the Committee of Supply, in accordance with Standing Order No.155(1), be extended from 7.00 p.m. to 8.30 p.m.

Mr. Temporary Deputy Speaker, Sir, the primary purpose of this particular Motion is to comply with Standing Order No.155. I wish to refer hon. Members to a Section of that Standing Order which clearly states that we must finalize the business of the Committee of Supply by 31st August. In order to achieve this deadline, while I acknowledge that Committees have worked on all these budgets, you will appreciate that we have very little time as a result of which we are going to be hard pressed for time. For example, when we start the 1st Allotted Day on 28th July, 2009, which is next Tuesday, we shall be looking at two Ministries.

But soon after that, and this is justified, by the fourth day, which is Tuesday, 4th August, we shall be looking at four Ministries in one particular Session. By the sixth allotted day, we shall be looking at five Ministries. As those numbers escalate, you will appreciate that hon. Members will want to be given enough time to discuss the various Ministries and, therefore, we will be hard-pressed for time. That does not mean that the House cannot rise earlier. Clearly, when we rise, is a function of when we are done. However, we are taking some insurance cover here by giving ourselves adequate time to ensure that we will be able to cover all the Ministries.

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

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

Mr. Temporary Deputy Speaker, Sir, giving again the same example, by the 11th day, which is Wednesday, 19th August, 2009, we shall be looking at six Ministries in one afternoon. That is, obviously, going to be a fairly laborious task; it is going to be a time consuming task and what I am asking for--- Or what I am seeking today is that we allow ourselves the latitude and the room for manoeuvre, always knowing that how much time we expend is really within our control.

With that, Mr. Temporary Deputy Speaker, Sir, I beg to move. I will be seconded by hon. C. Kilonzo.

Mr. C. Kilonzo: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to second this Procedural Motion. As I do so, as in some previous instances and cases in the House, I also wish to read the “Riot Act” to the Government side.

Mr. Temporary Deputy Speaker, Sir, as is evidently very clear, even as we support this particular Motion, we only have six Ministers in the House. We encourage the Government side to take the 14 days seriously. If they will not, we will not give them the numbers. There are over 110 Ministers and Assistant Ministers. If they do not come here, we will also not come!

Mr. Temporary Deputy Speaker, Sir, as I support the Motion, I still want to continue reading them the “Riot Act”. Previously, Ministers have come to this House without their technical support staff. That particular Vote has to be pushed to another day. We do not wish that to happen again. Previously, Ministers have come to present budgets here well in advance, knowing that they have not given hon. Members the estimates from their respective Ministries. That will not be condoned anymore!

Mr. Temporary Deputy Speaker, Sir, we saw it in the Parliamentary Committees, where Ministers were summoned to come and defend their budgets. Permanent Secretaries were writing letters saying that they cannot be interrogated by Parliamentary Committees!

Mr. Temporary Deputy Speaker, Sir, we saw cases where Ministers came late while others never showed up! So, this time round, if we are going to beat the deadline of 31st August and we have 51 Ministry Votes to go through, it is up to the Government side to ensure that we take the 14 days seriously.

With those remarks, Mr. Temporary Deputy Speaker, Sir, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, hon. Assistant Minister!

The Assistant Minister for Trade (Mr. Omingo): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support that extension of time, simply because I think we do not fear accountability. I think we have been accused of being lax and it is important this time round, parliamentarians and Ministers give Kenyans value for their money and improve their well being.

Mr. Temporary Deputy Speaker, Sir, I do not want to cast aspersions but, the truth of the matter is: It is important that both of us, as we move on with the process, the Back

Bench puts the Ministers or the Government on check, with the objective of actually increasing the value of Kenyans' social well being.

Mr. Temporary Deputy Speaker, Sir, our policies and our programs in this Parliament must give Kenyans value for money and improve their well being. The time we are going to spend here is going to be valuable. I do believe that we will be there for you and we want to support. Together, I think we will move forward.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Question put and agreed to)

The Temporary Deputy Speaker (Prof. Kaloki): Next Order! Where is the Chairman of the Public Investments Committee? Hon. Chanzu, you had already moved this Motion. Is that right?

Mr. Chanzu: I just want to say that the Chairman was just here now, but---

(Laughter)

But I am the Vice-Chairman.

The Temporary Deputy Speaker (Prof. Kaloki): Are you seconding the Motion then? All right, Mr. Chanzu, you can second the Motion. It started yesterday. So, you will just continue.

An hon. Member: The Chairman has come.

The Temporary Deputy Speaker (Prof. Kaloki): All right, Mr. Chairman, you can proceed on. We were just waiting for you. We are on Order No.9 on your Motion.

Proceed from where you left yesterday!

MOTION

ADOPTION OF 16TH PIC REPORT

THAT, this House adopts the Sixteenth Report of the Public Investments Committee on the Accounts of State Corporations, laid on the Table of the House on Wednesday, 24th June, 2009.

(Mr. Linturi on 24.6.2009)

(Resumption of Debate interrupted on 24.6.2009)

Mr. Temporary Deputy Speaker, Sir, The Public Investments Committee is a Select Committee established under Standing Order No. 188. The Committee is designated to examine public investments.

Mr. Temporary Deputy Speaker, Sir, the functions of the Committee are to examine the reports and accounts of public investments; to examine the reports of the Controller and Auditor General on the public investments and, finally, to examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of

the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

Mr. Temporary Deputy Speaker, Sir, the Committee has the powers as stipulated under the National Assembly (Powers and Privileges) Act (Cap. 6), the State Corporations Act (Cap. 446) and the Exchequer and Audit Act (Cap. 412), to summon witnesses and receive evidence.

Mr. Temporary Deputy Speaker, Sir, during my tenure as the Chairman, the following hon. Members sat in this Committee:- Hon. Mithika Linturi, MP, Chairman; hon. Yusuf Chanzu, MP; hon. John Mbadi, MP; hon.(Dr.) David Esseli, MP; hon. Nemesys Warugongo, MP; hon. Sammy Mwaita, MP; hon. Johnson Muthama, MP; hon. Silas Jirongo, MP; hon. David Were, MP; hon. Luka Kigen, MP, and hon. Ephraim Maina, MP.

The Committee held 76 sittings during which it closely examined 104 reports of the Controller and Auditor-General on 25 State Corporations, and also took evidence on matters regarding grain handling at the Port of Mombasa, the loss of Kshs1.4 billion by the National Social Security Fund (NSSF) and the sale of its plot along Kenyatta Avenue.

Mr. Temporary Deputy Speaker, Sir, the Committee also visited Kenya Ports Authority (KPA), the Kenya Ferry Services (KFS) and the Coast Development Authority (CDA) to appraise itself on the programmes/projects that were undertaken by the corporations, and which had a bearing on the matters under consideration by this Committee. The reports on these matters will be tabled in the House within the next two weeks once the Committee finalises its recommendations.

