

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 8th December, 2010

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER

The following Paper was laid on the Table:-

The Report of the Select Committee investigating the circumstances leading to the death of the late hon. Dr. Robert Ouko, EGH, MP Volumes I, II and III.

NOTICE OF MOTION

ADOPTION OF REPORT ON DEATH OF DR. ROBERT OUKO

Mr. Imanyara: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House approves the Report of the Select Committee investigating the circumstances leading to the death of the late hon. Dr. Robert Ouko, EGH, MP laid on the Table on Wednesday, 8th December, 2010.

QUESTIONS BY PRIVATE NOTICE

INVASION OF ELAND DOWN FARM BY ADMINISTRATION POLICE

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

(a) Why did the Laikipia East District Commissioner, accompanied by over 400 Administration Police officers, invade Eland Down Farm on 23rd November, 2010, burn houses and evict over 300 families in disregard of court orders issued by the High Court in Nyeri on 22nd November, 2010?

(b) Could the Minister explain the circumstances under which 18-month old-baby, Lekamario, was burnt during the illegal operation and why did police officers deny the

Kenya Red Cross and Human Rights officers, entry to the farm to assist victims with medication?

(c) Could the Minister withdraw the Administration Police Officers stationed at the disputed land in order to avoid further harassment of the people pending determination of the matter by the High Court?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, you are aware that I had replied to this Question and what was remaining was for the Clerk to check the authenticity of the court injunction.

Mr. Deputy Speaker: Fair enough! Under the circumstances, we will move on to the next Question by Private Notice. We will come back to that Question.

Mr. Letimalo: On a point of order, Mr. Deputy Speaker, Sir. I would like to bring to the attention of the Chair the fact that the court orders I presented on that day were photocopies and, therefore, did not have the seal. I now have the court orders with the---

Mr. Deputy Speaker: Order, Mr. Letimalo! The authenticity of that court order was questioned on the Floor of this House. The direction of the Chair was that the Clerk establishes the facts surrounding that. I will come back to this Question.

DELAYED SUBMISSION OF REPORTS ON PERSONS WITH DISABILITIES

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

(a) Could the Minister explain the inordinate delay in submitting Reports for Assessment of Persons with Disabilities to the National Council for Persons with Disabilities, which has not been done since June 2010?

(b) What measures has the Minister put in place to ensure that Medical Board Reports for Persons with Disabilities are forwarded to the National Council for Persons with Disabilities to enable them apply for tax exemption in accordance with the law?

Mr. Deputy Speaker: Is anyone here from the Ministry of Medical Services? Let us move on to the next Question by Mr. Outa.

CREDITING OF AROMBO PRIMARY SCHOOL ESP FUNDS TO WRONG ACCOUNT

Mr. Outa: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Could the Minister state the circumstances under which the Economic Stimulus Programme (ESP) funding to Arombo Primary School amounting to Kshs.1,126,125.00 was credited to account No.0122424364903 at National Bank Limited, Kisumu Branch and not Account No. 0124526731500 forwarded to the Ministry by the school?

(b) Could the Minister reveal the proprietor of the former account, the identity of the person (s) involved and what action(s) the Minister has taken against them?

(c) How many similar situations has the Ministry encountered, how were they resolved and what measures is the Ministry taking to ensure that there is no repeat of such a case in the future?

The Assistant Minister for Education (Prof. Olweny): Mr. Deputy Speaker, Sir, I beg the indulgence of the House to allow me to answer this Question on Thursday, next week because I received the Question yesterday in the evening. Furthermore, it requires a bit of investigation to find out what really happened to the money. If the Chair allows me, I will bring the reply to this Question on Thursday, next week.

Mr. Deputy Speaker: This is a Question by Private Notice which essentially should be answered within 48 hours; that is, two days. So, the request that you have this Question answered on Thursday, next week under the circumstances, cannot be granted. Can you answer this Question tomorrow in the afternoon?

The Assistant Minister for Education (Prof. Olweny): Mr. Deputy Speaker, Sir, I appeal once more that I be allowed to answer this Question on Tuesday, next week. This is because it involves going to the bank to find out what really happened. We need to get the person who took the money. This is because we have cases of money going to the wrong account and someone taking it. This Question involves quite a bit.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. If you look at this very important Question that touches on the possibility of loss of public funds, you will find that it is, urgent and I agree with you. However, the Assistant Minister should not insist the way he is doing. This is because the Questioner has indicated the accounts where the money should have gone. Unless the problem is that the Assistant Minister is challenged by Information Technology (IT), he should know that he can get this information and even bring the answer this afternoon.

Mr. Deputy Speaker: Hon. Minister, there is a difference between Ordinary Questions and Questions by Private Notice. Regarding Questions by Private Notice, there is an urgency involved in the process. The urgency dictates that within 48 hours, the Question should be answered. The Chair directs that this Question appears on the Order Paper tomorrow afternoon. Make sure that you have the answer tomorrow afternoon.

(Question deferred)

Whereas under normal circumstances, the Chair should dispose of Questions by Private Notice, it now takes the discretion of going to the Ordinary Questions and coming back to Questions by Private Notice. This is because the Chair still realizes that none of these Questions can be answered. We will give them a little bit more time. The Clerk's Department is establishing the facts surrounding the first Question by Private Notice.

ORAL ANSWERS TO QUESTIONS

Question No.546

SENSITIZATION PROGRAMME OF CITIZENS
ON MAJOR ROAD PROJECTS

Mr. Deputy Speaker: Hon. Chepchumba not here?

Question No.601

FUNDS SPENT ON MAINTENANCE
OF KABATI-TULIA-MBONDONI ROAD

Mr. Deputy Speaker: Hon. Nyamai also not here?

Question No.637

REHABILITATION OF NAKURU-NYAHURURU ROAD

Mr. Gaichuhie asked the Minister for Roads:-

(a) what urgent measures the Ministry is taking to improve Nakuru-Nyahururu Road(B5), which is dilapidated; and,

(b) whether he is aware that rain water draining from Menengai Hill Crater causes damage to the road due to lack of a proper drainage system and, if so, what measures the Ministry will take to improve the drainage systems along the road.

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

(a) I am aware that the Nakuru-Nyahururu Road (B5) is in need of repair and as such, my Ministry, through the Kenya National Highways Authority, has already awarded a maintenance contract and the contractor is expected to be on site in January, 2011.

(b) I am aware of the damage caused by the poor drainage system from the Menengai Hill Crater. The issue has been addressed under the scope of works under the contract awarded by the Kenya National Highways Authority.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister because of noting that the road is in a pathetic situation. I also want to ask him to assure this House that when they start the repairs, they are going to do the whole road. This is because last time, he told me that they were going to do the repairs, they only did a section of the road and left the worst part. I want him to tell this House how much he has allocated and if they are going to do the whole road to Nyahururu.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I, indeed, want to confirm to the hon. Member that the scope of the works includes the following:

1. Improvement of the drainage system.
2. Grading of the road shoulders.
3. Base repairs as instructed.
4. Pothole repairs with asphalt concrete Type I.

Mr. Deputy Speaker, Sir, the contract will cover the 62 kilometre stretch and the contract was awarded on 18th November, 2010. The contract sum is Kshs36,897,525. The contract was awarded to Raflo Services Limited. The term of the contract is six months.

Mr. Kabogo: Mr. Deputy Speaker, Sir, could the Assistant Minister enlighten the House how it is possible that they can do a road and not repair drainage? A good example

is the Kamiti-Ruiru Road which was done by S. Mehta and there is no drainage at all. How can the Ministry do roads and not drainage?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, everytime my Ministry prepares contracts, it includes the road itself and also the drainage. This is partly because without proper drainage, the road will not be in its proper state for long. However, sometimes due to constraints of funds, we are not able to do the works as required. In this case, as also in the case of Juja, we have been able to set aside funds to ensure that the drainage is maintained. Also, I wish to note that once we establish the drainage, it is the responsibility of municipal councils, when the road goes through the municipal areas or county council areas, to ensure that the drainage is maintained in a suitable state.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, realizing the importance of this road and Subukia being a very economically viable zone, could the Assistant Minister consider making a budgetary allocation during the 2011/2012 Financial Year, so that the whole road can be re-tarmacked from Nyahururu to Nakuru, so that we do not have to keep on maintaining it year in, year out?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, indeed, I want to agree with the hon. Member that last year, we were also able to spend more or less the same amount that we have spent in this particular contract. It is becoming increasingly expensive to do these short repairs. I want to assure the hon. Member that we will be able to consider this road for re-carpeting in the next financial year.

Question No.402

NON-PAYMENT FOR SERVICES DELIVERED TO
MAKUENI DC BY M/S MATE ENTERPRISES

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

(a) whether he is aware that M/s Mate Enterprises Ltd of P.O. Box 162, Wote, Makueni, have not been paid by the Makueni District Commissioner, Kshs162,510 for the supply of tyres and tubes to G.K Motor vehicles GK A303C, GK A464H and GK A663H vide LPO 0068051 dated 15th June 2006; and,

(b) what the reason for non-payment is and when will the long outstanding claim be settled.

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

(a) I am aware that Mate Enterprises Ltd of P.O. Box 162, Wote, has not been paid Kshs162,510 being the money payable to the firm for the supply of tyres and tubes to the District Commissioner, Makueni, in June, 2006.

(b) The reason for non-payment is that on 31st May, 2006, the Ministry of State for Special Programmes issued an AIE for Kshs1,575,125 to the District Commissioner (DC), Makueni, to facilitate transportation of relief food to affected persons. However, this AIE was not funded. Against this AIE, the DC make several commitments and issued Local Purchase Orders (LPOs) to several merchants, including an LPO for Kshs162,510 issued to M/s Mate Enterprises to supply items that were necessary in facilitating the

distribution of relief food. By the closure of the financial year 2005/2006, no funds had been provided for payment to the merchants. This payment was not made in subsequent financial years as expected and has, therefore, remained unpaid. I wish to plead for a little more time to personally make a follow up on this matter with the relevant Ministry to ensure that it is resolved once and for all.

Mr. Kiilu: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister confirm that in the financial year 2005/2006 his office in Makueni issued LPOs to Mr. Mate and other traders in that area and to date, the Ministry has not made an effort to pay those traders. Is it not the role of the Government to safeguard the interest of the small traders? In this case, I would like the Minister to put himself in the case where Mr. Mate goes to the DC, Wote, writes a letter and gets his goods and services using a letter and an undertaking that he was going to pay. What would the Assistant Minister do to Mr. Mate if to date, he has not been paid his dues?

Mr. Lesrima: Mr. Deputy Speaker, Sir, I agree that this was not really proper. The Ministry of State for Special Programmes had just been established and the Accounting Officer was the Minister of State for Provincial Administration and Internal Security. When they should have paid this debt, they did not do it. I have just found out last night that, indeed, it should have been the Ministry of State for Provincial Administration and Internal Security to pay and not the Ministry of State for Special Programmes. I am making arrangements by either today or tomorrow to issue a cheque to M/s Mate Enterprises.

Mr. Deputy Speaker: Fair enough! Hon. Kiilu, I hope you are satisfied.

Mr. Kiilu: Mr. Deputy Speaker, Sir, while the Assistant Minister is saying so, could he also confirm that he is also going to pay other traders who were given LPOs and other documents by the DC, Makueni, under false pretence that the Government was in a position to pay for services that were rendered?

Mr. Lesrima: Mr. Deputy Speaker, Sir, I have an undertaking in writing from the Permanent Secretary, the Ministry of State for Provincial Administration and Internal Security, that all those traders will be paid.

Mr. Deputy Speaker: Fair enough! Next Question by the Member for Cherangany!

Question No.521

POSTING OF CIVIL SERVANTS TO TRANS NZOIA EAST DISTRICT

Mr. Deputy Speaker: Mr. Kuttuny approached the Chair and said that he has a court case. Under the circumstances, I think the Chair will have to defer this Question to a time when he will be available in the House.

Let us move on to the next Question by Mr. Chachu!

(Question deferred)

Question No.597

DELAYED FILLING OF PROVINCIAL ADMINISTRATION VACANCIES

IN MARSABIT NORTH/NORTH HERR DISTRICTS

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

(a) whether he was aware that there are fifteen vacancies of Chiefs and Assistant Chiefs which have not been filled for so long, in Marsabit North (Chalbi) and North-Horr districts, with Galasa Location having been vacant since December 2005; and,

(b) what steps he is taking to ensure all the vacancies are filled?

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

(a) I am aware that there are 13 vacant administrative units in Marsabit North (Chalbi) and North Horr districts and not 15 as the hon. Member has stated. There are five vacancies for chiefs and eight for assistant chiefs. Six of the vacancies have not been filled because they are effectively new administrative units, having been created in July, this year. The other six have been advertised but postponed twice due to the fact that a good number of potential candidates did not meet the minimum qualifications for shortlisting. Applications are now being received and interviews will be held soon. It is true that Galasa Location fell vacant in December 2005 following the retirement of the then chief, Mr. Guyo Huka Isako. I have noted that there was undue delay in advertising for this position and I will take action against the concerned officers. Galasa Location has now been re-advertised vide our September, 2010 advertisement and interviews will be conducted early next month.

(b) The vacancies have been advertised and will be filled once the selection and the recruitment process is completed.

Mr. Chachu: Mr. Deputy Speaker, Sir, I appreciate the Assistant Minister's response to this Question. Here is a situation where some locations have been staying without a chief and assistant chief for over two years without any presence of the Central Government in those areas. If the interviews will not be done by January, what action will he take? This is because some locations, particularly Galasa have stayed without a chief for over five years. I want the Assistant Minister to give an assurance that these interviews will be done. This is because they have been planned and postponed, not once but more than three times in some of those areas. This has gone on for the last five years.

Mr. Lesrima: Mr. Deputy Speaker, Sir, I have given an assurance. Indeed, I admitted that there was undue delay in appointing the chief for Galasa Location for various reasons. The hon. Member is aware that a number of candidates applied to be considered but they did not meet the qualifications. Some of them were not suitable as per the requirements in terms of competence and character. Again, there has been a series of transfers of district commissioners and review of the administrative units in that area. However, we have now advertised these positions and in less than one month, we should have them filled.

Dr. Kones: Mr. Deputy Speaker, Sir, the Assistant Minister has said that he has already advertised some positions. He has also stated that one of the reasons for postponement is due to some reorganization which is happening in the Ministry. Does he contemplate that probably due to the reorganization, some of these positions will be scrapped?

Mr. Lesrima: No, Mr. Deputy Speaker, Sir. Originally, we were generous in terms of the number of divisions and locations--- We have worked out a criterion because of the financial implications of creating too many divisions and locations. We are trying to conform with the requirements by the Directorate of Personnel Management (DPM) because of financial implications. In every district we have, at least, four divisions and in every division, we have three locations or four locations. That is what I meant when I talked about reorganization from this criterion.

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, the Assistant Minister has told the House that one of the reasons they are unable to recruit those chiefs is that they do not get qualified persons applying for the same. Given that the education results in those areas are usually poor, could he consider lowering the marks for the candidates? Secondly, could he assure the candidates who are qualified that they will not get maltreatment that has been meted on members of the Provincial Administration in arid areas when the Government holds operations in those areas?

Mr. Lesrima: Mr. Deputy Speaker, Sir, with regard to Marsabit, the people there are fairly educated. I am talking about the applicants. We try as much as possible to conform to the scheme of service that requires that we have chiefs who have studied up to Form IV with a mean grade of C+ or diploma where possible. In areas where it is very difficult, we have appointed people with lower qualifications but with adequate experience in public service, NGO world and religious organizations. We always get, at least, somebody from the community who fits in that category. Although we want to encourage better qualification for chiefs in areas where it is difficult to get, we take the best that we can get.

