

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 3rd November, 2010

The House met at 2.30 p.m.

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

PRAYERS

QUESTION BY PRIVATE NOTICE

NON-RECRUITMENT OF SOUTH WANGA RESIDENTS INTO ARMY

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State for Defence the following Question by Private Notice.

(a) Could the Minister explain why army recruits in the recent recruitment exercise from South Wanga in Mumias Constituency were not given a chance and were instead referred to Matungu in the neighbouring constituency?

(b) What steps is the Minister taking to ensure people of South Wanga have a fair chance to join the Armed Forces?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Potential recruits from South Wanga Division were given a chance to participate in the exercise and five recruits were recruited on 5th October, 2010 at Mumias Recruitment Centre.

(b) Arising from what I have just said, part “b” of the Question does not arise.

Mr. Washiali: Mr. Deputy Speaker, Sir, you have heard the answer the Assistant Minister has given. I do not know how much he trusts the officers he sent on the ground. I was personally there with some people. Mumias Constituency which is Mumias District has three divisions namely East Wanga, Nabongo and South Wanga. When the officers came to the ground, they announced that people from South Wanga Division would be recruited in Matungu Constituency which is a neighbouring constituency. I would like to inform the Assistant Minister that if his officers gave him this information, they did not tell him the truth. The truth is that the people of South Wanga Division were completely locked out of the recruitment exercise. We would like the Assistant Minister to see what he can do. We are requesting that---

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Washiali, be specific! What is your question?

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, now that the people of South Wanga Division were not involved in this exercise although the Assistant Minister has

said that five people were recruited from Mumias, could he consider recruiting two or three people from that division?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I think I had a similar Question in this House last week. I indicated to the Member for Igembe North that following the reorganization of the administrative boundaries, we are unable to go to the ground and say: "These are the administrative divisions that we know depending on what the Member of Parliament or any other person tells us."

Before recruitment is commenced, the Office of the President, specifically the Provincial Administration gives us the breakdown of administrative units. That is divisions and districts which we follow strictly. In the case of the hon. Member, we followed exactly the divisions that we were given by the Office of the President.

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Musila! The question is: Why did you skip South Wanga Division?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I want to lay on the Table the names of the people who were recruited in Mumias Recruitment Centre. In our view, these were from the district. For the information of the hon. Member, the first person we recruited was Mr. David Makunda Washiali. I wonder whether they are related.

(Laughter)

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I want to commend the hon. Assistant Minister because he is one Minister who endeavours to answer Questions properly. However, this problem cuts across many constituencies. The Assistant Minister will end up getting a similar Question week after another. Could he consider tabling the list of all the recruits per district so that hon. Members can interrogate it so that we do not tire him by asking Question after another? This is because I have a similar problem in Nzambani and Mutito districts.

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, we are recruiting people to serve in the military force which is a security establishment. I do not think it will be proper security-wise for us to distribute lists of the people we recruited. Nevertheless, we will not get tired of answering specific Questions. I appreciate that the hon. Member is sympathetic with us because he does not want us to get tired. However, he should not be sympathetic. We want to assure the hon. Member that we will answer Questions as they come.

Dr. Eseli: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to suggest that he cannot table the list of recruits and yet we know the military takes care of external and not internal aggression? The Assistant Minister has even tabled a list of some recruits. If, indeed, it is a security breach, then he has already breached the security! Is he in order to state that?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I am very much in order. I have offered that any hon. Member who has a Question about his constituency, we will answer it. However, we will not be prepared to produce a whole list of the recruits in the country. We may be charged with the responsibility of external aggression, but we also have enemies within.

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of what the Assistant Minister has just said, will I be in order to request him to table the names of those who were recruited in Mutito Constituency?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, you will appreciate that this is a completely different Question. The hon. Member is at liberty to send us that Question and we will give him the list. At the moment, we are dealing with the Question by the hon. Member for Mumias and not the Member for Mutito.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, in view of what the Assistant Minister has just said, could he be kind enough to let the House know what the quota for Mumias District was? What fraction of the national recruits is that? Could he also table the list of names for Mumias?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I would like to seek your guidance. The hon. Member for Mumias has asked a Question about that constituency and I have just laid on the Table the list of five people who were recruited from Mumias. I am pleased to say that they are now being trained at the Recruitment Training School in Eldoret.

I have just talked about the reorganization of districts. I appreciate the fact that there has been a reorganization of boundaries and new administrative units. Probably, it will take time before--- Maybe in the next recruitment things will work out because the districts and divisions will have stabilized. Even now as we speak, we do not know whether tomorrow we will get a new district or division. The Ministry of State for Defence has done its best under the circumstances to ensure that there is equity in the recruitment this time round.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. In the interest of knowing how equitable it was, I have asked the Assistant Minister to clarify what quota of the national recruitment was given to Mumias. That way, we will be able to determine whether the people of Mumias were treated equitably.

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Ogindo! What is not in order with the answer hon. Musila has given?

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to run away from my question?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Musila, you have already covered that area.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that the recruitment exercise follows a directive from the Office of the President. Could he confirm whether that directive from the President also includes a special quota for youth who are recruited directly without being identified from their mother districts and enjoy patronage of senior army officers and some of the politicians, especially those in the Ministry?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, first of all, I want to correct my good friend. I did not say "directive from the Office of the President." I said that since the military has no way of knowing the administrative boundaries, and in view of the fact that there are very many additional districts and divisions, we rely on the information given to us by---

(Dr. Khalwale stood up in his place)

Let me finish making my point, because the hon. Member does not even know what I am about to say.

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

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I was telling Dr. Khalwale that we received a list showing us which division belongs where to guide us in the recruitment exercise. That is the order that we followed. I am not aware of the other issue that he has referred to finally.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister aware of the inequitable distribution of divisions in this country to warrant being a basis for allocating quotas?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I would like to draw the Chair's attention to the fact that, that was not a point of order. Nevertheless, I am glad to respond.

The issue of whether divisions are created properly or not is not the responsibility of the Ministry of State for Defence. We assume that these divisions are based on certain criteria and, therefore, the population living in those areas has to be catered for. So, we base recruitment on the divisions because those are the administrative units that are available. How they are created is not the business of the Ministry of State for Defence.

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to avoid answering the question asked by Dr. Khalwale who wanted to know whether the directive from the President includes recruits who are recruited directly as a result of the patronage they enjoy from bosses in the Armed Forces and politicians among them those who serve in that Ministry?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. K. Kilonzo, do you have any document to show that directive?

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I rose on a point of order to ask why the Assistant Minister is avoiding to answer the question which was asked by Dr. Khalwale. So, it is Dr. Khalwale who should be asked to substantiate, if there is any substantiation to be done.

The Temporary Deputy Speaker (Prof. Kaloki): Is Dr. Khalwale complaining?

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Department of Defence is a Ministry on its own. Does the Department of Defence not have a policy on recruitment that it has to go back to the Office of the President?

The Temporary Deputy Speaker (Prof. Kaloki): Very well. What is the policy, Mr. Assistant Minister?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, that is a good question and I appreciate it. We only ask the Office of the President for guidance on the administrative units and nothing else. The Ministry has a policy. Last week, I explained in this House that even in accordance with the current Constitution, there must be equitable distribution of positions in the Armed Forces. Consequent upon this, we have set a process of identifying the numbers we have of each ethnic group as per the population census that we went through.

On this basis, we are able to know that the population of community "x" is this and the proportion or percentage of that community in the population is so much. We want that to be reflected in the Armed Forces. It is on the basis of that policy of equitable

distribution of these positions that we are able to ensure that if community “x” has so many people in the population of Kenya, then that must be reflected in the recruitment. Admittedly, in the past, this has not been followed.

However, I want to assure hon. Members that this will be done in the next few years. This is a matter that the Departmental Committee on Defence and Foreign Relations has been clearly briefed. It is fully in the picture of how this happens.

Dr. Kones: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has said that he cannot table the names or numbers recruited per district citing security reasons. I do not know how that can affect the security situation in the country. However, if that is the case, could he consider tabling it in camera?

The Temporary Deputy Speaker (Prof. Kaloki): Dr. Kones, the Assistant Minister did table the list of the five recruits that went through the exercise.

Dr. Kones: Mr. Temporary Deputy Speaker, Sir, I am referring to the number of recruits per district and he has said that he cannot do that because of security reasons.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Kones, the Question pertains to South Wanga in Mumias Constituency. I think the Assistant Minister has done a good job on that.

Last question, Mr. Washiali!

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I have looked at the list tabled by the Assistant Minister but I do not know whether it is authentic or not because it does not have a letterhead and the name of the person who signed it. It has no name appended on it.

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! I have a document here that has been prepared by the Ministry of State for Defence and given to the relevant Assistant Minister, Mr. Musila. Actually, he signed the document. The signature is here dated October 28th, 2010. The signature is of one hon. David Musila, MP. I certify that this is an authentic document.

Mr. Ogindo: On a point of order! Point of order!

The Temporary Deputy Speaker (Mr. Kaloki): It should not be on my ruling! It has to be completely different. Mr. Ogindo, please, proceed! However, be careful. Do not question my ruling.

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I am not questioning your ruling. However, it appears the Chair has a different paper from what was laid here. The paper we saw here had no letterhead or the name of Mr. David Musila. Are we looking at different papers?

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Parliament is run by traditions. The previous ruling by the Chair is that any document which would be admissible must be signed by the substantive Minister; in this case, Mr. H.Y. Haji is the substantive Minister.

(Mr. Musila stood up in his place)

Mr. Temporary Deputy Speaker, Sir, protect me from Mr. Musila!
Unless the Chair wants to rescind its own decision, then we can be advised as such.

The Temporary Deputy Speaker (Prof. Kaloki): I have consulted with the Clerks-at-the-Table. Mr. K. Kilonzo, I thank you for being persistent. I have already ruled that the document before this House bearing the names of five recruits from Mumias recruitment exercise is authentic. Mr. David Musila confirmed the same and even signed the document. I have already ruled on that and that is just a repetition.

Mr. Washiali, any other comment you may have?

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, given the number the Assistant Minister told us in the morning session, that they recruited 1,800 people during the recent exercise, is it fair that out of 1,800 recruits nationwide, they can only recruit five candidates from Mumias Constituency?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Musila, final comments!

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I have said this and I want to repeat it for the interest of hon. Members; five plus another and another from his community will add up to what that community was allocated. Some communities may have many districts---

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

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, can I be let to finish my answer.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Mr. Musila!

Mr. Affey: We cannot allow this! We cannot allow this?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Affey, what is your point of order?

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to tell the country that Kenyan youth who wish to be recruited to serve this country are recruited on the basis of communities? Is that the Government policy? Is he trying to make our military an ethnic enclave so that they recruit people on the basis of communities?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Musila, is that the policy?

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, first I want to plead with the Chair that this side of the House be allowed to respond to Questions. Every time the Front Bench wants to respond, there is interruption.

However, if Mr. Affey could read the Constitution, it says that the composition of Kenyan defence forces will reflect the composition of the nation. That represents communities. Therefore, there is no other way. In any case, when Mr. Washiali is complaining---

Mr. Affey: On a point of order! Then table the community list!

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! Hon. Members, it has taken adequate time to deal with this Question. I am convinced that Mr. Musila has taken his time to answer the Question. I will move to the next Question!

Mr. Warugongo, please, proceed!

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

The Temporary Deputy Speaker (Prof. Kaloki): Mr. K. Kilonzo, you are now treading on dangerous ground.

Is Mr. Warugongo in the Chamber? Please, proceed!

Question No.507

PROJECTS IMPLEMENTED BY MINISTRY
IN KIENI CONSTITUENCY

Mr. Warugongo asked the Minister for Development of Northern Kenya and Other Arid Lands to list the number of projects implemented by the Ministry in Kieni Constituency since 2008 indicating the cost of each.

The Minister of State for Development of Northern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

I have given the hon. Member a list of 26 projects which have been done in Kieni Constituency from the year 2008 to date. The cost ranges from Kshs800,000 to Kshs9.5 million. They were all water projects and they have been done in the two districts of East and West Kieni in 11 locations. The funds used for these projects are from the World Bank and the Government of Kenya.

Mr. Temporary Deputy Speaker, Sir, the total cost of the 26 projects that were done over that period is Kshs71, 658,466. I gave the list to the hon. Member because it is long.

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, let me thank the Minister for coming up with this list, which contains various projects which are water-related. Lamuria got Kshs5 million; Gatarakwa, Kshs6 million; Treffos, Kshs4 million; Kaga, Kshs2 million; Mureru, Kshs3.7 million and Burguret, Kshs9 million. Could the Minister let this House know how these projects are actually identified? Could he also tell this House whether he has got a monitoring and evaluation team that makes sure that the work is being done according to the arrangement?

Mr. I.E. Mohamed: Mr. Temporary Deputy Speaker, Sir, the projects are identified through what we call district steering committees at the district level together with the communities. Once they have been identified, they are put in the workplan and approved by the district steering committees, which forward them and then they get financing. For a number of projects, particularly, the ones funded by the World Bank, the communities do contribute 30 percent to them. We have a monitoring and evaluation team at the project headquarters which goes to supervise the programmes.

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, I would like to ask the Minister to define “arid lands” and tell us what amount of rainfall is expected in those areas. This is because some parts in the southern side of Mathioya are so dry that we even get food from areas like Kieni which is considered an arid land. Could he also indicate when Mathioya is going to benefit from some of these funds, so that our people do not die of hunger?

Mr. I.E. Mohamed: Mr. Temporary Deputy Speaker, Sir, that is a completely different Question which I have not prepared for.

Mr. Wambugu: On a point of order, Temporary Deputy Speaker, Sir. How can the Minister say that, that is a different Question, yet he is here telling us about arid lands? Can he not explain what arid lands are all about? He should be able to tell us.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Minister, you are able to answer that one.

Mr. I.E Mohamed: Mr. Temporary Deputy Speaker, Sir, arid lands are defined both as arid and semi-arid. It is composed of rainfall that falls within those areas.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is defining arid lands as arid and semi-arid. Is that a definition? Is he in order to give a faulty definition?

Mr. I.E Mohamed: Mr. Temporary Deputy Speaker, Sir, if the hon. Member would like a textbook definition, I will beg to be given time to bring a textbook definition. If he wants an explanation, then I will do so.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Warugongo, are you satisfied with the Minister's answer?

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, I still have got one more question. I wanted the Minister to tell us what role the community is playing in the projects. Do they get access to the accounts of the money that has been allocated to various projects? For example, Gatarakwa has been given Kshs6.5 million, are they able to see the accounts that show Kshs6.5 million has been spent or do they just receive materials?

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Warugongo! What is your question? Can you be specific?

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, I am asking the Minister to tell us what role the benefiting community plays in these projects?