The Committee took evidence from Chief Executive Officers (CEOs) of various State Corporations and summoned other witnesses, who appeared before it, adduced evidence and supplied very useful information and documents. The basis of this Report, therefore, is the evidence adduced before the Committee as well as the information contained in the submissions, as well as the additional information and communication provided.

Mr. Temporary Deputy Speaker, Sir, the practice of the PIC is that, due to the weighty matters raised by the Controller and Auditor-General, only substantive CEOs appear before the Committee to adduce evidence. Consequently, in the course of taking evidence, the Committee had to defer taking evidence on the accounts of several State Corporations, whose CEOs had not been appointed at the time, such as the National Social Security Fund (NSSF), Tana and Athi-Rivers Development Authority (TARDA), Chemilil Sugar Company, Kenya Pipeline Company, and many others.

However, the Committee took evidence from the Acting Managing Trustee of NSSF, while all along anticipating the appointment of a substantive holder of the position, due to the magnitude of the issues at stake, which was the loss of the shares of the Fund worth Kshs1.4 billion. The Managing Trustee has just been appointed and the Committee will be concluding the report shortly.

Mr. Temporary Deputy Speaker, Sir, further, the Committee also took evidence from an Acting CEO of Kenya Ports Authority (KPA) on the matter of grain handling at the Port of Mombasa, and could not conclude evidence due to the length of time taken to confirm the officer on appointment. The Committee, therefore, appeals to the appointing authorities to fill such positions at the earliest opportunity to ensure continuity, and also guard against the performance gaps and interruptions arising out of such omissions.

The Committee made several observations and recommendations. If these issues were taken into account and implemented, there would be enhanced accountability, effectiveness, transparency, efficiency, prudent management and profitability in State Corporations and the public investment sector as a whole.

Mr. Temporary Deputy Speaker, Sir, this House is invited to note that there exists a huge backlog of unexamined reports of the Controller and Auditor-General on State Corporations. The Committee managed to reduce this backlog by examining two or more of the said reports for some corporations. To this end, the Committee has brought up to date the following State Corporations:- the CDA, Communication Commission of Kenya (CCK), Kenya Maritime Authority (KMA), Jomo Kenyatta University of Agriculture and Technology (JKUAT), Catering and Tourism Development Levy Trustees (CTDLT) and the National Hospital Insurance Fund (NHIF).

The Committee endeavoured to update accounts for State Corporations that had been outstanding since mid 1990s. These included the Bomas of Kenya, Egerton University, the Industrial and Commercial Development Corporation (ICDC), the Coffee Board of Kenya, the Kenya Industrial Research and Development Institute (KIRDI) and the Ewaso Nyiro South Development Authority (ENSDA).

Mr. Temporary Deputy Speaker, Sir, I hereby give a summary of the Committee's observations on the operations and management of the various State Corporations. One of the major issues that we were able to observe was improper book-keeping. The Committee observed that the books of accounts in various State Corporations were inaccurate and incomplete, while others were non-existent, having been lost completely under doubtful circumstances.

The Committee observed that accounts for some State Corporations were in arrears over a long period of time, owing to the absence of critical accounting records. The Committee noted that the following State Corporations failed to maintain proper accounts and that reconciliation of the same was outstanding to date: the Coffee Board of Kenya, ENSDA, the Kenya Railways Corporation (KRC) and KIRDI.

Mr. Temporary Deputy Speaker, Sir, in view of this, the Committee recommends that CEOs of State Corporations ensure that proper books of accounts are kept, and that reconciliation of books of accounts is undertaken on a regular basis. The Committee further recommends that CEOs comply with both International Accounting Standards (IAS) and the International Financial Reporting Standards (IFRS).

The other serious issue that we were able to note is irregular award of contracts. The flouting of the procurement procedures is an issue that remains very common in nearly all the State Corporations. The Committee noted, with apprehension, the total disregard of procurement procedures, leading to huge losses by the State Corporations. It is noteworthy that there are cases where procurement of goods and services is a one-man show.

Mr. Temporary Deputy Speaker, Sir, in some cases, State Corporations entered into several contracts for various works without the requisite approval from the parent Ministries and the Treasury, while in other cases, the CEOs and the Tender Committees awarded contracts without due regard to the procurement Regulations on tendering for works in excess of Kshs5 million.

An example is a tender award by Kenyatta National Hospital (KNH) for the Main Casualty Department at an initial cost of Kshs65,838,389. The Committee noted with

concern that no prior approval from the Treasury and the parent Ministry was sought before commencement of the project. Further, the appointment of the lead consultant was done single-handedly by the Director without the involvement of the Tender Committee, and in contravention of the Public Procurement Regulations.

Mr. Temporary Deputy Speaker, Sir, similarly, the awarding of the contract for the partitioning of the NHIF Building at a contract sum of Kshs756, 220,120 was also carried out in blatant disregard of the procurement law as no tenders were floated for the works, hence contravening this provision of the Act.

Another case worth noting is that the Kenya Medical Training College (KMTC) awarded a contract, through selective tendering, for the renovation of hostels at the medical training college in Nairobi at a contract sum of Kshs11,689,400. The contractor in question was paid Kshs4,351,518. In this regard, no authority was sought from the Treasury through the parent Ministry to embark on contractual work through single sourcing. This is yet another case of deliberate disregard of the procurement regulations.

Mr. Temporary Deputy Speaker, Sir, we also noted that contracts were being signed in a manner that was to the detriment of the corporation. We observed that contracts were often lopsided in favour of the contractors, therefore, exposing the corporations to losses. For example, in the year 2000/2001 Financial Year, Kenyatta National Hospital entered into a procurement contract for the supply of two washer extractor machines at Kshs17,546,378.23 which was delivered without a sorting mechanism as per the supply contract signed by the hospital and the contractor.

Further, the Committee noted with concern that the contract signed did not indicate the contract period and, therefore, no penalties could be charged for delay of non-performance. The hospital also made advanced payment of Kshs11,106,130 to a firm; being 70 per cent of the contract price for the supply, delivery and installation of submersible pumping equipment. The Committee noted that to date, the equipment has not been delivered despite the advance payment of Kshs11,106,130.

Mr. Temporary Deputy Speaker, Sir, Kenya Railways Corporation, without open tendering, in 1996 entered into a Kshs4.9 billion contract with the General Electric INC. for the overhaul and maintenance of 35 locomotives. The Committee observed that no approval from the Treasury was sought prior to awarding the contract through single sourcing. We noted that the cost of the project that was Kshs4.9 billion would have been less if these services had been procured from the open market.

Kenyatta National Hospital further procured nuclear medicine equipment through an agent, Glotex Kenya Limited without signing any supplies contract. Further the equipment could have been procured directly from suppliers at a reasonable cost. No due diligence studies were undertaken to establish the ability of the company to deliver leading to failure by the company to replace items worth Kshs13,388,760 delivered with wrong specifications.