Mr. Chanzu: Mr. Deputy Speaker, Sir, this issue is not unique to North Horr alone. For example, in Vihiga, for more than seven years, there has been no assistant chief in Ekumba and Chiango sub-locations. What assurance can the Assistant Minister give this House that they can cut on the red tape? I think the main problem is red tape because you will find files in the Provincial Commissioner's office and he is with the President whenever he visits the province and so, he is unable to attend to this matter. Could the Assistant Minister cut the red tape or creating a unit in the Office of the President which can deal specifically with these matters conclusively?

Mr. Lesrima: Mr. Deputy Speaker, Sir, the selection of chiefs requires very careful attention and as you know, we advertise at the district level. They are interviewed at the district level and names of three candidates are forwarded to the PC, who after vetting them, forwards them to the Permanent Secretary. There is a unit that looks into this and many factors are checked, including re-checking their qualifications and that is the cause of delay. However, I must admit that because of the volume of work and creation of very many districts – we now have 295 districts – you will agree with me that there is a lot of work in selecting these chiefs. However, I agree that we need to improve on efficiency so that we speed up the selection process.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that it is the number of districts, over 260, that causes the delay and yet they are the ones who created them? He is blaming their inefficiency to the number of districts. Is he in order to do that?

Mr. Deputy Speaker: The districts are there and all that the Assistant Minister has said is that the districts are many and it takes a little longer.

(Mr. Kabogo stood up in his place)

Order! Mr. Chachu, ask the last supplementary question on the same!

Mr. Chachu: Mr. Deputy Speaker, Sir, I have looked at the list of the vacant locations and sub-locations that the Assistant Minister has provided. According to the information that I have which was sent by the PC, Eastern Province---

(Loud consultations hon. Members consulted loudly)

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

Mr. Chachu: Mr. Deputy Speaker, Sir, I am looking at the vacant locations and sub-locations in Marsabit North and North Horr districts that the Assistant Minister has provided. This information is not accurate according to the report that I have from the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security as well as the PC, Eastern Province. Could the Assistant Minister give me an opportunity so that I can sit with him and make sure that what he has is accurate in comparison to what I have been given by the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security as well the PC, Eastern Province?

Mr. Lesrima: Mr. Deputy Speaker, Sir, indeed, I agree with the Member since I got the same answer from the Permanent Secretary. We need to get together with him to confirm the correct position with regard to the numbers.

Question No.554

DELAYED COMPENSATION TO PROPRIETORS OF
PERFECT FARMS LIMITED

Mr. Kabogo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Forestry and Wildlife:-

(a) why Ms Emmaculate Wanjiku Kariuki and Mr. Wilson Kariuki Gathuthi, the proprietors of Perfect Farms Limited, have not been paid the Kshs.964,550 due to them for the destruction caused on their farm by hippos despite an official Damage Assessment Report having been prepared by the Government; and,

(b) when the Ministry will compensate them.

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

(a) As per the current Wildlife Conservation and Management Act Cap.376, the only compensation the Government pays is for human injuries or deaths caused by wildlife. Section 62 of the same Act revoked compensation in respect of any damages to property by wildlife; hence, as the law currently stands, the only legal compensation as per the Act is in respect of human injury or death occasioned by wildlife.

(b) My Ministry is, therefore, not in a position to compensate the Perfect Farms Limited for the loss as a result of destruction by hippos. In addition, there are no records under the custody of my Ministry in respect of this specific case as well as any related

official damage assessment report having been prepared by my Ministry on the same. My Ministry is, however, very concerned about the diverse losses as a result of wildlife destruction and has initiated a comprehensive review of Cap.376 - Wildlife Conservation and Management Act of 1989, with a view to exploring sustainable options available for compensation, including compensation for crop, property and loss of livestock.

Mr. Kabogo: Mr. Deputy Speaker, Sir, this matter of human/wildlife conflict comes to this House every other day. It is so ridiculous to hear the Assistant Minister say one can only be compensated for human injury or death. It is like the Government is wishing the people who suffer from human/wildlife conflict death, so that they are compensated. He further says they are in the process of amending the law. In the past, we have had cases where coffee farmers in Central Kenya and other places have been compensated for loss of crop. Could the Government consider compensating people who have lost money? These people are just like dead. They have nothing and their farm is about to be sold.

Mr. Nanok: Mr. Deputy Speaker, Sir, the law is the law. We do not want to be in breach of it. As it stands now, there is no compensation for destruction of crops. However, we had noted this about two years ago and together with the stakeholders in the wildlife sector, we reviewed and proposed a Bill to be presented to this House. A couple of times, I have promised to bring the Bill here. However, it happened that after the promulgation of the new Constitution, we had to relook at the proposed Bills, so that when they come here, they are all in line with the new Constitution. As our experts and the stakeholders are looking into this Bill, I believe in a couple of months, we will table a new Bill before this House. One of the issues that we have put into consideration is the compensation for destruction of crops.

Mr. Imanyara: Mr. Deputy Speaker, Sir, it is unfortunate that this couple must wait for a Bill to be presented in this House whereas we know that there has been a policy of Government making *ex-gratia* payments in extreme cases such as this. Could the Assistant Minister consider, pending the introduction of the Bill, making this payment on the basis of this amount which was assessed by the Government purely on the basis of humanitarian concerns as *ex-gratia* payment, as he has done in several other cases in the past?

Mr. Nanok: Mr. Deputy Speaker, Sir, this matter was brought to the House earlier in a different Question. As I said, unless we amend the existing Act---

Mr. Deputy Speaker: Order, Mr. Assistant Minister! The Member has questioned *ex-gratia*; the money that essentially is given as gratuities by the Government on such deserving cases and not on the issue of the law.

Mr. Nanok: Mr. Deputy Speaker, Sir, I will discuss with the relevant Ministries and see the possibility of us relooking into this matter.

Mr. Letimalo: Mr. Deputy Speaker, Sir, we have had numerous cases of people either killed or injured by wildlife or property destroyed and compensation hardly comes or is given very late. Could the Assistant Minister consider giving periodical reports for the people who have been compensated, so that their relatives will know rather than waiting for Questions to be raised in Parliament?

Mr. Nanok: Mr. Deputy Speaker, Sir, indeed, that is a matter that we can look into.

Mr. Kabogo: Mr. Deputy Speaker, Sir, the Assistant Minister says in their possession, they do not have a report from any Government department on the damage assessment. I have a report from the Ministry of Agriculture which I would like to table, showing the extent of the damages. I also have a letter from the Agricultural Finance Corporation (AFC). Now that he has given an undertaking to look into the matter of *ex-gratia* compensation, could he give a timeframe when that will be done? It is evident these people will lose their farm due to a loan they took from a Government body. Could the Government consider waiving this loan from the AFC?

(Mr. Kabogo laid the documents on the Table)

Mr. Nanok: Mr. Deputy Speaker, Sir, although I have not looked at the documents that have been laid, indeed, they have not come from my Ministry nor any department under Ministry. When I said that we did not have this information, indeed, I was giving a fact. Now that documents have been tabled, we will look at it, discuss with the Ministries responsible and see what advice they can give us. Then I will discuss the issue with the Member who has raised this Question accordingly.

Question No.640

AMOUNT OF DEVELOPMENT FUNDS ALLOCATED TO NORTHERN KENYA

Mr. Sirat asked the Minister for Development of Northern Kenya and other Arid Lands:-

(a) whether he could state how much funds the Ministry has received since its inception;

(b) whether he could provide a list of all projects undertaken in Wajir South, Wajir East, Wajir North and Wajir West, respectively, from 2008 to date; and,

(c) whether he could also state the Budget allocation for the sewerage project in Wajir East and appraise the House on its implementation framework and status.

The Assistant Minister for Development of Northern Kenya and Other Arid Lands (Mr. I.E. Mohamed): Mr. Deputy Speaker, Sir, I wish to seek the indulgence of the House, so that I answer this Question properly tomorrow afternoon. I have consulted the Member and he is agreeable. I need to give him all the documents in advance.

Mr. Deputy Speaker: Hon. Sirat, are you comfortable with tomorrow afternoon?

Mr. Sirat: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Fair enough! It is so directed!

(Question deferred)

Question No.644

OPERATIONALIZATION OF NDII/RUKANGA ANIMAL HOLDING RINGS

Mr. Mwazo asked the Minister for Livestock Development:-

(a) why the animal rings built in Ndi and Rukanga in 2007 are not operational; and,

(b) whether he could indicate what measures are being taken to operationalize them and to also rehabilitate Rukanga Holding Ring, which is in deplorable condition owing to poor workmanship.

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

(a) The animal ring in Ndi was completed in 2007, but is not operational because of a land dispute over the site where it is constructed between the Taita Taveta County Council and a local resident by the name of Mrs. Grace Hejimwa, who claims the ring was built on her land. The individual has moved to court and obtained a court order barring the council from using the facility. The case is still pending, awaiting determination.

On the other hand, Rukanga Market stopped operating due to low business activities. Further, the buyers were not coming to the market due to alleged insecurity in the area. It is also noted that livestock transactions in the region are mainly done at farm gate level and usually under the control of intermediaries.

(b) Rukanga and Ndi rings were built jointly by the County Council of Taveta, the Agriculture Sector Support Programme and Decentralised Agriculture Support Service, and hence the Ministry of Livestock Development was not directly involved in their construction. However, the Ministry, in conjunction with the County Council of Taveta, is taking the following measures to operationalise the markets:-

(i) the County Council of Taveta has set aside funds to improve the market by providing water and erecting a perimeter fence around each market;

(ii) the Ministry of Livestock Development and the Ministry of Local Government are intensifying sensitization of livestock keepers and traders on the merit of using the market rather than relying on the exploitative middlemen at the farm gate level; and,

(iii) issues of security concerns that scare away livestock buyers and sellers from the market are being addressed through regular patrols by security agents in consultation with the Provincial Administration.

Thank you.

Mr. Mwazo: Mr. Deputy Speaker, Sir, could the Assistant Minister indicate whether the locals were involved in identifying the opportunities of having the animal rings? Was there any feasibility study that was carried out? If the answer is in the affirmative, why are the animal rings in use, whereas makeshift rings in Maungu and Ikanga in Voi are also in use?

Mr. Duale: Mr. Deputy Speaker, Sir, consultation was done with all the stakeholders in the area. Taita Taveta County Council, in conjunction with the project programmes that I mentioned earlier, have come to the conclusion that the land belongs to the County Council of Taveta. It was not until when this project was completed and put to use in the year 2009 that Mrs. Grace and two other persons came out and disputed the ownership of the land which led to the whole matter being taken to court. So, consultations were done before implementation of the project took place.

Mr. Mwazo: Mr. Deputy Speaker, Sir, the Assistant Minister has said that Rukanga animal ring stopped operating because of low business. This ring has never operated. It has not operated even for a day. From the time it was completed, it has not operated because the locals do not need the animal ring in that place.

Mr. Duale: Mr. Deputy Speaker, Sir, the role of the Ministry of Livestock Development and the Ministry of Local Government, represented by Taita Taveta County Council, like any other Government Ministry, is to create the necessary environment and infrastructure for business in the private sector to thrive. We did that. We built the market. It is up to livestock traders to go to the market and transact business. The Government's role is to regulate the sector, provide enabling environment and create the necessary infrastructure.

Mr. Deputy Speaker: Final question, hon. Mwazo!

Mr. Mwazo: Mr. Deputy Speaker, Sir, the Assistant Minister has said that they are going to sensitize and make efforts to market the animal rings. How much money has been allocated for that purpose in the current financial year?

Mr. Duale: Mr. Deputy Speaker, Sir, sensitization means that even the area Member of Parliament will be involved. There is no budgetary allocation for that purpose. "Sensitization" means talking to the people. Our officers on the ground will talk to traders and the local Chamber of Commerce and Industry, the area Member of Parliament and the grassroots leaders. It is a combined role to make sure that the infrastructure we have created as Government is used to the fullest.

(Loud consultations)

Mr. Deputy Speaker: Order! Order, hon. Members! You cannot turn this House into a marketplace!

Next Question, hon. Chanzu!

Question No.582

CAUSE OF DELAYS ON KENYA AIRWAYS FLIGHTS

Mr. Chanzu asked the Minister for Transport:-

(a) what the causes of the many delays on most of the Kenya Airways flights, both locally and internationally are;

(b) what caused the delay of Flight No. KQ 311 from Dubai International Airport to Jomo Kenyatta International Airport on Friday, 5th November, 2010; and,

(c) whether the airline is competitive enough to sustain competition by other international airlines.

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

(a) There are several causes of delays, which are not unique to Kenya Airways. Kenya Airways operates as a hub and spoke carrier via Jomo Kenyatta International Airport (JKIA) as its hub to its 51 destinations worldwide. Some of the causes of delays include immigration delays out of some of the European destinations and sometimes in

Nairobi, which causes diversions; equipment failure in some of the airports; strikes by air traffic controllers, like those which occurred recently in some of the European states; force in the use of longer routes and technical faults affecting aircraft, among others.

In view of the fact that some aircraft are used to service operations in other routes, any delay in a sector will have an equal effect on operations in other sectors.

(b) The delay of Flight KQ311 from Dubai International Airport on Friday, 5th November, 2010 was caused by the late arrival of the aircraft in Nairobi from Bangkok the previous day, again, due to failure of air systems at the international airport at Bangkok, affecting all airlines.

(c) Kenya Airways' half-year financial results for the period 2010/2011 indicate that the airline is competing favourably with its competitors in terms of its operating margins. This is an indication of its robust business models that continue to give it a competitive leverage in the global market.

As hon. Members may be aware, Kenya Airways became a full member of the Sky Team Alliance in September, 2010. This makes it the only member of the Sky Team Alliance in Africa, which gives it an opportunity to connect its passengers to Sky Team's global networks of over 13,000 daily flights covering 898 destinations in 169 countries.

Mr. Deputy Speaker, Sir, some of the challenges that the airline has been facing have been infrastructure constraints at JKIA, transfer of passengers, handling of baggage and positioning of aircraft from remote parking bays to air bridges and gates of all passengers as well as refuelling. However, the congestion is being addressed through the ongoing development at Terminal 4. The problems currently being faced will come to an end once the project is completed.

Thank you.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I want to thank the Minister for the comprehensive answer he has given to this Question.

However, for part (a) of the Question, I expected him to address the internal problems first. He has just generalised the answer and linked Kenya Airways to other airlines and what is happening in other parts of the world. Could he tell this House what he is doing to ensure that the internal operations of the management, and so on, are properly addressed? The issue of personnel morale, attitude and what we have seen happening should be addressed. I think everybody witnesses. He should address these specific issues before generalising the answer in the manner he has done; Kenya Airways being the pride of this country.

Mr. Kimunya: Mr. Deputy Speaker, Sir, I am not aware of any internal problems at Kenya Airways which are affecting the flights in terms of delays and general operations of the airline. In fact, I have been closely monitoring the issue of management, staff and the Board, and the relationships amongst them, and I can say that it is as cordial as they can be. We do not have problems similar to those affecting all the other airlines in terms of labour relations. All the threats to strikes have been averted because of the way the management has handled them.

I can say that, it is always a pleasure to fly Kenya Airways when you look at the wide smiles that you get from the cabin crew and the attention to detail that is given by the staff of Kenya Airways. Those are some of the remarks you get, not just from Kenyans, but from all the passengers travelling on a global basis. That is why it is an airline of choice. That is why it is overbooked. Everybody travels with Kenya Airways.

Mr. Wambugu: On a point of order Mr. Deputy Speaker, Sir. Sometime early this year, the Minister for Transport indicated to this House that Kenya Airways is no longer a Kenyan company because of the shareholding in that company. He also said that with the shareholding, the KQ is no longer enjoying the status of the designated official airline carrier and that is why we most likely could be having problems in that company. What is the Minister doing to designate another local carrier to be the official carrier of this country because we cannot be able to stay as a country without an official airline carrier for this place?