The Temporary Deputy Speaker (Prof. Kaloki): Are you talking about what the beneficiaries are supposed to do to receive the grants?

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, all these projects have got committees and their work is to see that the projects have been properly implemented.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Minister, what is the policy on administration of the funds?

Mr. I.E Mohamed: Mr. Temporary Deputy Speaker, Sir, on the community development projects, once the committees are identified, they are trained and then form a project committee. Once they have been fully trained, their finances are transferred into that account and the communities contribute 30 per cent. They implement the project and it is monitored. In fact, the policy is that, that information should be displayed at the community and district level. This is discussed at the district steering committee which the Member of Parliament is a member.

Mr. Warugongo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Most of these projects only receive materials. Nobody comes to say that this is the amount that you were given and this is what has been spent.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Warugongo, have the beneficiaries been able to receive the materials in your constituency from the Ministry?

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, I am trying to say that there is no accountability of the money that has been allocated to some of these projects.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Minister, could you respond on the issue of accountability?

Mr. I.E Mohamed: Mr. Temporary Deputy Speaker, Sir, I think I will ask the hon. Member to prove that there is no accountability. This is because I believe that there is a system in place. If he has any proof, we will take action.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Member, what is your final comment on the Question, if you have any?

Mr. Warugongo: Mr. Temporary Deputy Speaker, Sir, I will ask this Question after sometime and bring evidence. Thank you.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Minister, what is your final submission?

Mr. I.E Mohamed: Mr. Temporary Deputy Speaker, Sir, we have zero tolerance to corruption and we will welcome any information from the hon. Member.

Question No.508

ELEPHANT ATTACK ON NYAE MBEGA KALINGA

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

(a) whether he is aware that one Mr. Nyae Mbega Kalinga (ID No.6723331) was attacked by an elephant in Tana, Mugalani on 27th December, 2009; and,

(b) why he has not been paid for the injuries and when he will be paid.

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

(a) Yes, I am aware that Mr. Nyae Mbega Kalinga of ID No.6723331 was attacked by an elephant on 1st June, 2009 but not on 27th December, 2009 at around 9.00 a.m., while on his way to Mugalani Shopping Centre.

(b) Compensation for the injuries suffered by Mr. Kalinga amounting to Kshs50,000 will be released by my office to the District Commissioner, Kwale District, in the month of December, 2010 for subsequent payment to the claimant.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Assistant Minister for the answer. It is so sad that it is after 18 months that the Ministry has realized that Mr. Kalinga was attacked by an elephant. Why has it taken so long for the payment to be made to him?

Mr. Nanok: Mr. Temporary Deputy Speaker, Sir, although this particular claim was deliberated by the Kwale District Wildlife Compensation Committee on 11th November, 2009 and forwarded to the Ministry, we had a shortage of funds that were approved in the last financial year's Budget. But during this financial year's Budget, we have gotten an approval of Kshs200 million. Alongside this particular case, we have 974 others, totalling Kshs71,400 which we have submitted for payment. The Ministry is awaiting the second disbursement of funds from Treasury so that we can pay off these pending cases.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, while I acknowledge the answer by the Assistant Minister regarding that predicament, what steps will he take to safeguard the lives of innocent Kenyans? In the last few months, we have lost two Kenyans in my constituency. What steps are you taking?

Mr. Nanok: Mr. Temporary Deputy Speaker, Sir, there are quite a number of measures that we are taking. First, we will make sure that we have KWS officers in all the hot spots. Secondly, with regard to wildlife that is living outside the protected areas,

my staff are moving round sensitizing the local residents on the importance of keeping on the safe side, particularly where we have animals like elephants roaming around. Thirdly, we are also increasing the capacity of KWS rangers to tackle those incidents. Together with the Provincial Administration, we are working very hard to make sure that incidents involving wildlife are minimised. However, you have noticed that most incidences occur when animals are looking for foliage and water. They are then forced to move away from their grazing areas. That is where most of those incidents happen. However, if the Member has more information that can help us with regard to our officers on the ground who are not tackling the issue, he should share it with me. We will relay that information to the relevant office that is close to him for action to be taken.

The Temporary Deputy Speaker (Prof. Kaloki): I think hon. Yakub you are satisfied.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I am. However, I just wanted to inform the Assistant Minister that Mr. Kalinga has nine children. I request the Assistant Minister to make sure that the cheque reaches him by the end of December this year in Kwale District.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Assistant Minister, could you confirm that you will comply?

Mr. Nanok: Mr. Temporary Deputy Speaker, Sir, much obliged. We already have those cases approved by the Ministerial Committee. We are only waiting for the disbursement of funds at the end of this month and we will release the cheques to the districts by end of December.

Question No.434

MONEY ALLOCATED TO *KAZI KWA VIJANA* PROGRAMME
THROUGH TAN ATHI WATER BOARD

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

(a) how much money was allocated to “*Kazi kwa Vijana*” programme that was channeled through Tana Athi Water Services Board; and,

(b) whether she could provide a detailed list of the projects undertaken, the cost of each project, the location as well as the scope of the works undertaken.

The Minister for Water and irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The total amount that was allocated for the *Kazi Kwa Vijana* Programme and channeled through Tan Athi Water Services Board was Kshs118,100,000. It was disbursed in two phases. An amount of Kshs62,700 was disbursed in April, 2009 while Kshs55,400 was disbursed in November, 2009.

(b) I have provided details of the projects undertaken stating their locations, scopes of work and costs in Annex 1, which I have given to the hon. Member.

Mr. Nyamai: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for the answer that she has given to me. Could she confirm that she is happy with the way the money was spent in view of the fact that the first project, Kwavonza Pipeline, which

is a one and a half kilometer extension, the youths worked for only two weeks - they were 50 – and the money indicated as having been paid to them is Ksh2.8 million? Could you confirm that, as the Minister, you are happy with the way the money was spent?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I have not visited the place personally. Should it then be one and a half kilometers and all that money was spent, obviously, something is not right.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I have looked at the list. What concerns me is the rationale used in deciding that so much would be spent in a particular constituency. I would like the Minister to explain why in Kitui Central, there were ten projects while in Mutito, there are only two projects. What is worse is that there was no project in Kaiti. The Minister should explain where a project called Nzambani, which appears as number six in her list, is located because a good samaritan from the ground has just sent me a text saying that, that project is purported to be in Machakos Town and the Minister supposedly spent Ksh3.2 million and yet, it does not exist on the ground.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I am aware that Nzambani is in Mutito and cannot be in Machakos for sure. I do not know whether there is a place called Nzambani in Machakos Town. I thought that it was in Mutito Constituency. As I said, I thought that, that project had been completed. The scope of work says that it is an earth dam. An earth dam, if it is there, would cost this much. We need to confirm whether it is in Machakos or Mutito. However, there is a place in Machakos called Mutitoni.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Bonny Khalwale, there is a place in Machakos called Mutitoni.

Dr. Kwalwale: Mr. Temporary Deputy Speaker, Sir, I am not a stranger in Ukambani. I was a District Medical Officer of Health in Machakos. Nzambani is not in Machakos but in Mutito. So, when the Minister tells this House that she spent Kshs3.2 million on a project called Nzambani in Machakos Town, she is misleading the House because the project does not exist on the ground. She should tell us where she took the money that she supposedly spent on the Nzambani project in Machakos Town.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Minister, is the Nzambani contained in your documents there the one in Machakos or the one in Mutito?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, what I have here is Nzambani Earth Dam. The scope of work is in Machakos Town Constituency. The wages paid to the youths amounted to Kshs2.9 million. The tools that were used were worth Kshs292,000. Administration costs were Kshs18,408 and that makes a total of Kshs2.1 million on completion.

The Temporary Deputy Speaker (Prof. Kaloki): Order, Madam Minister! I just want to help you. Are you able to check the records and verify whether it is the Nzambani of Machakos or that of Kitui? Do you want additional time to verify that?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I think I will need more time. However, I just want to say that there are many names which are similar but apply to different places. However, I will go and check whether this was in Mutito or Machakos. Here, it is shown as Machakos.

Mr. Munyaka: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Member for Machakos Town Constituency has no knowledge of the dam earth known as

Nzambani. There was no such dam undertaken under *Kazi Kwa Vijana* Programme. I can confirm that.

The Temporary Deputy Speaker (Prof. Kaloki): The Minister will check the records and provide the same information to this House.

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I have with me here an inspection report for Tana Athi from the Water Services Regulatory Board which was done in March, 2010. It says on page seven:-

“Under the *Kazi Kwa Vijana* programme, equipment were purchased at a price which far exceeded the prevailing market rates. For instance, a bunch of hand tools was bought at 300 per cent more than the prevailing market rates. For example, a fork *jembe* was bought at Kshs1,500 against an average market rate of Kshs360. A *panga* was bought at Kshs720 against an average market price of Kshs200 as per the Public Procurement Oversight Authority list of benchmark prices.”

I wish to lay this report on the Table.

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

After the Minister received this report, did she initiate any investigations or what steps did she take? Is she convinced that there was value for money to the Kenyan taxpayers in this *Kazi Kwa Vijana* programme which was initiated through the Ministry of Water and Irrigation?

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Members, it is now 3.20 p.m. and we have the Prime Minister’s Time which should have began at about 3.00 p.m. The Prime Minister is here. So, I will defer this Question to allow the Minister adequate time to prepare and come back to the House with a comprehensive answer. So, will you be ready on Thursday or Tuesday next week?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I will be ready next week.

The Temporary Deputy Speaker (Prof. Kaloki): Thursday, next week! So, hon. Nyamai, we will defer the Question to Thursday afternoon, next week, so that the Minister can come with a comprehensive answer to deal with this matter.

Mr. Nyamai: Mr. Temporary Deputy Speaker, Sir, I wish you could change the day to Tuesday afternoon, next week. On Thursday, I will be out of town on parliamentary business. Since she is only looking into one or two items and she has very efficient officers, she should be able to come back on Tuesday.

The Temporary Deputy Speaker (Prof. Kaloki): Madam Minister, will that give you adequate time to consult and come with a comprehensive answer?

The Minister for Water and Irrigation (Mrs. Ngilu): Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): All right. The Question is deferred to Tuesday, next week. I will also defer all the remaining Questions to a late date and then proceed with the Prime Minister’s Time.

(Question deferred)

Question No.436

LIST OF *BONA FIDE* FARMERS FOR BURA/HOLA IRRIGATION SCHEMES

(Question deferred)

Question No. 454

SALARY SCALES FOR TEACHERS/INSTRUCTORS
AT YOUTH POLYTECHNICS

(Question deferred)

Question No.471

CONSTRUCTION OF KANDARA DISTRICT HEADQUARTERS

(Question deferred)

Question No.494

EXTENSION OF MOBILE NETWORK COVERAGE TO MANDERA EAST

(Question deferred)

PRIME MINISTER'S TIME

STATEMENT

UPDATE ON RESTORATION OF MAU FOREST COMPLEX

The Prime Minister (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I rise to issue a progress report on the conservation and restoration of the Mau Forest Complex. As Members already know, the Mau Forest Complex is the largest closed canopy forest ecosystem in Kenya. The complex comprises of 22 forest blocks. When gazetted in 1932, its total area was 452,000 hectares. Between 1932 and 2001, approximately 35,000 hectares were excised. In 2001, an additional 61,000 hectares were excised.

*(The Temporary Deputy Speaker
(Prof. Kaloki) left the Chair)*

[Mr. Deputy Speaker took the Chair]

The current gazetted area, therefore, is 324,955 hectares. Within the remaining gazetted area, approximately 65,477 hectares have been settled. The gazetted area that is not settled, therefore, is now down to 289,000 hectares. This is a loss of 36 per cent since this complex was first gazetted in 1932. The forest complex is the largest as I have said of

the five water towers in Kenya and the single most important water catchment in the Rift Valley and western Kenya. Through its ecological services, the Mau supports key economic sectors, including tea, energy and tourism.

The Government began replanting the forests in January this year with the aim of restoring it in its five phases. The progress in Phases I and II is as follows:- I want Members to understand that the exercise of restoring the Mau has been divided into five phases. Phase I consists of the area called Likia Extension that is 530 hectares. The people who have been allocated land here vacated it due to conflicts and were resettled in Baraget area. The Ministry of Lands is in the process of gazetting this land after ensuring that all titles originally issued have been cancelled.

Repossession of another L.R.No.25148 of 1,050 hectares: This area is situated on the summit of the Mau Escarpment. The Kenya Forest Service has prepared the boundary plan, which has been endorsed by the Director of Survey, Marioshoni. This area is located near the summit of the Mau Escarpment. Rehabilitation of this area will begin as soon as the issue of the Ogiek resettlement has been addressed.

Phase II comprises of recovery of 19,000 hectares in South Western Mau. This process was completed on 4th December, 2009. The area is successfully undergoing a natural regeneration. Phase III is currently under implementation. This is the Maasai Mau and is under implementation as follows:- The Government has completed profiling settlers on the 20,400 hectares in Maasai Mau Trustland. The interim co-ordination secretariat is currently analysing the validity of the title deeds and the eligibility for compensation. Phases IV and V comprise recovery of 61,000 hectares of the 2001 excisions and another 20,155 hectares in Ol Posumoru Settlement to restart in the course of 2011.

The Government has engaged partners for support in collaboration with United Nations Environment Programme (UNEP). Because of this engagement, we have realised the following:- The United States Agency for International Development (USAID) has provided Kshs18 million for survey and demarcation of the forest boundaries in Trans Mara and South Western Mau. The European Union approved a 2.3 million Euros proposal in May, 2010 and is expected to be signed in mid November this year. The USAID is implementing a US\$7 million project in the Mara in support of the rehabilitation of the upper catchment of the Mara River.

The Spanish Government is financing a 100 Euro project to support the implementation of the management plan in the Maasai Mara Trustland Forest. The Government has developed a project proposal and submitted it to the French Development Agency, namely, AFD, for funding. The outcome is being awaited. The Government has also set aside Kshs2 billion for the development of a carbon financing framework and high impact carbon projects that will benefit the Mau. A number of organizations have also signed three year agreements with the Kenya Forest Service to rehabilitate sections of the forest complex as follows:-

- (a) The Africa Wildlife Foundation; 13500 acres.
- (b) Malaika Ecotourism and Coral K Conservation from UK; 375 acres.
- (c) Save the Mau Trust Fund, which comprises Equity Bank, East African Breweries, Nation Group, Kenya Wildlife Service and Green Belt Movement; 21,518 acres.

Mr. Deputy Speaker, Sir, the Memorandum of Understanding (MoU) that are being developed or finalized include:-

- (a) James Finley, Kenya Limited; 250 acres
- (b) The Ministry of State for Defence; 2,500 acres.