The Committee noted in the Financial Year 1998/1999, the Kenya Airports Authority obtained a loan of 34,599,359 Euros which is an equivalent of Kshs3,186,421,047 from a foreign bank to finance development of the Jomo Kenyatta International Airport. The Authority's management entered into an international credit agreement without consultation with the Treasury and consequently incurred an expense of Kshs18,253,144 per annum in Withholding Tax to the Kenya Revenue Authority, a cost which could have been avoided had the Treasury been involved in the negotiations.

Additionally, the Agro-Chemical and Food Company Limited installed Gas oil blending equipment at various oil companies to mix petrol with power alcohol supplied by the company. The project was, however, rejected in 1991 by the oil firm leading to the abandonment of the gas oil equipment. We all observed that lack of foresight on the architects of the projects and casual manner in which it was implemented without any feasibility studies undertaken or relevant legislation to ensure compliance, lead to a wastage of Kshs7,014,105 invested in this project.

Our recommendations with regard to this, we reiterated that the Procurement and Disposal Act of 2005 is stringently adhered to in the procurement of goods and services. We also advise that CEOs should desist from implementing projects without proper and adequate planning and funding and that the interest of corporations and public funds are safeguarded in all contracts entered into.

Mr. Temporary Deputy Speaker, Sir, we also realized that there were serious contract price variations after the award of a contract. We observed that State corporations continued to lose colossal sums of money through contracts that were awarded at competitive prices but progressively revised upwards once the contract was awarded.

The National Hospital Insurance Fund building was awarded at a contract sum of Kshs1,483,000,000.30. The cost of completion of this project out of these variations rose to Kshs4,317,427,954.90 which was a 300 per cent increase from the initial award price. We further observed that the NHIF multi-storey car park was initially set to cost Kshs909,709,305. However, eventually ended up costing the corporation Kshs1,179,611,796 after being varied at one point upwards to Kshs1,005,081,213,586 to accommodate vehicular lifts that were later withdrawn.

Mr. Temporary Deputy Speaker, Sir, we also noted that the ICDC funded a project at Moi University which initially cost Kshs15 million in 1989 when the project was commissioned and eventually ended up costing Kshs63 million on completion which was a 600 per cent increase. The reasons for these variations were at times due to mismanagement of the project while others were grossly exaggerated for unexplainable reasons. We noted that this was the easiest way for some of the Kenyans that do not want to sweat so much to get rich quickly.

We recommend that the CEOs of these State corporations should desist from varying contract prices upwards after award of these contracts. We also recommend that such contract price variations when absolutely necessary, then prior approval must be obtained from the parent Ministry and the Treasury.

We also found that the financial performance of some of these corporations was seriously wanting. We noted the overall financial standing of the State corporations. We also examined the financial and dismal financial performance of these State corporations. We noted that the corporations were registering huge losses year after year thus posing a threat to their continued operations as going concerns. We observed for various reasons the inability of State corporations to return profits. Notable cases included, the Bomas of Kenya, Kenya Industrial Research Development Institute, Ewaso Nyiro South and Coast Development Authority while noting that reasons given for the poor performance hinged on inadequate allocations from the Treasury. We observed the lack of budgetary controls in some of these State corporations while others invested funds without feasibility studies undertaken to ensure viability of this investment leading to these huge losses.

Mr. Temporary Deputy Speaker, Sir, the Committee noted sadly that majority of the corporations were relying on the Exchequer to finance these losses. In view of this, we recommend that the CEOs endeavor to return profits and not merely rely on Government allocations for sustenance while ensuring that they operate within approved budgets. We further recommend that the CEOs urgently explore avenues of generating income to supplement Exchequer releases.

We also noted the issue of imprudent management of State corporations' assets. The State corporations failed in their duties to safeguard corporation assets thereby leading to huge financial losses and sometimes human lives.

Mr. Temporary Deputy Speaker, Sir, as a Committee, we noted that failure by the Kenya Ferry Services Limited to adhere to insurance policy specifications in terms of payment of premium and loading capacities of the Mtongwe I Ferry, led to the death of 257 passengers in 1994 and loss of compensation claims because of the inability of this corporation to adhere to policy conditions.

We further noted that in the year 2001, when fire destroyed the Faculty of Agriculture building and Ruwenzori Hall at Egerton University, Njoro, with an estimated cost of Kshs24, 835,640 and Kshs8, 200,200 respectively, the university was exposed to lose amounting to Kshs33, 035,840. We observed with concern that it appears the management had not paid the insurance cover at the time of the fire and hence Egerton University would not have been indemnified by the loss and payment of premium.

Mr. Temporary Deputy Speaker, Sir, the Committee noted the unsatisfactory manner in which Kenyatta National Hospital (KNH) invested surplus funds totaling to Kshs1,386,621,332 in banks and other financial institutions which were placed under liquidation in February 2003. These amounts, up to now, have proved irrecoverable.

The Kenya Industrial Estates (KIE) banked large sums of money in financial institutions, including the Thabiti Finance Company Limited, the Pioneer Building Society, and the Cosmopolitan Building Society and was unable to recover Kshs79, 244,703.30 when the institutions collapsed. We recommend that the Chief Executive Officers (CEOs) of State corporations responsible for the corporations' huge financial losses be severely reprimanded. We also further recommend that the CEOs of State corporations ensure prudent management of the corporations' assets and insurance portfolios. The Committee also recommends that the CEOs ensure that the investment of funds is done in conformity with the Treasury circulars on investment of surplus funds.

Mr. Temporary Deputy Speaker, Sir, from the evidence adduced, we also noted that there was serious misuse of State corporations' assets belonging to these corporations. In this regard, the whole process of the Kenya Railways Corporation concession of train operations to the Rift Valley Railways (RVR) was mismanaged. The Committee observed that the prequalification process was faulty from inception to the final award of the concession to RVR. Rift Valley Railways is a company that never featured in the prequalification process and whose lead partner has no financial or technical capacity to undertake a national railway line.

It is worth noting that at the time that this concession agreement was signed between the Government of Kenya and RVR, a company which was not prequalified or did not feature anywhere during the prequalification process, had a share capital of 2,100 Rands. This is only an equivalent of approximately Kshs21, 000. For Kshs21, 000, the Kenya Railways was transferred to RVR.

Mr. Temporary Deputy Speaker, Sir, we observed with concern the failure by the concessioner to meet its financial obligations even as per the concession agreement which required the concessionaire meet certain obligations such as payment of concession fees and rent for use of premises within the stipulated time. At the time of writing this Report, this company had not paid the concession agreement fee and the rent.