Mr. Kimunya: Mr. Deputy Speaker, Sir, the KQ is still the national flag bearer and the national airline of this country. It is not just for this country, it is the pride of Africa with 42 destinations in Africa and 21 destinations globally. So, no other airline commands that connectivity; 42 destinations within Africa including the latest, last week in Mozambique.

In terms of the shareholding, the Kenya Government owns 22 percent, the staff of Kenya airways, 4 percent, Kenyans and other investors through the stock exchange own another 51 percent. The only external block of shares is owned by KLM through their partnership; actually 6 percent. So, for all intents and purposes, KQ is still a very Kenyan owned and the most profitable airline in Africa. We should all be proud of that and be supporting it and saying; yes, we are proud to own this airline as the Pride of Africa, that is connecting Africa. That does not preclude other airlines also being designated as national carriers and for that, we also have been promoting several other emerging airlines like Jetlink. We have given them access to destinations in Mwanza, Eritrea, within the region to complement what is being done by Kenyan Airways. It is a symbiotic relationship because we recognize that Kenya airways is part of the global network; it is interconnected, it has what routes it prefers or what makes most economic sense to it. There are other airlines that are also coming and they are all interlinking one another at the domestic level, at the international level and at the regional level.

I have never said here that KQ is not owned by Kenyans. I want to correct that. The KQ is still the national flag bear, it bears our national colours, no other airline bears that and we are proud to be associated with it.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. We should not let the Minister get away with his claim that the staff of KQ are very contented and motivated when we know for a fact that the whole of last year, the Secretary General of COTU, Mr. Atwoli, was in and out of the airport when workers were planning to strike. I want to agree with him that Mr. Titus Naikuni has done very well by way of expanding the airline, but what is he doing about the welfare of the workers? They are underpaid, they are overworked and they have poor medical cover? This is why they continue threatening to go on strike. This, obviously, contributes by way of go slow by the workers. What is he doing to improve the welfare of the workers?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I do not know where hon. Khalwale is getting his facts from, but I can tell you for a fact that the staff of the KQ are some of the best remunerated. The airline industry has its own standards, they have their own terms and the reason that they have not---

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Could the Minister substantiate the fact that the KQ staff are very well remunerated by tabling the actual earnings of these people?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I should have been asking the hon. Khalwale to substantiate his claim that they are poorly remunerated because I am confirming to this House that they have---

Mr. Deputy Speaker: Order, hon. Minister! You have made a categorical statement. You should be able to prove your statement if it is demanded by any Member of the House.

Mr. Kimunya: Mr. Deputy Speaker, Sir, I am happy to table the collective bargaining agreement (CBA) that was signed by KQ and the union to the satisfaction of both parties. They negotiated and they were both happy and it is in the public domain. If it is required, I will table it in the House but it is public information and it is in the public domain.

Mr. Deputy Speaker: When?

Mr. Kimunya: At the earliest opportunity, once I get it, I will table it. It is available; it is a negotiated document---

Mr. Deputy Speaker: Order, hon. Minister! Hon. Minister, you cannot say once I get it. You should have it; give a definite date to the House when you are going to table it.

Mr. Kimunya: Mr. Deputy Speaker, Sir, I will be happy to table it on Tuesday next week or earlier. I want to confirm to this House that the morale is at its highest, there are no issues with KQ. If you are travelling to Mombasa, you actually have a dedicated two aircraft flying to Mombasa--- Can I give this House the information they need so that---

Mr. Deputy Speaker: Hon. Bahari, could you hang on for a moment when the hon. Minister gives this information? He is dying to give it.

Proceed!

Mr. Kimunya: I am giving this information, knowing that we are getting into the holiday season and people may be misled to imagine that there is no connectivity. You have got two planes which have been dedicated specifically to connect Kenyans wanting to get to Mombasa on an hourly basis. You have a flight getting into Mombasa and out of Mombasa so that Kenyans can get their connectivity and enjoy their holiday season. That is the same thing that is happening on a global basis to connect the other 42 destinations in Africa.

Mr. Bahari: On a point of order, Mr. Deputy Speaker, Sir. The airline industry is very sensitive. I have had the privilege of being in that boardroom and the Minister has to be very careful because when he says that they are among the best paid in the world, then CBA alone is not sufficient to explain that. Would I be in order to ask the Minister to produce comparative figures so that we can be able to compare it against his statement? I want to emphasize that I had the opportunity to be the chief negotiator with the pilots at Kenya Airways when I was the Chief Industrial Relations Officer of that company.

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

Mr. Deputy Speaker: Are you sure you do not want the hon. Minister to respond to that point of order first?

Proceed!

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Because of the sensitivity of this matter, I would like the Chair, now that the Minister has admitted that

he will table the CBA, to urge him to be specific and come up with the figures of how the other members of the sky team pay their staff.

Mr. Deputy Speaker: Is that any different from the point of order raised by Mr. Bahari?

Proceed, Mr. Minister!

Hon. Members: No!

Mr. Kimunya: Mr. Deputy Speaker, Sir, it is important that hon. Members appreciate that you cannot compare apples and oranges and expect the same results. Different airlines operate in different environments. The salaries in Europe are totally different from the salaries in Kenya. The Kenyan staff have entered into a collective bargaining agreement that takes into account all the circumstances. The pilots in Kenya are trained by Kenya Airways and those in Europe are recruited and not necessarily trained by the airlines. That is the same with the staff.

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. We are talking about standards. He cannot talk about international standards and yet he localizes the issue. Is he in order to do that?

Mr. Deputy Speaker: Mr. Minister, the Chair takes cognizance of the fact that you had said that this is the only airline in Africa that is a member of the sky team. That essentially compares Kenya Airlines with other international best careers.

Mr. Kimunya: Mr. Deputy Speaker, Sir, you became a member of the sky team because of the appreciation of your quality and not necessarily because of how much you pay. It is important that we appreciate the factor that Kenya Airways has been admitted into the sky team because of the quality of services and because it has the joint ownership of 26 per cent through the KLM which is part of that sky team.

Mr. Bahari: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Kimunya: I do not need it, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: The Minister does not need to be informed.

Mr. Kimunya: Mr. Deputy Speaker, Sir, I am very well informed on what happens in my Ministry. I do not require that supplementary information.

Mr. Deputy Speaker: Mr. Chanzu, ask the last supplementary question on the same!

Mr. Chanzu: Mr. Deputy Speaker, Sir, once more, I want to say that it is good that we have a Minister in the name of Amos Kimunya as the Minister for Transport. I would like him to take cognizance of the fact that staying in the Ivory Tower is one of the causes of the problems that we have in this organization. I would like the Minister to note that on part "b" of the Question, there was no information. The flight from Bangkok to Kenya takes a long time and there was enough time to communicate that the flight would delay but there was no communication. Finally, could he give us an indication on how long the changes in the infrastructure will take?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I believe that hon. Members who have travelled through the airport have seen that the works have already commenced. This is the construction of a new unit just next to the Unit 1.

Unless there is delay because of weather or other factors, that is expected to be completed by the end of next year. After that, we will start to upgrade Unit 1, 2 and 3 by raising one level each. There is a lot of other works that I will be happy to come and share comprehensively through a Statement in this House. However, I have shared with the

Departmental Committee on the other works and I hope that they will visit the airport and make their own report about what is happening there.

Mr. Deputy Speaker, Sir, as I conclude, I would like to say that at times, the delays are caused by communication problems among the passengers. However, you will not communicate that the airline would definitely depart at this time until you have had communication from the other side. Part of the frustration we have been having is like when there is a failure of airport systems at Bangkok. You will not know when that aircraft will take off and then communicate with the other people in this country to know when they can expect the connectivity to take. This is a sensitive industry and it works well. I believe that what we need right now is to support our airlines. I appeal to this House, because we travel a lot, that perhaps we should give Kenya Airways the first priority, if we want to increase the level of employment and support our own. Let us do it by voting with our feet and say that all Members of Parliament travel using Kenya Airways. That is the seal of approval that we will look for as we look for more tourists to travel using that airline.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I am sorry to insist but the issue of staff is not a joke---

(Loud consultations)

Mr. Deputy Speaker: Order hon. Members! Order, Mr. Ethuro!
Proceed, Dr. Khalwale!

Dr. Khalwale: Mr. Deputy Speaker, Sir, the issue of staff remuneration is not a light matter. It is very sensitive because if we do not compel the Minister to bring the comparative figures, then this House will not understand the following: That the aircraft flown by Kenya Airways and KLM are the same, the environment where they fly in the skies is the same, the airports in Europe and Kenya where they land are the same and yet the managers of KLM who work in Kenya get five to ten times better pay than our managers who work in Europe. We must compel him to bring these figures.

Mr. Kimunya: Mr. Deputy Speaker, Sir, when I mentioned about not comparing apples with oranges--- Let me bring an example that touches on the Members of Parliament. Are the Members of Parliament of Kenya's salaries at par with those of their counterparts in Europe? I will be happy to table the CBA that has been negotiated but do not want to compare what a manager is paid in Europe vis-à-vis what a manager is paid in Kenya. That is exactly on the same basis of what a Kenyan MP earns vis-à-vis an MP in Uganda or in Europe.

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

Mr. Deputy Speaker: Order, Mr. Chanzu! Mr. Minister, you are making a very serious statement effectively if proven, outright can easily land you in trouble. Are you sure that Members of Parliament in Europe do earn much more than the Members of Parliament in Kenya?

Mr. Kimunya: Mr. Deputy Speaker, Sir, Members of Parliament in Kenya earn much more than Members of Parliament in Europe.

Mr. Deputy Speaker: Order! The Questioner asked you about the manager of KLM in Europe and their counterpart in Kenya and the differential in the payment. Could you answer that question?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I am trying to get away from the rim of having to talk about private companies and how they pay one another. The information that is in my control is the collective bargaining agreement that has publicly been negotiated between the Kenyan workers and what they have signed for as being happy with. I do not want to start getting the collective bargaining agreements of KLM in Europe and their managers because that information is not available to Kenyans. However, we have institutional structures in place to ensure that people who work for Kenya Airways have a negotiating mechanism and are happy to work for the airline and are highly motivated. Those employees will continue to work for the airline as the first employer of choice. That is the assurance. That is what we are working towards getting.

In terms of comparing what a manager is paid in KLM and what a manager in Kenya Airways is paid does not help us in any decision-making in this House. I would like the hon. Members to appreciate that and we move forward in terms of what we can do to help Kenya Airways to become the airline of choice for every world traveler. That should be our responsibility. We should let the union negotiate for better pay and conditions of service for the union members.

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. The point of order that was raised by Dr. Khalwale was about the environment under which these people work. They fly from this country to Europe and vice-versa but the Minister has given an example of the Parliament in this country and the parliament in Europe. The Members of Parliament in this country do not work in Europe, they work in Kenya and the Members of Parliament in Europe work in Europe. Is he in order to make that kind of comparison?

Mr. Deputy Speaker: Let us move on to the next Question by Mr. Washiali!

Question No.587

NUMEROUS CHARGES ON *BODA BODA*
OPERATORS IN MUMIAS

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

(a) Whether he could explain why “*Boda Boda*” operators in Mumias Constituency are subjected to numerous charges by the County Council;

(b) what the Ministry’s policy is on the charges; and,

(c) how the funds are spent, given the bad state of the roads within the council?

Mr. Deputy Speaker, Sir, I have not received the written reply to this Question.

Mr. Deputy Speaker: Order! Do you still wish to proceed with the Question or you wish to have a written answer before you do so.

Mr. Washiali: Mr. Deputy Speaker, Sir, I would not mind proceeding.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Deputy Speaker, Sir, before I reply, I would like to apologize for not giving the hon. Member the written reply earlier. Now that he has a copy of it, I hope he accepts my apology.

I beg to reply.

(a) *Boda Boda* operators in Mumias Constituency are not subjected by the County Council of Butere/Mumias. The Council has formulated the motorbike *Boda Boda* by-laws 2010, in order to control the activities of *Boda Boda* operators within the Council's areas of jurisdiction as empowered by Section 201 of the Local Government Act, Cap 265. The Council levies Kshs50 per week for a *Boda Boda* operator, which translates to about Kshs7 per day.

(b) The policy of the Ministry is that Councils should regulate and control business activities in their areas of jurisdiction and they are allowed to impose fees and charges as provided for under Section 148 of the Local Government Act, Cap.265. Each Council should strive to be self sustaining and be able to fund its development activities and offer services.

(c) Since the Council started levying the charges on the *Boda Boda* Operators in March, 2010, so far, it has collected Kshs117,925. I would like to say that despite this, the Council has made an effort and put together funds from other sources to grade the following roads during the 2008/2009 and 2009/2010 financial years: Emuhalari-Zambezi River crossing, which is about 4.5 kilometres at a cost of Kshs2.9 million, Munanga-Eluche River crossing road, which is about 15,400 metres at a cost of Kshs2.8 million and Mululu-Mukhinaru-Chekalame Road at a cost of Kshs850,000. Also the construction of Eshirima River crossing, at a cost of Kshs2.4 million. I just want to add that the funds that are collected by local authorities are also used to help them in their other operations.

Mr. Washiali: Mr. Deputy Speaker, Sir, I would like to inform the Minister that Mumias Constituency is surrounded by several County Councils starting with Siaya, Busia, Bungoma, Kakemga, Butere and also Mumias Municipality. From the answer, the Minister may not have proper information from the ground. All these local county councils and municipal councils charge *Boda Boda* riders when they cross their boundaries. A *Boda Boda* operator carrying a passenger to Siaya County Council is forced to pay levies. Why does the Minister not come up with a harmonized policy of collecting these charges?

Mr. Mudavadi: Mr. Deputy Speaker, Sir, indeed, the hon. Member is raising a very valid point. I must say that it is not easy to harmonize what you call *Boda Boda* charges. However, we have been trying all along to make sure that these are standardized across all local authorities. But above that, one of the long term issues that we want to do is that as we look at the elements of devolution under the new structure, we want to reduce the number of local authorities because this will come naturally. This will help in mitigating some of these charges. In certain instances, we have also introduced what we call the single business permits which will enable a local authority once they charge a certain fees, then it should not move on to the next local authority. We are looking carefully at all the issues of rates, licensing and revenue raising to make local authorities more business friendly.

Mr. Olago: Mr. Deputy Speaker, Sir, for many years since *Boda Boda* business started, the Ministry of Local Government and the Government generally have been treating *Boda Boda* operators as criminals, who deserve to pay protection money.

In all local authorities, *Boda Boda* operators are treated as if they are second class citizens. Whereas, I agree that local authorities can raise funds to be self sustaining, what

plans do local authorities have for creating separate lanes for *Boda Boda* operators in return for what they pay?

Mr. Mudavadi: Mr. Deputy Speaker, Sir, first of all, *Boda Boda* operators must not be treated as second rate citizens at all. Indeed, one can charge, which is basically what we have agreed, should be the charge throughout the country. It is about Kshs7 a day, which translates to Kshs50 a week for a motorbike operator.

Mr. Deputy Speaker, Sir, the resources that would go into creating the lanes are very limited because the money that comes out of this will not be able to sustain those *Boda Boda* lanes. Let me emphasize one thing; the Government at one stage made amendments to the Road Act. Under the Road Act, the Government gives all the funds that relate to urban area roads to Kenya Urban Roads Authority (KURA). So, local authorities are no longer drawing any resources from the Kenya Roads Boards (KRB) for purposes of improving roads in their areas of jurisdiction. In the rural areas this function has been given to Kenya Rural Roads Authority (KERA). So, we are trying to work with these institutions, so that they can support the Local authorities much more. As I said, local authorities are no longer the recipients of any cash directly from the KRB for purposes of maintaining roads. However, I support the proposal by hon. Olago that as we plan for the future, it will be necessary to have lanes that will take care of the *Boda Boda* operators as opposed to using the main road.