Mr. Deputy Speaker, Sir, the Government has instructed the Treasury to provide Kshs3 billion to the Ministry of Lands for resettlement of those vacating the forest alongside other internally displaced persons in Phases II and III. We are targeting here, about 2,800 people from South Western Mau and about 7,800 families in the Maasai Mau Forest.

The Government is also working on the resettlement of families that moved out of the Embobut Forest in Marakwet. Additional funding will be required for the resettlement of families that will evacuate the critical water catchments during the Phase IV and V to be implemented in 2011.

Mr. Deputy Speaker, Sir, we have detailed the interventions that the Government is making in the Mau Forest in this small document which I will table. Copies of this document will be available to all hon. Members in their pigeon holes, so that they can see the progress that we have made, where we are and where we want to go.

Mr. Deputy Speaker, Sir, the Government has identified parcels of land to resettle the people affected in Phase II and III. As I said, Treasury has been instructed to avail funds for the purchase of the said land.

Thank you.

Dr. Khalwale: Mr. Deputy Speaker, Sir, whereas we congratulate the Prime Minister for the effort he is putting on the Mau, Kenyans remember only very well that the people who were first targeted were mainly evictees who are poor.

Could he clarify whether the Government was not merely using these poor Kenyans as sacrificial lambs, so as to play to the public gallery, leaving the high and mighty sitting pretty?

If the Government was, indeed, not playing to the public gallery, could he tell us how many farms to date the Government has repossessed from the big fish since this exercise began? He should specifically specify whether the big fish he has been able to repossess land from include the former retired President and other politicians who also sit in this House today?

Mr. Konchella: Mr. Deputy Speaker, Sir, I would like to thank the Prime Minister for this comprehensive statement. There are a lot of funds allocated for conservation of the Mau from various donors. Could he tell us how much money has been received so far? What are the plans on how to utilize this money and who will manage it?

Mr. Deputy Speaker, Sir, the Government received a report from the task force. I have a copy here. It is signed by task force members. Some of the recommendations are very clear. Had the Government implemented these recommendations, probably, we would not be talking about this. I believe because of laxity and fear of elections and other factors in the Government, the Executive was not able to execute their job as it is supposed to do.

Some of the recommendations include revocation of title deeds acquired beyond the group ranch in the Maasai Mau. Among others, it also includes compensation of third party purchasers for value where applicable, because there are some innocent Kenyans who bought some of this land without knowing, and prosecute those who benefited from the Mau? These are the things we would want the Prime Minister to look into.

I want to table this report. I would like to know why its recommendations have not been implemented and yet the Government spent money to do this report.

(Mr. Konchella laid the document on the Table)

Mr. Koech: Mr. Deputy Speaker, Sir, I have listened to the Prime Minister very keenly. We, as a country, must endeavour to ensure that we conserve the environment. As we do this, we must always endeavour to ensure that we do not put the environment and trees at loggerheads with human beings. Courtesy of this, as Dr. Khalwale has rightly put it, so many poor Kenyans have been displaced and they are now suffering in the IDP camps.

Mr. Deputy Speaker, Sir, I would wish him to clarify that there is enough money now for resettlement of these IDPs. Could he move with speed to resettle them to avoid so many of them dying? I would like him also to confirm that 38 people have died in the camps because of cold. This list indicates the names, ages and dates when these people died.

I beg to table it.

(Mr. Koech laid the document on the Table)

Mr. Mbadi: Mr. Deputy Speaker, Sir, even as the Government goes ahead with plans to put in place enough measures to ensure that Mau forest is completely reclaimed, currently, the issue at hand is to protect the destruction of the forest. I am informed that there is a joint enforcement unit for the same, yet the same unit is facing serious challenges one of them being lack of capacity to fight loggers and those burning charcoal. What immediate plans is the Government putting in place to ensure this unit is strengthened and has the necessary equipment such as vehicles? What are they doing to ensure the destruction of this forest is stopped as they reclaim it?

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, whereas I congratulate the Prime Minister for the efforts that they are making in restoring the Mau Forest Complex, my question is on the Kshs3.6 billion that he has said would be set aside to buy land to resettle the evictees of Mau alongside the Internally Displaced Persons (IDPs). It is common knowledge that the problem of the purchase of land for the resettlement of evictees is over-pricing and inflation by middlemen and members of the Executive. Given the fact that the Prime Minister is the supervisor of the Executive and in the backdrop of his statement last Sunday, what assurances will he give this House and Kenyans at large that the purchase of that land to resettle IDPs will not be hit by the corruption scandals that we have had in the past few days?

Mr. Deputy Speaker: Let us take the last one and the Right Hon. Prime Minister can respond before we can take more.

Mr. Kioni: Mr. Deputy Speaker, Sir, could the Prime Minister inform this House what efforts the Government has made to restore the Aberdares Forest, Marmanet, Ol Bolossat and the Ol Orabel forests? In other words, what are the Government's efforts to restore forests in other areas other than in Mau?

Mr. Deputy Speaker: Order, Mr. Kioni! The Order Paper is very explicit. It says: "Update on Government Efforts for the Restoration of Mau Forest Complex." If you wish

to put a Question on other forests, you can do that at an appropriate time but for now we are dealing with Mau Forest.

Mr. Mungatana: Mr. Deputy Speaker, Sir, on 17th August, 2010 the Deputy Prime Minister and Minister for Finance published in the *Kenya Gazette* the regulations establishing the Water Towers Conservation Fund whose main purpose was to support the restoration, conservation and sustainable management of the Mau Forest Complex and other water towers in Kenya. The question I want to ask the Prime Minister is: How much money was put into this Fund by the Government? Secondly, is he satisfied that the money that was put in that Fund is being utilized for the purpose of reclaiming those forests? We are aware that the Government convened a stakeholders' meeting and that is where there was a pledge of US\$10 million. Could he further clarify how much has come from the pledge that was made and is he satisfied that it is being utilized properly? The information we have is that the members of the Committee that is running that place have huge salaries and the expenses are exaggerated. So, the monies that have been set aside for this, even if the Prime Minister intends it to go that way, may not do the work it is intended to do. Is he satisfied that there are enough financial controls to make sure that the public money and the donor money actually does the work that was supposed to be done?

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, Dr. Khalwale has talked about poor evictees who were evicted in Phase II. I said that the restoration of this Complex is divided into five phases. Phase I is what we call Likia and Marioshoni which were excised but were never settled. They were repossessed and rehabilitation work commenced immediately. Phase II is the South West Mau. This is still a gazetted forest area. In other words, the people who were asked to move out were those who had moved inside a gazetted national forest. They had cut trees, ploughed the forest and constructed shelters. These people were not evicted. Eviction is a word invented by the hon. Member. These people were asked to leave the forest and were provided with transport and food to go back where they had come from. A number of them did so while some did not go because they were incited by some politicians. Others had nowhere else to go because where they had come from, other people had moved into their homes. These are the people that the hon. Member is referring to.

Mr. Deputy Speaker, Sir, the other people that the hon. Member has talked about are in Phases III and IV. In my Statement, I have said clearly what the Government plans to do when we reach that stage. That is where we are right now. So, we could not have dealt with those people because they were not in Phase II that had been affected. Those under Phase II were people who had moved inside gazetted forest. There are others who are in forests excised by the previous regime and title deeds were issued although they knew that they were in the forest. That phase will come.

Mr. Deputy Speaker, Sir, Mr. Konchella wanted to know how much money is from the donors. I do not know why the hon. Member did not listen to my Statement because I stated very clearly the sums which have been donated by various donors. However, for the hon. Member's information, I said that the USAID had provided Kshs18 million for survey and demarcation of forest boundaries in Trans-Mara and South West Mau. The European Union (EU) had approved Euros2.3 million and the USAID is also implementing a US\$7 million project which is known as pro-Mara in support of rehabilitation of the upper catchment of the Mara River. The Spanish Government is

financing a Euro 1 million project to support the implementation of the management plan of the Maasai Mara Trustland Forest. The Government has submitted a proposal to the French Development Agency for funding and they have not yet responded. The Government has also set aside Kshs2 billion for the development of a carbon-financing framework and high impact carbon project that will benefit the Mau. I mentioned a number of organizations and the details are available in the rest of my Statement.

Mr. Konchella also talked about the task force recommendations. The task force was set up after a consultative meeting that the Government held with all the stakeholders in the Mau Complex. The task force spent quite a bit of time moving around to consult the affected people. Thereafter they prepared a report and submitted it. The hon. Member has tabled the report. However, for his information that report was tabled in this House debated and approved by the House. Thereafter the Government set up a Secretariat to implement the recommendations contained in that task force report. That is what we are doing right now. If you read the task force report, it actually recommends that the project be implemented in phases; Phase I, Phase II, Phase III, Phase IV and Phase V, because we are dealing with a very huge complex. These are 20 different forests and very many families are involved. Because of that, this is not an exercise that can be done overnight. It has to be done systematically, methodically and resources must also be available. This is what the Government is doing.

Mr. Deputy Speaker, Sir, hon. Koech asked whether money is available. I have said, yes, the Government has allocated money for the purpose of resettlement. Let me be very clear about this issue of money because allegations have been made outside the House that some money has been made available from sometimes last year and that the Minister for Lands has been “sitting” on money which was meant for resettlement of the people of Mau. Nothing could be further from the truth. Those allegations are made by an hon. Member who himself was a trustee of the Resettlement Fund. That hon. Member, together with the Minister for Lands and the Minister for Finance were the trustees, and they held a meeting with the President regarding this issue of resettlement of the people in Mau, following which correspondence was initiated to try to get funds for the settlement. That hon. Member is very much aware that no money was made available for the resettlement of these people in the last financial year.

Mr. Deputy Speaker, Sir, I table this correspondence in order to substantiate what I am saying today and to say that what has been said in the past is, to the best of my knowledge, incorrect.

(Mr. Raila laid the document on the Table)

The hon. Member has tabled a list of people who have died. People die in the whole of this country on a daily basis. So, I do not know what point the hon. Member was trying to make here. We are conscious of the fact that there is need to help the other people who are needy, and this is what the Government is doing right now. This is an issue which should not be politicised.

Mr. Deputy Speaker, Sir, some hon. Members have made it their responsibility to use the Mau as their fighting shield that they keep on brandishing wherever they go; “our people, our people, our people!” I want to inform the hon. Member that these are as much my people as they are his people. They are Kenyans and I want to invite the hon. Member

to be Kenyan and not a Kalenjin, Kipsigis or a Nandi! You are a Kenyan, I am a Kenyan and those people are my people as much as they are your people!

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. With due respect to the Prime Minister, the list I tabled, I did not mention names. I only tabled the list to request the Prime Minister to move with speed to settle the people. That was my intention. It had nothing else on that.

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, I have understood and that is the reason why I am making this Statement. I explained the steps that the Government is taking and we are considering some of these people as landless people, just like we also consider the IDPs landless. The Internally Displaced Persons have also been on the streets longer. Why is he not talking about these IDPs?

Mr. Deputy Speaker, Sir, when you are talking about people who are landless, there are some other people who were evicted from Mt. Kenya Forest and who have been on the sides of the roads for nearly ten years!

(Applause)

What I am trying to say is that let us not try to use this for cheap political campaign. The way you are talking about “our people,” I want the hon. Member to understand that every Kenyan matters. To me, it does not matter whether he is a Giriama, a Pokomo, an El-Molo, a Turkana, a Somali, a Mkamba or a Jaluo for that matter; they are Kenyans!

(Laughter)

We will deal with them as Kenyans. Therefore, let us, in this national august House, be true representatives of the people of Kenya.

Mr. Deputy Speaker, Sir, hon. Mbadi wanted to know the steps that are being taken to reinforce the force that is being deployed by the Government to police the forest. It is not because the force is inadequate in strength or in terms of capacity, equipment and so on, it is more because of laxity or in terms of indiscipline, particularly with regard to one particular force. We have a multi-sectoral force in the forest; we have forest guards, the Kenya Wildlife Service (KWS) rangers and the Administration Police in the area. Where we have seen weakness or laxity, we have taken appropriate action. Whereas, initially, there were more cases of invasions or people cutting down trees, this has decreased substantially and a lot of equipment has been arrested, including people who have been illegally logging inside the forests.

Mr. Deputy Speaker, Sir, Ms. Abdalla was concerned about overpricing of land for resettlement of these people. I want the hon. Member to know that whereas the Government has the option of using the law of compulsory acquisition, that law only deals with Government acquisition for public use. That, therefore, does not cover acquiring land for purposes of resettlement of people. Because of this, the Government has to negotiate with the land owners. I want the hon. Member to know that at the moment, the going price ranges between Kshs200, 000 and Kshs250, 000 per acre. That is the price that the Government is offering to people who have got land to sell in that area.

Hon. Mungatana was concerned about the Water Towers Trust Fund. He rightly said that the Fund was gazetted in August. We have just begun the month of November and I think it is too premature to begin talking about profit and so on. To my knowledge, I do not think that people have been recruited apart from the skeleton staff initially. I had mentioned that the Government had initially put Kshs2 billion to start the Fund and an appeal has gone out to various donors to contribute towards the Fund.

Mr. Deputy Speaker, Sir, knowing the bureaucracy within the donor community, we are under no illusion that funds will be flowing any time before the beginning of next year. So, I would like to urge the hon. Member to hold those questions until such a time that we have got funds in the Trust Fund. At the moment, the issue of embezzlement of funds does not arise because there are no funds to be embezzled and there are also no funds to pay exaggerated salaries and allowances of the staff of the Fund.

Thank you.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I rise under Standing Order No.46. Since the Prime Minister has said that he is going to move against the “big fish” in answer to my question on Phase III, could he confirm that he is actually going to apply Section 40(6) of the Constitution and evict former President Moi and other powerful politicians from the Mau Forest?

Secondly, I do not know what Kenyans are thinking of us when we allow the Prime Minister to get away with the remark that “the 38 people who died would have died anyway”. Could he tell us exactly the causes of the deaths of those poor Kenyans, so that we may be satisfied that people in that area are not dying from illnesses arising from the adverse ecosystem in which they have been forced to stay by the Government for far too long?

Mr. Deputy Speaker: Dr. Khalwale, what is the section of the Constitution you cited, for the benefit of the Chair?

Dr. Khalwale: Mr. Deputy Speaker, Sir, I stood under Standing Order No.46 and made reference to Section 40(6) of the Constitution.

Mr. Deputy Speaker: The Prime Minister needs to be acquainted with the provisions of Section 40(6), which is about protection of rights to property; it reads as follows:-

“40(6) the rights under this Article do not extend to any property that has been found to have been unlawfully acquired.”

Is that the provision you have in mind, Dr. Khalwale?

Dr. Khalwale: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! Give this to the Right Hon. Prime Minister.

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, I am sitting next to the Minister for Lands. So, I do not need it.