In another case of misuse of State corporations' assets, between 2000 and 2004, the management of the Communications Commission of Kenya (CCK) bought furniture and other household appliances for officers at a cost of Kshs5, 763,144. The Committee observed that the furniture in question could have been fully depreciated by the time the officers left the Board and the depreciated value should have been recovered from these officers. The Board acted in disregard of the Public Procurement and Disposal Act in approving this process.

We recommend that the CEOs ensure that the Public Procurement and Disposal Act of 2005 is stringently adhered to in the disposal of corporations' assets.

We also recommend that depreciated values of assets be recovered from the officers.

Mr. Temporary Deputy Speaker, Sir, we were also able to establish that corporations usually procured unusable goods. One of the cases was where some State corporations entered into contracts for purchase of goods that turned out to be unusable leading to wastage of public funds. Between 20th October, 1998 and 3rd November, 1998, the KFS Limited purchased stocks worth Kshs5, 695,960 for the Mtongwe II Ferry, when the company was already in the process of disposing this vessel. Similarly, the Coffee Board of Kenya (CBK) in the year 1997/98 purchased a computer and related equipment valued at Kshs36, 526,286.

It is shameful to note that to date, the computer has not been commissioned for use even though the equipment has been depreciated in the books of accounts for the CBK.

The Committee was concerned that no attempt was made to dispose of this asset. The Committee noted that the purchase reflected mismanagement and lack of foresight by the management of the CBK.

We recommend that the CEO observes stringently the provisions of the Public Procurement and Disposal Act and adheres to it. We also recommend that the Inspectorate of State corporations should investigate the circumstances leading to the purchase and consequent dumping of this computer plant and make a report to the PIC by 31st December 2009.

Mr. Temporary Deputy Speaker, Sir, we also established that some State Corporations were investing in non-core activities. We realized that some of the corporations were operating outside their core mandate for which they were formed. It was observed that between the year 1989 and 1997, the Industrial and Commercial Development Corporation (ICDC) incurred an expenditure amounting to Kshs63, 050,644 to construct a centre for human resource development at the Moi University and treated the amount as a donation. The Committee noted that the construction of the said buildings falls outside the mandate of the corporation. Even though social responsibility may have required the assistance of the corporation, the latter had no capacity to supervise the works and a donation as required by the university would have sufficed.

Mr. Temporary Deputy Speaker, Sir, we also observed that the NHIF had diverted funds to investments thereby digressing from its core mandate of healthcare provision where the bulk of funds received were channelled to administrative expenses.

We noted that in the year 2003/2004, the Fund collected Kshs2, 39,477.891 as revenue but only spent Kshs713, 287, 722 on healthcare provision which translated to only 27 per cent of their ordinary revenue. The dream of this Government to provide free healthcare to all citizens cannot be achieved if the kind of money that is collected from the people who contribute towards NHIF is not used for the enhancement of rebates in hospitals where most ordinary Kenyans go for treatment. We recommend that State corporations CEOs should ensure that corporations desist from engaging in activities which are outside their core mandates.

We also noted that there was unfavorable financial performance of public universities including Egerton University, Jomo Kenyatta University of Agriculture and Technology. We further recommend that the Government increases capitation of public universities and setting up of research funds to increase the capacity of these institutions to carry out research which would greatly improve the performance of the intuitions. We noted that the restructuring of the Industrial and Commercial Development Corporation's (ICDC) balance sheet has not been concluded. We observed that the process is being hampered by the Treasury's claim that the corporation owes an amount of Kshs.832,258,762 invested in the Soya Oil and Food Industries Limited a project initiated by the Government and that was to be implemented by the corporation but never was. This is another case we found to be of very serious nature in the abuse of powers that are conferred by law on the various CEOs because Kshs832 million was spent in acquiring equipment that was brought into the country but the project did not kick off. The project just stalled and the equipment depreciated and got worn out due to the exposure at the Port of Mombasa. Finally, when this equipment was advertized for sale, it was only sold for Kshs40 million as opposed to the initial Kshs832 million. So, the public lost close to Kshs800 million due to the negligence of the officers from this department.

As I conclude, I believe that this House will note that this Report is accompanied by the Implementation Status of the 14th Report. By the time we went to Press, the Treasury had not yet finalized with the implementation status of the 15th Report. The Committee has continuously taken exception to the slow pace at which the Government has implemented recommendations of this House arising from the previous Reports. However, with the introduction of the Committee on Implementation in the Standing Orders, recommendations arising from Committee Reports will be followed up to ensure implementation by the various Government Departments.

In my capacity as the Chairman, I would like to thank the Members of the Committee for their dedication, diligence and commitment in making this Report. The Committee wishes to record its appreciation to the various witnesses who appeared and adduced evidence before it. Further, the Committee shall remain permanently indebted to the staff of the National Assembly, the Kenya National Audit Office, the Inspectorate of State Corporations and the Department of Government Investments and Public Enterprises (DGIPE) and the Ministry of Finance for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible. I, therefore, urge this House to adopt this Report and its recommendations thereon.

I beg to move.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to second the Public Investments Committee Report on the accounts of State corporations which was prepared this year.

As you have heard from the Chairman, the Committee had 76 sittings and extensively examined 104 Reports of the Controller and Auditor-General on 25 State corporations. There are quite a number of issues which were observed and in all these, the Committee recommended that hon. Members and interested parties should go through the Report and see the details. The Report is fairly bulky. In trying to underline some of the issues which have been raised, I will take an example of the Agro-Chemical and Food Company Limited. There were many recommendations which were made with regard to the privatization of this company. It had been recommended and we reiterated that – I think we will be assisted by the Committee on Implementation that we recently created under the Standing Orders – there is need for privatization of this company by the Treasury. It is not proper to continue spending public funds on companies which can run on their own when individuals can buy shares from the company.

There was also an issue regarding gasoline blending equipment in the same institution. It has also been recommended that the PS for Agriculture, the PS for Energy and the Mehta Group of companies that were involved in the losses that were incurred in this project must be held responsible. We are saying that some projects have been undertaken without proper planning or proper feasibility studies. That is why we end up spending and losing a lot of money.

The other thing that came up was about the purchase of land from Muhoroni Sugar Company. The legal requirements were not complied with. As a result, the funds which were committed in this went to a loss. It was recommended that the Director of the Kenya Anti-Corruption Commission investigates and if possible, prosecutes the company lawyers who were handling the matter. I think they were negligent in conducting the assignment they were given by the company.

We noted a number of issues with regard to the Bomas of Kenya. This has to do with the way parastatals have been run. Sometimes when a new Government comes into place, new Ministries are formed without taking time to study outstanding issues that may be transferred to other Ministries or departments. The Treasury assisted the Bomas of Kenya get the money the Kenya Tourism Development Corporation (KTDC) owed it. We are saying that the Bomas of Kenya should now be profitable. It should invest in profitable ventures that can earn it revenue. We recommend that the Bomas of Kenya should revive the Bomas Traditional Cuisine Restaurant, cultural festivals and picnic sites, open theatre for outdoor activities, bicycle track and other sporting activities. It should also venture into botanical, medicinal and indigenous plants and gardens among others. We recommended this as short-term measures so that the Bomas of Kenya can, at least, sustain itself.

