

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th March, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

NAMES OF KENYANS KILLED IN SOUTH SUDAN SINCE IMPLEMENTATION OF CPA

Mr. Keynan: Mr. Speaker, Sir, although I have not received a written reply, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Could the Minister provide the names of all Kenyans who have been killed in South Sudan since the implementation of Comprehensive Peace Agreement (CPA) and state the circumstances of each of the deaths?

(b) What steps has the Government taken to protect the lives of Kenyans and their property in South Sudan?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I have the answer ready. Unfortunately, because of the preparations, we were not able to send him the written reply. I hope the hon. Member will allow me to continue.

Mr. Speaker: Do you have an extra copy, Mr. Assistant Minister?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): No, Mr. Speaker, Sir. I do not have an extra copy. I have just one copy plus what I will lay on the Table. There is information in it which I will table.

Mr. Speaker: Order, Mr. Assistant Minister! Can you resume your seat for a moment? Member for Wajir West, are you prepared to proceed without a copy of the written reply?

Mr. Keynan: Mr. Speaker, Sir, we can proceed.

Mr. Speaker: Mr. Assistant Minister, you may go ahead.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) According to the records which are available to our Consulate General in Juba, the number of Kenyans who have been killed in South Sudan since the signing of the Comprehensive Peace Agreement (CPA) between January, 2005 and 2010 has been nine. Most of them have died through shooting by unknown gunmen while others have been shot by soldiers of the Sudan People's Liberation Movement (SPLM) or the national security intelligence system in the South Sudan. A summarized chart and other specific details of the circumstances of the deaths shall be presented to the House. It is noted that the chart contains only the deaths which occurred between 2008 and 2009. This is due to

the fact that there are no records from the Government of South Sudan between 2005 and 2007. Possibly, we do believe that this information has not been given to us since there is a possibility that the relevant institutional organs were still being established in South Sudan. Indeed, our own Consulate General in Juba was only set up in 2006. In addition, this statistics do not include deaths resulting from occupational or traffic accidents, diseases or natural causes which invariably are not brought to the attention of the Consulate General.

Regarding the killing in December 2009, court marshal proceedings are currently taking place for two of the individuals who participated in the killings of these Kenyans. The Consulate General is closely following the outcome of the court marshal cases and awaiting the Government of South Sudan's responses on other cases that have not been determined so far.

(b) Action taken by the Kenyan Government to protect the lives of Kenyans and their properties are:-

(i) Meeting with the Government of South Sudan authorities by the Consulate General, which has been held frequently on a monthly basis. The Consulate General of Kenya met with the Government of South Sudan authorities on various dates during the year 2008 to report on fatal attacks involving Kenyans. The Consulate General has tried to solicit security assurances for Kenya nationals resident in South Sudan. The Consular General has always met the Under-Secretary of the Ministry of Regional Co-operation, Mr. Hiten Serino and the dates are on 18th March, 2008 and 26th June, 2008 and the Deputy Governor was also seen. This Deputy Governor comes from the Central Equatorial State, Mr. Namese Lomole and his visit was on 16th October, 2008, when one Kenyan individual was killed in that State. The Under Secretary informed us that the Government of South Sudan was aware of the incidences of insecurity along Juba, Nadapal Road. Many lorry drivers had been victims of attacks by unknown gunmen. The security personnel had mounted an intense search for killers of these Kenyan drivers. He assured the Consul General of the Government's intention to rein on this insecurity blamed mainly on renege elements of armed groups in Eastern and Central Equatorial States of South Sudan.

The Deputy Governor also on his part attributed hostility towards Kenyans to the mixture of internally displaced persons, returnees back to South Sudan, ex-combatants and the general frustration of a post conflict society. It was, however, expected that the establishment of working systems that will soon reduce those challenges would be set up. He called for more support from Kenya in the establishment of such an institution which will be handling the post conflict reconstruction efforts in South Sudan.

(ii) There were meetings held between the Government of South Sudan officials, Ministry of Foreign Affairs officials in Nairobi and the Kenya National Security Intelligence system. In 2009, the Ministry of Foreign Affairs dispatched the Director in charge of Consular Affairs, the Head of Horn Africa Division and other officials to Juba to receive first hand information regarding the challenges Kenyans are facing in South Sudan. At this particular moment, we were aware that there had been an escalation of incidences of thuggery, violence and murder of many Kenyans. They meet the Government of South Sudan authorities and also discussed pertinent issues which were affecting Kenyans.

(iii) The Kenya Ambassador to Sudan met with Kenyan nationals who are currently resident in Juba and other parts of South Sudan. The Kenya Ambassador to Sudan, Mr. Robert Ndisu, visited South Sudan twice in 2008 and 2009. Together with the Consular General, they meet with Kenyan nationals in Juba and other regions. The objective was among other things to sensitize both the Kenyan nationals and the Government of South Sudan authorities on the rising critical issues of insecurity which were affecting our citizens. They visited Rumbek, Wau, Yei and Yambio. These two engagements in South Sudan were necessitated for us to try and reduce the temperatures which had been raised by strong feelings that incidents which were been committed were not been attended to. We realized that policing was not yet adequate owing to the many challenges that the young Government of South Sudan was facing. As a result, our Government officials raised this critical issue which they promised that they are working on.

(iv) Meeting with the Head of the Government of South Sudan Liaison office in Nairobi was the fourth intervention which the Ministry of Foreign Affairs had. On several occasions we have summoned the Head of the Liaison of the Government of South Sudan in Nairobi to protest over the increased incidences of death of Kenyans and destruction of their properties in South Sudan. The last such summon was following the unfortunate shooting to death of three Kenyans and injury of two others in December, 2009.

The last intervention was the inter-Ministerial meeting between the Government of Kenya (GoK) and that of the Government of South Sudan in Nairobi and Ministerial visits which have been conducted to South Sudan by our Cabinet Members and senior Government officials.

Mr. Speaker, Sir, on the 4th of February, 2010, an inter-Ministerial meeting between the GoK and the Government of South Sudan was held in Nairobi. The main objective was to follow up on the Kenyan-Sudan border issues. The GoK made it very clear to the Government of South Sudan delegation that protection of life and property of Kenyans in South Sudan is currently evident. The meeting urged them to set up elaborate measures to reverse the trend where many Kenyans were losing their lives. Kenyan Ministers have officially also visited South Sudan; these were the Ministers for Public Service, the Minister for Information and Communications, the Minister for Medical Services, the Minister for Co-operative Development and Marketing and the Minister for Foreign Affairs. Although they visited Juba---

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Is the hon. Member reading a speech or replying to a Question? I think you have given many rulings here that when they are answering Questions they should not be reading speeches!

Mr. Speaker: Order, Mr. Assistant Minister! Indeed, I have given directions on this matter severally, and I have urged hon. Members of the Executive to ensure that they answer Questions with precision and concisely, invoking the rules of summary, as we know that they exist in our training and in the English language, which I know the Assistant Minister for Foreign Affairs is conversant with, just like his father was.

(Laughter)

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Speaker, Sir. And my grandfather too!

(Laughter)

I had just finished---

Mr. Speaker: Could you move to conclude?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, in raising these matters, the Kenyan Government officers raised these concerns and the Government of South Sudan promised to do something about it. Since then, there has been an obvious improvement of the security of Kenyans in South Sudan.

Thank you, Mr. Speaker, Sir.

Mr. Keynan: Mr. Speaker, Sir, the work of the Ministry of Foreign Affairs, first of all, is to protect, project and promote the image of Kenya as a country. South Sudan is a state in the making. It is not yet a state and we do appreciate that. As a country, we have invested heavily and, for years, we have hosted many refugees from South Sudan.

Mr. Speaker, Sir, you will be shocked that recently, the Minister of State for Provincial Administration and Internal Security, Prof. Saitoti, was denied access to one of the administration posts between South Sudan and Kenya; hon. Kajwang was equally denied access to one of the immigration posts again between South Sudan and Kenya; you have heard serious allegations of espionage against hon. Munyes. I do not want to talk about the scorched earth policy that has been applied on Kenyans in South Sudan. The question is, this is a state that we have dearly---, Taking into account what we have done for them over the years, why is it that there is no appreciation by the South Sudanese people and also the South Sudanese Government? If our Ministers are harassed, if Kenyans are harassed--- I know a number of Kenyans who have lost their properties there; the number is more than the number you have given. Unfortunately---

Mr. Speaker: Order! Order, Mr. Keynan! The rules which I have just summarized in directing the Assistant Minister apply both ways. Hon. Members asking Questions must also ensure that they are relevant, brief and concise to the point. So, you have spent three minutes to ask a question. That, obviously, is not reasonable. Can you ask a question in half a minute?

Mr. Keynan: Mr. Speaker, Sir, the fate of a number of police officers who have been abducted is still unknown; a number of military officers have been killed. What concrete steps has the Government taken to ensure that Kenyans in South Sudan and Kenyans who live along the South Sudan-Kenya border are safe?

Mr. Onyonka: Mr. Speaker, Sir, I earlier on took so long to try and explain many of the interventions that the Government has been coming up with. We have been trying to come up with a way of solving the issues which exist in South Sudan *vis a vis* what has happened to our brothers and sisters. One, we know that the Government of South Sudan is a young government. We know that we have had a problem because of cross-border issues which have existed between the Turkana and the people from an area called Nandapal. We know that in Juba itself the Government of South Sudan could be trying to put mechanisms in place which would end up protecting the lives of Kenyans and, indeed, the lives of South Sudanese.

Mr. Speaker, Sir, the truth and the reality are that sometimes when you have a young government like that, the police force has been found to be wanting. Indeed, even the investigation branches of their Government have not been very successful. But the

Kenyan Government has been reassured that as far as the Sudanese Government is concerned, the events which have been taking place will not take place again. The Sudanese Government takes Kenya very seriously; they consider Kenya to be its elder brother. As you saw yesterday at the Inter-Governmental Authority on Development (IGAD) Meeting, which took place at the Kenya International Conference Centre (KICC), the President and people of South Sudan respect Kenyans.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. You have just ruled that the Assistant Minister has to be precise. The hon. Member asked a very important question. What has he put in place to ensure that Kenyan lives and property in Sudan is protected? He is going round and telling us about IGAD meetings and all that; is he in order?

Mr. Speaker: He is out of order. Mr. Assistant Minister, that is a legitimate point raised. Please, just respond to the question as asked! What concrete measures are you taking to ensure that Kenyans in South Sudan are safe?

Mr. Onyonka: Mr. Speaker, Sir, I wanted to say that the South Sudanese Government has promised us that their police force and all the other institutions which will make sure that Kenyan lives are safe are alert; they have promised that no Kenyan will be harmed. The reason why I raised the issue of these other interventions is because you need good relations for a country to appreciate your country, especially when it comes to such matters. The South Sudanese Government has promised that they will make sure that they meet our requirements and recommendations.

Mr. Mungatana: Mr. Speaker, Sir, for the last 21 years the South Sudan has been at war between the largely Muslim North and the Southern side which is largely Christian. Our own former President Moi was very instrumental in securing the Comprehensive Peace Agreement (CPA). It is, therefore, very sad that Kenyans today should suffer in South Sudan.

Mr. Speaker, Sir, I am particularly perturbed---

Mr. Speaker: Order, hon. Mungatana! What is your question?

Mr. Mungatana: Mr. Speaker, Sir, when the Minister for Regional Authorities Development paid a courtesy call following the deaths of three Kenyans, a Minister, Gen. Oyae Ajak. The only thing he did for our Minister was to convey condolences to the people who were affected – the families of the victims. What steps has this Government taken to ensure that compensation is paid? In Africa, Libya has been forced to pay compensation to the relatives of the Lockerbie bombing victims. In Kenya, the Minister himself has admitted that nine Kenyans have been killed since the 2005 CPA agreement. What compensation has he sought for our people who are suffering? There are over 70,000 Kenyans in South Sudan---

Mr. Speaker: Order, Mr. Mungatana! You have asked your question. Let the Assistant Minister respond now.

Mr. Onyonka: Mr. Speaker, Sir, as far as the Government of Kenya is concerned, we are waiting for the courts to take action. Once the individuals who perpetrated these crimes have been convicted, the Government of Kenya shall proceed and ask for compensation.

Mr. Speaker: Order, Mr. Assistant Minister! Are you pursuing compensation?

Mr. Onyonka: Mr. Speaker, Sir, it is one of the options on the table.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. The Government should take this matter seriously. When a compensation claim is to be paid between a

Government and the victims of the Government that suffers, it is not a matter of the courts of the other Government but a matter of Government pressure.

Mr. Speaker: What is your point of order?

Mr. Mungatana: Is the Assistant Minister in order to tell us that it is just an option and yet they are not taking any action in terms of pushing for compensation?

Mr. Speaker: Mr. Assistant Minister, that is genuine.

Mr. Onyonka: Mr. Speaker, Sir, I believe that the hon. Member's question is genuine. However, the truth and reality is that if you were to observe and read through the bilateral agreement that the Government of Kenya has with the Government of South Sudan – we are both members of the United Nations – in order for the Government to seek compensation from the Government of South Sudan, we will have to let the court system in South Sudan to go out and convict certain individuals so that this Government can take full responsibility in terms of us receiving compensation. We have to allow the Government of South Sudan to make sure that their legal processes take place before we can file a case and seek for compensation.

Mr. Njuguna: The Assistant Minister has clearly indicated that trucks moving goods to South Sudan have often been attacked and drivers hurt. At times, the vehicles are set on fire. What security arrangements have been made to make sure that our drivers and the goods they deliver to Sudan are safe?

Mr. Onyonka: Mr. Speaker, Sir, one of the interventions that the Government of South Sudan has come up with to solve the problem is the fact that it has agreed to talk to the regional commanders who run the Government security network in that country. They have promised that they will provide security for all the goods that enter Sudan through Lokichoggio on the Kenyan side. They have also said that they have contacted the regional governors and district heads within the Government of South Sudan who will liaise with them any time Kenyans are travelling within their region. They have promised to provide the necessary security arrangements.

Mr. Imanyara: Mr. Speaker, Sir, the number of incidents in which Kenyans abroad are mistreated is increasing day by day whether in Sudan, South Sudan or Middle East, particularly Saudi Arabia where young Kenyan girls are molested and thrown off storey buildings. This is a reflection of lack of policy on the part of the Ministry. What coherent policy does the Ministry have to respond to such cases as other countries do, for example, Israel and Libya do whenever their nationals are attacked or mistreated in other countries? What specific policy guidelines do you have at the Ministry to respond to such issues?