Mr. Washiali: Mr. Deputy Speaker, Sir, in his answer, the Minister says that they charge Kshs50 per week, translating to Kshs200 per month. Is this the information we would pass to our *Boda Boda* riders that they should not pay anything more than that? Could he also ask local authorities askaris to be more humane when collecting these funds rather using ropes to trap these *Boda Boda* riders as if they are thieves?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Deputy Speaker, Sir, first of all, I just want to emphasize that the hon. Member missed the point. He said 400 per month but I think it is 200. That is the standard rate and the logical thing to do would be for the council to collect it on a weekly basis depending on the arrangement they can make at any local level.

I also want to emphasize here that it would be wrong and criminal for any council *askaris* to tie a rope that might even cause the death of any *boda boda* operator. They have to do it simply and they must bear in mind that they have to obey traffic rules as operators of *boda boda*. The council people must also ensure that the enforcement is done in a human manner and legally, so that nobody is injured in the process.

(Several hon. Members stood up in their places)

Hon. Members, the Chair directs that the following Questions be deferred to tomorrow afternoon.

Question No.546

SENSITIZATION PROGRAMME OF CITIZENS
ON MAJOR ROAD PROJECTS

(Question deferred)

Question No.601

MINISTRY'S EX[EMDOTIRE ON MAINTENANCE OF
KABATI-TULIA-MBONDONI ROAD

(Question deferred)

Question No.621

SETTLEMENT OF SQUATTERS IN BANITA
SETTLEMENT SCHEME

(Question deferred)

Question No.405

CHARGES LEVIED ON PATIENTS'
VISITORS IN NYANZA HOSPITAL

(Question deferred)

Mr. Deputy Speaker: We now proceed to Question No. 1 by Private Notice.

The Assistant Minister for Lands (Mr. Rai): On a point of order, Mr. Deputy Speaker, Sir. I wanted to seek the indulgence of the House if I could answer Question No. 621 on Wednesday. I had spoken to the hon. Member and I have reasons for that---

Mr. Deputy Speaker: That is fair enough. Hon. Kigen, are you comfortable with Wednesday, next week?

Mr. Kigen: It is okay for me, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: That is fair enough. It is so directed.

The Assistant Minister for Lands (Mr. Rai): I am much obliged, Mr. Deputy Speaker, Sir.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Deputy Speaker, Sir, I am sorry I was at the back there when you made your ruling on postponing Questions. But, indeed, hon. Kutuny's Question was to come this morning and he is there and I am ready to answer it.

Mr. Deputy Speaker: Hon. Kutuny has had a court matter this morning and his Question, which is Question No. 521, is deferred to tomorrow afternoon.

Thank you for bringing that to the attention of the Chair.

Question 1 by Private Notice!

QUESTION BY PRIVATE NOTICE

INVASION OF ELAND DOWN FARM BY ADMINISTRATION POLICE

(Mr. Letimalo) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Why did the Laikipia East District Commissioner, accompanied by over 400 Administration Police officers, invade Eland Down Farm on 23rd November, 2010, burn houses and evict over 300 families in disregard of court orders issued by the High Court in Nyeri on 22nd November, 2010?

(b) Could the Minister explain the circumstances under which 18-month old-Baby Lekamario, was burnt during the illegal operation and why the police officers deny the Kenya Red Cross and Human Right officers entry to the farm to assist victims with medication?

(c) Could the Minister withdraw the Administration Police Officers stationed at the disputed land in order to avoid further harassment of the people pending determination of the matter by the High Court?

Mr. Deputy Speaker: Order, hon. Members! For other reasons, that is essentially not the fault of the Minister or the hon. Member. The Clerk's Department has not been able to verify the direction that was given by the Chair. This Question should appear on the Order Paper tomorrow afternoon.

(Question deferred)

Question No. 2 by Private Notice by Dr. Kones!

Dr. Julius Kones: Mr. Deputy Speaker, Sir, for the second time---

Mr. Deputy Speaker: Order! Did you ask the Question for the first time?

Dr. Kones: Yes.

Mr. Deputy Speaker: Indeed, yes, proceed!

DELAYED SUBMISSION OF REPORTS ON PERSONS WITH DISABILITIES

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

(a) Could the Minister explain the inordinate delay in submitting Reports for Assessment of Persons with Disabilities to the National Council for Persons with Disabilities, which has not been done since June 2010?

(b) What measures has the Minister put in place to ensure that Medical Board Reports for Persons with Disabilities are forwarded to the National Council for Persons with Disabilities to enable them apply for tax exemption in accordance with the law?

The Assistant Minister for Medical Services (Mr. Kazungu): Mr. Deputy Speaker, Sir, I beg the indulgence of the Chair---

Mr. Deputy Speaker: Order! Assistant Minister, when this Question was asked for the first time, the Chair recalls that the Assistant Minister was not in the House. So, first and foremost, you apologize to the House.

The Assistant Minister for Medical Services (Mr. Kazungu): I am sorry, Mr. Deputy Speaker, Sir. I do apologize to the House for coming late. Above that, I do ask the indulgence of the Chair because this is a very important Question and looking at the answer which I was given, it is not complete and satisfactory. So, I would like it to be

deferred to tomorrow so that I can give a complete and satisfactory answer to the Questioner.

Mr. Deputy Speaker: Dr. Kones, are you comfortable with this Question being deferred to tomorrow afternoon?

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

Mr. Deputy Speaker: It is so directed!

(Question deferred)

Next Order!

POINT OF ORDER

IMPLEMENTATION OF THE ALCOHOLIC DRINKS CONTROL ACT, 2010

Mr. Kapondi: Mr. Deputy Speaker, Sir, I would like to request for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the implementation of the Alcoholic Drinks Control Act, 2010.

In the Statement, I would like him to clarify:-

(a) When regulations to implement the provisions of the implementation of the Alcoholic Drinks Control Act, 2010, will be gazetted.

(b) In view of the fact that regulations have not been gazetted, what are the opening and closing hours for business premises that sell alcoholic drinks and further indicate what actions have been taken to ensure that law enforcement agencies do not intimidate or harass business people on the account of opening and closing hours without legal justification?

Thank you.

Mr. Deputy Speaker: Assistant Minister, when will you have the Statement available?

The Assistant Minister, Ministry of Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I can deliver the Statement on Wednesday morning next week.

Mr. Deputy Speaker: It is so directed!

Yes, hon. Lekuton!

EFFECTS OF GIBE 3 DAM IN ETHIOPIA

Mr. Lekuton: Thank you, Mr. Deputy Speaker, Sir. About a month and a half ago, I requested the Ministry of Water and Irrigation to give a statement on the effects of Gibe 3 Dam in Ethiopia and how it will affect Lake Turkana and the pastoralists living there as far as food production is concerned. I wanted to know the situation of that Statement.

Mr. Deputy Speaker: Where is the Minister for Water and Irrigation? Deputy Leader of Government Business, can you give an undertaking on the same? The Minister for Water and Irrigation did give an undertaking to give a Ministerial Statement on the effects of Gibe 3 Dam.

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, I will let them know so that they can come and make that Statement tomorrow.

Mr. Deputy Speaker: It is long overdue. So, when do you give an undertaking on her behalf?

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, I will look for them today to inform them that they are required to be here tomorrow to give the undertaking.

Mr. Deputy Speaker: That is fair enough. It is so directed. The Ministerial Statement is expected tomorrow afternoon.

Yes, hon. Ethuro?

UNDELIVERED MINISTERIAL STATEMENTS

Mr. Ethuro: Mr. Deputy Speaker, Sir, three weeks ago, I had also sought several Statements; one, from the Minister for Provincial Administration and Internal Security on the security situation or rather, the insecurity situation in Turkana County, which was supposed to be delivered. I also sought a Ministerial Statement from the Minister for Public Health on the situation of Maternity and whether the Government had issued a circular to the effect the directive given by the Minister that no health facility should detain a mother for giving life.

Mr. Deputy Speaker: There are two Ministerial Statements expected; one from the Minister for Provincial Administration and Internal Security and the other one from the Minister for Public Health. Can you, Deputy Leader of Government Business, give an undertaking?

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, it will be done.

Mr. Deputy Speaker: When will they be issuing those Ministerial Statements? You can make an undertaking on their behalf.

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, on Tuesday, next week.

Mr. Deputy Speaker: It is so directed.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I have a lot of respect for the Deputy Leader of Government Business. But what assurance is she giving to this House that it will be done on Tuesday, when it has not been done on this other Tuesday, given that you directed, as the Chair, that the Statement should come after two weeks, which was supposed to be yesterday?

The Minister for Agriculture (Dr. Kosgei): Mr. Deputy Speaker, Sir, my responsibility is to communicate your directives. If those Ministries do not respond, then the House will take the necessary action against them. But all I can do is to undertake to inform them that the House requires them to be here. And my word of honor is good enough! I do not think I have undertaken before and it has not been delivered.

(Laughter)

Mr. Deputy Speaker: Fair enough!

Hon. Members, you must respect the honorable lady's word of honor! It has never failed the House.

(Applause)

Proceed to the next Order!

MOTIONS

ABOLITION OF KENYA CERTIFICATE OF PRIMARY EDUCATION

THAT, considering that Education is a fundamental human rights and every child is entitled to it; mindful that when we ensure that children have access to a rights-based, quality education that is rooted in gender equality, we create a ripple effect of opportunity that impacts generations to come; acknowledging that Education enhances lives and ends generational cycles of poverty and disease and provides a foundation for sustainable development; aware that quality basic education better equips girls and boys with the knowledge and skills necessary to adapt to socio-economic challenges and enable them take an active role in social, economic and political decision-making as they transit to adolescence and adulthood; further aware that educated adults are more likely to have fewer children, to be informed about appropriate child-rearing practices and to ensure that their children start school on time and are ready to learn; this House resolves that the Government abolishes the Kenya Certificate of Primary Education and provide for a continuous, uninterrupted education system from level one to form four in order to accord all Kenyan students universal basic education.

Mr. Deputy Speaker: Order, Hon. Members! Order! Hon. Kioni is not in a position to move this Motion this morning for the simple reason that he has an unavoidable urgency or emergency that he is attending to and he had communicated the same to the Clerk's Department last night. The Chair directs that this Motion be deferred.

(Motion deferred)

Next Order!

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. If the hon. Member is not available to move this Motion, I think it is because he suspects that the mood of the House is such that this Motion must be defeated!

Hon. Members: Yes!

(Applause)

Mr. Ethuro: Mr. Deputy Speaker, Sir, can I ask for your ruling that this Motion is so bad that the hon. Member himself is not even willing and ready and that the Chair should not entertain Motions that are---

Mr. Deputy Speaker: Order!

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. I wish to, first of all, support hon. Ethuro.

(Applause)

Secondly, Mr. Deputy Speaker, Sir, it is in the Standing Orders that if a mover of a Motion is not there to move it, he must have written instructions to the Chair saying so.

Mr. Deputy Speaker: Order! Indeed, Mr. Kioni communicated in the sense that if you get into some urgent matters, there are times when the Chair will use his own discretion.

Mr. Olago, if for any reason you run into a problem while you are driving from Kisumu to Nairobi and you wanted to make it on time, will you think the Chair should proceed and insist on a written statement seeking for deferment of the Motion? The Chair has ruled on this. This Motion is deferred. If you want to defeat it, defeat it so much, and it looks like the mood all of you want to portray, then wait until it comes to the Floor of the House and defeat it.

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

Mr. Deputy Speaker: What is your point of order? It should not be a point of debate.

Mr. Koech: It is not a point of debate. As my colleagues have indicated this morning, the entire country is waiting and watching because this Motion concerns the children of this country and the lives of the people of this country. It is important that the Chair rules with that information in mind. Everybody knows that this is in the Order Paper and they want to know the decision of this hon. House.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. In view of your ruling and also taking into consideration the mood of the House, I would like to request for further directions from you that this Motion appears on the Order Paper next week on Wednesday or even tomorrow afternoon so that we dispose of this matter and reduce the anxiety in the country.

Mr. Deputy Speaker: Fair enough. Given the mood of the House, the Chair directs that this Motion appears on the Order Paper next week on Wednesday which is the only day that a Private Member's Motion can appear.

(Mr. Wetangula stood up in his place)

Order, Mr. Wetangula! Once the Chair gives direction on a matter, the direction of the Chair is the direction of the Chair. So, the matter will appear on the Order Paper on Wednesday afternoon next week. So, hold your horses until then, and then you can do whatever you want to do with it.

Next Order!

ADOPTION OF REPORT ON CONDUCT OF
ARTUR BROTHERS/ASSOCIATES

Mr. Imanyara: Mr. Deputy Speaker, Sir, I beg to move:

THAT, this House adopts the Report of the Joint Session of the Departmental Committees on Administration, National Security and Local Authorities and Administration of Justice and Legal Affairs on the Investigation into the conduct of the “Artur Brothers” and their Associates, laid on the Table of the House on Wednesday, 24th November, 2010.

Mr. Deputy Speaker, Sir, let me at the outset say that I have a personal interest in this matter. Having been the editor and publisher of the *Nairobi Law Monthly* for many years, I suffered the fate that befell the *Standard Group* on many occasions as a result of which I suffered irreparable economic losses and hence, my interest in this Motion and also my interest in fighting the culture of impunity that pervades political institutions in this country.

Mr. Deputy Speaker, Sir, this Report is the product of and the work of the Joint Committees on Administration, National Security and Local Authorities and Administration of Justice and Legal Affairs, herein simply referred to as the Committee, after holding hearings on the matter of the Armenian Brothers; Artur Sargasyian and Artur Margaryian, better known as the Artur brothers or Sargasyians.

Following hearings conducted by this Committee and an order given by Mr. Speaker on the 27th of June, the work of two committees was consolidated and the membership of this Committee that conducted this investigation comprised of hon. Ramadhan Kajembe, MP as co-chair; hon. Paul Muite – co-chair. The others were:-

The hon. Alfred Nderitu, MP.
The hon. Odhiambo Omamba, MP
The hon. Musa Sirma, MP
The hon. Abdalla Ngozi, MP
The hon. Daudi Mwanzia, MP
The hon. Joseph Korir, MP
The hon. Kipkalya Kones, MP
The hon. Patrick Ivuti, MP
The hon. Noah arap Too, MP
The hon. Katoo ole Metito, MP
The hon. Kenneth Marende, MP
The hon. Jim Choge, MP
The hon. Amina Abdallah, MP.
The hon. Gideon Ndambuki, MP
The hon. Moses Cheboi, MP
The hon. Macharia Mukiri, MP
The hon. Bifwoli Wakoli, MP
The hon. Omingo Magara, MP
The hon. Zaddock Syongo, MP
The hon. Njoki Ndung’u, MP.