Mr. Temporary Deputy Speaker, Sir, if you read the Report, you will note that the National Social Security Fund (NSSF) has not been incorporated in it because we did not finalise examining its accounts. We propose to make a report in the next few days, after the tabling of the Report. However, there are grave matters in the NSSF.

Today, we had a meeting with the Capital Markets Authority (CMA) regarding the Kshs1.4 billion, that was invested with Discount Securities Limited but is lost. As of

now, the Chief Executive Officer of the CMA is still waiting the approval or consent of the Treasury in order for us to access the audit report that was done by the KPMG. I think that report was ready by May this year. When we looked at the Act, we found that the only person who can stop the report from being made public is the Head of State. So, we are undergoing some vicious circle in this matter. I hope more money will not be lost through such a scam.

The other issue we noted about the NSSF earlier on when we took evidence from its officials is the writing off of over Kshs1 billion on some of the projects that have been undertaken by the corporation. The NSSF moved away from its core business. The Fund went into purchasing property, plots and engaged in construction activities instead of finding a better way of investing workers' earnings or investments. The same case happened with the National Hospital Insurance Fund (NHIF). It has constructed huge buildings and office blocks at the expense of its core business of increasing the amount of rebate that can be passed over to the contributors. We recommend that, that should change. The NHIF should increase rebates to its contributors bearing in mind that the Government does not have a proper health scheme for its citizens. I am sure most Members of Parliament who attend to their constituents have a big problem with people looking for money to settle medical bills.

Recently, the Minister for Medical Services addressed the issue here seriously. We noted that the Kenyatta National Hospital (KNH) had a lot of request for waivers. If the NHIF rebates go up, it is possible to assist that hospital.

On the KNH, we also noted several tenders that were awarded to contractors and suppliers irregularly. We recommend that where there have been such irregularities that have led to the Government losing money, the Chief Executive Officers involved must be held responsible.

I would like to touch on the Kenya Medical Training College (KMTC) whose land has been grabbed by some individuals. We have made recommendations that this land should be recovered and title deeds surrendered to the Treasury. We also recommend stoppage of procurement of goods and services through single sourcing.

Mr. Temporary Deputy Speaker, Sir, on the Kenya Ferry Services, we noted that an officer who worked with the Kenya Ports Authority (KPA) was allocated a plot belonging to the KFS but was funded by the KPA. This involved one of the sportsmen. We have recommended that this matter should be pursued.

The Chairman of the Committee talked about ICDC. They were asked to give a donation towards the construction of a human resource centre. Instead of providing the money, it undertook to go and construct the centre. The ICDC engaged consultants, architects, quantity surveyors and engineers. This project took too long because the first contract was terminated and another one signed. As a result, the organization lost over Kshs63 million whereas it could have made a donation of Kshs5 million or Kshs10 million to the project. Therefore, it could have been much better than the organization carrying out the construction.

Mr. Temporary Deputy Speaker, Sir, there are a number of issues in this Report. I believe that hon. Members will have time to look at them. In spite of the problems we had after the last general elections, as a Committee, we got down to business and completed the reports on the Government parastatals that I have mentioned. However, we still have a problem.

Generally, I noticed that the Chief Executive Officers prefer to take easier options when it suits them or when they want to commit public funds. For example, most of the corporations are governed by various Acts of Parliament. Chief Executive Officers or the boards should link up with the Minister concerned and the Ministry of Finance before carrying out a certain project but they do not do this. This is the case when they have got money to spend. They only go to the Ministries when they do not have money to spend. When they have money, they prefer to do it their own way. This is why you will find in the case of the NSSF, for example, only the former Chief Executive Officer and the Investments Manager made telephone calls to stock brokers with instructions to buy shares worth a certain amount of money. This is an instance where they had to get a quotation. We were asking that if these shares are floated every day and a share costs Kshs50 today, why must you ask for a quotation of Kshs100, and it may go down the next day to Kshs49? These things were being done very promptly; with a lot of speed, without reference to the parent Ministry and Treasury.

Mr. Temporary Deputy Speaker, Sir, I still feel that the appointment of the Chief Executive Officers (CEOs) is still wanting. The Government must do something about it. The recruitment is still not water-tight. The issues which are happening in this country which cause problems--- We talk about this today and tomorrow we change position because we want to suit our own interests. The appointments based on favouritism and ethnicity must stop. Appointments should only be on merit.

We worked with a team which was very committed to this work under the chairmanship of Mr. Linturi. We worked very well and accomplished whatever we wanted.

With those few remarks, I beg to second.

(Question proposed)

Mr. C. Onyancha: Mr. Temporary Deputy Chairman, Sir, I wish to contribute to this very important Motion presented by the Chairman of Public Investments Committee (PIC). It is a very sad state of affairs as we have heard today from the Chairman of this Committee. As I thank the Chairman and the Vice-Chairman for laying this report on the Table, I also wonder where the Members of this Committee are. This is a very important Report which should be taken seriously by Members of that Committee first and by other hon. Members.

Mr. Temporary Deputy Speaker, Sir, the Report is a case of continued impunity on the part of the CEOs of the parastatals which the Government must take action on. There is impunity in terms of breaking the law. When parastatals give their financial report five or seven years after, those are accounts which should not be accepted. Many of them operate under Cap.486 which specifies the number of months and the year when a report should be presented for audit. The Income Tax Act, Cap.470 also states the number of months, not years, when such a report should have been completed, audited and filing done with the Income Tax Department.

We have seen cases of impunity with parastatals with regard to the Employment Act where they employ casual labourers for 15 years. We know clearly that the law specifies a period of 90 days for casual labourers. These are acts of impunity which must be put to an end. Further, parastatals which operate and are not liquid and must go for

funds from Treasury, should be dissolved. I do not believe that they are worth investing more funds in them when we have situations of Internally Displaced Persons (IDPs) and famine in the country where those funds could be better applied.

Mr. Temporary Deputy Speaker, Sir, it is very embarrassing that public institutions like Kenyatta National Hospital (KNH), the National Hospital Insurance Fund (NHIF) and the Kenya Medical Training College (KMTC) have all been actually breaking the Public Procurement and Disposal Act with impunity. When are we going to stop this impunity if the arms of Government are the ones practicing extreme impunity which results in loss of public funds, and are tainted with elements of corruption which are quite obvious?

Mr. Temporary Deputy Speaker, Sir, it is of concern that the issue of idle assets in parastatals is not being addressed. We have seen cases of Kenya Railway Corporation (KRC) having idle land. Other parastatals have machineries which stay in Mombasa for ten years and then they are disposed off at a pittance. Those officers should be brought to book. I propose that the Departmental Committee on Implementation takes this matter seriously and gives sanctions accompanied by surcharges for losses of public funds.