Mr. Onyonka: Mr. Speaker, Sir, in fact, the sentiment that the learned friend and colleague, Mr. Imanyara, has raised is a misconception. The truth and the reality is that the Ministry of Foreign Affairs has a policy on what we need to do with Kenyans who travel out of the country and those who work in the diaspora.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I did not ask about Kenyans who travel out of the country but when Kenyans are mistreated in foreign lands. What policy does the Ministry have for retaliating or responding?

Mr. Speaker: Mr. Assistant Minister, be precise.

Mr. Onyonka: Mr. Speaker, Sir, I thought he interjected before I could make my critical point. Kenyans have frequently been advised that anytime they leave Kenya for countries in the Middle East and South Sudan, they need to get in touch with the

respective ambassadors or the consular general in that region. The problem we have had as a Government is that once many Kenyans are advised not to travel without informing the necessary authorities, they still leave the country and get involved in activities, as you have read in the Press, which cause harm to them.

However, as a Government, we have been having bilateral understanding and co-operation with some of these countries. We have made sure that wherever Kenyans travel they get the necessary help and good treatment they require.

Mr. Twaha: Mr. Speaker, Sir, does the Assistant Minister expect a foreign Government to take seriously our claim for compensation when successive Kenyan Governments have failed to compensate the Mtongwe Ferry disaster victims? We remember that 240 people died in that disaster that occurred 16 years ago and to date their families have not been compensated.

Mr. Onyonka: Mr. Speaker, Sir, I am willing to explain in case the hon. Member did not get what I said. We will seek for compensation anytime a Kenyan will be injured or harmed in a foreign country. I promise the hon. Member that it will be done once we have followed all the modalities and legal issues.

Mr. Keynan: Mr. Speaker, Sir, how many prosecutions and convictions have taken place in South Sudan as a result of the many Kenyans who have either been killed or maimed? Secondly, we know that the Government has eloquently remained silent on the issue of Migingo Island and yet it is contentious. We have not forgotten it. There is a problem between Kenya and South Sudan in connection with Nadapal. There is also a problem between Kenya and Ethiopia over River Omo and the use of Lake Turkana. There is a problem between Kenya and Ethiopia over Moyale. There is also a problem between Kenya and Somalia. So, where are we? What steps has this Ministry taken to ensure that Kenyans are not harassed along their borders? Kenyans need to feel free and confident as they go about their business in all the regional States.

Mr. Speaker: The Member for Wajir West, I have bent backwards to accommodate four questions from you. However, hon. Members, note that supplementary questions restrict you to just one question. Mr. Assistant Minister, choose whichever you want to answer.

(Laughter)

Mr. Onyonka: Mr. Speaker, Sir, the truth is that the Government is patiently waiting to liaise with the neighboring countries so that some of these disputes can be sorted out amicably. As the hon. Member knows---

Mr. Keynan: On a point of order, Mr. Speaker, Sir. It will be fair for the Assistant Minister to state which question he is attempting to answer so that I can also follow.

Mr. Onyonka: Mr. Speaker, Sir, the easiest one is on Migingo Island. The Minister for Foreign Affairs will soon bring a report to this House to discuss what has transpired since Uganda and Kenya did the demarcation of the boundaries. I hope my colleague will be a little bit patient.

On the second question I would like to answer---

Mr. Speaker: Order, Mr. Assistant Minister! You needed to answer one question and you have done well. You have answered the one with respect to Migingo Island so that the hon. Member remembers to live within the rules next time.

The Member for North Imenti!

RATIONALE FOR MAKING BIRTH CERTIFICATES
REQUIREMENT FOR KCPE/KCSE REGISTRATION

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

(a) What informed the decision to make birth certificates a requirement for 2010 KCPE and KCSE registration, and why is it necessary to implement the same immediately?

(b) What urgent inter-Ministerial co-ordination steps is the Minister taking to ensure that the issuance of the certificates is speeded up, considering that the Department of Registration of Deaths and Births is currently overwhelmed?

(c) Could the Minister consider suspending the directive and communicate the same to all heads of primary and secondary schools as a matter of urgency?

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I beg to reply.

(a) The decision to make birth certificates a requirement for 2010 KCPE and KCSE registration was to enhance the integrity of examinations conducted by Kenya National Examinations Council (KNEC). It will help in identification of candidates, elimination of exam cheating and enhance student tracking.

(b) The urgent inter-Ministerial steps that the Ministry has taken to ensure the issuance of birth certificates are as follows:-

(i) All persons seeking birth certificates need only to deposit application forms at the district civil registrars and return to collect the certificates after seven days.

(ii) The Ministry of Immigration and Registration of Persons will hire additional personnel to cope with the increased applications for birth certificates.

(iii) The Ministry is not considering suspending that requirement, but has extended the deadline for submission of birth certificate applications for the purpose of examination registration from 31st March to 30th June, 2010, to allow parents and students enough time to meet that requirement. However, the deadline of all other documents for examination registration remains 31st March, 2010.

Mr. Speaker: Order! Hon. Members, please, be advised that, because the first Question by Private Notice took too long to be concluded, we will eat into the Prime Minister's Time by a half an hour. So, we will move to Prime Minister's Time at 3.30 p.m. The Member of Parliament for Imenti North!

Mr. Ruteere: Mr. Speaker, Sir, I am shocked to hear the Assistant Minister say that birth certificates are for identification of those who are registering for national examinations. What informs him that the student who will be having that birth certificate will be a proper candidate who will be sitting the examination? A birth certificate does not have a photograph of its holder. That is one. Two---

Mr. Speaker: Order! Order, Mr. Ruteere! I have given directions not very long ago. Mr. Assistant Minister, please, reply!

Prof. Olweny: Mr. Speaker, Sir, birth certificates will help us to effectively identify the candidates. That is because we are going to scan photographs of candidates onto the copies of those birth certificates. Secondly, a birth certificate will have an identification number. We shall use that number to ensure that there is no mix up in the identity of candidates.

Mr. Abdirahman: Mr. Speaker, Sir, parents are now providing birth certificates which they acquired long time ago in some areas. I wonder how they are going to mark those birth certificates. But let me say this---

Mr. Speaker: Are you asking a question, Mr. Abdirahman?

Mr. Abdirahman: Mr. Speaker, Sir, I want to ask a question. My question is---

Mr. Speaker: You have already asked one!

Mr. Abdirahman: Mr. Speaker, Sir, my question is: Could the Ministry consider suspending that requirement in this particular year and try it next year, so that parents can have more time to prepare themselves?

Prof. Olweny: Mr. Speaker, Sir, my Ministry is not going to suspend that requirement. As a matter of fact, every Kenyan child and every Kenyan adult, including a Member of Parliament, is supposed to have birth certificates by law.

Mr. Muturi: Mr. Speaker, Sir, could the Assistant Minister tell us how many students are likely to be registered and at what cost? Has he budgeted for that cost?

Prof. Olweny: Mr. Speaker, Sir, may I request the hon. Member, through you, to repeat that question?

Mr. Muturi: Mr. Speaker, Sir, I asked the Assistant Minister to provide the House with the number of students and pupils that he expects to register, at what cost and whether he has budgeted for that cost.

Prof. Olweny: Mr. Speaker, Sir, as a Ministry, we are registering students for the examinations. I do not understand what the hon. Member is asking. Why is he asking me to tell him the number of students that we are going to register? Let him elaborate.

Mr. Muturi: On a point of order, Mr. Speaker, Sir. The Assistant Minister has not answered my question. Those are students in schools and the Ministry is expected to incur some expenditure. How come he is not ready to suspend that requirement and yet, he does not understand or know how much it is going to cost the Government?

Prof. Olweny: Mr. Speaker, Sir, I do not think the acquisition of birth certificates is going to cost the Government any money, apart from the clerks who will be overseeing the registration exercise. Those are Government employees. Parents are supposed to pay the registration fees to the Government as they register their children for examinations. However, we will know the numbers of candidates after the conclusion of the registration exercise by 31st March, 2010.

Mbadi: Mr. Speaker, Sir, if I got the Assistant Minister correctly, he said that the Government is in the process of recruiting personnel to carry out that exercise. He is admitting that the Government was not prepared for that exercise. The same Assistant Minister has gone ahead to talk with finality and tell the whole country that, that exercise is not going to be suspended. Why is the Ministry insisting on carrying on with the exercise when the Government is ill prepared for the same? And---

Mr. Speaker: Order! Order! One question at a time!

Mr. Mbadi: Mr. Speaker, Sir, I just wanted to request the Assistant Minister not to be arrogant and just address the issue.

Prof. Olweny: Mr. Speaker, Sir, I am not arrogant. I am very friendly and always smiling to hon. Members. The Government is very prepared for the issuance of birth certificates. As I said, the Government has been issuing the document to Kenyan children, including adults of our age. I have my birth certificate which was issued by the Government of Kenya.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. The Assistant Minister is trying to evade the question. Is he in order to evade my question? It is true that birth certificates have always been issued, but the number of birth certificates that are now being sought is overwhelming. That is why the matter is of concern to this House. That is also why we are asking the Ministry to suspend it. Could he tell us why he cannot suspend that requirement now that it is overwhelming the Government?

Mr. Speaker: Minister, try and deal with that specific question.

Prof. Olweny: Mr. Speaker, Sir, we are not going to suspend it. It is one of the ways of controlling cheating of examinations in this country.

Mr. Abdirahman: On a point of order, Mr. Speaker, Sir. I do not think the Assistant Minister is in a position to help this House and Kenyans. That is because the issue of birth certificates is not only with the Ministry of Education. There are a number of Ministries involved. Would I be in order to ask the Office of the Prime Minister to address this issue? Since it is an issue of national concern, could he actually ask the Ministry of Education to suspend that requirement, because we are not making any headway?

Mr. Deputy Speaker: Order, Mr. Abdirahman! You are out of order! You have not raised anything valid that the Assistant Minister was in breach of, in terms of our regulations or Standing Orders. If anything, he had done very well up to that point. It is just that, as a professor, sometimes, he is not very precise.

(Laughter)

Essentially, I followed what he was saying. He did, simply, say this, although without using those words: The Government had adequate stocks of proforma birth certificates to register everybody who needs registration.

Mr. Affey: Mr. Speaker, Sir, clearly this matter is raising concern in the country and the Assistant Minister must understand that there is no uniformity in the country. There are certain areas in this country where people access birth certificates even at the age of 40 years. Now that these documents are required to register students, could he be kind enough to decentralize the registration so that the headmasters do it in schools instead of inconveniencing the students to go to registration centers outside the school?

Prof. Olweny: Mr. Speaker, Sir, if we give the headmasters the responsibility of doing the registration of births, this will distract them from the duties allocated to them by the Ministry of Education. The Government has officers who deal with registration of persons. Those officers will handle that at the district offices.

Mr. Ruteere: Mr. Speaker, Sir, the Assistant Minister is insensitive to the plight of parents and students, in that, he insists that the certificates must be issued even when they cannot be obtained. Now that the Ministry of State for Immigration and Registration of Persons will not be able to issue these certificates, is he sure that all the candidates will

register for the national examinations at the end of that period? If they do not, what will the Assistant Minister do?

Prof. Olweny: Mr. Speaker, Sir, as I speak now a good number of candidates have registered. However, should there be a problem by 30th June, the issue will be reviewed by the Ministry.

KILLING OF MESSRS. ALFRED SULULU/
RONALD KIPRONO

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

(a) Under what circumstances were Messrs. Alfred Sululu (a Red Cross of Kenya Volunteer in Bungoma) and Ronald Kiprono (a 2nd year Kenyatta University B.Com student) killed recently?

(b) Who was responsible for these heinous acts and what action has been taken against them so far?

(c) What action is the Government taking to check the increasingly worrying trend of misuse of firearms and extra-judicial killings by the police officers?

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

(a) On 26th January, 2010 at around 7.45 p.m at Sekata area along Bungoma-Webuye Road, three vehicles which included a fuel tanker and a lorry were involved in an accident. A large crowd assembled at the scene of the accident and started siphoning diesel leaking from the fuel tanker. This caused a lot of commotion and the crowd became uncontrollable. This prompted the police officers to shoot in the air to disperse the crowd.

Mr. Speaker, Sir, a Kenya Red Cross staff from Bungoma Branch had gone to the scene to assist the accident victims. Among them was one volunteer namely, Alfred Sululu. While attending to one of the accident victims, he was shot from the back. The firearms used by the police officers and bullet heads recovered were taken to ballistic experts for analysis and to establish who had shot the bullet. After the ballistic investigations were conducted, it was eventually established that Corporal Peter Ngilu, No.32292 fired the fatal shot.

He was arraigned in court on 3rd February, 2010 vide State Counsel letter Gen.CRL.Vol.1/35/2010 and charged with the offence of murder. The case is pending in court.

(b) With regard to Robert Rono, on the night of 30th January, 2010 about 5.00 a.m. three Administration Police officers guarding the Ruiru Campus heard screams emanating from the ladies hostels which is known as "Tana" and proceeded to investigate. On their way, they encountered three people who were running away from the ladies hostel and on seeing the police they engaged the police officers in a shootout as they escaped.

Police officers fired back and one was shot dead. The other two, unfortunately, escaped. The suspect shot dead was found with a toy pistol which was later handed over to the police. It later emerged that the deceased, Ronald Kiprono Chumba was a second year Bachelor of Commerce student at Kenyatta University main campus. The officers

who fatally shot the deceased were identified as Corporal Daniel K. Njoroge No.200105354 and APC. Jamleck Kiraithe No.99017256.

Mr. Speaker, Sir, an Inquest File, Ruiru Police Inquiry No.5/210 has been opened and investigations are ongoing to determine if the police officers acted within the law to fire and fatally injure the deceased.

(c) All officers of the police force are thoroughly trained on handling of firearms. Apart from the initial officers' training, they are taken for refresher courses on arms handling skills frequently. Each officer is held individually responsible for misuse of firearms issued to him or her and any incident of shooting by police officers is subjected to thorough investigation. Where found at fault, the individual officer is arraigned in court. The police are not above the law and are dealt with like any other person where misuse of firearm occurs.

Thank you.