Let me begin with the last question of the hon. Member. First, I never said, and I could never have said, that the lives of those Kenyans were inconsequential. What I said was that I did not know the cause of death. I said that many people die on a daily basis in this country. That is all I said. The hon. Member did not adduce any evidence to show that the deaths were associated with the Mau Forest.

Regarding the second question that the hon. Member has raised, we are in a new constitutional dispensation. Kenya has started a new journey. Kenya was born anew on 4th August, 2010, when the people voted overwhelmingly to approve the new

Constitution. We have said that we want to implement this Constitution to the letter. Therefore, the hon. Member has nothing to worry about.

What I am concerned about is trying to personalise this exercise. We are not doing this to punish any particular individual, least of all former President, Daniel Toroitich arap Moi. So, I want to use this opportunity to assure the former President that if he acquired the land constitutionally, nothing will happen to it. However, if it was not acquired constitutionally, of course, the law will take its course.

I want it to be known that we are not doing it in order to victimise other people. That is not the intention of this Government. We do not want to revenge or victimise anybody. We want to reconcile this society, so that we can move together, and united, into the future.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Baiya: Mr. Deputy Speaker, Sir, the process of reforestation that the country is engaging in is quite an expensive exercise, as the Prime Minister has indicated. While other countries have shown that they are willing to make a contribution, we also know that the beneficiaries of this reforestation programme include even other countries by way of carbon dioxide reduction. They have made arrangements at the international level, where they are able to actually participate in carbon reduction through reforestation. During the process of this reforestation, has the Government considered what other benefits it can derive from this exercise? Has the country bargained for commensurate carbon credit for the country to benefit?

Mr. Deputy Speaker: Yes, hon. Lessonet!

Mr. Lessonet: Mr. Deputy Speaker, Sir, I would like to ask the Prime Minister to clarify on the second phase of the evictions, which have started taking place in the forests, and specifically in terms of animals. For the last one month, we have been given notice that we are no longer going to be allowed to graze our livestock in the forest. He has not commented on that aspect. Maybe, he can take this opportunity to tell us something about that aspect.

Mr. Sirma: Mr. Deputy Speaker, Sir, I thank you for the opportunity. First and foremost I thank the Prime Minister for bringing up the issue of the Mau Forest. Could he consider resettlement of the people who were evicted from the forest in Tinnet, Koibatek District, and the ones in Nandi, who were also evicted, and who are experiencing the same suffering up to now? Could he also consider settling the first issues first, without going to the next stages of evictions? We want to see what will happen at the first, second and third stages and stop there, so that we can audit the Government to see how they take care of their citizens.

Thank you, Mr. Deputy Speaker, Sir.

Ms. Karua: Mr. Deputy Speaker, Sir, I need clarification from the Prime Minister. He said that compulsory acquisition cannot be done for purposes of land for settling people, whereas Section 40(3) of the Constitution is very clear that it can be done in public interest. Settling evictees, who are many people, is in public interest. Could he clarify his statement on that issue?

Could he also clarify what he is doing as the supervisor of the Government in view of the illegal acquisition of land belonging to Kabete Veterinary Laboratories by powerful individuals in the Government? In spite of instructions given by the Minister of

State for Provincial Administration and Internal Security, those grabbers are terrorising everybody? What is the Prime Minister doing about it?

Mr. Deputy Speaker: Captain Wambugu!

Mr. Wambugu: Mr. Deputy Speaker, Sir, when the programme for the restoration of the Mau Forest was started, a task force was formed. One of the mandates of the task force was to define the cut-off points between the forest and the settlement areas. When is the task force going to publish that cut-off?

Also, due to the destruction of the Mau Forest, a heavy burden has been placed on Mount Kenya and the Aberdares. Those are some of the main water towers for this country, which produce water for Nairobi and produce water for generation of electricity for this country. Could the Prime Minister indicate to this House what programme he has to protect those forests and restore the areas that have been destroyed?

Thank you, Mr. Deputy Speaker, Sir.

Dr. Nuh: Thank you, Mr. Deputy Speaker, Sir. I also want to join my colleagues in congratulating the Prime Minister for his efforts towards Mau, but it has dawned as reality that this Government is unable to deal with issues of IDPs, whether it is Mau or the one of the post-election violence. If it has taken this Government close to now three years to settle the IDPs occasioned by the post-election violence, where does the Prime Minister get the confidence that he is going to source funds to settle more IDPs? When is the effective date that they are able to settle these people?

Mr. ole Lankas: Thank you, Mr. Deputy Speaker, Sir. This issue of Mau has been there for a very long time. The issue of Mau is a big challenge that is facing all of us. The Maasai Mau, especially is a trustland under the trusteeship of the County Council of Narok. Is it possible that the Government can mandate the county council because it has the capacity to manage this forest and if possible, including even moving those people who are in that forest? There are two groups of people in the forest now. There are those who have genuine claims and I think those are the people the Government is trying to compensate, there are land operators; charcoal burners and there are other idlers who are staying in the forest in the hope that they will benefit some day. I am requesting the Government to take action on this group of people because the same group of people is cutting down trees every day and by the time the Government moves in, there will be no trees to be saved. So is it possible for the Government to work with the county council especially on the Maasai Mau because it is a trustland under the new Constitution and even under the old Constitution? Is it possible for this council to be mandated to take action and save this part of their trustland?

Mr. Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, hon. Baiya asked the question regarding carbon trading and what arrangements the Government had made in order to do a trade off to get the carbon credit for the work that is being done in the Mau. I would like to invite the hon. Member to understand that carbon trading is a very complicated matter. It is not as simple as the hon. Member might think. Until presently, it was not possible to claim carbon credits when you were trying to afforest an area which was not a forest before 1997. The area we are dealing with had been degazetted before 1997 but now things have changed and the Ministry of Environment and Mineral Resources has worked out a very elaborate programme of negotiating with those who are concerned with carbon trading. It is not an issue that has been concluded, as the hon. Member might think but it is something that is currently ongoing.

Hon. Lessonet asked about the notice which has been issued barring grazing in the forest. The Minister for Forestry and Wildlife has informed me that this measure is temporary and that they are going to review it in the next three months and issue other instructions.

Hon. Musa Sirma wants to know about the fate of those who were evicted from Tinet, Koibanet, and Nandi areas. If you open up a Pandora's box, there will be no end because the people of Mt. Elgon also are there. There are those who were evicted from Mt. Kenya and so on and so forth. I did not come here to deal with those other cases. I came to deal specifically with the people who have been evicted from the Mau Forest. That is the purpose of my Statement today. If the hon. Member wants those issues to be addressed, he can always raise them with the Government.

The hon. Member for Gichugu drew my attention to Section 40 of the Constitution which she says talks of compulsory acquisition for purposes of settlement of people like the ones we are talking about. Section 40 (2) says that, "Parliament shall not enact a law to arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description."

Mr. Deputy Speaker, Sir, Section 40(3) says:

"The State shall not deprive a person of property of any description, or of any interest in, or right over property of any description..."

This would mean that Parliament would require to make a law in order to be able to operationalise this provision of the Constitution.

Mr. Deputy Speaker, Sir, Mr. Wambugu asked about Mt. Kenya and the boundaries and was wondering when the boundaries are going to be re-demarcated and the same done for other forests. We have now gazetted a Kenya Forest Authority which has been charged with the mandate of looking after all the catchment areas in the country. That is the authority that is going to have the powers to deal with the issue which has been raised by hon. Wambugu.

Dr. Nuh basically was just wondering, if the IDPs have not been settled, where is the confidence that the evictees are going to be settled? We can climb the stairs and chew the gum at the same time. We are dealing simultaneously with the issue of re-settlement of IDPs as we also deal with genuine cases. I want to emphasize that we are dealing with genuine cases of the people who were asked to leave the forest.

Hon. Lankas has talked about empowering the council to evict the people who are illegally living in the forest and causing destruction and so on. What I referred to was actually Phase III, which is the Maasai Mara. We are talking here about over 7,000 families. What has been happening is that the Government has been profiling these people. This is a fairly complex area, because we are talking about group ranches which were made to grow into forests. We are trying to first of all identify and demarcate the actual boundaries in order to know who is in the forest and who is outside the forest. That has been a very involving exercise, but it has now been completed.

Secondly, we are now doing the profiling of the people to know exactly who is here, who has got a title, is the title genuine or not. It is not just easy to apply the law of the jungle and say "out" to these people. We are trying to do this in a very organized fashion, so that nobody will come and complain that the Government acted *ultra vires* the Constitution.

Mr. Karua: Mr. Deputy Speaker, Sir, the Prime Minister did not touch on the issue of the grabbers at Kabete Veterinary Laboratories.

Mr. Deputy Speaker: It is about forested land. For today, it was about Mau Forest.

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, I wanted to inform the hon. Member that a Statement is coming tomorrow to the House regarding that topic.

Mr. Deputy Speaker: Fair enough. We are through with the Prime Minister's Time.

MINISTERIAL STATEMENT

NYAYO NATIONAL STADIUM TRAGEDY

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, on Thursday, 28th October, 2010, the Member for Machakos Town, Dr. Munyaka, rose on a point of order and sought a Ministerial Statement from the Ministry of Youth Affairs and Sports on one, the circumstances under which football fans died and others were injured as they waited to enter Nyayo Stadium to watch a match between Gor Mahia and the AFC Leopards football clubs.

Two, what plans the Ministry has to assist victims with burial expenses and treatment for the injured. Three, he wanted to know the Government position on the recent ban by Football Kenya Limited officials of all football tournaments on both the Nyayo Stadium and the City Stadium. Four, he wanted us to state if the ban will be sustained.

Dr. Munyaka further required the Minister to state alternative playing grounds for the incoming premier matches and other international games, including field events like athletics which take place in Nyayo Stadium. He also asked, if the Government does not agree to the ban by Football Kenya Limited what urgent steps will be taken against the rogue officials of the FKL.

Before I read the Ministerial Statement, I would wish to request your indulgence to inform the House that I have just come from the requiem mass of the five young people, including the girl and the two young men, who died because of the disaster ensuing from the crash at the gate. It was really a sad day when these young heroes died from circumstances that could have been avoided.

Mr. Deputy Speaker, Sir, I would wish to state the following: The Government of the Republic of Kenya, and the entire public, is deeply saddened and very concerned by the unfortunate incident that happened at the Nyayo National Stadium on Saturday, 23rd October, 2010 during the match between Gor Mahia and AFC Leopards in which seven Kenyans lost their lives. I do not want to speculate on the circumstances under which the fans died, but as you are already aware His Excellency the President and the Right Hon. Prime Minister have already ordered investigations into the sad incident, and it is in our best interests to patiently wait for the outcome of comprehensive investigations.

Mr. Deputy Speaker, Sir, we in the Ministry have already condoled with the families, relatives and friends of the fans who lost their lives during the incident. In view of this, the Ministry, through the Sports Stadia Management Board, has, on compassionate grounds, given each family Kshs30,000 to assist in burial arrangements.

The money has been given to the next of kin, and a lot of other stakeholders met yesterday and did also contribute towards this need.

In addition, the Ministry followed up on those who were injured and ensured that they were treated and discharged from hospital. I would like to acknowledge and appreciate the role played by Kenyatta National Hospital management in this regard and also the role played by the Prime Minister of following up on the families of the deceased.

On the Government's position towards the recent ban by FKL of all football tournaments in City Stadium and Nyayo Stadium, it is unfortunate that FKL had to issue such misleading instructions while they do not have legal powers to do so. Whereas the FKL may have a right to ban their teams from holding events in any stadium, they do not have any legal mandate to ban any stadium in this country, which is, obviously, not owned by them.

Mr. Deputy Speaker, Sir, hon. Members may, however, wish to note that my Ministry welcomes recommendations and suggestions from stakeholders on any improvement at both Nyayo and City Stadiums as well as other playing fields.

I want to reiterate that no stadium is banned from being used for all the incoming football premier matches and other games, including athletics, volleyball, handball, netball, basketball, swimming and so on. I, therefore, call upon the entire sports fraternity and stakeholders to liaise with the Sports Stadia Management Board and organize their events on these stadia, as we try to improve where there is a problem.

With regard to the steps to be taken against FKL officials – I am happy that the Right Hon. Prime Minister is in the House – hon. Members may recall my earlier indication in this House on 26th October, 2010. My Ministry is in contact with FIFA, who have indicated willingness to support the Ministry's effort to ensure democratic, fair, transparent and just elections with grassroots participation within the next three months.

This will bring legitimacy and ownership of sports in this country, hence deal with the question of illegitimacy in football leadership in this country once and for all. In the event that FIFA does not submit its concurrence to the best interests of soccer in this country within the said period, my Ministry is ready to act swiftly, so that rogue organs cannot, and are not permitted to mess up the game of football in Kenya.

Eng. Gumbo: Thank you, Mr. Deputy Speaker, Sir, for giving me the chance to seek a few clarifications from the Assistant Minister. You will recall that some of us have followed this matter very passionately. The passion arises from the fact that some of us are very passionate about sports. We are passionate about sports because we appreciate what it has done for this country.

Just allow me a moment's indulgence just to explain why some of us feel very strongly about these matters.

Mr. Deputy Speaker, Sir, our country has achieved a lot in sports and the landmark achievement of Kenya as a Republic came in 1968 when we took part as a Republic in the Olympics. In those pioneer Olympics, our sportsmen – our women did not win any medal - stunned the world when a 23 year old man from Nyamira in Kisii called Naftali Temu became the first Kenyan to win a gold medal for this great Republic. It was then followed by Amos Biwott and of course, the great Kipchoge Keino. We capped that important Olympic when we proved to the world that even in the sprints we were not left

behind when Naftali Bon, Charles Asati, Hezekiah Nyamau and Daniel Rudisha won for us silver medals in the Olympics.

I am bringing this perspective because sport has been one of the greatest exports from this country. Sports have brought tremendous respect to this country. We all know what happened in this country in early 2008. I know and Members here know that the summit of the healing process came when our sportsmen and women particularly the gold medalists starting with Pamela Jelimo, Nancy Jebet Lagat, Bungei, Asbel Kiprop, Remin Kipruto and, of course, Samuel Wanjiru brought us gold medals. These are great achievements and that is why we get concerned when the beautiful game of soccer is mismanaged. Soccer has the potential to bring national cohesion to this country. Soccer has the potential to create employment for our youth. We are asking the Government to intervene.

Mr. Deputy Speaker, Sir, ---

Mr. Deputy Speaker: Eng. Gumbo, the Chair has given you sufficient leeway. Seek your clarification!

Eng. Gumbo: Mr. Deputy Speaker, Sir, I have with me here a charge sheet with the following details: It is dated 07/07/2004 and the charge is, stealing contrary to Section 275 of the Penal Code. The complainant in this charge is the Government of the Republic of Kenya and the defendants are the then officials of the Kenya Football Federation (KFF). It is a known fact that this case is still pending in court. One of the officials named in this charge sheet is one of the people charged with the management of soccer in this country. I will table this charge sheet.