Mr. Deputy Speaker, Sir, the Committee heard evidence from 45 witnesses including:-

The hon. Gideon Konchella, MP, the then Minister for Immigration and Registration of Persons,
Mr. Joseph Ndavi, the Principal Immigration Officer

Ms. Everline Cheluget; Assistant Principal Immigration Officer in charge of permits,
 Mr. John Cheruiyot; Assistant PIO at JKIA,
 Ms. Bernice Gachegu; Registrar General,
 Ms. Naomi Sidi, the Deputy Managing Director of Kenya Airports Authority
 Mr. James Gitonga; Immigration Officer I
 Mr. James Alouch Rarieya; Manager, Container Terminal at KAA.
 Mr. Moses Edwin Oduor; Chief Internal Auditor, KPA.
 Mr. Alphonse Ntugaichi; Senior Deputy Commissioner, KRA,
 Mr. Julius Musyoki; Acting Deputy Commissioner of Customs at KRA.
 Mr. Stephen Munguti; OCPD, Kilimani Police Division.
 Mr. Bernard Nguyo; Assistant Officer in Charge Kilindini Harbour, Kenya Bureau of Standards.
 Mr. Nicholas Nzesia; Quality Inspector of Kenya Bureau of Standards.
 Ms. Jane Njeri Joram; Senior Registrar, Attorney-General's Chambers.
 Mr. Henry Ruhui; Senior Clerical Officer, Attorney-General's Chambers.
 Ms. Milka Aloo Ondiek; Attorney-General's Chambers.
 Mr. Alex Kabuga; Manager, Inland Container Depot.
 Mr. Benson Chacha; Assistant Commissioner, Registration of Persons.
 Mr. Benson Kitur; Manager Operations at KRA.
 Ms. J. Maina; Officer in Charge, KPS Internal Container Depot.
 Mr. Felix Kimathi Mwarania; Director, Marco Freight Services.
 Mr. David Bosire; Security Supervisor, Kenya Airports Authority.
 Mr. Stanley Mutungi; General Manager, Security Services at Kenya Airports Authority.
 Ms. Rachael Nyamori; Senior State Counsel, Attorney-General's Chambers.
 Mr. Joseph Mwangi; Clerical Officer, Attorney-General's Chambers.
 Mr. N. Ndisia; Deputy Registrar of Companies, Attorney-General's Chambers.
 Ms. Judy Chepkor; Secretary to the Deputy Managing Director of KAA.
 Mr. Johnson Otieno Adero; State Counsel, Attorney-General's Chambers.
 Mr. Edward Mutai; Security Warden, Kenya Airports Authority.
 Mr. Nicodemus Musyoka Ndalana; Principal Intelligence Officer, NSIS.
 Mrs. Agnes Shikuku; Principal Intelligence Officer, NSIS.
 Mr. Naphtali Rono; Senior Intelligence Analyst, NSIS.
 Mr. Eliud Mafugo; Senior Intelligence Officer, NSIS.
 Mr. Ibrahim Sheikh Kanyare; Director, Akarim Agencies Limited.
 Mr. Naphtali Sawe Oseko; Security Warden, Kenya Airports Authority.
 Mr. Kennedy Muema; Head of Nairobi Hub, Kenya Airways.
 Mr. Richard Ombwayo Nerima, former driver to Mr. Raju Sanghani; Executive Chairman, Real Management Services, 2002 Limited.
 Mr. Michael Waweru, Commissioner-General, Kenya Revenue Authority.
 Mr. Phidelis Mulei, Acting Senior Deputy Commissioner, Domestic Revenue.
 Mr. David Mala, Assistant Commissioner, Domestic Tax Department.
 Mr. Bernard Mukenye, Assistant Revenue Officer, Domestic Tax. Mr. Bernard Mukenye, Assistant Revenue Officer, Domestic Taxes; Mr. George Muhoho, Managing Director, Kenya Airports Authority (KAA); Mr. Dominic Ngigi,

Communications Manager, KAA; and, Mr. David Kimaiyo, Director of Operations, Kenya Police Headquarters. Mr. Sammy Mutungi's name appears twice, at no.24 and again as number 44. That is why the list in the report indicates 46 witnesses instead of 45.

Regarding the evidence, observations and their recommendations, the Committee heard evidence on various matters pertaining to the Artur brothers and their affairs in Kenya. The pace set at this entire saga was the question regarding how the two brothers entered and resided in Kenya. Legal, administrative and political questions arise in these respects. Regarding the entry and residence of the Artur brothers in Kenya, the Minister of State for Immigration and Registration of Persons, hon. Konchella, appeared before the Committee on 3rd July, 2006. On one hand, he informed the Committee that Artur Sargasyan, Passport No.AF0599780 arrived in Kenya on 13th December, 2005 from Dubai and he never left the country until his deportation. On the other hand, his brother Artur Margaryan Passport No.AB3222423 had the following history of arrivals and departures respectively.

First, arrival in Kenya was on 10th November, 2005 from Dubai. After that, he left on 15th November, 2005 via London. He returned 13th December, 2005 via Dubai and left on 22nd December, 2005 to Dubai and arrived again into the country on 22nd January, 2006 from Kinshasa. The Committee heard that according to the documents presented on entry, the two brothers presented themselves as Armenian nationals. However, no original copies to confirm their nationalities were produced. The entry declaration forms filled by the two Armenian brothers and which are customarily required of all persons entering or visiting Kenya, could not be traced at the airport.

Mr. Temporary Deputy Speaker, Sir, the Committee expressed concern that the entry declaration forms filled by the two brothers when they first entered the country and which contained crucial information about them could not be traced allegedly because the process of filing, filling in and storing these forms is purely a manual exercise. No adequate explanation was given by the Department of Immigration why the information was not keyed in to the personal identification secure comparison and the information was not in the systems as it is required in all the airports of the world. In the absence of the information being entered into the entry declaration forms in respect of the two brothers, the Committee was unable to ascertain the nationality of the foreigners and the reason for their visit. The Committee could not also confirm their entries of 10th November, 2005 and 13th December 2005 was their first visit to Kenya.

The Committee made several findings with regard to this. With regard to the issue of specific entry into Kenya and their residence in Kenya, the Committee recommends:

(i) The Ministry of State for Immigration and Registration of Persons be censured for failing to keep custody of important documents such as the entry declaration forms filled by people entering the country thus facilitating the entry of dangerous persons whose particulars remain unknown. This was utter negligence of duty on the part of the Ministry and its staff at the JKIA.

(ii) The officers who were manning the entry points at the material time be identified and severe disciplinary action be taken against them for negligence of duty.

(iii) The process of storing information entered into entry declaration forms by persons entering the country in all entry points be computerized and information kept in safe custody.

(iv) The relationship between Stanley Murage and Mr. Ndathi, PIO, in the involvement of the two Artur brothers saga be investigated further.

Regarding the illegal activities of the two brothers, the Committee found that several illegalities, omissions and commissions known to various law enforcement agencies in Kenya were perpetrated, aided and abetted in favour of the Artur brothers. That perpetration took various forms, including the cover up of evidence which could have exposed who the two individuals were and their connection to several individuals in Government and/or Kenya in general as well as specific connections to State House and the person who is the head of the Government, the President of the Republic, Ms. Mary Wambui and Ms. Winnie Wangui.

Regarding the issuance of work permits, the Committee found for all intents and purposes, the issuance of the work permits to the Artur brothers was expedited and done in rather unusual circumstances. The processes used in the eventual issuance of the work permits pointed at preferential treatment of the Artur brothers and indicated a close connection between the brothers and the decision makers as far as the applications were concerned.

The Minister of State for Immigration and Registration of Persons, hon. Konchella, informed the Committee that he first heard of the two foreigners, the two brothers, on 14th March, 2006 while on a visit to his constituency after which he contacted the PIO, Mr. Joseph Ndathi. He later issued a Press statement saying that the two brothers were Armenians. The Minister further informed the Committee that he later called for and scrutinized the brothers' files and established that they were in the country legally. Indeed, the Minister told the Committee that the application forms for work permits submitted by the two brothers in January had copies of their PIN numbers. The Minister also stated that he ascertained that Mr. Sargasyan, who had applied for a Class "C" work permit, had complied with all requirements of the Immigration Act. The Minister also explained the procedure for applying for the Class "H" work permits.

In her evidence, Ms. Evelyn Cheluget informed the Committee that the meeting that approved the work permits for the Artur brothers was held on 18th January, 2006. The committee had 316 files to examine on that particular day. Only those files that seemed suspicious and from foreigners were sent to the National Security Intelligence Service (NSIS) for security verification. Ms. Cheluget informed the Committee the meeting that approved the work permits was held on 18th January and extended to 19th January, 2006. Their practice has been to prepare one set of minutes whenever their deliberations were not completed on the scheduled dates of the meetings. The records of the two meetings are, therefore, compiled as one although the meeting took two days. The inter-ministerial committee that approved the work permits did not have prior knowledge of the Armenian brothers' files and the Immigration Department does not have to send all the files that come before them to the NSIS for security verification.

The Principal Intelligence Officer (PIO) Mr. Ndalana, in his evidence informed the Committee that the NSIS received requests from the Principal Immigration Officer for general index checks on the two brothers on 18th January, 2006. A routine check was carried out. This was returned the following day as clearing them as nothing had come to their attention on the Artur brothers nor was there anything in their data base indicating that the persons may pose a threat to national security. He also informed the Committee that the NSIS started monitoring the activities of the two brothers in mid February, 2006

when they got information that they were installing CCTV cameras in the Grand Regency Hotel, where they were staying. In the process, the NSIS established that the two brothers had entered the United Arab Emirates in 1991 as Armenia nationals and were later deported in 1994 for attempting to bribe customs officers. He also informed the Committee on the diverse dates, they also re-entered the UAE as Russian citizens using the names Artur Gevorkiyan and Artur Argasyan alias Andrei Priluskiy.

It was further stated that they did not establish any business in Dubai and were basically conmen. This was the information by the National Security Intelligence Service (NSIS). He also informed the Committee that the Artur Brothers were later invited to come to Kenya by one Raju Sanghani the Executive Chairman of the Real Management Service Limited (2002) as prospective investors.

Mr. Temporary Deputy Speaker, Sir, the Committee noted that the NSIS, despite the knowledge that Raju Sanghani invited the brothers to Kenya and his name was popping up consistently throughout the brother's stay in Kenya and also his connection with Kamlesh Pattni in whose hotel; the Grand Regency, the Artur Brothers headed on arrival and where they attempted to set up CCTV cameras, neither the NSIS nor any other Government agency carried out any investigation into Raju Sanghani, Kamlesh Pattni and the involvement not just with the Artur Brothers but also with key people in the Government.

The Committee noted with concern that the processing of work permits for the two brothers was fast tracked without reasonable cause and that, had due diligence been done particularly by the NSIS in ascertaining the previous conduct and business dealings of the duo, the clearance given by the NSIS in a single day could not have happened. However, the Committee noted that the Kenya security apparatus are up to their duty and that the fast tracking of issuance of the permits was being engineered somewhere else by persons; the officers, who gave evidence before the Committee, chose not to mention and disclose. In addition to the foregoing, there was no satisfactory explanation given for forwarding the Artur Brothers application on the first day of consideration to the NSIS even before the Inter-Ministerial Committee had concluded their businesses the following day.

Mr. Temporary Deputy Speaker, Sir, the Inter-Ministerial Committee appeared to have given approval for the issuance of permits to the Artur Brothers without securing the documentation as required by law which included the following; trade license, a physical office location that is LR number and investment certificates from the Kenya Investment Authority (KIA). Furthermore, the Artur Brothers had indicated that they had only about Kshs8 million. The revelation alone should have alerted the officers processing the applications for permits that they were not serious investors and the statements and particulars should have been double checked.

The Committee observed that the delegation of duty by the officers unless they were under duress to approve the applications, marked the beginning of actions by the two Armenians which brought disrepute to the people Kenya in a way that right thinking people cannot comprehend. The Committee learnt with shock that matters of security nature could be taken so lightly to the extent that the officers carrying out verification could clear foreigners in a single day and not even bother to consult Interpol data to satisfy themselves that the two persons did not pose a security threat to the country. Their failure to conduct proper verification was vindicated when almost three---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Imanyara! Your time is up!

Mr. Imanyara: Mr. Speaker, Sir, I thought I have 20 minutes to move!

The Temporary Deputy Speaker (Mr. Ethuro): I am sure you have exhausted those minutes.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, with your kind indulgence could you allow me a few minutes to conclude?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Imanyara! You know the rules govern everybody in this House. The Chair does not have that discretion. Your time is up and you have the opportunity through your seconder to finish the unfinished business.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I move that this Report be adopted although, I would have wished you allowed me an extra two minutes to conclude.

I ask Mr. Chanzu to second.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I rise to support the adoption of this Report.

I would like to commend the mover, Mr. Gitobu Imanyara, for having the guts and taking the initiative to bring this Report for adoption. For those of us who have had the opportunity to look into the Report, every page is shocking. If you open any page, apart from where we have the names of those who attended the meeting, every statement is shocking.

Some of the issues raised in the Report like illegalities may have happened in places where not everybody in this country saw. For those of us who saw what happened at the Standard Group premises and if that is what was intended by this group and whoever was protecting them, then it is a very serious matter. It is important that this Report is adopted by this House so that it can get into the public domain so that Kenyans can know what they are living with.

Mr. Temporary Deputy Speaker, Sir, first of all, I wonder why the same Government which allowed the Kiruki Commission to conduct--- And the terms of reference were very well spelt out. They are contained at the back of the Report in the Kenya Gazette Notice of 13th June 2006. The Commission was generally to inquire into the circumstances and events leading to the deportation of the said persons *et cetera*. If you look at the issue of illegalities on page 15 of the Report, there are crazy issues; you find that for all intents and purposes, the issuance of work permits to the Artur Brothers was done in rather unusual circumstances. I find this very serious because under normal circumstances, the process takes long. I know there are a number of people who come here and want to get work permits and even become citizens. I know it takes a long time because it has to go through a long process. People have to apply and get recommendations from various places. They have to get to the Immigration Department, the NSIS and a lot of other processes. However, this was being done at a very high speed.

Mr. Temporary Deputy Speaker, Sir, on page 30 there is the irregular issuance of security passes. There is a section on blank passports for the Artur Brothers. It is alleged that blank passports disappeared from the offices at the airport. It was found that there is a lady who was working there and it is alleged that the passports were taken but eventually found. They are passport No.A1031195 and A1031196. They were later

recovered at the residence of the Artur Brothers when the police raided the place on 9th June 2006. The passports had been fraudently issued to Aman Sakisian and Atak Sakisian; these are Artur Margarian and Artur Sargaisian respectively.

Mr. Temporary Deputy Speaker, Sir, there is also the issue of the businesses done by the Artur brothers. The raid on the Standard Group premises was the most dramatic because it was done in the open and relayed on television. I also find the issue of importation of goods and evasion of tax very serious.

The Report is very comprehensive and is available for hon. Members to look at during their free time. This was the highest level of impunity and this is what we are trying to stop in this country.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I second the Motion.

*(The Temporary Deputy Speaker consulted
with the Clerk-at-the Table)*

The Temporary Deputy Speaker (Mr. Ethuro): For the benefit of hon. Imanyara, I was consulting with Clerk-at-the-Table so that we delete the words “National Security” appearing in the Motion. There is no Committee by that name.

(Question proposed)

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, first, I want to congratulate my colleague, Mr. Imanyara, for pushing for this Motion under very difficult circumstances. I want to thank him for bringing out the truth to the public about what happened during this raid at the premises of the Standard Group. I do not want to repeat what he has said. However, I would like to concentrate mostly on what Kenyans saw on their televisions and what took the country into a panic when our country was being taken over by foreigners.

When the premises of the Standard Group were raided, many issues were kept in the dark. The first was the identity of the hooded men who walked in the premises of the Standard Group. Secondly, it was the involvement of the police or the security arm of this country. Thirdly, it was the political connection. I am happy to note that this Committee did its work and in investigating this matter, it was able to get information from the then Minister of State for Provincial Administration and Internal Security, Mr. John Michuki who confirmed, according to the Report, that this was a raid that was done under the supervision of the security intelligence of this country. To me, that smirks of arrogance and this is what we call “impunity”. We never know what it is, but this is what impunity is. If you can remember, during that time, when Mr. Michuki was asked about the raid, he arrogantly answered back that “if you rattle a snake, you must be ready to be bitten”. Those were the famous words of Mr. Michuki. Up to today he is a Minister in Government and yet such reports have confirmed to the House the level to which he perpetuates impunity.

With regard to the containers that were allowed to come into the country, there is definitely a question mark. How could containers whose contents were not verified be cleared through the Port of Mombasa? It is common knowledge that Kenya has become a leading drug centre. We have been in the news of late on the issue of drugs and yet no

effort has been made to arrest or prosecute the owners of that particular godown. Again, this Committee clearly showed in this Report that on issues to do with goods coming into this country, there are some people who are untouchable. We believe that is what gives rise to the drug menace, including drug addiction in our children. This is an issue that we look forward to debate in this House very soon. This is just further confirmation that those issues do exist in the full knowledge and glare of the security agents in this country.