Mr. Wamalwa: Mr. Speaker, Sir, there is a worrying trend of trigger-happy policemen killing innocent Kenyans. Apart from Alfred Sululu and the young Kiprono Chumba, we remember the case of Dr. James Muiruri who was shot by an officer who was off duty and yet he had a gun. We remember the case of Jordan Odhiambo, the United States International University (USIU) student who was shot by a trigger-happy policeman. The truth of the matter is that the officers responsible are protected by fellow officers. To date, young Kiprono Chumba's killers have not been brought to book. What has the Assistant Minister done to ensure that these officers are prosecuted?

Mr. Ojode: Mr. Speaker, Sir, we give refresher courses to make sure that each individual will account for his or her activities. I have said and I want to repeat that the law will catch up with the police officers who are trigger-happy or those who misuse the firearms. We will not protect anybody who misuse firearms.

Mr. Speaker, Sir, we have already arrested three officers who are being investigated. We have also charged one police officer whom ballistic experts confirmed to us that he was the one who triggered the bullet that killed Mr. Sululu. I would like to inform this House that police officers must use firearms as and when need arises.

Mr. Sirma: Mr. Speaker, Sir, as we appreciate the answer given by the Assistant Minister, could he give an undertaking to the families of the deceased that the Government will compensate them? The Government is responsible for these killings because it gave firearms to police officers who do not understand their use.

Mr. Ojode: Mr. Speaker, Sir, on several occasions, I have said in this House that on the issue of compensation, the family members know what action to take. If the court orders us to compensate them, who are we to refuse? I assure this House and the whole country that reforms are underway and we will eliminate the officers who misuse firearms.

Mr. Pesa: Mr. Speaker, Sir, we quite understand that the police are human beings like ourselves and of course they defend themselves when the need arises, as the Minister has said. The Minister has just said that there was an exchange of fire between the police and the suspects. He further said that there was a toy pistol recovered on the deceased. Can he confirm that the toy pistol was loaded?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the toy pistol was not loaded.

Dr. Khalwale: On a point of Order Mr. Speaker, Sir. If the Minister is confirming that, indeed, the pistol was a toy and that it was not loaded, it means he is misleading the House by claiming that there was a shoot out. A shoot out means opposing camps shooting at each other; there was only one camp with a pistol; the other one had a toy. Can he tell the House the actual thing---

Mr. Speaker: Order! That point of Order does not arise from the question asked by the Member for Migori, nor the answer given by the Assistant Minister. If you look at your Standing Orders, you are definitely out of order. Member for Saboti?

Mr. Wamalwa: Can the Assistant Minister tell the House when they intend to prosecute the officers who were responsible for the killing of the late Kiprono?

Mr. Ojode: Mr. Speaker, Sir, it is not a question of when; investigations are in high gear and wherever the investigations report comes out we are going to arrest and arraign the fellows in a court of law.

ORAL ANSWERS TO QUESTIONS

Question No.012

DEMANDING OF BRIBES FROM MOTORISTS BY POLICE OFFICERS AT WEIGHBRIDGES

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

(a) whether he is aware that police officers manning weighbridges are demanding bribes from drivers and owners of overloaded trucks;

(b) why the officers demand that owners of the alleged trucks appear in courts; and,

(c) why the police also demand that original logbooks of the trucks be deposited with them in the process

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

(a) No, the Ministry is not aware that police officers manning weighbridges are demanding bribes from drivers and owners of overloaded trucks. However, the Minister is aware that police officers are deployed in various weighbridges to provide the following services:-

1. security;
2. direct motor vehicles from the main road into the weighbridges;
3. detain motor vehicles and guard them as directed by the weighbridge officers; and
4. prosecute overloading offenders.

All weighbridges, except Mariakani and Athi River, are manned by the Ministry of Roads staff. Mariakani and Athi River are manned by a privately contracted company namely Otieno Odongo and Partners Consulting Engineers. But whenever complaints of bribery are received, action is usually taken, which includes, taking such wayward officers to court if there is proof.

(b) The police, in charging the owners of such vehicles before courts, act within the provisions of Section 58 (1) of the Traffic Act, Cap. 403 Laws of Kenya which states

in part, "Any person who drives or uses on a road a vehicle in contravention of the provision of Section 55 or 56 shall be guilty of an offence and will be liable to a fine not exceeding Kshs400,000 or to imprisonment for a term not exceeding two years or to both". Section 58(2) also states "For the purposes of Section 1, any person who is shown to the satisfaction of the court to be responsible for the maintenance of the vehicle, and any person who is shown to the satisfaction of the court to have been responsible for the loading of the vehicle, shall be deemed to have used the vehicle on the road". Section 56 also provides for limitation of loads and Sub-Section (1) states in part, "No vehicle shall be used on the road with a load greater than the load specified by the manufacturer of the chassis or than the load capacity determined by an inspector under this Act". The police officers act was within the law when charging the owners of the alleged trucks before courts, since the law recognises them to be responsible for loading vehicles and using the trucks in question.

(c) Police officers from time to time request for production of original logbooks for purposes of verifying the owner of the truck when such persons are charged in courts. This is done pursuant to Section 8 of the Traffic Act, Cap 403 Laws of Kenya which states, "The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle.

Mr. Ochieng: Mr. Speaker, Sir, if the Minister is denying that police officers manning these weighbridges are taking bribes, how comes recently about six trucks carrying 60 tonnes each from Mombasa were arrested in Kisumu with the same cargo? How did they manage to reach Kisumu with 60 tonnes of cargo each?

Mr. Ojode: Mr. Speaker, Sir, I said clearly that my police officers do not take bribes because they are not directly involved in these cases of overloading. But I would also suggest to the hon. Member, if he knows of any police officer who takes bribes, he should give me the number of that officer in order for me to deal with that security officer---

Mr. Ochieng: On a point of Order, Mr. Speaker, Sir. The Assistant Minister knows very well that I am a Member of Parliament, I cannot go to the weighbridges and look at what is taking place there. That is not my role.

Mr. Ojode: I thought he got the information that some of my police officers take bribes and I am saying there is no police officer who has been implicated in such vice. They should also note that the giver of the bribe and the taker are both criminals, and they will be taken to court. If you know of any police officer who has taken any bribe, come to Ojode; I will deal with him straightaway.

Mr. Ochieng: Mr. Speaker, Sir, it is important that the Assistant Minister takes this Question very seriously, because there is hue and cry out there. Those who ferry goods within the required limits and those who overload trucks still manage to go through these weighbridges; even if you have loaded your vehicle to capacity that is required the owners of the trucks say that they still pay bribes. This is what I want the Assistant Minister to clarify or to confirm. If he is not convinced by my question, what measures does he want to put in place to make sure that he tracks down the offenders?

Mr. Ojode: Mr. Speaker, Sir, I want to confirm to this House that my police officers are not directly involved in these corrupt practices. But if there is a case which implicates the police officers directly, I am willing to take up the matter and in fact we will arrest that particular police officer and take him to court. He might even lose his job if there is

something like that. I want to assure members of the public that police officers are not supposed to take any bribes at the weighbridges for purposes of releasing overloaded trucks.

Question No.091

NUMBER OF APPLICANTS FROM COAST WHO RESPONDED TO
ADVERT. NO. MOE 2/2009

Mr. Speaker: I think we can take one more question. The hon. Prime Minister, we deferred your time to 3.30 so we will do just one more Question. Hon. Shakila Abdalla! Question dropped.

(Question dropped)

Question No.032

DELAY IN RELEASE OF ECONOMIC
STIMULUS PROGRAMMES MONEY

The hon. Member for Emuhaya, the Assistant Minister for Finance had put in a request that he is unwell. He has had to go and seek medical attention; so, he is unable to be here this afternoon to answer the Question and the substantive Minister has gone to Naivasha to prepare for the Members' workshop. So, this question is deferred to Tuesday next week.

(Question deferred)

Member for Mosop!

Question No.103

REDUCTION OF MILK PRICES BY THE NEW KCC

Mr. Koech: Mr. Speaker, Sir, before I ask Question No. 103, I want to say that I have no written answer.

Mr. Speaker: The Minister for Co-operative Development and Marketing, do you have an extra copy for the hon. Member? Can you have it passed on to the hon. Member? You can proceed to answer the Question.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, I wish to apologise to my good friend. I sought and received a copy in the morning but I also had taken an extra copy because I know how the system sometimes works.

Mr. Koech asked the Minister for Co-operative Development and Marketing (Mr. Nyagah):-

(a) why the new KCC has reduced the price of milk from Kshs24 per litre to Kshs20 per litre;

(b) the reasons for erratic milk collection by the New KCC in the North Rift and Nyahururu and frequent closure of factories in January 2010, exposing farmers to huge losses; and,

(c) what assurance he can give to the dairy farmers in the country regarding the stability and progress of the New KCC.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Speaker, Sir, I beg to reply.

(a) It is true New KCC reduced producer price of milk from Kshs24 to Kshs20 per litre. This reduction was occasioned by the milk glut experienced in the dairy industry, resulting to general increase in storage, processing and marketing costs.

(b) The New KCC was unable to absorb the excess milk in Nyahururu and North Rift due to the increase in production against limited storage and processing capacity. The excess milk in the dairy industry was directed to the New KCC since the other milk processors could not absorb the additional volumes. Illegally imported milk powder also contributed to the problem. It is also true that the company is to be blamed for having been ill prepared for the crisis.

(c) The Government is concerned about the plight of dairy farmers and it is addressing the problems in the industry. In this regard, the Government has recognized milk as a strategic food product and it is in the process of creating strategic milk reserve. This will cushion the dairy farmers and processors, including New KCC, from erratic milk production trends. This intervention, among others, is intended to stabilize the dairy sector including New KCC.

Mr. Koech: Mr. Speaker, Sir, I would like to thank the Minister for that answer and for showing his concern about the farmers. He has made it very clear that one of the reasons that led to farmers running into big losses is the people who have illegally imported milk to this country. What has the Minister done to deal with the people who imported milk illegally, thus causing the losses?

Mr. Nyagah: Mr. Speaker, Sir, there is a small amount of legal milk that was imported into the country. It is also true that a substantial volume of milk came into Kenya illegally during the dry season. It was consumed by other milk processors and companies such as Nestle who need it for their chocolate making and milk powder processing. Those are the kinds of companies that need it for specialized products that they produce. Substantial quantities were, therefore, accumulated and when it came to January, the combination of a good rainy season and the excess products in the market caused the crisis. What am I doing? As the Minister in charge of the co-operatives, we have been in consultation with various wings of the Government such as security, Kenya Revenue Authority (KRA) and other institutions that are supposed to ensure that milk is not imported into this country illegally. Those consultations and actions are also being taken by the Kenya Dairy Board (KDB), the institution that is charged with the responsibility of monitoring and assessment of milk products.

Mr. Baiya: Mr. Speaker, Sir, could the Minister name those who imported the powdered milk illegally into the country?

(Applause)

Mr. Nyagah: Mr. Speaker, Sir, I do not have the names of the companies that imported milk powder. But I can confirm that our investigations indicated that substantial amounts came in. They were not declared as milk powder and so, even if you go to the KRA records, you will not necessarily see a product called “milk powder”. That is how the smuggling happened in Kenya. But I can confirm there is only one single producer of milk powder in Kenya called New KCC. Once the market stops buying that product, it means that they are buying it from elsewhere.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to say that he cannot identify those who imported the powder milk illegally into the country, when he has said that, that milk has been traced to some of the processors in the industry?

Mr. Nyagah: Mr. Speaker, Sir, the advantage of being a Minister for Co-operative Development and Marketing is that you are not a security officer. Once you pass on the information to the security wing of the Government--- I have said that we are working flat out with all the wings of the Government. We are working with KRA, KDB and security forces to try and establish that. As I said, it was not necessarily declared as milk powder. What was formally registered by the KDB is a very small quantity of the total volume that came into the market. But we know that since KCC is the biggest producer and its powdered milk has not been bought, we know that somebody has brought in milk powder.

Eng. Maina: Mr. Speaker, Sir, last year this House questioned the sudden refusal by the Minister to extend the tenure of Mr. Mwangi, who was the Managing Director (MD). We expressed the concern that acting contrary to the board’s resolution would lead to the disruption of the management of New KCC. Thereafter, we witnessed what happened. Could the Minister tell this House what he is doing to put the New KCC management in order and whether he can consider reinstating Mr. Mwangi as the board had requested?

Mr. Nyagah: Mr. Speaker, Sir, the good thing about companies is that no vacuums are created because there is a structure. It might have been weak but there is a structure that remained even after the departure of the then MD. In fact, the indications are that now, suddenly, we have increased the production by over 50 per cent. Many things are coming out to light and it is better that we move on and help the farmer. I want to say that what we are doing will be good for the sector. We have, in fact, advertised the job and in the next few weeks, Deloitte and Touche will be shortlisting the candidates. Thereafter, we shall appoint. As I said from the beginning, I hope that if he will still be interested in the job, he would be most welcome to apply and I am sure Deloitte and Touche would shortlist him if he is qualified. But I want to confirm the fact that the departure of one individual does not mean it has come to an end. It was a result of all those combinations of things that I have indicated over the last one and half months.

Mr. Wamalwa: Mr. Speaker, Sir, the Minister has indicated that part of the interventions by the Government to deal with the milk glut is to create a strategic milk reserve. Could he confirm whether the Government has also considered free milk for primary schools as some of the interventions to deal with the excess milk?

Mr. Nyagah: Mr. Speaker, Sir, I am not aware that free milk to schools is being considered. But I am aware that a decision was made about two years ago and Kshs600 million was set aside by the Treasury to give to the Ministry of State for Special

Programmes to set up a strategic reserve. It is important to give the people who suffer good nutritious food, including milk powder. It is the delay of that money that has partly caused the problems that we have. Had that money come, as has now been directed, it would have solved some of the problems that we have.

The New KCC has a problem. If the money we are requesting from the Cabinet plus the strategic reserves become available as soon as possible, the co-operative movement through reputable companies such as Githunguri, Limuru and Meru and New KCC, all put together can address very serious problems that have occurred as a result of great policy success of the dairy sector, which incidentally is under the Minister for Livestock Development, Dr. Kuti.

Mr. Koeh: Mr. Speaker, Sir, before the New KCC, we had KCC 2000 and before that we had KCC. KCC went under with over Kshs600 million which was farmers' money. What we are witnessing in New KCC is the same trend, that it looks like it is not stable and that was my question. Could the Minister assure the farmers that New KCC will be stable and it will be there forever?