There is a small hitch which is not explored by the PIC and I wish to bring to your notice. Public investments, through Treasury and other arms of the Government, which are in the form of shareholding in institutions which the Government owns less than 50 per cent, are not subject to this scrutiny. I propose that this be brought to scrutiny so that we can know what the investments are actually yielding on a yearly basis and whether it is proper for those investments to continue or to be sold off.

Mr. Temporary Deputy Speaker, Sir, the country needs every unit to operate efficiently for us to be able to progress under Vision 2030, to create employment and be able to make sure that development goes to the people. This is not going to happen when we have CEOs who are not able to manage institutions. I concur with my colleague that CEOs in parastatals who continue losing money, who do not present financial reports on time and who are corrupt, should be dismissed forthwith because we have a lot of unemployed able labour in this country which can fill those positions without any problem.

Mr. Temporary Deputy Speaker, Sir, as for the parastatals which do not have substantive CEOs, it is a reflection on the Government which must pull up its socks and make substantive appointments with immediate effect. Otherwise we shall just continue losing money day in, day out. A case in point is the National Social Security Fund (NSSF) where investments were made to the tune of Kshs1.4 billion and that has now been lost due to such inefficiencies. There are others which the report mentions very adversely.

Mr. Temporary Deputy Speaker, Sir, let me talk about the case of Moi University; making a variation to a contract of 600 per cent. That is a case for the police. This is a matter that should not be taken lightly. We know that the Public Procurement and Disposal Act allows for 15 per cent variation. So, 600 per cent is just madness. I hope that the Implementation Committee will recommend that these officers be apprehended because this is outright theft.

Let me conclude by thanking this Committee for a job well-done. If I had power in this country--- I think this Government is failing us for continuing to keep these CEOs in place. With consultations going on, I am about to make a very important personal

statement. If I had power, there are some old men who we should bring back to power to kill this impunity. If we gave this Government to three people, as much as it might be a dictatorship, it might just wake up some people. I am glad to mention that one of them is in this House, Mr. Michuki---

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Member! Are you through with your contribution?

Mr. C. Onyancha: Mr. Temporary Deputy Speaker, Sir, I am recommending a mild dictatorship by Mr. Michuki, Mr. Njonjo and Mr. Nyachae.

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. C. Onyancha! Withdraw and apologize!

Mr. C. Onyancha: Mr. Temporary Deputy Speaker, Sir, I withdraw and apologize.

The Temporary Deputy Speaker (Prof. Kaloki): Would you like to support the Motion?

Mr. C. Onyancha: Mr. Temporary Deputy Speaker, Sir, may I finish then by saying that the Government must take this matter seriously and punish all the officers who have been stealing money from this country through this Report and also showing elements of extreme corruption.

With those few remarks, I beg to support.

Mr. Were: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute. First, I will say that I am a member of this Committee. I am very glad that, at last, this report was tabled and is being debated in the House despite hue and cry from other hon. Members and members outside Parliament who were fearing that maybe this Committee was not doing its work as required. I would like to commend the hon. Members of this Committee who meet tirelessly and have come up with this Report.

Just to give you a brief, this Committee held 76 sittings and examined 104 Reports and took evidence from 25 corporations and visited three during that time. Out of these, six accounts were examined and are up to date. In our observations, we realized that most of these corporations have problems because they have improper book keeping. They have the tendency of irregularly awarding contracts. There are serious issues in terms of contract price variations. They have poor financial performance, imprudent management of finances or resources, misuse of assets, poor procurement procedures and procurement of unusable goods and also poor investment and investments in non core activities.

We examined several corporations and I would want to pick only on a few corporations to show how most of these corporations are mismanaged. I would want to take the National Health Insurance Fund (NHIF) as an example and take the issue of the NHIF Headquarters. As has been stated before, this contract was awarded in 1997 and the contract was supposed to be for a figure of about Kshs1.5 billion. It was estimated to be completed in April 2001 but that was not to be. The contract price was revised three times from a figure of Kshs1.4 billion to Kshs3.3 billion which finally stood at about Kshs4.3 billion. There were strange reasons which were given for these kinds of variations. Some of the reasons were that the geology of the location was not as anticipated. There was price escalation of materials and contractual claims which were made by various contractors. They also said that because of the change of the status of the corporation, it was moved from the Ministry of Health and became a parastatal. That

one necessitated the change in the plan of the building. They were also design and specification changes and all these contributed to the rise from the previous estimate of Kshs1.5 billion to Kshs4.3 billion. The price increased about three times. When we tried to enquire clearly, it came out that this was fraud because there was no way a building which was estimated to cost Kshs1.5 billion would have gone up to a cost of Kshs4.3 billion.

Mr. Temporary Deputy Speaker, Sir, there were six consultants involved in this and strangely enough, the Ministry of Roads and Public Works which was supposed to have been included as a consultant was excluded in all these dealings. It is only later on after one year that they were incorporated. By the time they were being incorporated, all these escalations had taken place. So, it came out very clearly that the CEO and the management at that particular time conspired to defraud this corporation of money.

A second example on the same NHIF was the construction of the multi-storey car park. That car park was initially intended to cost Kshs900 million but by the time it was completed, it had cost Kshs2 billion. You can see very clearly the way the funds in this corporation were misused. The other third thing that we realized is that this corporation is a National Hospital Insurance Fund but what we realized is that out of the collections that they make---

The Minister for Environmental and Mineral Resources (Mr. Michuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member for Matungu to mislead this House by stating that escalation of prices is necessarily misuse of funds?

Mr. Were: Mr. Temporary Deputy Speaker, Sir, I have not said that escalation of prices is misuse of funds. In normal circumstances, escalation is expected to be between 10 per cent and 15 per cent but when specifications are not much changed, we do not expect a figure to move from Kshs1.5 billion to Kshs4.3 billion. Actually, that means that the building they put up was different from what was drawn. But our information is that what is up there is exactly what they intended to put up. So if the prices increased that much, I can only call it fraud. I do not know what other term to use!

As I had indicated, this corporation's intention is to assist---

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Member, when you call it "fraud", do you have any evidence? If your amount does not add up, is that corruption?

Mr. Were: Mr. Temporary Deputy Speaker, Sir, anyone can see this. We have also constructed and we have even made recommendations and the Criminal Investigations Department (CID) is looking into this issue. Without going into much detail, that is what it is pointing up to.

The Temporary Deputy Speaker (Prof. Kaloki): But you have evidence to back that up?

Mr. Were: Mr. Temporary Deputy Speaker, Sir, yes, we have the evidence. I have also indicated that the real essence of establishing this organization was to assist in terms of medical expenses but what we realized is that out of the funds that they raise, you find that more than 50 per cent of those funds is spent on personnel and administrative costs. If you looked at 2003/2004 Report, only 27 per cent was spent on contributors. We realized that they are not restricting themselves to their core function.