The last issue I would like to talk about is with regard to political connection. It is clear in this Report that there was a clear political connection to the highest level of Government, that is, the Head of State. We continue to have the same President even after this raid. We ask ourselves fundamental questions. We may always be afraid to talk about issues, but that does not mean that Kenyans do not ask these questions. It also does not mean that Committees of Parliament have not done their work. What we always lack are people who can muster the courage to stand up and speak the truth. I am glad that this Committee did its work and one of the Members has mustered the courage and brought this Report to the Floor of this House.

Mr. Temporary Deputy Speaker, Sir, in conclusion, of late we have seen continued political interference in issues being done through legal bodies. I am talking about political interference like the raid on the Standard Group which interfered with the rights of the media. This is same way we saw the rights of a Commission that did its work being interfered with by not being allowed to gazette work that it completed.

We cannot allow impunity to continue in this country by being afraid to speak because there are those in this country who are masters and the rest are servants. Everybody must be equal before the law. Therefore, the Standard Group must be compensated for what they lost in terms of information which is still held by the Artur brothers in their homes wherever they are. The Standard Group must be compensated for the business they lost. Kenyans must be compensated in terms of taking away from us leaders who continue to perpetuate impunity or use their political connections or positions in Government to allow illegalities to continue. If we do not speak out on these issues, nobody else will.

I want to thank again the Joint Committee and Mr. Imanyara. I support this Motion.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I want to thank the Mover of this Motion for a very commendable job. As Mrs. Shebesh has said, it only takes brave men and women to do what this hon. Member has done. As a country, unless we reach to a level where we can speak for the truth and justice, we will be swimming in mud. If we are not careful and do not deal with the issues that bedevil the country, we will find ourselves in the same situation we were in 2007.

Going by the Report that this Committee has presented, I want to speak about certain principles that are now entrenched in our Constitution by virtue of Article 2(4) of the Constitution which allows any treaties that Kenya has ratified to be part of the laws of the land. If you look at the International Covenant on Civil and Political Rights; the Universal Declaration of Human Rights; the Covenant on Elimination of all forms of discrimination against women, amongst others, you will find that they entrench very important rights that last for every season and time. As a people and a nation, unless we are informed and reminded of these rights, we will be entrapped by our traps. If you look at even the way the human rights were set, many people allude to human rights as God

given. The justice of the gods is very swift and furious. I am happy that hon. Karua has walked into the House.

(Hon. Karua entered the Chamber)

I hope that the tabling of this Report is actually something that will be a reminder not just to hon. Karua, but also to other Members, that when you are in privileged positions, remember that you will not always be in privileged positions. One day, you will sit in the same place that hon. Odhiambo-Mabona is sitting. Therefore, when you are in that privileged position, you should use human rights standards. Do not use personal whims and discretions.

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

*[The Temporary Deputy Speaker
(Dr. Laboso) took the Chair]*

(Hon. Karua withdrew from the Chamber)

Madam Temporary Deputy Speaker, if you actually look at page 5 of that Report-- Hon. Karua is one of the people I have really admired in the past, but at that point in time, I do not know what became of her. Look at what the Report says. The first---

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker. Since hon. Karua has just stepped out of the House, could the hon. Member leave that point until she comes back?

The Temporary Deputy Speaker (Dr. Laboso): Is that okay, hon. Odhiambo-Mabona?

Ms. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I am sure where she is, she is listening. So, I would be very comfortable to go on and she will have her time to respond.

(Ms. Karua re-entered the Chamber)

She has come in!

Madam Temporary Deputy Speaker, under sub-article 6(a), the first was attempt by the Minister for Justice and Constitutional Affairs, hon. Karua, the Member for Gichugu---

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. I do appreciate what my colleague is doing, but is she in order to bring the issue of hon. Martha Karua here? Hon. Martha Karua has seen the light. She is now "saved". Hon. Martha Karua is now one of the crusaders on our side. So, in all fairness, could the hon. Member withdraw the remarks she made about hon. Martha Karua?

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. I do not think that we need any Member to advocate for another here. Let whoever wants to

discuss do so. I am here to talk about this and also to show the malice on the part of this Committee.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, hon. Martha Karua is an iron lady who is capable of defending herself.

Madam Temporary Deputy Speaker, in the Report, under 6(a), first was the attempt---

Madam Temporary Deputy Speaker, do you take into account the time that I have been interrupted by points of order?

Hon. Members: No!

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, if there is extra time, I will go to that part. I would also want to say in relation to the same, that hon. Mutula Kilonzo needs to remember that same principle. He is the one who has created this mess of the Interim Independent Boundaries Review Commission and one day he will sit here. I would also want to remind even the Vice-President of this country that he utterances that he made, which border on ethnic hatred---

Mr. K. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. We have a lot of respect for the hon. Member who is on the Floor, but it is unfair to impute improper motive on other Members without substantiating. When she says that hon. Mutula Kilonzo is the one who has messed up the IIBRC, could she substantiate or withdraw and apologize?

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I am willing to substantiate. I was in the meeting in the Kenya Institute of Administration (KIA) where hon. Mutula Kilonzo created a problem by raising the issue of the boundaries. Before that, he actually asked the Interim Independent Boundaries Review Commission (IIBRC) to bring the Report before their time. So I have substantiated.

The Temporary Deputy Speaker (Dr. Laboso): Can you conclude?

Mrs. Odhiambo-Mabona: I am concluding, Madam Temporary Deputy Speaker.

Madam Temporary Deputy Speaker, I would also want to say that we need to protect the freedom of the media. What we saw with the Artur brothers was an abuse of the freedom of the media. That is something that we must protect at all times; whether or not you are in power. There are principles that last at all times. Whether you are a Minister, President, Prime Minister or Back benchers, you must respect everybody's right to freedom of expression and inherent dignity. You must respect rights that are provided under the Constitution.

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

Ms. Karua: Madam Temporary Deputy Speaker, I rise in support of this Report, but with reservations. I will express the reservations.

Madam Temporary Deputy Speaker, I, as a Government Minister at that time, did express my outrage at *The Standard* raid. It is not something that could have been supported by anybody who respects the rule of law and democracy. I did make a statement that morning, when launching a function of the Anti-corruption Campaign Steering Committee, then headed by hon. Mutava Musyimi. I said that the culprits should be prosecuted. The Ministry of Justice, National Cohesion and Constitutional Affairs was not the investigator, but I stood for the rule of law and condemned it.

Madam Temporary Deputy Speaker, I had no problem with the investigations but I did raise a point of order in this Parliament. If raising a point of order is wrong, then I

do not know the meaning of democracy. The point of order I raised before this House on 20th June, 2006, was that I did not believe that under the principle of separation of powers, there should be two parallel investigations at the same time; one by the Executive through the Kiruki Commission and another by Parliament, each demanding the same witnesses concurrently. In my view, and I believe that even as I stand here, the two investigations should have been sequenced differently. Parliament could have waited for the Executive to conclude and then they take up and analyze that and go beyond it.

Madam Temporary Deputy Speaker, even in this Report, the end result of this will be a recommendation for investigations and actions, which means Parliament realizes that it cannot investigate crime. It can only do superficial investigations and order for investigations. That is precisely the point I was making. There is the role of Parliament and that of the Executive. I came to Parliament armed with a letter I wrote to the Speaker. That letter was for the purpose of explaining my point of order, because you are limited by time when you rise on a point of order. So, I rose and expressed myself verbally and tabled the letter with the following words: "It is necessary for other Members of Parliament to acquaint themselves with my reasoning and comments on it before the Speaker could make a ruling." Indeed, the Chair of the Committee on Legal Affairs, hon. Muite, acquainted himself with the letter and made a response.

Madam Temporary Deputy Speaker, it is utterly malicious of the Committee then and Members of the House who continue to pretend that I did anything wrong by raising a point of order. Dishonesty is manifested in the way this is being articulated. Even in the way it is being pretended that that past is catching up with me; how does the past catch with you if you are the one who has risen publicly in a forum like this, where things are recorded on the HANSARD for posterity and produced and tabled a letter for everybody to see; accompanied by the words "so that Members of Parliament can acquaint themselves and respond?" This is the height of dishonesty, in my view.

Madam Temporary Deputy Speaker, my saying that the sequencing should have been different was not an attempt to stop the work of the Committee. I was contributing to debate. Even if it was done at the same time, let us see whether this Committee was able to convict anyone. They are able to condemn but not convict, precisely for the reason I was canvassing. They are not investigators of crime. I was just asking: Why do you not wait and audit? Even the audit Committees of the House actually wait and audit but if the Executive had not commenced any investigation, it would have been right for Parliament. I even cited the Anglo Leasing case where after a trip to London and evidence in Kenya, all the Committee could say is that the Government should investigate further.

I want to say something which may not be known by many. When I learnt of the violation of our laws by the Artur Brothers at the airport which was communicated to me through telephone by a fellow Cabinet Minister at that time but is now out of Parliament, I immediately called the then Commissioner of Police. I wondered why he had not taken action against those people. As a consequence, arrests were made in the wee hours of the night. I later conferred with the Minister of State for Immigration and Registration of Persons who happens to be serving in this House, Mr. Konchella. I wondered why aliens who were violating our laws should continue being here.

Madam Temporary Deputy Speaker, based on the fact that we know the circus that goes on in our courts, even if people are charged, it takes a long time and undesirable

aliens did not need to be here and after discussing, it ended in the deportation. If I was preventing so that this is not investigated, then I would not have acted thus. Many people have been mentioned. I do not support impunity. Whoever did wrong ought to be punished. I do not know that there is any direct evidence - and I am not a member of the Government - linking the Head of State but there is evidence linking people around him. Let us be honest! There is no evidence! There is evidence of people very close to him and it is those people who must be punished. Let us be honest people. I know that when the other report which the Speaker will rule on this afternoon is laid in this House, you will see even mention of the Prime Minister in relation to the Artur brothers but it may not amount to evidence against him. So, let us not come here and peddle dishonesty. Let us discuss dispassionately.

This is a good report, save for the reservations I have expressed. The Committee had absolutely no basis for claiming I interfered with them. I exercised my right as a Member of Parliament to give an alternative view. The Speaker made a ruling and they were able to go on, on the charge that as Deputy Leader of Government Business, I refused to have the report debated. The House Business Committee (HBC) is not run by an individual. This is a Committee of 20 members. I said before this House that the decision of the Committee I chaired was unanimous. Therefore, the best mention they could have made; they could have blamed the HBC chaired by Ms. Karua but not Ms. Karua as an individual. This is again malice beyond measure.

Madam Temporary Deputy Speaker, on the part of the Departmental Committee on Justice and Legal Affairs, and it is not all the hon. Members who had malice towards me but there were particularly two hon. Members who had expressed malice on all occasions and the HANSARD will bear me right. Let it go on record that I did no wrong and any right thinking honest member of the society knows that and knows that I never obstructed. I never stand for things that are wrong. For those who excel in this country only by maligning others, not by a single action, you can pinpoint and say that this person delivered in this area. Let everybody make their name by the sweat of their brow! Do not try to make a name by destroying the name of others.

(Applause)

With those very many remarks, I beg to support this Motion, subject to those reservations.

(Laughter)

Mr. Mbadi: Madam Temporary Deputy Speaker, I also rise to support this Motion. When this saga came to the public knowledge it was a very big shame to this country. It was a shame when we came to learn that national identity cards were issued to foreigners.

(Loud consultations)

Madam Temporary Deputy Speaker, can you protect me from these loud consultations? I want to contribute in an environment where---

The Temporary Deputy Speaker (Dr. Laboso): Order! Allow the hon. Member to contribute!

Mr. Mbadi: Madam Temporary Deputy Speaker, as I said, this was a very sad period in the history of this country when we learnt that national identity cards were issued to foreigners who had not even been naturalized as is required by the Constitution. The same foreigners were appointed to the police force and made Deputy Commissioners of Police. It is not only that; they were also given VIP treatment at our international airport and other places. This was really sad. If there is anything to call impunity, I think this is the highest state of impunity.

The fact that these people enjoyed State protection and at highest levels of Government is not in doubt. I am happy that the Committee has recognized that and has put it in their report. I want to thank Mr. Imanyara because this report was gathering dust but because of his foresight, now we have an opportunity to debate it. The action of the two brothers amounted to direct interference with the freedom of the media. It is very sad that some employees of The Standard Group had to be assaulted and molested by foreigners whose mission in this country was not known. It is equally sad that even connection with drug syndicates is not ruled out and we are aware currently that this is a hot debate in this country. So, what is the problem? The problem is a Government that can allow foreigners who are malicious; foreigners whose mission the people of this country do not know to get into this country, carry out criminal acts and get out of this country without being held accountable.

I fully support the recommendation of the Joint Committee that we need to prosecute those officers who were responsible, beginning with Minister Michuki because he did not even deny it. He accepted that if you rattle a snake, you must be prepared to be bitten. This Minister did not explain to this country who rattled the snake. Given the fact that we now have Chapter Six of the Constitution which calls for a high level of responsibility and integrity on the part of public officers, it is high time that Mr. Michuki and other officers including the then head of Criminal Investigations Department (CID) were held accountable. The recommendation of the Committee that Mr. Michuki should not hold public office must be implemented. The Government must make sure that Mr. Michuki vacates office because of this act. He needs to vacate it immediately because that is the recommendation of this report and we must adopt it in its entirety.

Madam Temporary Deputy Speaker, I have heard Ms. Karua's contribution. I agree with her and sympathize with her because of the recommendations--

Ms. Karua: I do not need it!

Mr. Mbadi: Madam Temporary Deputy Speaker, however, Ms. Karua cannot escape blame however much she tries and I want to read---

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. This report is not about me. There is a sense where hon. Members are trying to go outside the debate. Even in the recommendations, there is not a single one on me. I ask the Chair to use the rules of the House. Do not make me a subject of debate. If any hon. Member wants to debate me, I dare you to bring a Motion and I will deal with you!

(Laughter)

The Temporary Deputy Speaker (Dr. Laboso): Can you stick to what is in the Report?

Mr. Mbadi: Madam Temporary Deputy Speaker, I think hon. Karua has not read this report. If she did, then she has forgotten. If you look on page five, it is very clear that the Committee faced serious challenges. The first was the attempt by the then Minister for Justice and Constitutional Affairs, hon. Karua and the Member for Gichugu, to stop investigations by the Committee on the flimsy ground that the issues the Committee sought to investigate were subject of investigations by the Executive appointed Commission of Inquiry led by a former Commissioner of Police, Mr. Shadrack Kiruki. The Member talked about being a Member of the House Business Committee, but she did not do this as a Member of the House Business Committee. She wrote as a Minister for Justice and Constitutional Affairs to block justice. The Member should take responsibility for her past actions. There is nothing short of that.

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. What responsibility am I being asked to take? Is it for raising a point of order in Parliament and tabling a letter? Anybody who thinks retrogressively, must again be told, that this debate is not about Ms. Karua. It is about the Artur brothers. There is not a single recommendation, for the simple reason, that raising a point of order is a noble duty of any Member of Parliament who feels strongly that there is something wrong with the order. Rulings belong to the Chair. Anybody who attempts to lay blame may continue to do so, but with dishonesty.

Madam Temporary Deputy Speaker (Dr. Laboso): Mr. Mbadi, can you conclude?

Mr. Mbadi: Madam Temporary Deputy Speaker, I still have time. Why should I be harassed?

Mr. Chanzu: On a point of order, Madam Temporary Deputy Speaker. Hon. Kajembe was the Chairman of this Committee. He is here and maybe he can help us.

Madam Temporary Deputy Speaker (Dr. Laboso): Order! If he wants to contribute he will rise and he will be given a chance.