Mr. Nyagah: I want to assure the farmers that they have no reason to worry. The Government is doing all it can to ensure that the New KCC is stable. I want to go a step further, last week the privatization process of New KCC started. We must return the New KCC to the farmers. As long as it remains a parastatal there could be problems. The New KCC became a parastatal in trust from milk farmers. So, it is very important that very soon the Treasury in its privatization programme returns the company to the farmers and not to the general public because then, I could not guarantee its future. But if it is with the farmers, I guarantee its future.

Mr. Speaker: Hon. Members, that brings us to the end of Question Time.
Next Order!

PRIME MINISTER'S TIME

Mr. Speaker: Hon. Members, we will now come to Prime Minister's Time.
Mr. Prime Minister, do you have a Statement?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, according to the Order Paper, I had given notice to hon. Members that I was going to talk on National Climate Change Response Strategy and the Copenhagen Accord. However, I have been advised that there are other issues which are of concern to hon. Members. I have, therefore, decided to defer that Statement because it is a very important Statement to next week. I have chosen therefore---

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Indeed, your boys are doing a good job. The Prime Minister has been told about the mood in the House because we were going to object. Since the Prime Minister wants to talk about issues which are in the heart of Members of Parliament as opposed to the academic issues which he wanted to talk about, could you allow us to tell him what we want him to address?

Mr. Speaker: The relevant Standing Order does not permit that, neither would it be a useful practice to embrace. So, let us hear what the Prime Minister has to say. If hon. Members, perhaps, feel that he has left out some topical issue that he ought to have dealt with at this point in time, then the Chair will consider.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I want to thank the Prime Minister for realizing that we were not going to be happy. Whereas we would like to allow him to address what he thinks is urgent to us, according to the rules of this House, that amounts to the Prime Minister changing the Order Paper. The Order Paper is usually given to us well in advance of the sitting of the House. We are, therefore, going to be seriously disadvantaged and we would like you to rule on how the Order Paper can be changed by the Prime Minister.

Mr. Speaker: Order, hon. Members! The Standing Order which applies as at where we are, is Standing Order No.40 which states as follows:-

“Notwithstanding Standing Order No.36---”

Standing Order No.36 relates to order of proceedings and says which business shall appear---

“there shall be time to be designated the Prime Minister’s time, commencing at 3.00 p.m. every Wednesday. During the Prime Minister’s Time-

(a) the Prime Minister may make a Statement, or (b) questions may be put to the Prime Minister relating to matters of Government policy or the general performance of the Government and Government agencies.”

It is not categorical on the nature or form of statement that the Prime Minister may make. If you go to Standing Order No.36 on order of proceedings, it says that proceedings will be as set out in the Order Paper or in such other sequence as the Speaker may, for the convenience of the House direct.

The Speaker is directing, going by the mood of the House, the interest of the nation, what is topical today that the Prime Minister may vary from this Order Paper.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. While I do not want to query your ruling, would I then be in order to ask you to use the same discretion to allow us to put those questions to the Prime Minister so that he can get an indication of what the mood of the House is? You will agree with me that the Prime Minister cannot play God and claim that he knows the mood of the country but we can assist him to do that. I seek your guidance.

Mr. Speaker: That is genuine and I would like to deal with that. Hon. Members, the way I want to address that matter is that I would like to give the benefit of the doubt to the Rt. Hon. Prime Minister and believe that he has exercised good judgment. So, I do not want to pre-empt the Rt. Hon. Prime Minister. Let him make the Statement that he has. If hon. Members still have concerns, we will take them as they come. We will cross that bridge when we come to it.

Hon. Members, please let us hear the Rt. Hon. Prime Minister.

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

Mr. Speaker: Mr. Baiya, please, defer to the Chair. Let us hear the Rt. Hon. Prime Minister.

MEASURES TO FIGHT CORRUPTION IN KENYA

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, you also did make a ruling on how the questions are to be addressed to the Prime Minister. I have decided to change the subject and talk about the issue of corruption in Kenya, causes, effects and benefits of fighting corruption.

Mr. Speaker, Sir, you can classify corruption in our country according to regimes; the first regime, the second regime and the third regime. You can use that to analyse how the cancer of corruption has progressed in our country.

I want to begin in the year 2002 elections which were historic elections because for the first time those elections brought a regime change in our country. From Independence in 1963 to 2002 this country has been ruled by just one political party. In 2003, a new political party came into power and promised to fight corruption. It was then said that at that time Kenyans were rated as one of the most hopeful people in the planet. We had committed ourselves to eradicating corruption.

We are committing ourselves to eradicate corruption in our country. What are the causes of corruption in our country? Corruption is caused by bad governance, political patronage, lack of political will, breakdown, erosion and pervasion of societal values and norms, non-enforcement of laws, tribalism, favoritism, nepotism and cronyism, weak or absence of management systems, weak procedures and practices, ineffective and weak institutions, misuse of discretionary power vested in individuals or officers, weak civil society and apathy, lack of professional integrity, absence of or weak regulatory institutional framework, lack of transparency and accountability, inefficient public sector and greed.

Mr. Speaker, Sir, apart from disease, poverty, tribalism and war, the next most dangerous calamity we face as a country is corruption. Here, I am not just talking about petty corruption. I am talking about grand corruption. Corruption is a scourge. It is our national shame; the kind of disgrace that has kept us underdeveloped and desolate. It bleeds our country dry. It denies us funds we can use for infrastructure, building schools, hospitals and buying medicine for the sick. It is perpetrated by individuals acting alone or in groups. It has afflicted institutions even those mandated to deal with it like the police, the Judiciary and the Government. Corruption is not a disease that discriminates. It afflicts the rich, the poor, the educated, the illiterate, all communities, cultures, Ministers, Members of Parliament, the clergy, the leaders of other sects as well as members of the both genders. Only children can be said to be free of corruption.

Therefore, to effectively treat this disease, we need courage, focus, commitment and decisive action. We must identify it, isolate it and tackle it individually and institutionally. Fighting corruption demands diligence, thorough and credible investigations and effective prosecutions. We need convictions and long jail terms for the corrupt. That is why reforms of the police and the Judiciary are completely essential. In other words, we will not and cannot successfully fight corruption if we do not start arresting people who are accused of it, prosecute and jail them. But more importantly, those found to have acquired public resources and funds corruptly must be restituted. That is the only time that we will develop as a country. But we must deal with it without any regard to position, wealth, religion, party or ethnic affiliations. I urge Kenyans from all walks of life to be involved in fighting corruption. It is not an ODM or the PNU fight. It is a national fight.

Although effective laws and a responsible Constitution would help, and we are now engaged in a very critical stage of Constitution making, we need to be committed. We have institutions like the Kenya Anti-Corruption Commission (KACC), the Efficiency Monitoring Unit (EMU) and the Inspectorate of State Corporations which are tasked with fighting corruption. These institutions need to be strengthened. That is why I

am happy that Parliament asserted its authority in the appointment of the leadership of the KACC. Only decisive actions will make a significant difference. That action must be concerted, collective and national. It must be supported by everyone. We have no other option.

Mr. Speaker, Sir, I listened to the Assistant Minister answer Question No.12, where he was asked by the Member for Nyakach whether he is aware that police officers manning weigh bridges take bribes. I know that those who write answers for Ministers sometimes are the same people who are under investigations. That is the reason why the Assistant Minister has answered that Question the way he has. I would have answered that Question differently. I would have said: Yes, I am aware that police officers manning weigh bridges take bribes and I am going to take action to ensure that, that activity is stopped.

One time when I was a Minister for Roads and Public Works, similar complaints were addressed to me and I directed the Commissioner of Police then, to reshuffle all the police officers manning weigh bridges countrywide. That was effected. A week later, two officers came to my office pleading with me to talk to the Commissioner of Police to take them back to the weigh bridges. I asked them why. They told me it is there where there is money and where they were not dry. They did not know that I was the one who had actually given instructions that they be removed from the weigh bridges. Secondly, the Association of Transporters of Kenya also came to see me complaining about bribes at road blocks. They complained that there are so many road blocks all the way from Mombasa to Malaba and Busia and they have to part with a lot of money. They have to give the drivers what they call "*kifungua njia*" so that whenever they reach a road block, they have to part with money in order to move forward. That was actually a standard fee. The Governments of Rwanda and Uganda have complained to us that the cost of transporting goods from Mombasa up to the border is too high because they have to pay bribes at every stop on the way.

Therefore, this is a reality in our country. There are several others. That is why we have a commitment and have made a resolve to deal with this cancer of corruption effectively. We need the support of this House to enable us to carry this war to its logical conclusion.

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

Mr. Speaker: Right hon. Prime Minister, do you wish to be informed?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have finished making my Statement, but if he wants to ask for a clarification, he can do so.

Mr. Speaker: Right hon. Prime Minister, the Member asking to inform you is a Member of your Cabinet. So, you can decide whether or not you want information.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I will accept the information from the hon. Member.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, listening to the causes of corruption as very well listed by the Prime Minister, I felt – because I have been doing research in anticipation of my PhD thesis – that he has left four important causes of corruption; the impunity of the corrupt and not just the law; the impunity of the powerful; the collapse of our cultural integrity and the incorrigible genetic contamination.

(Laughter)

Mr. Speaker: Order! Hon. Members, we will allow other clarifications beginning with the Member for Central Imenti.

Mr. Imanyara: Mr. Speaker, Sir, listening to the Prime Minister talking about corruption, I was reminded of the statement he made when he addressed the nation on radio and television, taking measures to arrest corruption. I am referring to the decision the PM took some few weeks ago to suspend two of his colleagues from the Cabinet for three months pending investigations. In doing this, I believe that he was relying on the functions of the Prime Minister that are set out in the Presidential Circular that was made available to all of us. That Circular makes him accountable to Parliament on the overall performance and the functions of the Prime Minister's Office. So, while I commend him for the measures he has taken, is he satisfied that he is working in an environment within which he can make a difference to the fight against corruption, given the decisions that have been taken by his other principal in the Coalition Government to annul the decision he took to suspend two Cabinet Ministers?

Dr. Khalwale: Mr. Speaker, Sir, I would like to start by congratulating the Government. In the recent past, it has demonstrated to all and sundry that, at least, something is moving in the direction of the fight against corruption. I want to particularly congratulate the Prime Minister for the unique position he has taken in fighting corruption. However, having said that, I would like the Prime Minister to clarify the following: Is his good stand, and that of the entire Government intended to play to the gallery, where he sacrifices the civil servants and does not touch the Ministers, when Kenyans know that when civil servants perpetuate corruption, they do it in connivance with their Ministers?

Mr. Speaker, Sir, finally, I would like the Prime Minister who I am congratulating, to clarify to the Republic: Since he suspended hon. Ruto and Prof. Ongeru on the premise that the senior civil servants working under them had been adversely mentioned and he wanted to pave way for investigations, now that the President has suspended all senior officers in the Office of the Deputy Prime Minister and Ministry of Local Government and senior officers in the Office of the Prime Minister, is the PM contemplating to request his Deputy Prime Minister, hon. Mudavadi, to step aside and also the PM himself to step aside, so that the fight can be properly done?

Mr. Baiya: Mr. Speaker, Sir, listening to the Prime Minister's enumeration of causes of corruption in this country, some of the apparent causes are actually, indeed, symptoms of the real causes of corruption. The main challenge in this country, which has been demonstrated in all the cases of corruption we have seen so far, is that the blame squarely lies with the leadership. If we led from the top without corruption, the rest of the corruption would settle itself. So, let us not blame Kenyans; it is the leaders who are corrupt.

Mrs. Shebesh: Mr. Speaker, Sir, as I listened to the Prime Minister, I also missed one of the issues that I think breeds corruption. I think corruption is endeared more by ethnicity. We have had cases many times where somebody who is corrupt is quickly defended by those from his ethnic group. I would want the Prime Minister to clarify to us,

having noted that I have not heard any of my colleagues from Luhyaland supporting the Deputy Prime Minister and knowing, therefore, that, that is not an issue that has to be---

Mr. Speaker: Order, hon. Shabesh! In this House, I have given directions and ruled that we operate as Members of Parliament and representatives of Kenyans in the National Assembly. We are not elected in this House to represent community interests or tribes for that matter. So, you will have to withdraw the word "Luhyaland" in reference to hon. Members.

Mrs. Shebesh: Mr. Speaker, Sir, I withdraw because I was seeking that clarification maybe, with the wrong wording. Is Kenya, as a country, represented by Kenyans in this House when we speak about corruption, so that we do not have ethnicity always drawn into the issues of corruption?

Mr. Ethuro: Mr. Speaker, Sir, I also want to start by thanking the Prime Minister for reading the mood of the House and making a Statement on a topical matter like corruption.

I just want to confirm one thing from the hon. Prime Minister. Since he did not consider petty corruption, could he confirm or deny in this House that a Grand Coalition Government can only deal with Grand Corruption? Is it one and the same?

Mr. Speaker: Rt. Hon. Prime Minister, you will have to bear with us because there is a lot of interest in this matter. We will exceed the standard number of five.

Mr. Njuguna: Thank you, Mr. Speaker, Sir. I thank the Prime Minister for making a very candid Statement on corruption in this country. He has really given an indication that bribe taking in this nation is real and is heavily experienced on Kenyan roads. As a result, many people have lost their lives. What immediate measures is the Prime Minister taking to stem these accidents along the Kenyan roads, as a result of grand bribes?

Mr. Speaker: We will take a few more. Hon. Members, please, emulate the example set by the Member for Turkana Central and Member for Lari. In other words, be brief and precise.

Mr. K. Kilonzo!

Mr. K. Kilonzo: Mr. Speaker, Sir, could the Prime Minister confirm that there were contradicting statements? The President, when he was opening the House said that the fight against corruption should not be politicised and personalised. But the Prime Minister while addressing University of Nairobi students said that the fight against corruption must be politicised and personalised. Is there no contradiction between him and the President? That contradiction is causing problem in the fight against corruption since they are reading from different scripts.

Mr. Ngugi: Mr. Speaker, Sir, I want to congratulate the Prime Minister for that very brave speech on corruption.

The fight against corruption is about will. I want him to clarify what practical steps the Government is taking to enforce the existing laws such as wealth declarations and others in order to fight corruption.

Mr. Mbugua: Mr. Speaker, Sir, I want to thank the Prime Minister for his bold statement. However, the people of Nairobi are wondering where they will be buried in the next six months. What steps will be taken against those people who defrauded this country Kshs0.3 billion to ensure that they are brought to book? Apart from them being asked to step aside, what other steps will be taken to ensure that we recover this money?