Another corporation that we examined was the Kenyatta National Hospital (KNH). Also to show how these corporations mismanage funds, we looked at a few

contracts that they awarded. One example was the contract for washer extractor machines which they entered into on 14th February, 2000. The contract was for a figure of Kshs17.5 million but there was no contract period indicated. At the end of the period, instead of paying Kshs17 million, they ended up paying Kshs23 million. The same contractor who had been awarded this particular job and who supplied these extractor machines which were not working, was also awarded another job to supply three hydro-extractors at a total of Kshs5 million. Looking at the tender documents, we realized that there was another bidder who had bid less and despite bidding less and being able to supply, this contractor was given. No reasons were given why the lower bid was not accepted.

We also had another contract for window curtains. We realized that a contract was also awarded in 1999 for a value of Kshs58.8 million. This contract was varied from Kshs58.8 million to Kshs187 million just to supply the same items. If you look at this, you realize that most of these corporations unless strictly checked, misuse funds. That is why we have said that we need properly qualified and vetted chief executives so that most of those organizations can be run properly.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): All right. There being no other hon. Member willing to contribute, can we call upon the Mover to reply?

Mr. Linturi: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me first start by thanking hon. Members who have contributed in support of this Motion. Let me also thank Members of the Cabinet who are in this House this afternoon. They have listened and contributed to this Motion. It is very rare that when such a debate is going on, most of the time - and at a time like now - Government Benches have people. So, I really congratulate hon. Michuki, Dr. Shaban, hon. Najib Balala, hon. Oparanya and Prof. Sambili for really being with us up to this time.

(Applause)

Mr. Temporary Deputy Speaker, Sir, these are the kind of Ministers that are required at a time like now. I would also like to make it very clear that when Mr. C. Onyancha was supporting this Motion, maybe, he might have been misunderstood because he was trying to compliment hon. Michuki for the good work that he is doing in his Ministry, which we all appreciate. He alluded that with the kind of impunity and loss of public funds and investments in parastatals, it would require a person with an "iron hand" like hon. Michuki to deal with that. He did not really mean dictatorship or being too harsh. So, I think Mr. C. Onyancha really meant very well in commending the good work that Ministers are doing.

(Applause)

Mr. Temporary Deputy Speaker, Sir, what has just been reported over the years borders seriously along economic crimes. In my view, economic crime is more severe than murder. It amounts to violations of human rights. If I was the President of this country, to deter other chief officers from stealing public funds, I would have the convicted ones paraded before a firing squad during a national day like Madaraka Day.

Mr. Temporary Deputy Speaker, Sir, I believe with the recently formed Implementation Committee and the assistance of the Attorney-General, we could speed up investigations and prosecute those who commit economic violations while in office. That would really serve as a deterrent measure to other officers with such kind of behavior.

Mr. Temporary Deputy Speaker, Sir, I think hon. Members are interested in the next Order. So, I thank hon. Members who have supported this Motion.

Mr. Temporary Deputy Speaker, Sir, I beg to move.

(Applause)

(Question put and agreed to)

The Temporary Deputy Speaker (Prof. Kaloki): Next Order!

BILL

Second Reading

THE NATIONAL YOUTH COUNCIL BILL

The Minister for Youth and Sports (Prof. Sambili): Mr. Temporary Deputy Speaker, Sir, I beg to move that The National Youth Council Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, allow me to give an introductory background to the National Youth Council Bill, 2009. In the past, there have been no co-ordinated and harmonized efforts to mainstream youth development agenda in this country. But despite the efforts as well as an increase in the number of agencies dealing with the youth, problems affecting young people have continued to worsen. This situation has been attributed to the lack of a comprehensive policy to provide a blueprint for the youth.

Mr. Temporary Deputy Speaker, Sir, the 9th Parliament discussed the National Youth Policy as a Sessional Paper No.3 of July, 2007. That Sessional Paper was approved by Parliament as a policy document that provides a blueprint on youth development in Kenya. It is worthwhile to note that, that was an important milestone for the youth and our country as a whole.

Mr. Temporary Deputy Speaker, Sir, the National Youth Policy was written in the context of existing sectoral policies, national development plans, international policies and charters to which Kenya is a signatory, as a central to the holistic integration and inclusion of the youth in Kenya's development. Cognizance was given to the Charter of the United Nations, the Commonwealth Youth Charter, the Universal Declaration of Human Rights and the UN World Programme for the Youth to the year 2000 and beyond, among others.

Mr. Temporary Deputy Speaker, Sir, the National Youth Policy is a framework for youth development across the nation. The National Youth Policy recognizes that the youth are a key resource that can be tapped for the benefit of the whole country.

Therefore, the policy endeavours to address issues affecting young people by providing broad based strategies that can be used to give the youth meaningful opportunities to reach their maximum potential. It provides a broad framework within which all stakeholders, including the private and public sector and the civil society, can have a forum to contribute to youth development.

Mr. Temporary Deputy Speaker, Sir, the policy also spells out the strategic areas that must be addressed in order for the Kenyan youth to effectively play their role in the national building process. That policy is to be revised every five years. The National Youth Policy provides a foundation and direction for the National Youth Action Plan. The implementation plan is to ensure that the policy becomes a reality. The policy goes further to suggest an implementation mechanism. It suggests the formation of a National Youth Council as one of the implementing agencies for the National Youth Policy.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Youth Affairs and Sports was established in the year 2005 to champion mainstreaming of youth agenda in all sectors of our economy. Last year, the Ministry was expanded to include the sports docket. As a mandate, the Ministry is to develop a National Youth Policy and facilitate the establishment of the National Youth Council of Kenya.

Mr. Temporary Deputy Speaker, Sir, the Ministry recognises the National Youth Policy and, therefore, there is a strong commitment to making optimal efforts in meeting these challenges. The functions of the National Youth Council shall include the following:-

- (1) register, co-ordinate and monitor all youth groups, youth-focused Community Based Organisations (CBOs) and youth-serving NGOs;
- (2) promote and popularise the National Youth Policy, other policies and programmes that affect the youth;
- (3) advocate and promote youth issues and youth-led initiatives;
- (4) lobby for legislation on issues affecting the youth;
- (5) liaise with other organisations to ensure that the youth gain access to resources and services appropriate to their needs;
- (6) promote relations between youth organisations and other bodies, both nationally and internationally;
- (7) inspire and promote the spirit of unity, patriotism, peace, volunteerism, internship and community service among the youth;
- (8) act as a voice and bridge to ensure that the Government and other policy-making bodies are kept informed of the views and aspirations of the youth;
- (9) promote research and analysis of data on youth issues;
- (10) promote capacity building initiatives for the youth, and
- (11) perform other functions that may directly or indirectly affect the youth.