(Eng. Gumbo laid the document on the Table)

Mr. Deputy Speaker, Sir, what do we expect to achieve from soccer when it is being managed by people who are facing cases in court?

Mrs. Shebesh: Mr. Deputy Speaker, Sir, as the Assistant Minister speaks about football organizations that we all know must go through some radical surgery, could he also tell us the Ministry's role in overseeing the organization of, for example, the match on the day we lost Kenyans especially when it comes to the issue of security?

I ask this because I am a football fan. I went to watch the Uganda versus Kenya match. I want to say here that my son was beaten up by policemen as we were coming in. I really wonder whether the police during football matches are there to maintain security or cause more disharmony and insecurity. What is the role of the Ministry and what can we expect in terms of security during football matches?

Mr. Deputy Speaker: Mr. Mbuvi, I think you want to seek a clarification and being a first timer, the Chair feels you should be given the opportunity.

Mr. Mbuvi: Mr. Deputy Speaker, Sir, could the Assistant Minister consider suspending all the matches that are played at night?

Ms. Karua: Mr. Deputy Speaker, Sir, could the Assistant Minister outline the measures that he is taking to ensure an incident like the one where Kenyans lost lives and others injured will not happen again? I happen to have been at the same match where Mrs. Shebesh's son was beaten. All the gates of the stadium were locked. The keys were not anywhere near. It was clear that it was a disaster waiting to happen.

Dr. Munyaka: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for declaring that the two stadiums are not banned for football matches. The disaster occurred because of the disorganization by the management of those events. I would like to seek clarification on whether the Ministry is really in charge. In the past we have seen busy bodies like the Football Kenya Ltd. (FKL) giving orders and ultimatums. We have even seen other quarters hiring the coach of the national team, Harambee Stars. Is the Ministry really in charge?

Mr. Oyongo Nyamweya: Mr. Deputy Speaker, Sir, could the Assistant Minister specify how long the investigations which he said are going on will take so that we can know when the report will come out?

Mr. Deputy Speaker: Assistant Minister, you need to respond to those five clarifications and then we will take a few more.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, Eng. Gumbo referred to a case of 2004. An official is alleged to have stolen and, therefore, the case is in court. I fear that, that maybe *sub judice*. However, in concurrence with the spirit of the new Constitution, that is a very serious allegation. If somebody is charged of theft and fraud as a criminal charge, then as a Ministry, we will have to answer that. I undertake to look into that matter. I will consult with my legal department and by Wednesday next week I will be able to respond on what course of action we will have taken by then.

I will hasten to add that if, indeed, that is true, then it will naturally mean that that particular individual is not fit to hold public office.

Mrs. Shebesh asked what measures we are taking to ensure that there is security in the future. We have looked at all the issues and circumstances surrounding that unfortunate incident, alongside a number of recommendations which in any case should have been dealt with as basic governance and management. One is the proper installation of seats as we are doing at Moi International Sports Centre, Kasarani. We also want to number seats so that ticketing is done properly. Secondly, we are putting in place an advanced ticketing system and e-ticketing. This will ensure that heavy duty stands that normally create hurdles on the day of the match are not in place

Thirdly, we are also looking at the question of security in the context of insurance. I think this, in totality, is a question that needs to be looked at comprehensively. Insurance of public facilities is an important aspect but it has not been looked into in the past. Now we have a wake-up call to look at this matter comprehensively.

Mr. Mbuvi suggested or advised that we consider suspending matches that are played at night. The incident did not happen because it was at night. It was because of other peripheral causes. We want to promote Nairobi City as a 24-hour economy. Hospitals work for 24 hours, we have banks that work for 24 hours, we have supermarkets that work for 24 hours, we even have universities, colleges and schools that go for 24 hours and politicians also work for 24 hours. Therefore, I would suggest that we encourage other stadiums in Thika, Mumias, Kisumu, Nakuru and Mombasa to install floodlights and ensure some of these games are played at night. This is the global trend. This is what Nairobi, Kisumu, Nyeri, Nakuru, Mombasa, Marsabit, Isiolo and other towns all over Kenya should be.

Mr. Deputy Speaker, Sir, hon. Karua asked what steps we are taking to safeguard security in the future. I just want to refer to Gazette Notice No.180 of 2002. As we wait

for the probe and also answering this in conjunction with the supplementary question by Dr. Munyaka that this may have been caused because of mismanagement and laxity, the Sports Stadia Management Board, among other roles, is supposed to determine competitive charges for the use of sports facilities in Kenya. It is also supposed to collect fees and charges accruing from the use of sports facilities. Further, it is supposed to liaise with the City Council of Nairobi and other local authorities and companies for timely and efficient service delivery and also account for all receipts accruing from sports facilities.

Mr. Deputy Speaker, Sir, without pre-empting the probe that has been ordered by His Excellency the President and the Prime Minister, it is worth noting that if Nyayo Stadium had a company or stakeholders and in conjunction with the City Council of Nairobi, working together to improve corporate management and safeguard issues that are basic like security, safety and ticketing, perhaps this disaster would not have happened. Therefore, my Ministry has instructed the Sports Stadia Management Board to rise up to its full mandate as gazetted and passed by this House in the year 2002.

Mr. Deputy Speaker, Sir, finally, Dr. Munyaka asked what action we will take against the Football Kenya Limited (FKL). As I mentioned, I am happy that I am making this Statement in the presence of the Rt. hon. Prime Minister. We are looking forward to the fullest support from the Office of the Rt. hon. Prime Minister and the Office of the President because, FKL and others who masquerade as managers or leaders of soccer in this country have defrauded the people of Kenya. If we get that political support, I can assure you that Dr. Otuoma is leading a team that is determined to negotiate with FIFA for a favourable solution to the soccer complication in Kenya. If that does not happen, Kenyans in the streets and talk shows are saying that we can also call the bluff and put Kenya soccer into sanity and order. Therefore, because we have been assured by none other than the Prime Minister that we have this political support, I can assure Mr. Nyamweya that the findings of this probe will soon be submitted to the Prime Minister and the Office of the President.

Mr. G. Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. I do wish that when they are referring to whoever they are referring to, they make it plainly clear that they are not referring to George Omari Nyamweya or hon. Manson Oyongo Nyamweya. They need not to assure us about what they are planning to do with the Prime Minister. Let them say who they mean.

The Assistant Minister for Youth affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, it is very clear to the House and the country, which is watching this live on the Kenya Broadcasting Corporation (KBC), that it is not Mr. George Nyamweya because he has not shown interest in this matter. It is Mr. Manson Nyamweya.

Mr. Deputy Speaker, Sir, because a probe has been ordered by the soccer loving Prime Minister---

Mr. Kutuny: On a point of order, Mr. Deputy Speaker, Sir. I have heard the Assistant Minister very eloquently talking about support from the Office of the Prime Minister. Does it mean that currently, they are not getting any support from the Office of the Prime Minister as far as improving soccer in the country is concerned?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, the Prime Minister of the Republic of Kenya is, perhaps, without using the old words where somebody was called “farmer No.1” and

“footballer No.1”, is in the stadium every time, whether it is in a village, secondary school or national soccer competition.

The Prime Minister (Mr. Raila): On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! The Rt. hon. Prime Minister wants to inform you. Do you want to be informed by the Rt. hon. Prime Minister?

The Assistant Minister for Youth and Sports (Mr. Kabando wa Kabando): Readily, so Mr. Deputy Speaker, Sir. I cede ground.

The Prime Minister (Mr. Raila): Mr. Deputy Speaker, Sir, I want to give an assurance and inform the hon. Member that there is commitment to uplift the standards of soccer in this country. It is a pity that every weekend Kenyan youths and people spend more time watching the English Premier League of the United Kingdom (UK) and that they know more about Chelsea, Man U, Liverpool, Arsenal and so on. They know who is leading in the English Premier League and yet, know nothing about Ulinzi, Sofapaka, Mahakama, AFC or Gor Mahia. So, the Government would like to see the Kenya national team go to the African Cup of Nations competition in 2012 and the World Cup in 2014. Coca Cola had offered to spend Kshs100 million in upgrading the Nyayo National Stadium. The only problem was: Do we change the name Nyayo and so on? With due respect, we have given Kasarani Sports Complex the name of the former President. Kisumu Stadium is also called Moi Stadium, but Nyayo is not a name of a person. It is footsteps. Period! That is why we have said that we have no problem changing the name from footsteps to Coca Cola.

Mr. Deputy Speaker: I will now take Dr. Khalwale, hon. Odhiambo-Mabona and finally the Member for Lari, in that order.

Dr. Khalwale: Mr. Deputy Speaker, Sir, my deepest condolences to the families of the youths who died.

Mr. Deputy Speaker, Sir, the Minister knows that during the 90 minutes of the game, the central referee and the fourth referee, sometimes called the match commissioners, are the ones in charge of the stadium; for the playing, coaches and fans. On this fateful day, a prominent player called Mr. Ottomax, when he saw what was happening at the gate – people were dying – he went on to the pitch and alerted the central referee. Instead of them stopping the match, they descended on him and assaulted him physically. What is the Ministry doing to ensure that the fourth and central referees are arrested and charged with negligence, because they should have stopped the match and have it played on a different day in accordance with FIFA rules?

Mr. Deputy Speaker, Sir, secondly, the announcement by the Minister that the suspension of the stadia is not valid, is going to visit a lot of confusion because some of the teams have arranged to play in different venues. Could he release a letter of authority to officials of FKL and the teams, especially, the match involving Gor Mahia on Sunday, because we all want to go to the City Stadium? We do not want to end up there and the team is not there.

Finally, because the suspension of the stadium was illegal and the Assistant Minister has confirmed that, could you also direct that the officials of FKL reimburse AFC Leopards which last weekend changed their venue and played in Mumias? Could they reimburse the cost of that shifting?

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I just want to add my voice to those who have sent condolences to the families who lost their loved ones including the families of the people from Suba. I have just come from Suba right now and we lost eight people and eight bodies have not yet been recovered. I would like to ask the Assistant Minister to clarify his statement where he seems to suggest some complicity by the Government. I want to thank him because the Government has given the families Kshs30,000 each. I also want to thank him because the Government is considering to have insurance in the future. However, that is in the future. What is he doing to compensate the families of the people who lost their lives? Their lives have been nipped in the bud! What will you compensate them for their lost lives?

Mr. Njuguna: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for his very positive response, I would like to urge him to indicate to this House the steps that are being taken to cushion those who were injured at the stadium and currently are being treated at the Kenyatta National Hospital to avoid unnecessary detention at the hospital.

Mr. Kioni: Thank you, Mr. Deputy Speaker, Sir. We have in the last two weeks seen Ministers relinquish offices because of having cases in court. We have one Hatimy Mohammed who is still an official in the federation and yet he has a court case which is ongoing. The issue is about theft. He is accused, together with others, of stealing US\$506,519 belonging to the Kenya Football Federation. Could the Assistant Minister tell us why he continues to hold public office?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, with regard to Dr. Khalwale's question, I think it would not be in order for the Government to order for the arrest of referees. That was a skirmish and, anything could have happened in the melee. It would only be fair to allow the relevant organs of the Government, including the CID, which is taking statements from various officials involved in one way or another, to do their work and those who are culpable will be made to account.

With regard to a letter to Football Kenya Limited (FKL) and Kenya Premier League (KPL), we would be reluctant as a Ministry to enter into correspondence with FKL for the authorization of the stadium. As I said, they have no authority to bar any team or club from using any of our stadiums. However, I undertake to communicate with the KPL Board and the management and assure them of the reality that the stadia are available. I would like to assure the hon. Member that I have just had an intercession with the Chairman and the CEO of the KPL. We had a discussion on this matter and we engaged very positively. I would encourage the hon. Member for Ikolomani to liaise with the Chairman of AFC Leopards, whom I have just met this afternoon, and give him details pertaining to any expenses which they think they are owed by the FKL. I do not think that it would be right for the Minister to make an order for such reimbursements to a private company.

Mrs. Odhiambo-Mabona asked whether we had any plans with regard to compensation to the families who lost their loved ones. I already said that we have taken the step of compassionate contribution among stakeholders for burial arrangements. Since there is a team working on these matters, all circumstances surrounding the disaster, the Nyayo National Stadium and the resolutions that may merit, I would urge the Nominated Member of Parliament to give us time so that we can look at this matter in totality for a solution.

Mr. Njuguna asked whether we should intervene for those patients who are still in hospital so that they are released and not detained there. I will assure him that my Ministry, in conjunction with other stakeholders and other offices of the Government like the Office of the President and the Office of the Prime Minister, will ensure that no patient is detained at the Kenyatta National Hospital for non-payment of bills.

Hon. Kioni has again raised the issue that was brought by Eng. Gumbo about a case pending in court with regard to one Hatimy Mohamed. I would like to assure the House that we will look at this matter. If, indeed, it appears that there is such a criminal case of theft by a football official, whether it is of a peripheral organization, I assure you that my Ministry will take action.

In conclusion, I want to thank hon. Members for their interest in this matter. I want to plead with you to kindly support this Ministry when we submit the Sports Bill which will revolutionize the way sports are managed in this country. This includes managing, financing, marketing, talent search and talent promotion. Just two days ago, we witnessed a young girl, twelve year old Naomi Wafula, emerge among the top three golfers in this country because the Kenya Ladies' Gold Union is very well organized. This is what we need in all other federations.

All the other Secretary-Generals of 53 African countries, National Olympic Committees, are convening in Nairobi. I opened the meeting this morning. Again, the National Olympic Committees are very organized. However, the Sports Bill will make a big difference.

Mr. Deputy Speaker, Sir, would I be in order to ask you to allow me to submit this document, as a memento to the House of the five *mashujaa's* of Kenya who died as they were supporting AFC Leopards and Gor Mahia. We celebrate their lives and thank God for the gift of their lives.

Mr. Deputy Speaker: Go ahead and table it.

(Mr. Kabando wa Kabando laid the document on the Table)

Mr. Pesa: On a point of order, Mr. Deputy Speaker, Sir, while I appreciate that the Assistant Minister is taking a lot of interest in his work and he is doing it very well, I was in the stadium on that day. I think I was with hon. Eugene Wamalwa. There have been conflicting statements from the Assistant Minister and from the FKL. Is it in order for the Assistant Minister to give us a statement here without telling Kenyans and especially the fans that his decision here is final and that the other people will not dispute it so that on Saturday, they know where to go?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, the new Constitution and even in the old Constitution, there is no law that requires us to ask an individual to shut up. Even a chatterbox can continue being enjoyed by the public!

(Laughter)

Mr. Deputy Speaker: The next Statement is by hon. Kosgey!