Eng. Gumbo: Mr. Speaker, Sir, two years ago, the Kenya Anti Corruption Commission (KACC) placed an advertisement in the newspapers to acquire consultants for construction of their headquarters building in Karen.

I want the Prime Minister to tell the people of Kenya how this land in Karen was acquired; how big the parcel of land is, how much was paid for it and whether it represents value for money for the people of Kenya and why the construction of the KACC headquarters has not started.

Mr. Mungatana: Mr. Speaker, Sir, I also want to congratulate the Prime Minister for the speech he has given in this House.

Mr. Speaker, Sir, the Office of the Prime Minister is a legitimate office of Government that was set out in the National Accord, which we passed in this House. It has its functions like enumerated by the hon. Imanyara, when he read the Circular that came here. Ordinarily, when the Government makes public pronouncements like appointments of Ministers and things like that, formal letters follow to set out whatever duties you are supposed to do. The clarification I am seeking from him is whether he did, in fact, follow the pronouncement to suspend the two Ministers with formal letters to the Speaker, so that the House can know how to deal with those Ministers. If they are suspended and the Speaker has approved it, they have no right to deal with matters of this House. In this House, we do not want to condone corruption or in any way to frustrate Government, when it takes some positive steps. Did the office of the Prime Minister emanate letters? If so, could they be tabled here, so that those Ministers can be declared *persona non grata* as far as talking to this Parliament is concerned?

Mr. Gaichuhie: Mr. Speaker, Sir, I also want the Prime Minister to clarify whether there are officers who are under investigation who are still working? In his statement, he said that the answers we get are given to us by officers who are under investigation. If they are there, what are they doing?

Mr. Speaker: We must stop somewhere. Member for Eldoret East!

Prof. Kamar: I want to thank the Prime Minister for that statement. How does he intend to deal with issues where we were told cases are in court? Corruption has infected even this House. Many of us have lost some money through the CDF. I know that Eldoret East was---

Mr. Speaker: Order! Order! Prof. Kamar, you are making a very dangerous and wild allegation, a generalised aspersion against all Members of this House. You will have to withdraw that unless you are prepared to substantiate.

Prof. Kamar: I withdraw "for other Member". The case of Eldoret East was tabled here. This was a case where we lost Kshs30 million and the Minister told us that he would bring a report in August last year, but it never came. I am told that the case is still in court. Three years ago, we lost Kshs30 million. How does he intend to deal with such losses?

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members the Right Hon. Prime Minister will now respond. If there is any lingering area, we will consider the other Members who are interested.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, it is quite a handful.

Mr. Speaker: Yes, indeed.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, first, the hon. Member for Imenti Central asked a very fundamental question whether, indeed, the Prime Minister was satisfied with the manner in which the suspensions of the two Ministers was handled.

Mr. Speaker, Sir, I want it to be known that we are running a coalition Government. It has to be known that running coalition governments is not easy the world over. There are always differences of opinion on how matters need to be handled. We have brought two desperate political groupings or two different political movements together. If you go into their manifestoes, they are also different. For example, you find that the PNU side clarion call was “*Kazi iendelee*”; let things continue the way they are. They wanted a continuation of the status quo. On the other hand, the ODM’s call was: “*Kazi ianze*”. ODM stood for change. They wanted to change how this country is run and governed. So, if you bring them together, they end up with a mixed breed; *mchanginyiko maalum*. So, that is why sometimes, you see differences arising. Yes, I exercised powers conferred upon me as a Prime Minister by Section 15 of the Constitution and Section 4 of the National Accord. This gives the Prime Minister the powers to supervise and co-ordinate functions of Government, including those of Ministries. We assume that powers to supervise also go with powers to discipline. There is no reason why you will be a *nyapara* if you cannot discipline those who are under you. So, those powers are not delegated to the Prime Minister. They are conferred in the office of the Prime Minister by the Constitution. But the reasons why problems arose was that there is provision in the National Accord for consultations. We did not consult wide enough or sufficiently. So, all I wanted to assure the hon. Members here is that we, as a Government, are still consulting on this issue. Once we finish our consultations, I will inform the House appropriately in the near future.

Mr. Speaker, Sir, hon. Khalwale wanted to know whether this is just confined to civil servants. That appears to be the case. But he knows exactly what happened thereafter. The civil servants were sent home. As I mentioned, we are still consulting on the others. But I did not dismiss the Ministers; I did not even presume that the Ministers were guilty. All I said was that they were under investigations and that was the reason why they needed to step aside. So, there is always the presumption of innocence until proved guilty. So, I do not want any impression to be created here that those Ministers were guilty, because the report, which is a very comprehensive one from PriceWaterhouseCoopers, said that they did not talk, for example, to the Ministers.

Mr. Speaker, Sir, they have even asked why I did not include the Minister for Special Programs, and I said that the report did not mention the Minister for Special Programs, neither did it mention the Prime Minister. So, the House also needs to know that officers in the Office of the Prime Minister, the Permanent Secretary and the Chief of Staff were not sent out by the President. They offered to step aside and they made that public long before hand. They were not asked to step aside; they had already stepped aside by the time the others were asked to step aside.

Mr. Speaker, Sir, Dr. Khalwale then asked about the City Council of Nairobi (CCN) and the Ministry of Local Government. If you look at that report, it states clearly that they are not yet completely through. They have completed part of the work they are doing and there is somebody they are looking for to interview. At the same time, they also said clearly that they have not taken statements from the Deputy Prime and Minister

of Local Government. So, that report itself was premature. It is not like the PriceWaterhouseCoopers Report, upon which I acted.

Mr. Speaker, Sir, hon. Baiya has just given information, that leaders are corrupt. I agree, but it is not only leaders who are corrupt. There are other people who are also corrupt in this country. Corruption started after Independence; I mean, mega corruption. They say that, actually, corruption exists virtually in all societies. It is only what action is taken about it when it is discovered that differs from country to country.

Mr. Speaker, Sir, I remember that before Independence, there was a big scandal in the City Council that implicated the then City Engineer; he was a *Mzungu*. When the matter came to light, that *Mzungu* was so ashamed that he went to a railway line leading to western Kenya just after Uhuru Highway near Bunyala Road. There is a tunnel there and that *Mzungu* went and lay under there and he was crushed by the train because of the shame. He committed suicide because he could not stand the shame.

But, Mr. Speaker, Sir, after Independence, tendencies developed. First, it was Mr. Five Per Cent; then we went to Mr. Ten Per Cent. There was a Minister in this country who was known as Mr. Ten Per Cent. I do not want to name him. May his soul rest in peace. But one American who had come to do business in this country at around that time, after he had an encounter with that Minister, he came to see me. That was soon after the Spiro Agnew Scandals in the United States. Spiro Agnew was a Vice President to President Nixon. He was forced to resign because of the corruption scandals he had committed when he was a governor. So, this *Mzungu* told me; "Look things are happening in this country that would make Mr. Spiro Agnew look like a school boy." I asked him why, and he said; "Because this Minister acts like I own the projects I want to bring here. He wants to know how many employment opportunities are going to be created, the foreign exchange earnings and foreign exchange savings and so on. He told me; "I will do everything you tell me as long as you give me 10 per cent." That Minister was known as "Mr. Ten Per Cent." So, it started then and moved on until it went to 20 per cent, 30 per cent, 50 per cent and now, 120 per cent!

Mr. Langat: On a point of order, Mr. Speaker, Sir. I think there are two questions which Dr. Khalwale asked---

Mr. Speaker: Order! Order, hon. Member for Ainamoi! The Right hon. Prime Minister has not yet completed his response; so, that is premature!

The Prime Minister (Mr. Raila): He is totally out of order!

Mr. Speaker, Sir, excuse him. He needs to acquaint himself with the Standing Orders.

(Laughter)

Mr. Speaker, Sir, Ms. Shabesh stated clearly--- I agree that there is ethnicity and an ethnic angle to corruption. Fundamentally, one can say that ethnicity is a disease of the elite. It is the elite who, in their quest to get rich quickly and compete for resources, begin to discriminate along ethnic lines. The common man and woman out there on the streets and in the villages does not care about ethnicity. They are the ones who, when confronted, begin to say: "Oh, we are being finished" or "My community is being targeted" because of what they have done. But when they are getting involved in corrupt actions, they do not involve their communities. But when they have looted, they do not eat with their communities. It is just themselves and their families!

(Applause)

Therefore, the elite must be told that this country is bigger than themselves.

Mr. Speaker, Sir, hon. Ethuro talked of grand coalition that can only deal with grant corruption. I do not share that view. The difference between grand corruption and petty corruption is that grand corruption diverts enormous resources into private hands and pockets of just a few people. People engage in petty corruption sometimes because of the economic hardships. Sometimes, a police officer cannot put bread on the table; he cannot afford to pay school fees for his children and so on, and so forth. So, he abuses his position to enrich himself from the public. But we know that, that kind of corruption must also be dealt with and that is the reason why we have embarked on very fundamental reforms of the police force. We have said that we will deal with the clerks and sweepers the same way that we will deal with their bosses in the country. We are also going to deal with the private sector, because, as somebody has said, it takes two to tango. It is not just the civil servants. Sometimes, we are overly harsh with civil servants. Most of the time, you will find that the civil servants are under a lot of pressure. When, for example, the private sector are competing for contracts; the road contractors, those who are constructing buildings, water projects, supply of medicines and so on, and so forth.

When they lose a tender, they come with a briefcase to bribe civil servants to turn things in their favour. So, they are the ones who begin to tempt civil servants. So, as we reign in on the civil servants, we must also point the search light at the private sector because they are equally guilty.

In response to the question raised by the Member for Lari, Mr. Njuguna, a number of accidents happen because of bribes. You will find that even though there are roadblocks which are supposed to check on overloaded vehicles and those with mechanical faults, for example, worn out tyres or no brakes, upon payment of a bribe, such vehicles are allowed to proceed with the journey. That is true and that is why we are carrying out the reforms in the sector.

On Mr. Kiema Kilonzo's remarks, its true that corruption should not be personalized or politicized. I would like to hear as much foot thumping as I heard the day Parliament was being opened. I said that we come from different political backgrounds and that is why the President is not the Prime Minister. He is perfectly in order to hold a different view from that of the Prime Minister. It is healthy. How do we talk about corruption when we just talk about the Office of the Prime Minister without identifying the individual in that office who is involved in corruption? Corrupt acts are committed by individuals. Therefore, they must be identified and named.

I do not know how we can fight corruption without personalizing and even politicizing the issue. Even if they are politicians, you need to name them. That does not mean that you are politicizing it. You are just fighting corruption. You should go down the memory lane and look at the Goldenberg and the Anglo Leasing scandals. Also look at those who have been reigned in. So, you must look at the past in order to inform the future so that we can reform this country. I hold the view that corruption must be personalized and politicized if need be. That is the only way we can deal with it.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. I had no problem with the Prime Minister's assertion whether corruption should be politicized or not. My question

from that Statement was the contradiction between the two principals. Is it not hampering the fight against corruption since they are in the same Government and they are supposed to be reading from the same script?

Mr. Speaker: The Rt. Hon. Prime Minister, could you proceed and deal with that aspect; that is, the contradiction, if there is any, between you and His Excellency the President on your two positions? You need to proceed very carefully.

(Laughter)

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I understand. I do not know how to tiptoe with the issue, but there are two positions and what we need is a bridge. How do we bridge it? It is by way of consultations. That is why the Accord says that we must consult. We are, therefore, consulting very widely.

Hon. Ngugi talked about the wealth declaration---

Mr. Nyamweya: On a point of order, Mr. Speaker, Sir. Given the gravity of the matter, I do not really think it is proper for the Prime Minister to treat the country that casually. The differences between him and the President are glaring. The question is: Is this not what is impeding the fight against corruption? The Prime Minister suspended two Ministers, but they are still on duty. There is also a big allegation against the Deputy Prime Minister and Minister for Local Government. There are shocking allegations and people have been suspended. He cannot treat this country that way. It may be better to say: "Honestly there are differences and we are trying to find a way of walking out of it." I think that is what Kenya needs.

(Applause)

Mr. Speaker: Order, hon. Members! From the Speaker's position, this is really a matter of interpretation and it depends on who is interpreting it. Normally, lawyers would interpret things differently. I want to volunteer my take on this if it can help. I have seen that there is some sense in what His Excellency the President said, that the fight against corruption should not be personalized and further that it should not be politicized. As I understood that statement myself, it holds water. It means that no person should leverage or take advantage of the fight against corruption to benefit as a person. One should not also leverage on it for political gain. That is my understanding as your Speaker. If my understanding is legitimate, then I do not see any contradiction with the Prime Minister's position. However, the Prime Minister will have the last word on this.

(Laughter)

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

Mr. Speaker: Order, Mr. Ekwe Ethuro. Let us hear the Rt. Hon. Prime Minister.

Mr. Raila: Thank you, Mr. Speaker, Sir. I totally share your sentiments and that is why I said that we are consulting. I plead with my friend, Mr. Nyamweya that he must not force me to use his words. What I have said is not different from what he has just said. I said that we are consulting. Consultations mean many things. We are trying to find a way that will enable us to move this war against corruption faster and more effective.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. I am asking this question because it concerns Kenyans. When Kenyans see the Prime Minister rise and say that corruption will be personalized and politicized, and yet the President has issued a Statement using the same words, but saying that corruption will not be politicized or personalized--- Do we need a different translation for the same words? Clearly, there is a contradiction. Could the Prime Minister tell us whether he is contradicting His Excellency the President, and whether that is why we have a problem in the fight against corruption? If he tells us that, we will understand! The country should not be treated casually.

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

Mr. Speaker: Order, Mr. Ethuro! Mr. Prime Minister would you like to respond to the point of order raised by the Member for Mutito?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, that is the point I have been trying to make here.

When the President says that---

(Off-record)

You are not being vindictive but you are actually fighting corruption. You should then narrow it to an individual who is involved.

For instance, if Mr. Kiema Kilonzo, as a politician, has committed a corrupt act, he must face it squarely. That is not politicising it. You are just dealing with corruption. That is basically what I was trying to elaborate on.

Mr. Speaker, Sir, Mr. Ngugi wanted to know what was happening about---

Mr. Farah: On a point of order, Mr. Speaker, Sir. Much as I would be restrained not to interrupt the Rt. Hon. Prime Minister, this is a very serious issue. The hon. Prime Minister said that we need to consult widely. It is precisely because of consulting widely that we have got corruption staying the way it is in this country. The trust of this country was placed in the President and the Rt. Hon. Prime Minister. Could the two of you - and only the two of you - consult on this and show Kenyans the way forward? The more you consult widely, the more you deal with criminals who are, themselves, corrupt! You seek their guidance and counselling in this matter.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order!