Mr. Temporary Deputy Speaker, Sir, after some representations from the youth of this country, I will be making some amendments during the Committee Stage of this Bill. I would like to just say that one of those amendments will seek provision for nomination of youth representatives to decision-making organisations of the State. Secondly, with respect to the composition of the Council, the Council shall be composed of the following:-

- (a) a chairperson appointed by the Minister, in accordance with the First Schedule, which will be amended;

(b) the Permanent Secretary in the Ministry in charge of youth affairs;
(c) the Permanent Secretary in the Ministry for the time being responsible for finance;

(d) Permanent Secretary in the Ministry in charge of Education or his/her representative, the Attorney-General or his/her representative.

(e) not more than eight other persons aged between 15 and 35 years, with at least three females and one youth with special needs appointed by the Minister, in accordance with the First Schedule of the Act.

A person shall not be appointed as chairperson unless such a person possesses at least an undergraduate degree from a recognised institution, or has at least three years' experience in the development of youth programmes or projects; or, has demonstrated ability to provide youth leadership and youth mobilisation; he should be a person of high integrity, a person who is knowledgeable in or has actively contributed to the promotion of the youth development agenda.

Mr. Temporary Deputy Speaker, Sir, the Bill provides for the establishment of a board to be known as the Youth Advisory Board, which will be an incorporated body consisting of the following:-

- (1) the Chairperson appointed by the President;
- (2) the Permanent Secretary in the Ministry in charge of youth affairs or his representative;
- (3) eight persons appointed by the Minister from amongst the membership of registered national youth organisations;
- (4) one person each nominated by the following bodies:-
 - (i) the Kenya Private Sector Alliance;
 - (ii) national Council of NGOs;
 - (iii) the Commission for Higher Education;
 - (iv) the Joint Forum of Religious Organisations as described in sub-Section 30 of the Act;
 - (v) the Kenya National Commission on Human Rights;
 - (vi) the National Economic and Social Council;
 - (vii) the National Council for Persons with Disabilities;
 - (viii) the National Youth Service; and,
 - (ix) the Law Society of Kenya.

The Joint Forum of Religious Organisations referred to in Sub-Section 2(b)(4) shall consist of representatives of the following: The Supreme Council of Kenya Muslims, the Kenya Episcopal Conference, the National Council of Churches of Kenya and the Hindu Council of Kenya.

Mr. Temporary Deputy Speaker, Sir, with regard to Memorandum of Objectives and Reasons of the National Youth Council Bill; the principal object of this Bill is to provide for the establishment of the National Youth Council as a body corporate which will be a focal point for co-ordination of youth organizations and the implementation and promotion of the National Youth Policy. Part I provides for preliminary matters. Part Two provides for the establishment, powers and functions of the National Youth Council. Part III provides for the establishment of functions of the Youth Advisory Board.

The board is established as an incorporated body and is charged with the responsibility of advising the council generally on the exercise of its powers and the

performance of its functions. Part IV contains financial provisions in respect of the council; Clause 19 defines the sources of funds of the council. These include: money provided by Parliament, donations, gifts, contributions or grants received from various sources. Part V contains miscellaneous provisions.

Clause 23 empowers the council to establish branches in Kenya as it may deem fit, while Clause 24 empowers the Minister to make regulations for the better carrying out of the provisions of the Act.

The first step will contain provisions on the conduct of business and affairs of the council.

Mr. Temporary Deputy Speaker, Sir, with regard to implications on the enactment of the National Youth Council Bill (2009); enactment of this Bill shall occasion additional expenditure for public funds to be provided for in the estimates. Improved youth participation in the decision-making process, national youth leadership structures shall be strengthened. There will be Proper co-ordination and regulation of youth organizations.

In conclusion, let me assure the hon. Members that the Ministry of Youth Affairs and Sports is committed to empowering Kenyan youth by putting in place appropriate structures and systems that will ensure that they play a meaningful role in the society by realizing their full potential. In this regard, the Tenth Parliament can significantly support the Ministry in promoting youth development by enacting appropriate legislations and laws such as the National Youth Council Bill.

Mr. Temporary Deputy Speaker, Sir, I beg to move.

The Temporary Deputy Speaker (Prof. Kaloki): Who is seconding you?

The Minister for Youth Affairs and Sports (Prof. Sambili): Mr. Temporary Deputy Speaker, Sir, I am glad to say that my colleague, the Minister of State for Planning, National Development and Vision 2030, Mr. Oparanya will second this Motion.

The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya): Thank you, Mr. Temporary Deputy Speaker, Sir.

I rise to second the Motion. We have always said that the youth are the leaders of tomorrow. However, tomorrow has never come. The fact that the youth today comprises about 40 per cent of the total population of Kenya, which is roughly about 16 million we will confirm this figure next month this is a very important group that we need to take care of.

Within the Vision 2030, the youth of this country have been given a special consideration because they face quite a number of problems. One of the major problems that they face is unemployment. I realized this the other day when we were carrying out recruitment of personnel to help us in the census process. I discovered that the issue of unemployment of the youth has to be looked into seriously by this Government. This issue was also raised under Agenda Four of the National Accord. Therefore, as leaders, this is an issue that we should not overlook.

The other problems facing the youth of this country are health related like HIV/AIDS and lack of skills. I am happy that since the year 2005 when the Ministry of Youth Affairs and Sports was formed, the issue of youth polytechnics has been addressed. Even in this year's Budget, a provision has been made and funds will go to each constituency to support youth polytechnics. This will help our youth get some employable skills.

Mr. Temporary Deputy Speaker, Sir, because of lack of employment, lack of marketable and employable skills, the youth suffer the brunt of poverty in this country. As a Government, we have been trying to address the issue of poverty since Independence. However, it is still a major problem and we have come up with issues within Vision 2030 to address poverty.

The fact that we have recognized the problems facing the youth shows that we have not properly mainstreamed youth issues in our economic development and budget process. We have recognized them but issues to do with the youth have not got adequate funding to enable them move forward.

I am happy to note that part of the functions of the Council to be created by this Bill include nomination of youth to be represented in decision making organs. I hope with the new Constitution, we will have youth nominated to this House to represent issues of the youth. If we leave them to compete with others, they are unlikely to come to this Parliament.

Mr. Temporary Deputy Speaker, Sir, the other issue is the funding of youth initiatives. I mentioned earlier that we need adequate funds to fund youth initiatives in order to enable our youth take care of themselves. We are saying that by 2030, this country will be competitive and people will be enjoying good quality life. I hope, since it is 21 years from now, those who are youthful like Mrs. Shabesh here, will enjoy that good life.

It is important that Members support---

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Minister, you still have 15 minutes and, therefore, you will continue next time.

Hon. Members, it is now time for interruption of business. The House is, therefore, adjourned until Tuesday, 28th July, 2009, at 2.30 p.m.

The House rose at 6.30 p.m.