RECRUITMENT OF MD FOR KEBS

The Minister for Industrialization (Mr. Kosgey): Thank you very much, Mr. Deputy Speaker, Sir. This is in respect of a Statement requested by hon. Eseli in regard to the recruitment of the Managing Director of the Kenya Bureau of Standards (KEBS).

The KEBS contracted the KPMG to advertise, interview and shortlist candidates for the position of the Managing Director. The KPMG advertised in March, 2010, and got 115 applicants, out of which 14 were shortlisted and invited for interviews. The KPMG requested to interview another seven who they felt merited to be interviewed and asked for an additional Kshs500,000 over and above the contract sum of Kshs1,488,396. The KEBS council later declined to authorize the additional interviews because of financial constraints and procurement rules. The council was not satisfied with the way the KPMG was handling the process and asked for a full report, including the list of the 115 applicants. The KPMG would not supply and the contract was terminated. Therefore, the delay of approximately six months was caused mainly by the KPMG and the council.

The contract sum was for Kshs1,488,396. A sum of Kshs595,358.40 has so far been paid. The KEBS Council decided to re-advertise the position in August. The interviews took place on 13th and 15th September, 2010. The entire exercise was concluded on 16th September, 2010. The details are as follows: It is true that the Chairman of the National Standards Council signed a letter forwarding three names that had already been shortlisted by the council. It, however, became apparent that the Chairman acted without the authority of the council. Soon after receiving the Chairman's letter, I received correspondence from council members informing me that there had been no consensus on the shortlist forwarded by the Chairman. They informed me that the letter was written before the selection process was complete and did not have the support of the full council. I will table the report of the ad hoc committee and what the other members wrote.

Mr. Deputy Speaker, Sir, the correspondence I received detailed as follows: The recruitment exercise began in August, 2010, received 74 applications. Out of which 15 were shortlisted and 11 turned up for interview. In order to ensure transparency, all the candidates were coded and their real names and identities not disclosed to the Chairman, Council members and the Permanent Secretary or myself. However, there were three Council members who knew everything because they are the ones who did the coding.

At the end of the interview process, the candidates scored based on the questions asked and the top five candidates were deemed suitable for appointment subject to further vetting. The Council resolved to hold another meeting to vet the candidates further using three criteria, namely, integrity, salary demands and track record. Before this final vetting, which was supposed to take place on 16th September, 2010, could take place, the Chairman made a unilateral decision and drew a line and said that there will be no further vetting and decided that the top three will be forwarded to the Minister. I will table the report of the *ad hoc* committee and the protest note.

(Mr. Kosgey laid the documents on the Table)

Faced with the concern of the Council members, I directed them to hold further meetings to try and achieve a consensus within the council. Unfortunately, further meetings held by the Council failed to achieve any consensus. The minutes of the

meeting show the division within the council. A protest letter to the Chairman that was signed by eight council members out of 13 members and copied to the Permanent Secretary and myself, give the details of the lack of consensus.

Further minutes of the meeting of 6th October, show that the council resolved that the lack of consensus requires the Minister to use his discretion in making the appointment. I have the minutes of the meeting of 6th October, showing that they decided that they were not going to change the letter the Chairman had written because it would look a bit odd. Therefore, they said that the Minister could use his discretion to appoint any one of the five since in their opinion, any one of those five was suitable material for appointment as the Managing Director. These candidates would have been subjected to a further vetting process had the Chairman respected the wishes of the council and allowed the process to reach its conclusion.

I then exercised my discretion and analyzed the five candidates as follows: Candidate No.1, who was coded 039 and decoded as Abdikadir Omar Aden, scored 70 per cent. He achieved a high score. However, he requested for a salary of Kshs1,084,000. He later indicated that he was willing to have it reduced to Kshs900,000. This is still a high figure because as you know, parastatals are classified or categorized and KEBS is categorized as PC6, a regulatory body with guidelines of the payment of the Chief Executive Officer up to a maximum of Kshs480,000. So, the salary of Kshs900,000 would amount to double what the guidelines provide for. I will table these guidelines with the other documents. The highest earning officers, who are below the Managing Director, namely, directors, earn a salary of Kshs290,000.

The next candidate, coded KEBS 016 and decoded as Eva Adeka Oduor, scored 66 per cent. She is currently one of the directors at KEBS and worked closely with the previous Managing Director whom we had issues with and removed. The Board had previously decided that they wanted to source the new Managing Director from outside to give the institution new blood. They had discussed this and minuted it. They then invited two of the current employees in their awards for comparison purposes.

The other candidate, coded as KEBS 019 and decoded as John Tuta Mrutu scored 54 per cent. Like KEBS 039, this candidate had requested for a high salary. He is currently earning Kshs1,200,000 and he indicated to the Board that he wished to have a ten per cent salary increase that will bring his pay to Kshs1,320,000. This is about four times the recommended amount. In addition, the candidate is 56 years old and, of course, was almost retiring from his current position.

Candidate No.4 coded as KEBS 011 and decoded as Joseph Kipketer Kosgey scored 52 per cent. Although his score placed him at position four, the difference between him and the next person is 2 percentage points and the difference between him and the first one is 8 percentage points. Secondly, his fourth placed position out of 74 or out of the 11 was impressive and was due to what the council members described as a strong financial track record in his previous employment. In addition, it is due to integrity; and he is a reasonably paid man. He is currently earning a salary of Kshs400,000. So, it is within the range. I will table his Curriculum Vitae (CV). I have the CVs of the other candidates as well. I will table his CV to prove that he is qualified. He has a Bachelor of Commerce, CBS, MBA in Strategic Management.

Candidate No.5 KEBS 025, decoded as Michael Ochieng Owino scored 57 per cent. Earlier figures even said it was 53 per cent. He became 5th in scoring. However, the

difference between him and 011 is five per cent. The difference between him and the first candidate who scored the highest marks is ten points. So, I considered him a bit low. Although in the analysis of the Board, any one of these five candidates was material for the post of Managing Director.

At the end of my analysis, I was guided by the following in order to make a decision: The Board had, in fact, debated that within the guidelines, they were willing to negotiate between Kshs500,000 to Kshs700,000. The advertisement did not indicate that this job attracts this salary or scale within the parastatals guidelines. It should have and I think this was an omission on the part of those who advertised. In addition, the council had already discussed and agreed on the salary scale as I have said. This fact is captured in the minutes of those meetings. Therefore, the issue of salary consideration eliminated 039 and 019 as candidates for appointment.

It will be ideal if the new Managing Director came from outside the organization so as to bring fresh ideas in the management of KEBS. Candidate No.2, in fact, had one confidential report from the State Corporation which said there were some integrity issues although they were not verified. This had also been expressed by the council and is captured in their minutes. Therefore, using these criteria, I eliminated Candidate KEBS 016 as a possible candidate for appointment.

Mr. Deputy Speaker, Sir, after eliminating 039, 016 and 019, I found Candidate KEBS 011, Joseph Kipketer Kosgey, was the most suitable candidate for appointment as the Managing Director, KEBS. In their own decision, the Board had actually reached the conclusion that any one of these five was suitable for appointment as the Managing Director. In their minutes of 6th October, they also decided that because they were unable to reach a unanimous decision on the final vetting, the Minister could use his discretion to appoint any one of those five. I exercised that discretion. The Act actually says the Minister will appoint a Managing Director, in consultation with the National Standards Council. So, I have not gone outside this Act, neither have I gone outside the guidelines.

Mr. Deputy Speaker, Sir, it is also important to know that allegations of tribalism have no basis, whatsoever. In fact, it is interesting. Sometimes, it is difficult to actually imagine why the chairman, after conducting what could have been a very successful exercise refused to do the final vetting. Your guess is as good as mine. I believe that there was an element of discrimination here because had the final step been taken, the list would have shown otherwise. In fact, one council member confided to me that they discussed on the 15th what they were going to do. Firstly, the identity of all the applicants was not known to any of the parties, except the three whom I have said, until the process was concluded and the names were decoded.

Secondly, as the analysis above shows, Joseph Kipketer Kosgey is capable and he achieved a high score in the interview. His CV is quite impeccable. It is not fair, therefore, to just say because the Minister, probably, bears the same name as Kipketer that he should be discriminated against.

In making my decision, I was also guided by the fact that the position of the Managing Director, KEBS had remained vacant for over a year. We had done a process with KPMG that did not yield results. The process which the Board conducted actually yielded credible results up to the position of the last five candidates. The law does not permit the Acting Managing Director to remain in office for more than six months. The

one who was acting at that time had actually exceeded that period. I, therefore, made my decision in view to ensuring compliance with the law.

Finally, I believe that I acted in the best interest of my Ministry and that of KEBS. Thank you.

Mr. Ngugi: Mr. Deputy Speaker, Sir, I have listened to the Minister give justifications as to why he chose the person he chose. He says that he used his discretion. This matter is beyond discretion. The public perception is that this position is so critical. It requires that the person who will hold it be put there in a every transparent manner, especially following on the heels of the Minister's aide having been suspended for involvement in corruption.

Mr. Deputy Speaker, Sir, does he not think that this person not having gone even through the KPMG selection--- This discretion he has used is not transparent.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to draw the Minister's attention to Section 5(1) of the Standards Act, which says:

"The Minister shall, on the advice of the Council, by notice in the gazette appoint, a Director of the Bureau who shall be the Chief Executive."

So, the Minister appoints on the advice of the Council. If the situation is as the Minister has said and I want to believe him, on whose advice did he appoint? When you have two differing reports from the same council, then it is splinter reports. Believing the Minister, it means he acted in contravention of Section 5(1) because there was no council to advise.

I want him to tell the House why he did not ask the council to repeat the exercise. If you found them unworthy because they had two camps, why did you not take the bold step and dissolve the council, then appoint a new one which is capable of complying with the law?

Secondly, if there was discrimination, it would be against Mr. Adan who was number one, but whom you never offered the job, so that he could refuse because of the salary.

Thirdly, a letter of appointment is issued by a Permanent Secretary. Remember that the Executive Chapter of our current Constitution is not applicable until the next general elections. So, we are talking of Section 22(3) of the old Constitution which says:-

"Subject to the direction and control of the Minister, the Permanent Secretary is the day to day person."

It, therefore, follows that it is the Permanent Secretary who would issue a letter of appointment to a managing director. Therefore, is the Minister doing his Permanent Secretary's work? Who issued the letter of appointment to Mr. Kosgey? In this matter, we know for a fact that his Permanent Secretary who is a member of the council differs with him.

Finally, among the documents tabled by the Minister, there is no single letter under the hand of the Chairman of the Board. If the Minister says that he sent him a letter giving him something different, could he table that letter plus the minutes of the Board and any correspondence in his hands by his Permanent Secretary? Let the Minister give us full information.

Mr. Mbadi: Mr. Deputy Speaker, Sir, the Minister will agree with us that the confusion that came as a result of this appointment is occasioned by the problem in the Board or the Council. I would like to know what the Minister is likely to do with this

Council which does not function harmoniously. Secondly, I would also like the Minister to confirm or deny that one of the members of the Council was related to one of the three candidates who were submitted for appointment and that this member of the Council was in the *ad hoc* committee and that he did not declare his interest in the process even after the Chairman had requested him to do so.

Finally, in the appointment of Chief Executive Officers (CEOs) of State corporations, is it possible that the Minister has certain internal rules about the appointment which the candidates are not even supposed to know, for example, the salary levels? It is a common practice that---

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. It is very clear that the hon. Member is tempting the Minister to answer in a certain manner that he wants the Minister to follow. Would I be in order to ask the hon. Member to withdraw the remarks he has made to that effect? I chair a Committee that is currently looking at this matter and some of the disclosures that the hon. Member is asking the Minister to give is a matter that the Minister never gave us in the first place. So, it looks like a predetermined discussion between the hon. Member and the Minister. Would I be in order to request the Chair to ask the hon. Member to refrain from leading the Minister in a particular manner?

Mr. Mbadi: Mr. Deputy Speaker, Sir, first of all, I want to remind my colleague that a Committee of the House can never be superior to this House. He is investigating on behalf of this House and he cannot muzzle my contribution in this House because a Committee is doing an investigation. If there is any Standing Order that bars me from making such a comment he should have mentioned it. I also want to remind the hon. Member that this is not a court of law. I have asked my question and let the Minister answer it. If the Minister feels that I am asking leading questions, then it is up to him to suggest so, but I do not expect a colleague to tell me that I am asking a leading question and yet the Minister does not see it that way. I am waiting for the Minister to answer my questions.

Mr. Deputy Speaker, Sir, let me conclude my comment. The general human resource management practice is that there are certain set rules that any recruiting agency has in place which may not even be made public to the people who are being interviewed. That is why I wanted to find out from the Minister if they also have such rules.

Mr. Muthama: Mr. Deputy Speaker, Sir, this issue of hiring this Managing Director has created a lot of interest. The Minister has said here that the salary was one of the issues taken into account. The Minister skipped the first, the second and the third candidate. He went ahead, without consulting the Council, and asking it to resubmit other names if he felt that the first three did not qualify for appointment as Managing Director. We are debating this issue on the basis of being Kenyans and leaders. I want to make it very clear that if the name that we are reading now sounds like a person from his community, then it is an issue that is understandable. To prove that, there is a letter here that was written by Abdulkadir referring to the day of interview and specifically stating that the salary is not an issue, and that he is ready and flexible to accept a salary that will be offered by the Government. All that was ignored.

Mr. Deputy Speaker, Sir, we do not want to see impunity, sycophancy and tribalism. We want to see Kenyans being hired through merit. If I am allowed, I would like to table this letter.

Mr. Deputy Speaker: Proceed and table it.

(Mr. Muthama laid the document on the Table)

Mr. Lekuton: Mr. Deputy Speaker, Sir, I would like the Minister to clarify two issues. First, when this exercise is conducted, documents are very important. That includes your qualifications from the university or whatever qualifications you have. Could the Minister clarify that he actually saw the original certificate of the candidate that he picked or the original certificates of the other four candidates? Secondly, could he also clarify to this House that candidate No.2, KEBS 016 scored very high marks but she works within the system. In the advertisement that was put in the newspaper, did the Minister clarify that if you belong to the system you need not apply because when you put someone through a competitive process and he or she qualifies and gets high points, I feel that there is no basis for the Minister to reject him or her unless there is something we do not know.

Mr. Deputy Speaker: Mr. Oyongo Nyamweya, seek the last clarification.

Mr. Oyongo Nyamweya: Mr. Deputy Speaker, Sir, I listened to the Minister when he was giving his explanation. I believe that if any organization finds a qualified person and he is capable of doing the job that it wants because it wants to generate revenue, then the salary should not be an issue. I know that in this Government, there are Permanent Secretaries who earn more money than the Permanent Secretary, Secretary to the Cabinet and Head of Civil Service. So, the issue of salary is an excuse that should not be raised.