Mr. Ethuro: I have a more fundamental point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Ethuro! Hon. Farah Maalim, Member of Parliament for Lagdera, you rose on a point of order implying, therefore, that there was something out of order that was happening. So, in that point of order, I have not quite followed. What is it that was out of order?

Mr. Farah: You have rightly mentioned it, Mr. Speaker, Sir. What is completely out of order is His Excellency the President and the Rt. hon. Prime Minister to consult outside. This problem can only be resolved by the two of you because Kenyans have the faith and trust in the two of you. The more you decide to consult outside, the more there

will be politics, personalities and everybody else will come in. Then, you will become hostages or prisoners of those other camps.

Mr. Speaker: Hon. Members, I can see that that is a legitimate concern from my able Deputy Speaker, except that it just amounts to a point of information. You were being helpful to the Rt. hon. Prime Minister. What is your point of order, Mr. Ekwe Ethuro?

Mr. Ethuro: Thank you, Mr. Speaker, Sir. Standing Order No.82 is about responsibility for statement of fact. Only yesterday, this House concluded deliberations on the Speech of His Excellency the President and passed it without amendments. On page 14, the President's Speech partly says:-

“The national concern over corruption has been on top of the national debate for many years. We have put in place institutions and enacted laws aimed at eradicating corruption in our country. It gives our country a poor image and discourages investment. We, as the Grand Coalition Government, have resolved to deal with the matter decisively.”

Mr. Speaker, Sir, this House has passed the Motion on this Speech. This House cannot be treated to various interpretations of “this”. It is no longer a matter of the two Principals. It is the property of the whole House and the understanding was as per the statement made here. So, that must be challenged and corrected. Is it in order for the Prime Minister to give his own interpretation?

Mr. Speaker: I will let the Rt. hon. Prime Minister to respond.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the House debated that Statement. I am sure that there may have been several other aspects of that Statement with which the hon. Member did not agree. While debating the President's Speech, you can talk and say “I do not agree with this and this” but, ultimately, with those many remarks, I beg to support.” Finally, the Question is put to vote.

Sometimes, Budget Speeches are read here and hon. Members disagree with some of the sections. But, ultimately, the Budget is passed. It becomes an official document of the country. So, I see no contradiction at all. What we are trying to talk about is interpretations of that Statement. I have said that we have resolved, as the Grand Coalition Government, to deal with this issue decisively, as the President said. So, I am not contradicting what the President said at all. I am basically elaborating how we are going to deal with it. We are now at the stage of implementation.

Mr. Speaker, Sir, hon. Ngugi basically implied that the wealth declaration forms which hon. Members are required to fill year in, year out, have become like a ritual without much meaning. I agree with him. That is true. It is a ritual because hon. Members, themselves – I do not know whether it is because of their wisdom or ignorance – decided that, that document should not be made public when they enacted that law.

It is important that hon. Members re-visit this issue. That is because, unless, such documents can be made public, and it is known that last year, the Prime Minister had this property in this period, he has acquired A, B, C and D--- When investigations are being carried out, he will be asked to explain how he acquired the additional property. Those forms become meaningless once they are locked up somewhere. An hon. Member can serve here for five years and go away without anybody knowing that he or she, somehow, acquired certain properties through unscrupulous means which could not be explained.

Hon. Samuel Mbugua has said that, certainly, we are not going to have any burial place in Nairobi. I am concerned because I am also a Member of Parliament in Nairobi. We cannot bring our dead to the Parliament grounds. It will be overcrowded very quickly. I know that another land will be found shortly. But what I said in my earlier intervention was that those people who are guilty of corruption for diverting public resources must be made to retribute whatever they have corruptly acquired and go to jail thereafter.

Hon. Members may wish to know that the former Prime Minister of Thailand is now out of the country. But they are waiting for him to go to jail for corrupt activities. The former Chief Executive of Hyundai Corporation, which is the biggest corporation in Korea and is engaged in manufacturing of motor vehicles, building of ships and many other things, has been in jail for very many years because of corruption. So, the difference is what is being done if somebody is found to have committed a corrupt act. That is where we must move from, where we have been to where we should be.

Mr. Speaker, Sir, hon. Gumbo talked about land for Kenya Anti-Corruption Commission (KACC) headquarters in Karen, and wanted to know how that land was acquired. I do not have that information. So, I cannot provide it. I do not know whether the hon. Member was implying that, that land was acquired corruptly. That is because KACC must be like the “Caesar’s wife” since they are the ones who are investing other people. I do not want to make any other statement on that subject. Mr. Mungatana wanted to know if I did copy my letter of suspension of the hon. Ministers to the Speaker. I did not copy that letter to the Speaker because when difficulties arose, we decided to go the route of consultations. As I have mentioned, we are still consulting on that subject.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I wanted to follow up on that. Is it in order for the Prime Minister to give an open-ended answer which is really not an answer? The Government has been talking about consultation on the position of the Leader of Government Business for a whole Session. We have started another Session and we still do not have the Leader of Government Business apart from the ones that the Speaker ruled on.

Could the Prime Minister give us a timeframe within which this must be done? We want real action to be taken. At least, this consultation should have some form of timeframe so that the country can move forward. Is he in order to give an open-ended answer without a timeframe?

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: On the same matter?

Mr. C. Kilonzo: Mr. Speaker, Sir, English is a foreign language, so I need some assistance. I am at a loss when the word “consultation” is mentioned. If you steal, you will be arrested. There is no need for consultation. If you steal mangoes, you will be arrested. If you steal mangoes now, there will be consultations. I need to be guided on this.

(Laughter)

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, if you are reported to have stolen, investigations are carried out and then you are arrested. Therefore, investigation

must lead to arrest and not the other way round. Each time we keep complaining when we go to court and the police say investigations are incomplete. You then ask yourself, "Why did they arrest me in the first place?"

Mr. Speaker, Sir, these consultations must be carried out if there are some difficulties or differences in opinion.

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

Mr. Speaker: What is it, Mr. Nyamweya? Please, relax!

((Laughter))

Mr. Nyamweya: Mr. Speaker, Sir, I do not take it kindly when you imply that I am not entitled to ask anything further.

Mr. Speaker: Order, Mr. Nyamweya! You have caught the Speaker's eye! Once you catch the Speaker's eye for a particular reason; you have risen on a point of order, you have caught my eye and I have called out your name, you proceed and raise the point of order! Do not dwell on side shows that would disparage the Chair! You cannot afford to do that and I will not allow you to do that.

Please, proceed!

Mr. Nyamweya: Mr. Speaker, Sir, I wish to apologise to you.

My point of order is that the subject we are dealing with today, and I think that is why you ruled that this is a serious matter, it is of grave concern to this country. I do not believe that the issues which have been raised have been adequately answered by the Prime Minister.

The Prime Minister said that one should step aside while investigations are being carried out. Now, investigations are being carried out against the Deputy Prime Minister and Minister for Local Government. Honestly, we deserve a genuine answer. We cannot theorize on this. Can we attend to Prof. Ogeri and Mr. William Ruto who were suspended by the Prime Minister on the basis that investigations will be carried out? Now that investigations are being carried out against the Deputy Prime Minister and Minister for Local Government, will he step aside? And since there are investigations being carried out in the Prime Minister's office, will the Prime Minister step aside? The Prime Minister has been asked this question. I think we are entitled to some honest answer.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I do not know whether the hon. Member was in the House or he was dosing when I was dealing with that question. I did respond to that question. I did not shy away from responding to it.

Mr. Speaker, Sir, I said the Prime Minister is not being investigated by anybody. The Prime Minister is not under investigation! Get that very clear.

Mr. Speaker, Sir, I said that over these issues of suspensions and so on, the hon. Members know the problems that we have had. I said we are discussing these issues within the Grand Coalition Government. This is a delicate issue. I cannot add more than that. It would be wrong for me to begin giving some Ministers suspensions and so on when we have a problem on this.

Mr. Speaker, Sir, I also answered very clearly the issues with regard to the allegation against the Deputy Prime Minister and Minister for Local Government.

Mr. Speaker, Sir, the hon. Member for Subukia wanted to know whether the officers who are under investigations are still working. The answer is "No".

(*Mr. Mungatana stood up in his place*)

Mr. Speaker: Hon. Members, please, note that this matter really has to come to an end at some point. We have business to deal with and I have heard Members this week express concerns that Kenyans must spend their monies properly on this Parliament. So, let us also bear in mind that we must make progress.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, Mr. Mungatana had asked about the Leader of Government Business. This issue was a subject of very extensive debate in the House last Session. The Chair made a ruling which was supposed to be temporary. We have had consultations on this issue and I can say that we have not concluded this matter with the President. We shortly are going to write a joint letter to the Chair with regard to the Leader of Government Business in the House.

(*Applause*)

With regard to the hon. Member for Subukia's question no officers who are under investigations are working.

The hon. Member for Eldoret East---

Mr. Gaichuhie: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to mislead the House? When he was making his Statement he said that answers that we normally get from the police department, to be precise, are given by officers who are also under investigation. Could he withdraw that remark?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I said that some officers whom the questions refer to are sometimes the same people who are asked by the officers in the Ministries to provide answers to those questions. That is what I was talking about. In other words, if for example, you forward the question to the police department to give you an answer whether police officers are taking bribes, the answer will be "No". That is what I implied. We should not refer the question to the officer, who is himself, the subject of the question.

The hon. Member for Eldoret East asked about the Eldoret East CDF Report which was tabled in this House. I do not have the full details of that matter at the moment. I am, therefore, not able to provide any meaningful answer to that question. I will refer the matter to the relevant Ministry for appropriate action to be taken.

Mr. Speaker: What is it Prof. Kamar?

Prof. Kamar: How does the Prime Minister intend to deal with cases that we keep hearing are in court? When the Minister came with an answer about the Eldoret East case, he said it was still in court and was going to be wound up in three months; now it is a year. How does he intend to deal with cases that are supposedly in court and that we know are real?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, matters pending before the courts, are *sub judice* and we usually do not discuss them here in the House. But our own judiciary is an impediment to the war against corruption in our country. That is the reason why there has been a proposal for a real radical surgery of the judiciary and also the State Law Office. We have cases pending before the courts, which do not have to be in court. There are so many other cases where the Government is stopped from implementing

development projects because someone has rushed to court and has quickly obtained a court injunction against the Government---

(Dr. Khalwale stood up in his place)

Mr. Speaker: What is it Dr. Khalwale?

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I am standing to attempt to persuade you under Standing Order No. 23 to give me a hearing. As you have realized, the issue of corruption is the most important thing in Kenya today. Hon. Members are constrained by the rules of debate to engage the Prime Minister. At the very best, the Prime Minister has remained casual and there is nothing we can do because when we stand on a point of Order, you cannot bring it out; you will have to be asked which Standing Order he has breached. I am standing on this point of Order to request that this House goes into an adjournment. I am aware that for this to happen I would need to have served you with a notice at least two hours before. Because of the weight of the matter of corruption, I beg that you rely on Standing Order number 1, and allow me to be supported by at least 15 members or so in this appeal, and if I get that support, you overlook Standing Order No. 23 (2), so that we can engage in dialogue with the Prime Minister.

The Prime Minister has been telling us of consultations and more consultations. It is because these consultations are taking too long that Kenyans and the donor community have lost confidence in the Free Primary Education Programme. If you could end the consultations quickly, then you would restore public and donor community confidence, then Free Primary Education funds will flow. We want this Parliament to be the one that will cause these two Principals, who are unable to admit publicly that they do not agree, to agree so that the country moves forward, I beg you to rule.

Mr. Speaker: Order! Hon. Members I will give direction on that matter presently, but at this point in time, I want the Prime Minister to move on and conclude his responses.

The Prime Minister: Mr. Speaker, Sir, let me now say that, in conclusion, I am grateful to hon. Members for the interest that they have shown on this particular subject. I want it to be known that there is nothing that the Government is hiding or is willing to hide. We are able and ready to engage in any kind of dialogue on this particular issue.

With those many remarks, I beg to move.

Mr. C. Kilonzo: Mr. Speaker, Sir, I plead with you to allow me to ask a question on this same issue on a very sensitive matter.

Mr. Speaker: Order! In that case, then let me give directions first.

Hon. Members, the Member for Ikolomani has stood on a point of order pursuant to Standing Order No.23 which, among other things, provides as follows:-

(1) Any Member may, at any time, rise in his or her place and seek leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent national importance.

(2) A Member who wishes to seek leave to move the adjournment of the House shall, at least, two hours before the commencement of the Sitting, hand to the Speaker written notification of the matter, but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of national importance and may properly be raised on a Motion for adjournment of the House.

What stands out under this Order is that Dr. Khalwale and, indeed, as he rightly owns up, has not complied with the requirements of this Order so as to be entitled to even seek support of hon. Members for adjournment to discuss this matter. But I agree that this is a matter of definite national importance.

(Applause)

It is because of my conceding that this matter is of definite national importance that we have so far accorded it as much time as we have done. We have allowed hon. Members to ventilate on this matter for the past one and half hours and because of its importance, I am inclined to allow further ventilation. But I will not grant a Motion for adjournment. So, those hon. Members who have further issues should please stay within the rules of decorum and integrity. We will take the ones who have not raised issues previously.

Mr. Thuo: Mr. Speaker, Sir, as I seek a clarification, I must commend the Prime Minister for giving the example of members committing suicide in shame and hope that our Cabinet will rise to the occasion.

(Laughter)

I would like to seek a few clarifications. The Prime Minister was clear that the cases that have been handled have been based on reports that have recommended action or have said that investigations are incomplete. May he clarify which particular report led to the action he took against the Minister for Education, Prof. Ongeru?

Dr. Nuh: Mr. Speaker, Sir, in the Prime Minister's response, he has admitted that the fight against corruption in the Grand Coalition is tumultuous because the Grand Coalition Government was formed by different parties that have different manifestoes. It could be the reason why there have been contradictory statements with the President in public. But the information to this House was that the parties were, sort of, harmonizing their manifestoes. Could the Prime Minister tell us how far they have gone in harmonizing the manifestos of the different parties that formed the Grand Coalition Government?