Mr. Mbadi: Madam Temporary Deputy Speaker, I really do not want to go back to the point of order that has been raised by hon. Karua because I have already made my point. She has talked about raising a point of order. However, there is a letter which cannot be equated to raising a point of order. I just wanted my colleague, who is a very good friend of mine and a very strong Member of the Opposition, to be ready to take responsibility for what she did previously. This report is about the Government. The Member should accept that she was part of the Government which tried to obstruct justice. That is what we are condemning. If this kind of acts are allowed to continue and we do not take action now, then we are not sure that, in future, such acts will not recur.

I want to conclude my contribution by saying that I totally agree with the recommendations of the Committee, especially with regard to taking action against those officers who perpetuated this act.

Mr. Njuguna: Madam Temporary Deputy Speaker, I take this opportunity to contribute to the debate on this very important report. One thing that I have noted is that the inter-Ministerial Committee failed to develop a report on the issue of the Artur brothers getting Government documents. These people were not investors and should not

have been given licenses. There is nowhere in the country where the Artur brothers started any industry or a kiosk. To say the least, these people were criminals.

It is, therefore, important that we commend the good work that was done by this Committee. The two brothers, Sargasyan and Margaryan, were allowed to penetrate the national security apparatus in this country. They were given very high positions in the Government, honours that are not given to Kenyans. Although some Kenyans have worked for 20 or 30 years, they never rise to the position of deputy police commissioner. It is strange that these crooks were appointed to those positions. These were real strangers and their characters were not known.

I also note with some frustration that civil servants who enjoy salaries from the taxes paid by Kenyan taxpayers refused to give evidence to this Committee. This is very serious. Indeed, further investigations must be carried out on the characters of the State officers who refused to give the required information.

It is imperative that in this House we accord one another the required dignity. Political vendetta will not augur well, particularly when we personalize issues. I noted that the blood temperature of Ms. Karua was rising because she was bombarded with unnecessary missiles by some hon. Members. Yes, she was part of the Executive and she had a responsibility to carry out for this nation. Therefore, we should not try to hide behind her back by implying that we have friendship; friendship that is tarnishing the names of individuals. That is a very important point that I want to convey.

I note that the Artur brothers registered two companies within one week. They evaded paying tax to the Government. They also imported unknown goods. Up to now, the materials or the goods that they imported are not known. It is, therefore, important that a probe committee is formed to establish what these goods were. This saga really tarnished the image of this nation. Our tourism sector was affected. The image of the country was also distorted. The investment climate was not spared either by the presence of the Artur brothers in this country. This is a saga that should not be allowed to happen again in this country. We also remember very well that the Artur brothers were residing in Runda Estate. Who procured the premises for them? Were they paying rent? How did they get funds to meet this obligation? It is, therefore, important that we establish who was funding the activities of these Artur brothers.

The other observation that I have noted is the brother's interference with well established investors in this country like *The Standard Newspapers*, which has been here for over 100 years. They had their properties destroyed. This criminal act should not be allowed to happen again in this country.

With those few remarks, I fully support.

Mr. Lang'at: Madam Temporary Deputy Speaker, from the onset, I support the Motion. It is very unfortunate that such a thing could have happened in Kenya at a time when we were talking about reforms. If you recall, this happened at a time when the former KANU Government had been voted out. We had a new Government which was busy promising serious reforms and blaming the former Government of impunity.

According to this report, these two brothers were in Kenya on behalf of some high ranking individuals in this country. It is very difficult to understand why foreigners can come and flush out guns at our airports and yet in this country, every Kenyan, including Members of Parliament and Cabinet Ministers, go through security checks in our airports, and do not carry guns.

Madam Temporary Deputy Speaker, unfortunately, this matter has taken too long to be resolved. We thank the hon. Member who has worked so hard to bring this matter to be discussed today. The issue of The Standard Group was very unfortunate. It was really about a story that was about to be published and there is a law in this country which covers the area of journalism. They should have waited for the story to be published and then take the legal route. What they did was just to use unorthodox methods to destroy private property. They burnt the media house's newspapers and molested the staff of The Standard Group.

We want to say that The Standard Group must be compensated by the Government, because this was an act by the Government. Those who are responsible, and especially the Minister, must resign once we pass this Report today because this is not different from other illegal activities like drug trafficking. This is the same. I am confident that we are going to pass this Report. Hon. Michuki should resign immediately we pass this Report.

Madam Temporary Deputy Speaker, how come the Police Commissioner and other senior police officers who were responsible then issued these people with police identification cards with the rank of "Deputy Commissioner of Police"? That is almost an act of treason. How do we give the title of Deputy Commissioner of Police to foreigners? We must deal with these people or in future, the same will recur.

It is not that we do not have laws in this country. Even the former Constitution prohibits killing, stealing and many other things, but those things happened. The new Constitution talks about the same things. I fear that the new Constitution may not see the light of the day if we continue accepting impunity. So, if action is not taken against the people who were responsible---

Madam Temporary Deputy Speaker, it is captured in this Report that some senior police officers who were involved, and who are still serving in the Police Force, refused to come and testify before the Committee. The Parliamentary Powers and Privileges Act comes in handy. Those officers must be arrested as recommended by the Committee in this Report. They must be charged in court under the Parliamentary Powers and Privileges Act, so that we can see the rule of law applying in this country.

I also want to say that the former Minister has tried so much to clean her name. Recently, a letter was tabled in this House, and it was very clear. We were told to conclude for ourselves. I am sure that my conclusion is the same as that of other hon. Members here, that there was obstruction of the process of justice in Parliament taking place.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of order, Madam Temporary Deputy Speaker. I want to invite the hon. Member who is on the Floor to refer to page 39, where we have recommendations that were made by the Committee. The name of hon. Martha Karua is not mentioned anywhere in the recommendations of this Report, indicating that she did "a", "b" or "c".

Is he in order to mislead the House by saying that hon. Martha Karua is implicated in this thing? Be precise, man!

The Temporary Deputy Speaker (Dr. Laboso): Hon. Lang'at, can you stick to what is in the Report?

Mr. Lang'at: Madam Temporary Deputy Speaker, unfortunately, the hon. Member who has just risen on the point of order might not have read the Report in its

entirety. I sympathise with him because, had he read page five of the Report, he should have known the problems that the Committee faced. We must address these problems now, otherwise Parliament will continue facing the same problems in future.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Lang'at, does the Report mention hon. Martha Karua as one of the persons who committed the act being discussed?

Mr. Lang'at: Madam Temporary Deputy Speaker, her name is mentioned on page 5 of the Report. So, I am not talking out of the blues. We are discussing the Report in its entirety, and not only the recommendations.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I am getting concerned at attempts by various hon. Members to force us to read another Report which is not before this House. I have heard some hon. Members alluding to dishonesty by us. If you read this Report, on page seven; Membership of the Committee, you will see that it is very clear. We were not there. So, we are not dishonest. We are reading this Report which we were given by this House.

If you look at page 25, there are recommendations in relation to Raju Sanghani and Kamlesh Pattni. So, the page that hon. Kamama has referred to is not the only one with recommendations. There is also page five, which has recommendations. In fact, I was giving my views but I was interrupted and, therefore, I could not say what I wanted to say. Page five says that the first was the attempt by the then Minister for Justice, National Cohesion and Constitutional Affairs, hon. Martha Karua. So, can you let hon. Members elaborate what they are saying in relation to hon. Martha Karua instead of trying to cover up?

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. I think there is an orchestrated effort by a clique of persons or by a political party. Let us say that this is politics, because you must check who are articulating this. I am the one who stood in this House long before hon. Imanyara, to demand the Kiruki Report on the Artur brothers. The Speaker is yet to rule on it. It is true that the Committee accused me of obstruction. It is not borne by evidence. Throughout the Report, the Committee never summoned me although it has power to summon Ministers. The Committee summoned all the other Ministers. If I had anything to do with it, they would have summoned me. There is not a single recommendation against me. Is it, therefore, in order to say that---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order! Order, hon. Members! Allow hon. Martha Karua to complete her statement.

Ms. Karua: Madam Temporary Deputy Speaker, just check it. It is the same political party Members who are on their feet. Is it in order for party politics to be brought into the House?

Mr. Kigen: On a point of order, Madam Temporary Deputy Speaker. You have simply heard hon. Karua summarise that this is ODM politics. Is it in order for the former hon. Minister to refer to us, Members of this House, as ODM functionaries who have come here to articulate issues on behalf of ODM?

Mrs. Shebesh: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, hon. Shebesh?

Mrs. Shebesh: Madam Temporary Deputy Speaker, my point of order is very simple. Could I ask you, as the Chair, to clarify whether it is in order for us to discuss this Report in its entirety in order to avoid being accused of playing party politics, or of being a click of “mercenaries” or whatever we are being called?

Ms. Karua:---(inaudible)

Mrs. Shebesh: Madam Temporary Deputy Speaker, I am adding my own words because you called us a “click”. I can also use another word.

Madam Temporary Deputy Speaker, is it fair? Can you give us direction as to whether this Report can be debated in its entirety, with all the names that are mentioned in it, and with all the issues, or must we only debate on a specific part of it?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, allow hon. Karua to answer to those points of order.

Ms. Karua: Madam Temporary Deputy Speaker, I have no quarrel. I also discussed the report in its entirety but to try to make as though there is a recommendation against Martha Karua is dishonesty.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Karua, could you then apologize for making it look like it is a party matter?

Ms. Karua: Madam Temporary Deputy Speaker, I cannot apologize because the truth is all the Members of Parliament trying to tarnish my name from day one, are ODM.

Mr. Midiwo: On a point of order, Madam Temporary Deputy Speaker. I think hon. Karua is right; the members who are trying to say the truth about the Report are members of the ODM Party because it is only ODM which stands for the truth. It is ODM which was offended by Ms. Karua and her team.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): On a point of order, Madam Temporary Deputy Speaker. Is the Chief Whip in order to start splitting political parties on the Floor of the House, ignoring the ODM-Kenya, the most clean party in this country?

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Could we conclude this matter? Hon. Langat, could you conclude your contribution?

Mr. Lang’at: Madam Temporary Deputy Speaker, while I conclude, I want to say that I support the Report and we need some amendments to the Report so that we can have a conclusion on the conduct of the former minister---

The Assistant Minister for Education (Prof. Olweny): On a point of order, Madam Temporary Deputy Speaker. The Chair asked hon. Karua to apologize to the House and she said she cannot apologise. Is she disobeying the Chair? Could the Chair give us a direction on this?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Ms. Karua, could you apologize for making it look like it is a party affair? These are hon. Members who are making contributions here and not as party members.

Ms. Karua: I cannot apologize for noticing that they are the ODM Members of Parliament and for the fact that, in my view, in their debate, they are trying to make the report as though it is a report about me when there is nothing on me until the conclusion. I ask for fairness, I ask for you to look at the HANSARD and to look---

You cannot even hear me. Look at these Members!

(Loud consultations)

The Temporary Deputy Speaker (Dr. Laboso): Could you allow her to finish?

Ms. Karua: Madam Temporary Deputy Speaker, I do not have to raise my voice because the House is quiet, thank you for restoring order.

I am saying that we need to look at the HANSARD and see whether it is in order for party politics to be introduced. I was asking the Chair to rule whether it was in order because I have noticed---

(Hon. Members stood up in their places)

Madam Temporary Deputy Speaker, protect me so that I can answer your point of order because I have not only the right to seek your protection---. I do not mind the debate on the entire Report, but to try to bring an angle like it is about me when there is no evidence from me sought by the Committee and no conclusion, is that in order? I am still waiting for your ruling.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Karua, I have asked you specifically so apologize for saying that it is a party matter. These Members are contributing as Members of Parliament and not as party members. Are you going to apologize on that account?

Ms. Karua: Madam Temporary Deputy Speaker, I sought your protection and ruling. You have not given me the ruling. But if, in order for the debate to go on, you wish me to apologise for making it look like a party matter, I hereby do so, but I also seek your protection against a certain political party that is politicizing the matter.

The Temporary Deputy Speaker (Dr. Laboso): Okay. You have concluded.

The Assistant Minister for Education (Prof. Olweny): Thank you, Madam Temporary Deputy Speaker.

I want to support the Report. This pair of brothers, the so called Artur brothers, to me, they were terrorists. It is unfortunate that the Government at that time allowed terrorists to operate from within the Government. It is unfortunate that the Government gave them Kenyan identity cards and it is unfortunate that the Government gave this pair of terrorist positions in Government. At that time, it was alleged that these people were hit men who were supposed to execute some persons in this country. But it is good that Kenyans found out and they were exposed and whatever the Government was up to at that time was exposed and then these people were forced out of this country and they went. When they were here, they harassed Kenyans openly. It is not a secret that people in positions at that time supported them and helped them to do their operations but they were so unpalatable to the Kenyans.

Madam Temporary Deputy Speaker, these two terrorists with some supporters in the Government at that time invaded the premises of *The Standard Newspapers*, destroyed properties and inflicted injuries on the employees of the *Standard Group*. The Government should be held responsible for this kind of action because the Government knew it inside out. It is then that people operating from the State House were supporting the operation. The *Standard Group* should be compensated for their equipment and materials that were destroyed. The officers working at the *The Standard Newspapers* at

that time should also be compensated. The Government should take charge and make sure that those people are compensated for whatever injuries that were inflicted on them by the Artur brothers and the police officers who had accompanied them to do the operation that night.

Madam Temporary Deputy Speaker, the people in authority at time who associated with these Artur brothers or terrorists whether they are in Nairobi or whether they vacated office should be brought to the limelight. They should be investigated whether they are still in office or outside the office. The Report talks very well of the names, it talks very clearly of the two Ministers that were involved at that time; Mr. Michuki and the then Minister for Justice and Constitutional Affairs, who vacated office. Let us remember that even the biblical Paul who was persecuting the followers of Jesus apologized when he saw the light and confessed and then he joined the team. So let the Minister who is mentioned in the Report and he is sitting in the office vacate the office for investigation.

Mr. Ethuro: On a point of order Madam Temporary Deputy Speaker. I have noticed that the Professor is speaking from behind there and he is an Assistant Minister. I have not heard of a new reshuffle in Government. Could he resign first of all so that he may continue talking from that side?

The Assistant Minister for Education (Prof. Olweny): Madam Temporary Deputy Speaker, I am contributing as a Member for Muhoroni. I am not doing the response for the Government. I am speaking in my capacity as a Member of Parliament for Muhoroni Constituency.

I was concluding by saying that let the Minister, Mr. Michuki, step aside for further investigations and Ms. Karua who was the then Minister for Justice, National Cohesion and Constitutional Affairs be investigated.

Thank you and I support the Report.

The Temporary Deputy Speaker (Dr. Laboso): It is now time for the Government responder to respond.

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Madam Temporary Deputy Speaker. We have not exhaustively discussed this matter. Even if the debate goes into the next day, we can do it so that most of us can contribute.

The Temporary Deputy Speaker (Dr. Laboso): This is a Private Members Motion and it is given two hours. Unless the Minister is willing to contribute some of his time to the hon. Member.

Mr. Midiwo: Can I donate two minutes to Mr. Duale?

The Temporary Deputy Speaker (Dr. Laboso): Mr. Midiwo, are you responding on behalf of the Government?

Mr. Midiwo: Yes, Madam Temporary Deputy Speaker.

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I want to stand here as the Member for Dujis and not as the Member for ODM because on the Floor of this House, I either represent the people of Dujis, the people of Kenya or the Ministry of Livestock. I have been given that mandate.

This report is an eye opener for the people of Kenya and for those who love the rule of law. On the recommendations of this report and more so, on the individuals it is touching on, we should not even talk about the Ministers who are in office now, but we

should talk about the private sector players in this report like Kamlesh Pattni, Raju Sanghani and others who invited the Artur brothers. This report is sending a very good signal. I want to thank the former Commissioner of Police, Maj-Gen. Ali because this report shows that as the Commissioner of Police, he stood for the rule of law. He did that and even Ms. Karua confirmed that in her contribution.