Another point is that if in the eyes of the public it is seen that the process is unfair and it is seen that the man has got the job unfairly, then the Minister is destroying the career of that man. He is destroying the credibility of the man who has been given the job. For the Minister to come here and say that he has a Board which is indecisive, as a Minister, before he goes to hire, what action has he taken as we sit here to make sure that that Board which has taken more than one year to recruit the man to head the Kenya Bureau of Standards (KEBS) has worked? This is because I expect the Minister to take action against that Board.

Finally, the Minister became the Board, the Permanent Secretary and the Minister at the same time. If Ministers will work like this and say that the Board members are not working and they take their jobs, where are we heading to as a nation at this time when we have a new Constitution?

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. I would like to seek your guidance on a matter of procedure. If a Committee is investigating a matter and the hon. Members of that same Committee are then asking questions that are already showing prejudice, what is the procedure that should be followed? This matter is before the Committee on Equal Opportunities and the same hon. Members are questioning the Minister using the information they have collected and yet they have not finished writing their recommendations. What is the procedure to be followed in this case?

(The Clerk-at-the-Table consulted the Deputy Speaker)

Mr. Deputy Speaker: Order, hon. Members! Indeed, it is important for us to live within the confines of the rules of the House. Standing Order No. 78 stipulates that proceedings of Select Committees are not to be referred to. It states:-

“No Member shall refer to substance of the proceedings of a Select Committee before the Committee has made its report to the House.”

You cannot refer to the substance of the Committee report itself, which you are compiling as the authority in contributing. That is to the extent which an hon. Member has to guide himself in contributing or in seeking clarifications or Ministerial Statements. It is important to know that, whether there is a direction on a Committee or whether the Committee is undertaking a report or not, that in itself does not limit the role of scrutiny of an hon. Member in the House. But an hon. Member of a Committee cannot use the authority of a report that is being compiled in the Committee in a proceeding like this.

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. I just want to put the matter straight. We have not used the authority of the information we have in our possession for this particular debate. But since the matter is now on the Floor of the House, as hon. Members, I thought we have the liberty to contribute---

Mr. Deputy Speaker: You have those liberties and the Chair has been very express about that. The issue is that, you seek clarifications on the basis of the Statement by the Minister.

Proceed, honorable Minister!

The Minister for Industrialization (Mr. Kosgey): Thank you very much, Mr. Deputy Speaker, Sir. I will answer very briefly. Hon. Ngugi suggested that the process was not transparent. I believe the Board members themselves actually agreed that we had done a very good job up to the time they reached the last five. Out of the 11 candidates, they actually said that the five are material for managing director. Tomorrow, we will vet on integrity, salary demands and work record. But the following day, which was 16th of September, they were unable. In fact, they did not have a discussion at all. So, the Chairman drew a line. I believe the process was transparent. Also, there is no connection between the tribulations of my bodyguard and this recruitment.

Mr. Deputy Speaker, Sir, Ms. Karua quoted Section 5 and stated that I have violated the law. I received - I have said that there are other documents which I will table – the letter from the Chairman of the Council and also the letter of the Permanent Secretary. The letter of the Chairman of the Council is here.

Mr. Deputy Speaker: Table it!

(Mr. Kosgey laid the document on the Table)

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I have tabled it. The Permanent Secretary had also written a letter to me saying that he was not going to support that appointment. It is in one of these files and I will table it. But Section 5 which was referred to by Ms. Karua seeking to know on whose advice I made the appointment, there is actually the last bit which was on 6th of October, when the Council last met – I have tabled those minutes – they actually said that it would be ridiculous on their part to change their mind or to rewrite again and again, and say that the Minister could choose any of those persons from those five. On the basis of that, the Chairman said that he was not willing to write any other letter.

On that basis, I decided that the Council cannot reach unanimity; eight of them were in agreement while the other five were not in agreement. Two of them were actually neutral because they are Government officers. Now, a majority of Council Members, of course, in their letter and in their *ad hoc* Report confirmed that I could choose any one of those five. I have already given a gazette notice as required by law detailing the appointment which the Minister has made. I have also written a letter of appointment informing Mr. Kipketer of the same appointment and of the same Legal Notice. It is up to the Permanent Secretary and the Board to do the rest.

Mr. Deputy Speaker, Sir, hon. Mbadi was concerned that the Board seems to have a problem. It is true; the board seems to have a problem on consensus. The Board or the Council actually deliberated and they were very happy with what they had done up to the 15th of September. It is only when they resumed on the 16th of September that they seemed to have had divergent views.

It is true that one of the Council Members, who was the Chairman of the *ad hoc* Committee, is a close relative of candidate number one. I did not know this information when I appeared before the Committee on Equal Opportunities.

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

The Minister for Industrialization (Mr. Kosgey): Let me finish! He has already risen twice on that point of order.

Mr. Deputy Speaker: Order, Mr. Affey! You cannot discuss the content and the substance of what you have discussed at the Committee level and use it as an authority.

Yes, what is your point of order?

Mr. Affey: Mr. Deputy Speaker, Sir, it is just the Minister himself who has referred to the Committee by saying that he did not know this information when he appeared before the Committee. So, I would like to find out from the Chair whether it is in order for the Minister, then to come to the House, as an afterthought, to come and disclose information that he did not disclose to us in the Committee.

Mr. Deputy Speaker: It is not right! Neither the Minister nor a questioner can use the authority of the substance of what has transpired in the Committee in these proceedings.

Proceed, honorable Minister!

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I am not referring to what transpired between me and the Committee on Equal Opportunities. I am just giving some information that I came to learn later. It was not a subject of discussion when I appeared before the Committee.

Mr. Deputy Speaker, Sir, it is true that a Council Member, who was the Chairman, is a relative of candidate number one. He was also responsible for shortlisting. At the start of the interview, they actually asked whether there was anybody with any interest and this Council Member, according to reports did not declare his interest.

Mr. Ngugi: On a point of order, Mr. Deputy Speaker, Sir. You know when you make an allegation you must be able to substantiate it. People share names. Could the Minister table or has he tabled evidence to show that this candidate was really a blood relative of the other person, otherwise, just because they have similar names?

Mr. Deputy Speaker: Hon. Minister, you are held responsible for the truthfulness of the allegations. You have to substantiate.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I have made inquiries from one or two persons, and I really do not want to discuss or talk about names.

Mr. Deputy Speaker: Minister, you can either substantiate or withdraw the remarks.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, these are facts, and I am willing to appear again before the Committee, if they want to call me. I do not want to talk of individuals. I could name names here, but it would not be fair to discuss individuals who cannot defend themselves. Suffice to say---

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. The issue we are discussing is of national importance. The allegation that has been made by the Minister would go a long way to influence the minds of many people; the reasons as to why we are having difficulties with the appointment of the Chief Executive Officer of the Kenya Bureau of Standards is that there are some blood relationships.

The way the Minister is responding to this issue – in a very casual manner – is totally unacceptable to us. The Standing Orders require that we hold one to the accuracy of the statement that one makes. The Minister has a duty to substantiate to this House the allegation he has made, or withdraw it; it can influence in a big way the thinking of people on the whole of this issue. The person he has referred to does not have an opportunity to come and speak on the Floor of this House.

Mr. Deputy Speaker: Order, hon. Members! Standing Order No.82(1) and (2) states as follows:-

“(1) A Member shall be responsible for the accuracy of any fact which the Member alleges to be true, and may be required to substantiate any such facts instantly.

(2) If a Member has sufficient reasons to convince the Speaker that the Member is unable to substantiate the allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next sitting day, failure to which the Member shall be deemed to be disorderly within the meaning of Standing Order No.97 (disorderly conduct) unless the Member withdraws the allegations and gives a suitable apology, if the Speaker so requires”.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I assume that you so require.

Mr. Deputy Speaker: Yes, I do.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I have been put in a very awkward position, because this allegation is what I have heard. I checked from within and actually confirmed it, except that I do not have proof. I know it for a fact. It took me a whole week to verify that fact. I interviewed some of those relatives, and they confirmed to me that they are related. I have personally interviewed one of the relatives, but I do not want to name names here. So, since it is really my word against yours in this House, I withdraw and apologise, but the truth will always remain the truth.

Mr. Deputy Speaker, Sir, hon. Muthama said that the salary is not an issue. In an organisation of this nature, there are guidelines to be followed. That is why the guidelines are there. In fact, the requirement of having three names is, in fact, a guideline. It is not the law. So, if you refuse to follow the guidelines in this respect, you will be applying

double standards. You cannot say that you do not want to follow the guidelines in respect of the salary, yet you want to follow the guidelines with respect to employment.

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

The Minister for Industrialization (Mr. Kosgey): Let me finish. You see, my thoughts are being disorganised.

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

Mr. Kioni: Mr. Deputy Speaker, Sir, hon. Muthama tabled a letter from Mr. Aden, clearly saying that he was ready for negotiation. I do not think he was disputing the fact that there were guidelines and regulations that exist, but the candidate had shown interest and desire to get to a negotiating table. What the Minister should be telling us is whether there was such negotiation. I think the Minister would be out of order to frame his own questions and try to answer them. He is avoiding dealing with the issue that was laid on the Table by hon. Muthama.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I was not avoiding the letter. I was coming to it. If only hon. Kioni had waited, I would have answered it. I was coming to the issue of the salary and the guidelines. The letter that has been tabled here actually contravenes--- It was tabled, and I will answer that part.

When this candidate was told: "You are now earning Kshs1,084,000 plus benefits. This job does not attract that much", he said that he was willing to take a salary of up to Kshs900,000. That is still double the figure provided in the guidelines. We were made to believe that the Kenya Bureau of Standards earns money by the use of the standard mark. It does not generate enough money. That is why the Bureau does not pay high salaries.

Mr. Deputy Speaker, Sir, the highest paid officer there earns Kshs290,000. So, you cannot wake up one morning and say: "I will pay the Chief Executive Officer a salary that is four times what the highest earning officer earns in the organisation".

We had a similar situation when it came to the previous Managing Director.

Mr. Muthama: On a point of order, Mr. Deputy Speaker, Sir. The letter I tabled here does not talk about Kshs1 million or Kshs900,000. It says that the candidate is flexible, which means the salary can be Kshs300,000 or Kshs200,000. Where does the figure of Kshs1 million come from? Let him state how much the candidate he has picked is earning or has accepted.

Mr. Deputy Speaker: Hon. Members, the letter that is tabled here, which is addressed to the Chairman, and which indicates that it was received by the Kenya Bureau of Standards, is signed.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, that letter was written much later after the interview.

Mr. Deputy Speaker: Indeed, it does indicate so. The contents do indicate--- It says:-

"I have been following the media reports on the issue of appointment of the new MD for KEBS and the excuses being given as rationale for choosing the fourth candidate. As I mentioned during my interview on 14th September, 2010, I would like to clarify that I was, and I am still flexible, to accept the pay package offered to me by the Council for remuneration as the MD of KEBS; I never fixed any amount to be paid to me.

I am dedicated to serve my country and I would not use the issue of salary expectations as a reason to decline the position to serve in this important institution.

Please, feel free to contact me for further intervention, if need be.

Signed

“Mr. Abdikadir Aden”

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, as you have rightly put it, that letter was written after the interview, or after the reports that appeared in the newspapers.

The ad hoc committee’s report, which is official, actually shows that the salary that was requested by Abdikadir Omar Aden was Kshs900,000. Actually, when he was told: “You now earn so much---“

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. It is important to get the Chair’s direction in this matter, because of the fact that we were limited as a Committee in terms of having an opportunity to have full disclosure of the facts of the matter. Some of the evidence being adduced by the Minister now totally contradicts the position that we---

Mr. Deputy Speaker: Order! Order, hon. Affey! You are now treading on dangerous grounds.

Hon. Minister, can you conclude?

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I will conclude.

Mr. Deputy Speaker, with regard to the issue raised by hon. Lekuton as to whether I checked the original documents, that was the work of the *ad hoc* committee. It was also the work of the short-listing committee. I believe the idea of short-listing is to check the original documents. In fact, when I checked myself candidate No.2, one of the requirements here was an MBA. This candidate No.2 had actually not completed the MBA and yet it was written. So I asked them: Why did you admit this one who says he has not completed his MBA, I was told that they had attached some transcripts, which is not normally allowed. They should have checked all that.

On 016, the idea of having discriminated, actually there is an adverse report that is confidential between us and state corporations. I do not want to infringe the regulations but I tabled it with the Committee. I do not believe that she was discriminated against. In fact, I believe that the lack of vetting amounted to discrimination on Nos.4 and 5. Really, if you set up ground rules and you do not want to follow them to conclusion because it was going to produce a certain result which you are not interested in, maybe you must actually---

Mr. G. Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. If I clearly heard the Minister, he, initially, said that he disqualified her because she was working in that institution. He did not mention anything about adverse reports or anything. Is it really in order for him now to try and justify something which was not the basis of what he justified her disqualification on? What sort of message are these Ministers sending to people who work in corporations or institutions; that they need not seek promotion because they are working there?

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I think in my statement, I mentioned that there was some adverse report. I am not sending any wrong signal that we shall not promote or give a chance to anybody working in the organization. The hon. Oyongo Nyamweya said the salary should not really be an issue. You cannot pay what you do not have. At the moment, we were meant to believe---

(Mr. Kiuna stood up in his place)

Mr. Deputy Speaker: Allow the Minister to conclude. Order hon. Kiuna! Proceed, Mr. Minister!

The Minister for Industrialization (Mr. Kosgey): I believe the purpose of having guidelines like this really should not be disregarded. If the salary requirement is a small variation from the guidelines, yes. But if the variation is more than a 100 percent, it may not be desirable or may not really work conclusively.

Hon. Oyongo Nyamweya also commented that in the eyes of the public, the current Managing Director may be looked down upon. I believe that his CV and his qualification and the high score that he got really justifies the fact that he really merits this position. The other issue is what will become of the board. We are currently discussing that subject. Mrs. Shebesh stood up on a point of order to ask whether the committee should be referred to. That was information. Thank you.

(Several hon. Members stood up in their places)

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. I asked very specific questions which the Minister has not answered at all. Yes, there was a report of an *ad hoc* committee, but like a report of a committee of the House, until it is passed by the House, it is of no use. Where is the letter to show that the report of the *ad hoc* committee went through to the council to constitute the advice of the council? Also, though Section 5 allows the Minister to gazette, it does not allow him to do the work of the Permanent Secretary; to write a letter of appointment. All these issues are unanswered. What section in this Act allows the Minister to write a letter of appointment or to negotiate salaries?

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. Standing order 97 (f) provides that the conduct is grossly disorderly if the Member concerned deliberately gives false information to the House. When the Minister tabled a report from the *ad hoc* committee, the first tabling is this report I am holding which is unsigned. It does not come from the committee. It is only written down there “from the *ad hoc* committee”.