Mr. Ochieng: Mr. Speaker, Sir, I would like the Prime Minister to comment on the interpretation of the Accord *viz a vis* the current Constitution as regards the suspension that he handed over to the two Ministers. Was it contradicting the Constitution or not.

Mr. C. Kilonzo: Mr. Speaker, Sir, the Prime Minister, indeed, is in possession of a document dated 8th March, 2010 from the Kenya Anti-Corruption Commission (KACC). That document is dealing with the issue of the cemetery. In the document, recommendations have been done on all officers with the exception of three. The three officers where KACC was not able to proceed on are the Deputy Prime Minister and Minister for Local Government, which is an Executive Ministry, the Permanent Secretary and the Mayor, Mr. Majiwa. That is so because investigations cannot be carried out because one Newton Osiemo has gone underground. In a sense, it means that if he is never found, no one will know whether those three officers committed any offence. They might stand condemned for nothing or they might get away with everything. So, since we

have not seen any advertisement for “wanted persons” what action is the Prime Minister taking to ensure that one Newton Osiemo is found and arrested without any consultations?

Mr. Chepkitony: Mr. Speaker, Sir, the Prime Minister has cited the PriceWaterHouseCoopers Report which necessitated his action. We would like to request whether that report could be availed to the public and in, particular, to hon. Members so that, that information is known by everybody.

Secondly, I would like to know from the Prime Minister if it was procedural to handle the two Ministers the way he did because, when it comes to the appointments, the Prime Minister consulted with the President and they agreed and it was the President who made the announcement. I wonder why, in this particular case, he did not consult and left it to the President to take action.

Mr. Waititu: Mr. Speaker, Sir, let me start by commending the Prime Minister for the first courageous step he took in fighting corruption. But I wish the Prime Minister could have gone full blast in fighting corruption. The people who were suspended could have been declared half Ministers. The way it appears now, the Prime Minister will just be left complaining like us, hon. Members. He needs to do something so that when he takes a step, at least, Kenyans can see he has done so. Somebody whose position has been touched should appear somehow damaged. But he cannot just be left unscathed. Therefore, I wish to encourage the Prime Minister. Kenyans can see what he is doing and I wish that he continues in that spirit. It should also appear that he is doing it across the board from – from, the PNU and ODM side. As it appears now, there are some other Ministers who are also corrupt. In fact, in this House we have more than---

Mr. Speaker: Order, the Member for Embakasi and all hon. Members! The Standing Orders do not permit those kinds of statements against Members of Parliament. This is clearly set out in Standing Order No.79 on content of speeches. I wish to read out relevant parts of it just to remind hon. Members so that we are cautious even as we address this important matter of definite national importance. Standing Order No. 79, paragraph 3, states as follows:-

“It shall be out of order to use offensive or insulting language whether in respect of hon. Members of the House or other persons. “

Paragraph 4:

“No Member shall impute improper motives to any other Member except upon a specific substantive Motion of which at least three days notice has been given calling in question the conduct of that hon. Member.”

So, you cannot make statements such as “Ministers in this House are corrupt” unless you have brought a substantive Motion to find them being corrupt. So, let us just be careful.

Have you finished, Mr. Waititu?

Mr. Waititu: I am sorry for that, Mr. Speaker, Sir. I wish to state that---

Mr. Speaker: You have to withdraw those remarks. Let us get it on record.

Mr. Waititu: Mr. Speaker, Sir, I withdraw and apologize. You remember very well that sometimes back there was a list of Members that was tabled here by the former Minister for Justice and Constitutional Affairs. The list was concerning those people who were facing cases with the Kenya Anti-Corruption Commission. Those people are still here and their cases have been forgotten. They are also corrupt. We should be---

Mr. Speaker: Order, Mr. Waititu! You cannot say that. One of the basic tenets of our law, particularly the criminal law of this country is that any accused person is presumed to be innocent until proved guilty. It is only after a person is proved guilty that he qualifies to be categorized as a criminal. So, please, refrain from that area.

Mr. Waititu: I am sorry for referring to them although they are suspects.

Mr. Speaker: Order, Mr. Waititu! May I help you further. You can assert, for example, that a certain Kenyan is charged in a case. If you cite the case number, then that is a matter that is in the public domain. So, you can say he is a suspect in case number So-and-So. But you cannot say he is a criminal because he is charged in case number so-and-so. That should help you.

Mr. Waititu: Mr. Speaker, Sir, that rests the case of personalizing the issue of corruption. You cannot fight corruption without mentioning names because it is individuals who are corrupt. If we want to succeed in fighting corruption, we must take head on the individuals who are concerned.

In Embakasi, there are so many corrupt cases there of people taking public land. We take them head on because these are individuals who are doing that. I think it is also worth mentioning that we need to commend the Minister for Lands. Just recently, he canceled some title deeds for land which was corruptly acquired. I wish he would continue doing the same because we are heavily affected in Embakasi.

Mr. Speaker: Mr. Waititu, please, try and learn to live within the rules of the House. But I am glad you have concluded. In future, ensure that your contributions are within the rules of the House. One of the rules of the House is relevance. Just note that. I do not wish you to respond.

Mr. Mbadi: Mr. Speaker, Sir, as a concerned Kenyan, I wanted to ask the Prime Minister that there is a worrying trend that is taking place in the Government at the moment that before the PriceWaterhouseCoopers Report came out, it had already been leaked by the Government. The latest report of the KACC which Mr. C. Kilonzo ably referred to here and which I had the privilege to see, was addressed to the Prime Minister's Office and also the Office of the Head of Civil Service and Secretary to the Cabinet, Amb. Francis Muthaura. That report has already been leaked, yet it is a Government document. What is the Government doing to ensure that there is discipline and order in this Government so that issues that are still being investigated do not become public documents for debate even before the investigations are concluded?

If you look at the report of the KACC, it talks of an ongoing investigation, yet it is already in the public domain. It is already being debated here in Parliament---

Mr. Speaker: Order, Mr. Mbadi! That report is not being debated in this House. As a matter of fact, that report has not yet been tabled. I know that a Ministerial Statement has been sought and among other things, there is a request for a clarification on whether or not, the Minister for Justice, National Cohesion and Constitutional Affairs should table the report. So, that cannot be accurate.

Mr. Mbadi: Mr. Speaker, Sir, what I meant is that Mr. C. Kilonzo read here a document. He referred to a document which is the KACC investigation forwarded to the Prime Minister's Office and the Office of the Secretary to the Cabinet. It was forwarded to only two offices. That is why I was concerned as a Kenyan that how is this Government working when even documents that are interim are already being discussed in Parliament. It was not tabled, but it was referred to in Parliament.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. My point of order arises from the allegation that, a report from PriceWaterhouseCoopers has been leaked even before it gets to its recipient. Is it in order for an hon. Member to refer to a report of a private firm which has no presence here, yet it cannot defend itself?

Mr. Mbadi: Mr. Speaker, Sir, I did not get the substance of what the hon. Member was asking me to do because many Members of Parliament have referred to the report of PriceWaterhouseCoopers with regard to investigations on the maize issue. If that is what the hon. Member is asking me---

Mr. Speaker: Order! That PriceWaterhouseCoopers Report is not part of the records of this House. It has not been tabled in this House. So, we cannot discuss it as a document of the House. But if you refer to some strange document that the Speaker is not aware of, I will not make any finding on it because I am not seized of the document. I have not seen it. I am a stranger to it and the House is a stranger to it. Do not address the issue of PriceWaterhouseCoopers Report again. I have given my ruling on that.

Mr. Mbadi: I agree with you and I do not want to contradict your ruling. I asked the Prime Minister a question with regard to documents that the Government is leaking out.

Mr. Speaker: The Right Hon. Prime Minister has heard you. He will respond. We must conclude.

Mr. Yakub: Mr. Speaker, Sir, I wish to commend the Prime Minister for his boldness on the issue of fighting corruption. The wananchi have been very patient, but they are now really tired of hearing about zero tolerance to corruption. We have been told corruption started with the first, the second and the third regimes. It began with the single party system through the multiparty system and now with the Grand Coalition system. It is true that through corruption, wananchi have been denied access to education, health, shelter and proper infrastructure.

I would like to advise the Prime Minister that during his consultations with the President, to come up with a policy where if a person is found guilty of corruption, besides the jail term, he should return all the money which he stole from the public funds.

Mr. Speaker: The Right Hon. Prime Minister, could you now make your final responses?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, hon. Members wanted to know about the report on Prof. Onger. There is an internal audit report commissioned by the Treasury on the free primary education funds. It is that report that mentioned the Permanent Secretary and the Minister. Dr. Nuh wanted to know if our manifestos have been harmonized. We set up a taskforce to come up with a programme borrowing from manifestos of the both parties; a programme that is implementable. That is what this Grand Coalition Government is implementing.

We have left areas where there was much polarization in terms of policies, but we came up with the middle ground which is what happens in coalition Governments all over the world. We usually come sometimes towards the middle. We can have a coalition built of parties to the left and parties to the right. So, you tend to come to the centre. That is what has happened with regard to this Grand Coalition Government.

Hon. Ochieng' wanted to know if there was a contradiction. I want to tell him that there is no contradiction at all in terms of policies now.

Hon. K. Kilonzo referred to a letter which was written to me. The letter was written on 8th March. What he has is actually a report and not the letter. The letter is addressed to the Prime Minister and written on 8th March, which is the day before yesterday. The report which the letter was forwarding is also dated 8th March. This letter with the report arrived in my office yesterday at 2.00 o'clock. So, the Kenya Television News (KTN) used the letter for its 9.00 o'clock news on Monday evening. The question that one would want to ask is: If this letter was genuinely meant for my eyes, why would it reach the media before it has reached my office? That will suggest ulterior motive behind this document. So, this document was actually drawn to address other issues other than what is here.

The list of the people who are mentioned to have received the money is in the media today. It gives the names of the people and the amount of money received. That list does not have a name of the Deputy Prime Minister and Minister for Local Government. A Mr. Osiemo has been referred to in the report. If you read this document, it states that one Mayor, Mr. Majiwa, introduced a Mr. Osiemo to one Mary Ng'ethe. Mary Ng'ethe is one of the people whose names appear on that list as a recipient of Kshs7.5 million. She is the one who is now saying that Mr. Osiemo is supposed to be representing the Deputy Prime Minister and Minister for Local Government. So, I do not want to go into the details of this report because it will be debated in the House. But I just wanted to say that it strikes me as very strange that a letter that is addressed to me by an institution that is under me should go to the media before it has reached my office. It speaks volumes about the report.

Mr. Speaker, Sir, hon. Chepkitony has asked that the PriceWaterHouseCoopers Report be availed to the House. There was no harm---

Mr. K. Kilonzo: Mr. Speaker, Sir, my question is very brief and clear. No investigations can go on, according to KACC, unless one Mr. Newton Osiemo is found. What is the Government doing to find this fellow, so that the three principals are not accused wrongly?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, in this document, they say that they are looking for one Mr. Osiemo who, according to them, has gone underground. That Mr. Osiemo, according to the list in the media today and it is also in this report, is a recipient of Kshs59 million, which he is supposed to have used to purchase a plot in Karen, in which there is allegation that the Deputy Prime Minister and Minister for Local Government benefited from it. If a plot is purchased in Karen, plots have title deeds. It is easy to know the owner of that plot. If the plot---

Mr. Speaker: Hon. Prime Minister, can you try and give a concise response to that question? What is the Government doing---

The Prime Minister (Mr. Raila) Mr. Speaker, Sir, I am coming to that, but I was just trying to give some information to the hon. Members that---

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. From the way the Prime Minister is talking, it is very clear that the Deputy Prime Minister is not in any way involved in this corruption. Could he confirm to this House that there is political machination to malign the good name of the Deputy Prime Minister and Minister for Local Government?

Mr. Speaker: Order! That is not a point of order! That is just a question which you had time to ask when you caught the Speaker's eye and you used your time. Right Hon. Prime Minister, please, do not respond to that.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, allow him to hold his views. He is entitled to his personal opinion.

The Government is tracking this one Mr. Osiemo, so that he can be found and he can then shed light in order to find out whether what one Mary Ng'ethe is saying is correct or not. We want him to be found as quickly as possible. The Kenya Police is usually very efficient in tracking people down. So, I hope that Mr. Osiemo will be found as quickly as possible.

Hon. Chepkitony has asked about the PricewaterhouseCoopers Report and there is no harm in tabling that report before the House. He went further and said that when we were appointing, there were consultations and the President then was the appointing authority.

What must be made very clear is that in the Coalition Government, each side appoints its side. In other words, the President only appointed, technically speaking, Members from the PNU side. The Members on the ODM side are appointed by the party leader of ODM. In other words, the President could not come and head-hunt Ministers from ODM without them being provided by the Coalition partner. That is how it operates. The President basically was doing what is actually required under the Accord. In that case, the appointing authority in as far as ODM is concerned is the party leader of ODM and not the President. But there is one thing that is all the time not recognized or it is ignored deliberately. The Accord provides very clearly that there are two partners and two parties with two principals who are equal. That Accord is entrenched in the Constitution. It goes further to say that in as far as any other section of that Constitution contradicts the Accord, the Accord prevails. That is why Section 23, which is all the time being quoted, is irrelevant in as far as it contradicts the Accord.

Mr. Speaker, Sir, hon. Waititu has supported the action that was taken and I thank him for this support. He has gone even further to suggest that there should have been a demotion rather than suspension. That is his opinion. In the Coalition Government, we do not discriminate PNU or ODM. The Prime Minister co-ordinates the rest of the Government. He also chairs all the Cabinet Committees. So, when we act as a Cabinet, we do not discriminate that this is an ODM or PNU Minister. We deal with them equally.

Mr. Speaker, Sir, hon. Yakub said that we should have a policy of restitution. That was actually contained in my statement that I made earlier on. We will ensure that those who have been involved in corrupt activities are made to restore whatever they have stolen from the public. That is the only way that we can create deterrents against those who are involved in corrupt practices. We must make corruption an expensive undertaking and appear to be a fruitless exercise, so that the people who get involved in corruption will think twice before they do so.

Mr. Speaker, Sir, I have already addressed the issue which hon. Mbadi raised over the leakages of documents. It is unfortunate, but it has happened. We hope that the Kenya Anti-Corruption Commission (KACC) will remain a true instrument of fighting corruption and that it will not be used to try to besmirch the names of other people politically. This is because that would be a very unfortunate development, indeed, in this country.

Thank you.