Madam Temporary Deputy Speaker, this report is not about Ms. Karua and we should not politicise it because of the gallery. This report is about Kenya. It is about fundamental issues on how we treat the media and how we work as public officers. I want to say that this report is in line with the new Constitution. I hope that nobody, whether you are the President, the Prime Minister or the Vice-President--- Hon. Members should not be excited because more reports will come to the Floor of this House that will touch on people from their regions or political parties. This will not be the last one. More will come and when they come we want you to contribute the way you are contributing today so that we set a bench mark for everybody in this country whether you are the President, Minister or Member of Parliament that what you do outside, one day you will face it on the Floor of this House and the Constitution will catch up with you.

With those few remarks, I support this Motion.

The Temporary Deputy Speaker (Dr. Laboso): Who is contributing on behalf of the Government?

Mr. Midiwo: Madam Temporary Speaker, I oblige. Let me rise to support this report.

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker. I seek for your direction because you had said that it was time for the Government Responder and that is why Mr. Midiwo rose. I had requested him to donate two minutes to me but I do not know what has happened.

The Temporary Deputy Speaker (Dr. Laboso): I have been guided that the Chief Whip cannot represent the Government. Is there a Minister in the House who is willing to respond on behalf of the Government?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I am available.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Midiwo, you will make your contribution since you had already stood up as the Chief Whip and then we allow the Minister to respond.

Mr. Midiwo: Madam Temporary Deputy Speaker, I rise to support this Report.

Madam Temporary Deputy Speaker, the very confusion that clouded this country when the Artur brothers were brought to kill whoever they were trying to kill, is what we are witnessing today. This is a grave report. The recommendations of this Report are very grave for some people who are still sitting in Government and others who are still around this country and have not been prosecuted.

Madam Temporary Deputy Speaker, which country imports thugs and makes them deputy police commissioners and expects to be respected by its citizens? This is not a casual matter. This is a grave issue that somebody somewhere can go to another part of the world, look for international thugs, import them into their country, give them passports, IDs, employ them as deputy police commissioners, take them to a reputable media company such as *The Standard Group* and make them rain mayhem on its

citizens? This is a grave matter. This is not something that we should be casual about. We need to know the intention and why it happened and whether it can happen again.

Madam Temporary Deputy Speaker, this country was clouded with dark clouds when hon. Michuki said when you rattle a snake, expect to be bitten by it. Who was the snake? Was it *The Standard Group*? We saw the impunity because that impunity was repeated when the Nation Centre was raided. You saw a whole First Lady slapping a Kenyan citizen. They are enjoying some fake immunity, which actually they do not have. If you look at this report, it says people close to---

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Member of Parliament to drag the name of the First Lady, which is not a subject of this Report? The First Lady is not mentioned in this Report.

Mr. Midiwo: Madam Temporary Deputy Speaker, I want to agree with hon. Karua that the name of the Head of State is not in this Report. However, people around him are mentioned here. Who does not know that Ms. Mary Wambui and Ms. Winnie Wangui are around the President? It is here on page 15.

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Madam Temporary Deputy Speaker. We have only one First Lady, Mama Lucy Kibaki. With due indulgence we do not want to drag the names of prominent Kenyans who cannot defend themselves and who are not in this Report.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Midiwo, do not mention names of people who cannot defend themselves here.

Mr. Midiwo: Madam Temporary Deputy Speaker, page 15 says:
“Several illegalities, omissions and commissions known to various law enforcement agencies in Kenya were perpetrated, aided and abetted in favour of the Artur brothers. That perpetration took various forms including the cover up of evidence that could have exposed who the two individuals were and their connection to several individuals in Government, and, or Kenya in general, as well as their specific connection to State House and the person of the Head of Government, Ms. Mary Wambui and Ms. Winnie Wangui”.

It is in the Report! I am not fabricating anything!
Madam Temporary Deputy Speaker, as I conclude---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Ms. Laboso): Allow him to conclude!

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Ms. Laboso): Hon. Ethuro, what is your point of order?

Mr. Ethuro: Madam Temporary Deputy Speaker, I really agree with the suggestions of the hon. Member. But is he in order to mislead this House by connecting names? All the Report is saying is, identifying the people who were involved. The Head of State had gone public to tell us the size and names of his family members! Who does not know that?

The Temporary Deputy Speaker (Ms. Laboso): Order! Now, is the Minister willing to give any other hon. Member any more time?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): No, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Ms. Laboso): Okay. It is time for the Minister! Could you to conclude?

Mr. Midiwo: Madam Temporary Deputy Speaker, let me conclude.

Madam Temporary Deputy Speaker, I want to go with the recommendations; that the perpetrators of this crime must individually be held responsible as the Report says and I ask the House to wholesomely adopt this Report.

I think, this is the beginning of a new era and there is no point shying away. We must build a new Kenya. We cannot live with criminals whose identities we do not know and pretend that we are living in the same country.

I beg to support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I rise to respond. This Report demonstrates ---

The Temporary Deputy Speaker (Ms. Laboso): You have 10 minutes, Minister!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Thank you, Madam Temporary Deputy Speaker.

Madam Temporary Deputy Speaker, This Report demonstrates what should never happen in this country and I want to emphasize that two wrongs do not make a right. It is quite clear that characters of doubtful reputations and activities found their way into the country in circumstances that suggest that the crime and other activities were being condoned.

Having said that, Parliament should also not compound this problem. I am looking at page 38 and I want to draw the attention of hon. Members to page 38 and page 39, particularly on page 39. You will notice that hon. Members have continued speaking about persons who are not Members of this House, and even if they can, they would be strangers. I would like to emphasize that Standing Orders of this House do not permit the use of the privileges of the Floor of the House for purposes of casting aspersions at persons who are not Members of the House in the absence of sufficient, qualified and, above all, tested evidence.

If you look at the minutes---

(Mrs. Odhiambo-Mabona stood up in her place)

Madam Temporary Deputy Speaker, I did not interrupt anybody and I hope my honorable student---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I just want to seek your direction because this issue keeps coming up and it will probably come up another time if we do not get your direction and for my information, especially as a first-timer in this House.

If there are names mentioned in a report, I would like your direction on whether or not we should discuss them or whether we should give a blind eye to names that are in the Report, because at other times, we will have to bring a Motion when the names are not in the Report. So, if there is a different procedure, can we, please know, so that even in future, we do not violate the House rules?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, as a matter of fact, I want to thank the hon. Member for raising that point, because it was my second point!

(Laughter)

The fact of the matter is this; that if you look at these names of people listed on page 39, a majority of them will probably never even come to Parliament. They will not become legislators and, yet, they cannot speak for themselves. The new Constitution demands that rights of individuals be respected, particularly the right to privacy. Look at the former Criminal Investigations Department (CID) Director, Mr. Joseph Kamau; look at Ms. Mary Wambui and Ms. Winnie Wambui. Who will speak for these people? Who will advance---

(Several hon. Members stood up in their places)

Allow me, because I listened to all of you, and I tried to be objective. Anybody looking at Article 215 of the new Constitution and the existing Standing Orders will see that the Parliamentary Committees---

Eng. Gumbo: On a point of order, Madam Temporary Deputy Speaker. Is the Minister in order to mislead the House that these people mentioned in the Report cannot speak for themselves when we have heard Artur Magaryan talking all the time even on television arrogantly even after the Report came out? Did you mean talking here or talking for themselves? They can talk for themselves! Is he in order?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, unfortunately, allow me because I do not have enough time, to respond to that. Let me just show you with utmost respect. I beg your indulgence.

For example, look at page 89 - Evidence from the National Security Intelligence Service. This is at page 89 Minute 05/2006. If you look at that evidence, it is quite clear that that evidence was not taken on oath and the persons said they were not given an opportunity to respond.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Speaker. What the Minister is referring to is not the Report. He is referring to the minutes. Is he in order?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, the minutes of committees form the substance of reports to this House and I am entitled to refer to them. I want with utmost respect to plead with this august House to realize that Kenya is facing a new dawn which requires even us, as hon. Members of the House, to respect the rights of citizens. So, if you look at all the evidence and minutes attached, there is no single reference to any single witness being sworn on oath to testify. There is no opportunity granted to those who are mentioned to respond to this evidence. The House is faced with a Report that seeks to tarnish the reputations of these people who have no right to come to this House; who cannot speak.

Margaryan cannot speak for Anne Wambui. Margaryan cannot speak for these people who are Kenyan citizens. I am demanding for the rights of the citizens of this

country to be respected and not Margaryan. I personally would be happy to see them arrested and prosecuted and they ought to be prosecuted but the rights of Kenyan citizens must be respected---

(Hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, allow the Minister to complete.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, Mr. Kamama?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Please protect my time, Madam Temporary Deputy Speaker. Otherwise, what am I doing responding to all these interruptions?

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Madam Temporary Deputy Speaker, I just wanted to inform my good friend, Mr. M. Kilonzo, that the Report does not talk about “Anne Wambui”; it talks about “Winnie Wambui”.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, I am so grateful to the hon. Member for that. It is actually Ms. Winnie Wambui who in the pictures in the Press appears to be--

(Loud consultations)

The Temporary Deputy Speaker (Dr. Laboso): Order! Hon. Members, allow the Minister to complete. He has only got three minutes.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): Madam Temporary Deputy Speaker, the other thing that should never be allowed to happen is the attack on media freedom. The attack on the Standard Newspapers was unacceptable and will remain unacceptable. Personally, as the Minister for Justice, National Cohesion and Constitutional Affairs, I am looking forward to a day on which the people who invaded the Standard newspapers will be taken to court and prosecuted. That is why I keep on saying that we need the prosecutor under Article 157 of the Constitution.

Mr. Ethuro: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Minister for Justice, National Cohesion and Constitutional Affairs to wait for a day when he can know when these people will be taken to court, when he is already in the Government for that kind of job? Tell us who raided the Standard!

Hon. Members: Tell us!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo): The hon. Member knows that I am not Kenya’s prosecutor. But if I were the prosecutor, I would prosecute a lot of people very hard and lock them away.

But the attack on the Standard is unacceptable. The fact that people summoned to these Committees refused to honor summons of Parliament is completely unacceptable.

But the standards set by the Committee whereby it appeared that it was a witch-hunt; whereby it appeared that you were condemned even before you were heard; where it appeared you were condemned even before you were given an opportunity to confront your accusers is also completely unacceptable. Therefore, this Report is a comedy of errors.

I want to urge this House to be extremely careful in adopting this report because in adopting it, we will be merely compounding a serious comedy of errors. There were errors in the importation of these criminals into the country, if I can use the word “criminal” guardedly. There were errors of invading *The Standards Group*. It was even a grave error to put the names of people like Mary Wambui, Winnie Wangui, Raju Sanghani, Stanely Murage and Amb. Francis Muthaura, without giving them an opportunity to defend themselves before the Committee..

Eng. Rege: On a point of order, Madam Temporary Deputy Speaker. Is the Minister in order to deviate away from the fact of the matter? In fact, what we would like to hear in this Parliament is his seriousness. He should address this issue with some seriousness. For two foreigners, to come and cause a ruffle at the airport---

The Temporary Deputy Speaker (Dr. Laboso): Are you contributing or standing on a point of order?

Eng. Rege: Madam Temporary Deputy Speaker, I have just stated---

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order?

Eng. Rege: Madam Temporary Deputy Speaker, I am trying to say that the hon. Minister should be very serious when he is concluding this matter.

The Temporary Deputy Speaker (Dr. Laboso): Fine! Allow the Minister to conclude! Order!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Kilonzo): Madam Temporary Deputy Speaker, I want to thank you for protecting me.

The House needs to very carefully look at the conclusions of the Committee. There are more questions than answers. If you look at Paragraphs 115, 116 and 117, you will see that they are ultimately challenging the Attorney-General. Under Paragraphs 118 and 119, the report raises more questions than answers.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. Is the hon. Minister in order to mislead the House that the persons who have been mentioned were not given a chance to defend themselves when we are informed that they were called, but refused to appear before the Committee? It is there in the HANSARD.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Kilonzo): Madam Temporary Deputy Speaker, it is the hon. Member who is misleading the country and the House. The list of people who refused to own summons appears in paragraph 112, on page 38. The people I have mentioned are not included in the list that appears in Paragraph 112.

So, I beg to advise and to recommend to the House to withhold the approval of this report until further investigations are held.

Mr. Imanyara: Thank you Madam Temporary Deputy Speaker. Obviously, the Minister for Justice, National Cohesion and Constitutional Affairs lives in another era and not in the era of the new dispensation. I think we should treat the last comments he made with the contempt they deserve.

I wish to thank all those who have spoken in favour of this report. This is a very serious matter. The issues raised are of critical importance, not only to the way governance is conducted in this House, but also the way Committees of the House function. If you look at the challenges that faced the Committee, you will see that the most serious one was refusal to co-operate by senior Government officers, including senior police officers. Had they cooperated, probably, more information would have been unearthed.

This was a public enquiry. Nobody was denied an opportunity to seek to appear before the Committee. Not even the Head of State. Nobody said that they attempted to clear their names and were denied the opportunity. So, for a Minister to come to this House and say that they were not given or afforded an opportunity is very unfair and insulting the intelligence of Kenyans. Unfortunately, Kenyans are far much more enlightened these days than they were in those days.

The challenge that the Committee exposed to is set out in Paragraph 38. Let us not personalize these issues. It shows the people who appeared before the Committee, the composition of the Committee--- My good friend, Mr. Bifwoli, was a Member of that Committee. I was also a Member of that Committee. He is agreeing; by the way he is nodding. Let us look at what the challenges were and what recommendations were made. No reference was made, in conclusion regarding hon. Karua. So, I do not know why we have spent a lot of time deliberating on her conduct. The reference made to her, as a Minister, is there in the report. She has made her point. Everyone is entitled to make whatever point they wish to make. However, the recommendations are set out. Paragraph 111 says that the Committee was faced with a labyrinth of cover-ups of the activities of the Artur brothers. These cover-ups were legal, administrative as well as political. Despite this, the Committee was committed to establishing the truth therein. The intention of the Committee seems to have been read well by those covering up for the Artur brothers which made the work of the Committee difficult and triggered other challenges as enumerated therein such as refusal to own summons. Besides the cover up as a major challenge, the Committee issued summonses to key police witnesses who failed to appear before it. Summonses were issued to Mr. Patrick Lumumba, the Officer Commanding Police Division (OCPD), Gigiri, Mr. Isaya Osugo, Nairobi PCIO, Mr. David Kimaiyo, Director of Operations Police Headquarters to appear before the Committee on 14th November. They did not appear despite being duly served. Summons were again issued to them to appear on 13th April but only Mr. Kimaiyo appeared briefly before he was recalled to his office as stated.

Madam Temporary Deputy Speaker, you can see the cover up that the Committee faced. The co-chair is here and I can see he is nodding and agreeing that he did outstanding work, given the challenges and obstacles that were placed in their way.

Failure by the police to cooperate is the main challenge that is addressed in this Report. They say failure by the police to cooperate is closely related to the foregoing like what befell the Select Committee on the disappearance and murder of the late Member of Parliament for Nyandarua North, the late Josiah Mwangi Kariuki, the work of the joint committee was hampered by lack of cooperation on the part of the police all of which appear to constitute a massive and determined cover up. Judging from the behavior of the senior police officers and the Minister of State for Provincial Administration and Internal

Security, it can only be deduced that they did not wish Parliament to make any progress in unearthing the truth in the Artur brothers saga.

Madam Temporary Deputy Speaker, given what the Minister for Justice, National Cohesion and Constitutional Affairs is saying, even now, there are people in Government who do not wish that the truth be known. I would urge this House to speak with the voice they have spoken and adopt this Report in its entirety so that we can see what would happen.

I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, that brings us to the end of the business on the Order Paper. This House is, therefore, adjourned until this afternoon Wednesday 8th December, 2010 at 2.30 p.m.

The House rose at 12.27 p.m.