On the second tabling, we now have a letter signed by the Chair giving the information as contained in the Minutes of the 16th and approved by Members who are now said to be in the *ad hoc* committee. This clearly indicates that there is some false information that the Minister is giving because the first tabling that he gave, without any signatures, and you cannot tell the source of this letter, has five nominees or candidates, all of them in codes, 39, 16,19,11 and 25. The second tabling, which is signed by the chairman of the council and it is in line with the minute that was done and confirmed. The minute that was done and confirmed directed this; it says in closing, the meeting was satisfied with the candidates and choose an *ad hoc* committee to prepare a report through the chairman to forward to the Minister and a covering letter. The second tabling agrees with what the committee had resolved. The first one really is fake and I think a forgery because you cannot say anything else.

Mr. Deputy Speaker, Sir, it has five names. As the Minister labours to deal with this issue, he is talking of five names that never came from the committee. They never came from the minutes and the minutes that are there and were confirmed in the presence

of the individuals who then petitioned--- the petitioning here, the Minister is referring to, is signed by a number of people who were in the meeting that confirmed the choice of three and not five.

If you go through the HANSARD, the Minister has repeatedly talked about five names coming from the council and he has not demonstrated in any acceptable manner how he reviewed the five names. Section 5 is very clear. It states that the Minister shall on the advice of the council and by notice in the Kenya Gazette appoint a director of the Bureau. There is no need for discussion. Further, because this is false information, the memorandum that he has tabled says:

“From the report and what I have been able to gather on my own, it would appear that there has been no final vetting of the five candidates”.

There is a letter from the chairman of the ad hoc committee. These are documents that he has tabled in the House. This is misinformation to the House. Standing Order No.97 is very clear as to what happens to an hon. Member who is responsible for gross misconduct in this House. I think the hon. Member is asking to be named as is required under Standing Order No.97.

Mr. Mwathi: On a point of order, Mr. Deputy Speaker, Sir. I stand on a point of order; having referred to the document which the Minister has tabled, which he calls “the ad hoc committee report”. In its conclusion, although it is not signed, it recommends the names of three people at the bottom who are code named KEBS 039, 016 and 019. Out of those three, the name of the person purported to have been appointed does not appear. Is the Minister, therefore, in order to say that he was given five names by the ad hoc committee, whereas the report he has tabled here has three names, and that of the person he purported to appoint is not among them?

Mr. Muthama: On a point of order, Mr. Deputy Speaker, Sir. I asked a very specific question to the Minister to clarify what kind of salary the current CEO is earning. The Minister should prove that by tabling here the letter of appointment that shows the salary the new CEO has been offered. The Minister should clarify, deny or confirm that the current CEO is earning over Kshs1.5 million. That can only be contradicted by the letter of appointment if he tables it in this House.

The Minister for Industrialization (Mr. Kosgey): Mr. Deputy Speaker, Sir, I will start with the question from Mr. Muthama. The board has not met to fix the salary for the current CEO. All that I know is that his salary in his previous employment was Kshs400,000 plus allowances. I had already answered that. Mr. Kioni said I am misinforming or misleading the House. If you look at this ad hoc report – and we know who the members of the ad hoc committee are – it says here:

“The National Standards Council interviewed 11 candidates for three days, 13th, 14th and 15th which resulted in a final list of five---

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

The Minister for Industrialization (Mr. Kosgey): I have not finished. I am trying to answer your point of order.

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

Mr. Kioni: Mr. Deputy Speaker, Sir, the letter that he is reading is the one that is unsigned. He is trying to influence our thinking by not disclosing that it is not signed. The second tabled letter is clearly signed by the Chair, and that is what he should be reading. What he is reading out to us is a forgery.

Mr. Deputy Speaker: Mr. Minister, are you reading the letter that---

The Minister for Industrialization (Mr. Kosgey): I am reading the ad hoc committee report. The letter the chairman has referred to also quotes the same report. It is the one which the chairman has signed.

Mr. Deputy Speaker: Mr. Minister, what you have tabled is an ad hoc committee's report on the recruitment of a Managing Director for Kenya Bureau of Standards; it gives the background and progressive---- It cannot be admissible for the purposes of our Standing Orders, because it is not signed nor is it dated.

Mr. Muthama: On a point of order, Mr. Deputy Speaker, Sir. It is very clear that this new CEO has reported in office. There is even a letter that was written by Amb. Muthaura, indicating that the CEO should not report to office, but he has already reported. We have read that he has been discharging his duties. It is wrong for the Minister to stand here and tell the House that the new CEO was asking for something like Kshs400,000. The salary of a CEO cannot be negotiated on the streets. He negotiated the job with the new CEO in the boardroom and the salary was also negotiated. We want the Minister to table the letter of appointment and confirm that this new CEO is in office. If he is in the office, we want to see the letter of appointment, so that we can follow the matter from there. We are being told that it was "like Kshs400,000". That is totally unacceptable.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. Just out of bewilderment, I wanted to seek your guidance. I have heard Mr. Muthama talking about the conduct of a Minister and I thought Mr. Muthama is the Government Chief Whip, and the Chair had already ruled that we are part of the Government. If there is anything to the contrary, I would like to know so that I can also be free to contribute.

Mr. Deputy Speaker: I stand guided at to practice, but the Constitution talks of a Minister. A Minister is defined as the President down to the Assistant Minister. Mr. Muthama I think I have a problem with this. You are not supposed to address this House from the dispatch box. That I think has been the practice. Being not a Minister, you will have to address the House from other places and not from where you are addressing us now.

Proceed, Mr. Minister.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. I have been following these proceedings very keenly, because I really want to understand the bottomline of this. I heard the Minister indicate that the board is yet to decide the salary of the CEO, and he mentioned that the CEO was earning about Kshs400,000 before. Mr. Muthama rose to put words in the Minister's statement to the effect that the Minister indicated that the CEO actually is earning Kshs400,000. Is Mr. Muthama in order to try to put words in the Minister's mouth? We do not want to be confused over this issue. We are following the proceedings and we want to understand everything, word by word.

Mr. Deputy Speaker: This is all reflected in the HANSARD, but I thought the hon. Minister did indicate how much the salary of the Managing Director is.

The Minister for Industrialization (Mr. Kosgei): The salary of the CEO is yet to be determined. What I said, and Mr. Koech has put correctly quoted me, is what his current salary is.

Mr. Oyongo Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. We have a Minister who has said he has appointed somebody without the board. That is what he

has told the House. Secondly, he said that he is not able to decide the salary and that it is being negotiated. By whom is it being negotiated? He has said the board is indecisive and is not able to help him. Three, the CEO is in office working. Under what terms is he working? There is nobody who can take up a job without knowing how much he will earn. He reports to the office every day and you are telling me that this person has credibility for the job. We need your guidance. Help this House to move forward. Rather than taking time discussing issues which cannot help this nation, the Minister should answer and give details on the appointment letter of this officer. How did the person leave the job which he had unless he was picked from the streets? We need an answer from the Minister.

The Assistant Minister for Energy (Mr. Magerer): On a point of order, Mr. Deputy Speaker, Sir. I have been listening and I want to seek the guidance of the Chair on the fact that we have not been able to follow each answer because these points of order are coming and overlapping into each other. I think it would be in order for us to follow so that we can also be in the debate.

Mr. Deputy Speaker: Indeed, yes, there have been too many points of order and this is an issue that cannot be completed. The Chair insists that the Statutory Act says that the Minister shall by the advice of the Council, by notice in the Kenya Gazette, appoint a Director of the Bureau who shall be the Chief Executive of the Bureau.

The information coming from here is clearly very muddled information. However, the Chair has limitations on what it can do. This is clearly a matter for the Government and a matter for the relevant Committees and Parliament itself. The direction of the Chair is that we are not going to take the whole day on this issue. Because of the nature of the issue itself and the papers that have been tabled here show all sorts of contradiction between the different arms of that institution itself right from the Minister to the Board; the Chair directs that the relevant Committee moves with speed and reports back to the House for the benefit of Kenyans.

The Chair cannot do anything more than that. So, we will have to go to the next matter.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. I appreciate your ruling because it will also give us clear steps and stages on this. Your ruling is also informed by the fact that, already, a Committee of this House is investigating this matter. Would I be in order to request that because of the magnitude of this case, that the direct relevant Committee sits together with the Committee on Equal Opportunities so that they come up with a comprehensive report?

Mr. Deputy Speaker: According to you, which is the direct relevant Committee?

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. The Committee on Equal Opportunities has had sittings. Trying to introduce another Committee into the process is an attempt to delay the report being brought to this House. We are talking about the position of the Chief Executive Officer (CEO) of the Kenya Bureau of Standards (KEBS). This is a very crucial position in this country. I think I want to sympathize with the Minister because I know he was at the Kenya Anti-Corruption Commission (KACC) this morning on the same issue. So it is not an issue we should start playing around with in the House by getting too many Committees dealing with it and getting a Committee that has been moving pulled back. I think it is important that the Committee on Equal Opportunities concludes its report.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members!

Any Committee that wishes to investigate and feels it has the mandate to do that, based on the information that is available, is free to do so. Members of Parliament must understand that Committees just do not go and manufacture reports. This is because you are accountable and are held responsible for your reports. In any case, there is no information that is not only in the public domain but in the domain of the House itself. It is very clear that there have been a lot of anomalies in the process of the recruitment of the CEO of KEBS. The law says something and the Minister has acted in a manner, in my opinion, which contradicts the law, based on the evidence that has been adduced from these tabled documents. Here is a Government that is not working together. This is a Government where the PS has a different view from the Minister, the Chairman of the Board has a different view and the Board itself is divided in its own way.

For Kenyans to have the respect that this House deserves, it is only fair that the Committees that are going to be seized with this responsibility do very professional work on this. That does not also eliminate the possibility of the House or the Members of the House, in line with the provisions of the Standing Orders to take--- This is as far as the Chair can go. If you wish to go beyond that, it is all provided for in the Standing Orders.

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

Mr. Deputy Speaker: Order! Order! Hon. Mbadi, not on the same issue! Hon. Members, we have 15 minutes. It is only because of the sensitivity of the matter that was at hand that the Chair felt that there is a responsibility to Kenyans for this matter to be allowed more time. I would ask the Minister of State for Defence to have the first priority on the Statements tomorrow in the afternoon. In the meantime, let us transact, at least, one substantive business of the House.

. Next Order!

MOTIONS

Mr. Deputy Speaker: Hon. Members, Order No.9 is deferred

ADOPTION OF REPORT ON STUDY TOUR TO SOMALILAND

THAT, this House adopts the Report of a Parliamentary delegation on a study tour to Somaliland from 22nd to 29th December, 2009, laid on the Table of the House on Tuesday, March 2nd, 2010.

(Motion deferred)

ADOPTION OF REPORT ON APPOINTMENT OF DIRECTOR-GENERAL OF PPOA

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the appointment of the Director-General of the Public Procurement Oversight Authority laid on the Table of the House on Wednesday, 27th October, 2010.

(Prof. Kaloki on 2.11.2010)

*(Resumption of Debate interrupted
on 2.11.2010)*

Mr. Deputy Speaker: Hon. Odhiambo-Mabona, you were on the Floor and you had some minutes left.

Proceed!

Mrs. Odhiambo-Mabona: Thank you, Mr. Deputy Speaker, Sir. Before we adjourned yesterday, I had said that we have come up with a new concept as Parliament called political responsibility. Even based on what has just transpired from the Statement that we have sought from hon. Kosgey, we must unpackage the concept of political responsibility. I listed to the guidance that the Chair has given us, especially on the issues of Ministers and what the Constitution says. Ministers include Assistant Ministers.

Mr. Deputy Speaker, Sir, I will be moving at an appropriate time, an amendment to the Anti-Corruption and Economic Crimes Act, so that we can define the issue of political responsibility. In defining that political responsibility, I would want us to see the levels of responsibility. Does it only stop at the Minister or does it include an Assistant Minister who may be quiet and, at an appropriate time, chooses to raise issues of accountability? Does it include Permanent Secretaries and councils that are running rogue? So, I will be moving an amendment that we re-define what political responsibility is, and it cannot stop with one person. I want to give an example. If somebody in the Ministry of Agriculture, for instance, steals Kshs1,000 in Suba District, does the political responsibility stop with the Minister; that she or he ought to have known that somebody was stealing Kshs1,000 in Suba District?

Mr. Deputy Speaker, Sir, the other issue we will need to look at, and I will be moving an amendment, is the proximity to the suspect transaction, which is the example I have given in relation to Suba. The second is whether you had knowledge of the transaction or whether you followed the law or there was complicity or failure to exercise due diligence. I would want to emphasize that especially in relations to Assistant Ministers, if you sit mum on information on corruption and then when you think it is appropriate for you, you come and declare certain Ministers corrupt, then, you must be complicit in the corruption and should be investigated alongside your Minister.

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

Mr. Deputy Speaker: Is there any other Member who wants to contribute or should the Mover be called to reply?

(Mr. Midiwo stood up in his place)

Mr. Deputy Speaker: Hon. Midiwo, proceed!

Mr. Midiwo: Thank you Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Are you from the relevant Committee?

Mr. Midiwo: Mr. Deputy Speaker, Sir, yes, I am. Let me thank all the hon. Members who have contributed to this Motion. We said yesterday that we were setting a precedent, to create a culture of vetting people. What has transpired here this afternoon is a good example of where Parliament demands answers from the Executive, and I think it is a good beginning. I want to plead with my friend, hon. Kosgey to take it positively. We, as Parliamentarians, as hon. Odhiambo-Mabona has just said, if we want to be a good watchdog, you cannot come here today and say that Kimunya is corrupt, and the day you are discussing Kosgey, you say that he is not corrupt. I think Parliament must free itself from double standards. I think this is very important if we want to create a good and responsible culture.

To our Parliamentary Committees, just like the Finance, Planning and Trade Committee, we need to be careful about what the public thinks about our behavior. Let us not act as lynch mobs. I want to thank you for directing that the relevant committee – you keep on directing them every time – takes up the matter. The relevant committees should take up issues that are relevant to them. We cannot have particular relevant committees acting like lynch mobs because at the very end, it will come to haunt this House. I said over the weekend that every person who has committed a crime of economic nature or a crime of corruption must carry their own cross. In fact, let us act with decorum so that we do not look like tribal or organized lynch mobs because this country is watching us. I think we owe this to Kenyans and to the Executive so that we do not delve into issues when there is no good reason to do so except to try and destroy one another.

With those many remarks, I beg to move.

(Question put and agreed to)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, there being no other business to transact, the House stands adjourned until tomorrow, 4th November, 2010 at 2.30 p.m.

The House rose at 6.25 p.m.