Mr. Midiwo: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Midiwo! The point of information will only be allowed if the Rt. hon. Prime Minister wants to take it. Rt. hon. Prime Minister, do you want to take a point of information, more so, in the light of the fact that we have spent so much time on this matter?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, yes, if it is concise.

Mr. Midiwo: Mr. Speaker, Sir, I just need to inform the Prime Minister that I have in my possession, a Press release from Mr. Osiemo which he has just given and a sworn affidavit from a lawyer, saying that he has not---

Mr. Speaker: Order, Mr. Midiwo! Our Standing Orders do not allow us to rely on newspaper reports!

Mr. Midiwo: Mr. Speaker, Sir, there is also a sworn affidavit from a lawyer.

Mr. Speaker: Order, hon. Midiwo! You are saying it is a Press release to which an affidavit is annexed. So, the primary document there is the Press release. You know the rules of the House, particularly as the Joint Chief Whip.

Mr. Midiwo: Mr. Speaker, Sir, I have an affidavit from Mr. Osiemo saying that he does not have any business association with hon. Musalia Mudavadi nor does he have any with the former Permanent Secretary, Mr. Kirui. He is also saying that the KACC has not contacted him and that he has not gone underground.

Mr. Speaker, Sir, I wish to lay it on the Table.

Mr. Speaker: You cannot table it! You can only inform the Rt. hon. Prime Minister. Rt. hon. Prime Minister, do you want that affidavit?

*(Mr. Midiwo handed over the document
to the Prime Minister)*

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. In view of the additional information that the Prime Minister has received from the able Chief Whip, could he shed more light on the issue at hand?

Mr. Speaker: Rt. hon. Prime Minister, if you have that capacity to quickly acquaint yourself with the affidavit, you may respond to that question.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have quickly looked at this affidavit. Hon. Members will recall that I referred to a supposed conversation between one Mary Chege, one Mr. Majiwa and one Mr. Osiemo, where Mr. Osiemo was introduced to Madam Mary Chege as a business associate of hon. Deputy Prime Minister and Minister for Local Government, and that he would take care of his interest. That report also has gone further to say that Mr. Osiemo has gone underground and that he could not be reached to be interviewed. But this will give a lot of light in view of the serious allegations which have been made. If Mr. Osiemo is available and can swear an affidavit, he can be reached and interviewed by the KACC. That will then be able to throw a lot of light on this particular issue.

Mr. Speaker, Sir, I am going to direct that the KACC immediately proceeds to interview Mr. Osiemo, so that this matter can be put to rest.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Given that the law that sets up KACC specifically says that it should operate without any directions from any person or authority, would it be in order for the Prime Minister to direct KACC?

But more importantly, the functions of the Office of the Prime Minister as set out in the Presidential Circular do, in fact, include the Efficiency Monitoring Unit (EMU). Could the Prime Minister consider now directing the EMU, which is a department within his docket, to investigate this as an independent body from KACC so that we can get an independent report, given that KACC is involved in the leakage of this document?

Mr. Speaker: The first part is a point of order. If the law provides that KACC should act independently and not be directed by any person other than, perhaps, this House, then it is up to KACC to ensure that it asserts its independence. The Prime Minister, therefore, will have to restrain himself from directing KACC.

With regard to the second part, that is not a point of order. That amounts to a question. Rt. hon. Prime Minister, you need not respond, in view of the fact that we have spent so much time on this matter. But that is something that you can deal with elsewhere other than in this House in your capacity as the Rt. hon. Prime Minister.

Hon. Dr. Khalwale!

Dr. Khalwale: Mr. Speaker, Sir, I stand to request the Chair to direct the Prime Minister to allow Parliament to play its oversight role effectively. Having received that document from hon. Midiwo and having referred to the document by the Kenya Anti-Corruption Commission (KACC), which, by the way, is an institution. Under our statutes, he should also go ahead and table in this House the statement by the Director of Legal Affairs, one Mary Ng'ethe. These are the statements that KACC has given the Prime Minister which he is quoting. We will then be able to play the oversight role because it is the authenticity of Mary Ng'ethe's statement which the Acting Director of KACC used to inform the Prime Minister.

Mr. Speaker: Hon. Members with respect to that point of order, I will say two things. First, the Chief Whip, hon. Midiwo considers it his duty to record a statement with KACC and give that affidavit to KACC as part of evidence that will be relevant to the investigation that is ongoing by KACC.

With respect to the other part that the statement by Ms. Mary Ng'ethe be tabled, I direct that as, if and when the Minister for Justice, National Cohesion and Constitutional Affairs tables the Report of KACC, if he finds it right to do so - I cannot compel him to do so now - then that statement must be tabled together with the Report.

That then brings us to the end of this matter. Any Member with requests for Statements or having statements to make--- We will allow just one because we do not have much time, if you look at the Order Paper.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir, I stand under Standing Order No.76 to make a personal statement to parliament regarding the issue of the cemetery land fraud.

Mr. Speaker, Sir---

Mr. Speaker: Order, Deputy Prime Minister and Minister for Local Government. Note that we have just 12 minutes to the next Order. So, you must conclude within ten minutes.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir, I will endeavour to do that.

Mr. Speaker, Sir, today the KACC finally honoured my invitation for a meeting in order for me to share with them credible information about the fraud that was engineered between the Treasury, officers of the Office of the Deputy Prime Minister and Ministry of Local Government and officers at the City Council of Nairobi.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. You are aware that there is a Report by a Committee of this House on the same where the Minister has been mentioned.

I am wondering; by allowing the Minister to make a personal statement, would it not amount to anticipating debate on the report which was tabled by the Committee of this House?

Mr. Speaker: order, hon. C. Kilonzo!

Hon. Members, the Deputy Prime Minister and Minister for Local Government has stood on a point of order pursuant to Standing Order No.76, which has a sub-heading: Personal statements. It provides as follows:-

“By indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such matter may not be debated”

So, what this amounts to is that it is entirely within the prerogative of the Member to decide and determine if he deems that a matter is personal. We do not interrogate that Member if he deems the matter to be personal. He will say it and it will be left intact as it maybe.

PERSONAL STATEMENT

FRAUDULENT PURCHASE OF CEMETERY LAND BY NAIROBI CITY COUNCIL

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. I will, just for the benefit of record, start again.

Mr. Speaker, Sir, today, the Kenya Anti-Corruption Commission (KACC) finally honoured my invitation for a meeting in order for me to share with them credible information about the fraud that was engineered between the Treasury, officers of the Ministry of Local Government and officers of the City Council of Nairobi.

Mr. Speaker, Sir, on 4th June, 2009. Hon. Linturi asked a Question by Private Notice. In the ensuing debate, I agreed to concerns raised by hon. Members that the answer provided to me by my officers was erroneous. In fact, the answer was based on a brief prepared by Mary Ng’ethe, City Council of Nairobi Legal Officer on behalf of the Town Clerk, Mr. John Gakuo. I am on record on that day supporting an inquiry by the Departmental Committee on Local Authorities by telling Parliament that I had no qualms over the matter being referred to the relevant Departmental Committee.

However, Mr. Speaker, Sir, I will be very happy if this matter is investigated thoroughly so that we can get to the bottom of it. As I speak, I know that this matter has also been taken over by the KACC for investigation. Therefore, it is perfectly in order for Parliament to scrutinise the documents further as the other agency also undertakes its investigations. This is in the HANSARD Record of 4th June, 2009.

Subsequently, Mr. Speaker, Sir, I have been in communication with the KACC to hasten their comprehensive investigation of the said fraud. The intention was for the truth

to come out and for the criminal fraudsters to be punished for ripping off the public. I have, therefore, been distressed that a copy of a purported incomplete preliminary report of KACC investigations has been in circulation here in Parliament and has been deliberately leaked and used to defame me in the media. It is worth noting that this is the first time in the history of KACC carrying out investigations, a report has been handled in this manner. One wonders why procedures in handling investigation reports were ignored in this matter. It is also curious that in an investigation, one can have credible evidence which the same investigator says is not corroborated.

Let me declare, Mr. Speaker, Sir, that Musalia Mudavadi has been at the forefront of demanding full, credible and expeditious investigations into this matter and that all involved be punished to the full extent of the law.

Mr. Speaker, Sir, political responsibility required that I act on reports as they were forwarded to me. I did act, not once or twice, but numerous times. I invited both the Departmental Committee on Local Authorities or concurred that they should investigate; I also was very clear that KACC should also carry out thorough investigations and called for a special audit report to be done. Once the reports were made available, I caused action to be taken against those found culpable.

Mr. Speaker, Sir, on 16th February, 2010, I received a copy of the Controller and Auditor-General's Special Audit Report on the cemetery land scandal on 16th February, 2010. The very following day, 17th February, 2010, I wrote to the KACC, asking that they expedite investigations and that appropriate action on this matter be taken. On 19th February, 2010, I wrote to Amb. Muthaura, requesting him to act on the recommendations of the Controller and Auditor-General's Special Audit Report on the cemetery land scandal. To the best of my knowledge, no action was taken until this report from KACC came out, which until then I had not seen. It was surreptitiously leaked to the media for political reasons. Obviously, the owners of grand corruption and their surrogates are viciously fighting back to the extent that they are compromising the integrity of State institutions. Section 144 of the Local Government Act, Cap.265 stipulates that the Minister for Local Government must approve all land transactions by local authorities. On this matter, it is imperative that the public knows that I was never provided with any information and/or documents relating to any aspects of the fraudulent transaction as required by law. No one sought my approval from the beginning of the probe hatched way back in 2005. I was not meant to know anything. The Treasury allocated and released funds in excess of Kshs280 million before the land was identified, valued and approved for purchase. In fact, funds were illegally paid out to the purported owners and lawyers in June, 2008, more than six months before the sale agreement was signed.

Clearly, the "engines" of this fraud are known at the Ministry of Local Government and the City Council of Nairobi. It is not Musalia Mudavadi. Nobody, not even the KACC has produced any evidence whatsoever that I, Musalia, was involved in this fraud, signed any documents, received any documents or benefited in any way whatsoever.

I have carried out my political responsibility from the onset. I have played no role in the saga other than to, as a Minister, request for thorough investigations and demand that action be taken against those involved. I am, therefore, being linked to the scandal

for my zeal in pursuing the truth. I, therefore, appeal to anyone with information to provide the same to the KACC, the Kenya Police or my office for any appropriate action.

Mr. Speaker, Sir, in conclusion, I attach some relevant documents to this Statement which I have referred to. I would like to say something about this document which will be part of the bundle that I will lay on the Table. It is interesting, as has been mentioned by other Members of Parliament, that a document which talks of an investigation that is ongoing is leaked prior to it even being concluded. It is leaked to the media and then we get information that there are people who followed it up to the media to get the editorial teams in some of the media houses to use it as the front page information and to serialize it so that it can be used politically.

Mr. Speaker, Sir, this document which I will table had a common reference for every Member to see. It was being put either in the pigeon holes or distributed along the corridors of Parliament specifically drawing attention to pages 8(b) and 13. It is very clear that this was a well calculated scheme to make this a political issue rather than make it a proper investigative aspect. This cannot be accepted.

Mr. Speaker, Sir, another thing that arises is what the KACC is supposed to do. The KACC is not supposed to be under the direction of anybody. You can give it information, but it cannot operate as if it is under the direction of an individual or a political entity; that is different. In fact, the KACC can only be challenged literally by this Parliament. How come, in law, this Report is forwarded to the Prime Minister and Mr. Muthaura? Previously, when all other reports are done they are, in fact, not forwarded to Mr. Muthaura or the Prime Minister. This Report is supposed to be completed, and then in accordance to the KACC Act, it is forwarded to the Attorney-General for him to look at and decide whether there should be prosecution or otherwise.

(Applause)

Clearly, this is a breach of the law by the person who released this Report. That can only be looked at from a political motive or an attempt to compromise the investigations. With all these, a smart lawyer somewhere will use this breach of procedure as a very serious issue to challenge any issue that may arise subsequent to this.

Mr. Speaker, Sir, we, therefore, find this odd. All other investigative cases that have been undertaken have always been undertaken and then forwarded to the Attorney-General

Mr. Speaker: Mr. Deputy Prime Minister and Minister for Local Government, wind up! Your time is up!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I am just about to conclude. I beg your indulgence on this one because the “war” has been personal, and this thing has to be dealt with.

Mr. Speaker: Order, Deputy Prime Minister and Minister for Local Government! You must conclude in the next three minutes! I am afraid, we cannot take any longer than that.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. I will comply.

One of the things that comes out in this document is very awkward. The document has a list of people that they have traced as beneficiaries. Then somebody

somewhere says at page 10: "Assuming that Ngethe was correct in her statement, to the effect that this was the same money which was to be distributed to the PS and the Minister, Ministry of Local Government, it would appear that their benefit was in the form of Karen land."

Assuming that Karen land--- You have a title deed. You know who owns it. How can there be such innuendo in a document?

Hon. Members: Shame! Shame!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, am I supposed to be crucified on the basis of this document? This document goes further to say that they are investigating. That is at page 13, where it says:-

"However, there is credible, though uncorroborated, evidence at the moment that the three were involved in the conspiracy, and actually benefitted from the fraud."

Mr. Speaker, Sir, how would you prove that somebody benefitted from the fraud? What evidence do you have that I have received an iota of a cent? This is serious! Unfortunately, it is a signed document, doing the rounds, and it has all these allegations that are based on no facts. If there was a cheque to show that I received money, it should be attached. If there is land to show that I bought, the title deed should be there, showing that I owned it. In the first place, I am not even a land owner in Karen. Neither am I a beneficiary of any land in Karen.

So, clearly, there was a very improper motive in this documentation. I am raising these fundamental issues because I may be the victim today but, tomorrow, there is going to be another Member of Parliament who is going to face the same kind of thing, where a document is leaked out on the basis of unfinished investigations, and then he is told: "You are criminal on this matter."

Mr. Speaker, Sir, the war against corruption must be tackled properly. If anybody is found to be guilty, he should be dealt with in accordance with the law. But we should not use our institutions to politicise the process. The process is serious. It is thorough, and everybody must have an opportunity to be heard. I have been persecuted and crucified before the investigations are complete. So, out there, the public thinks that I am guilty.

I have not been given a chance. When this report was being forwarded, they had not asked me to even counter the allegations that are contained therein. So, it is one sided and based on one of the persons whom they say was found with resources from the same transaction.

Mr. Speaker, Sir, I rest my case, but I feel bitter. I table the documents.

(Mr. Mudavadi laid the documents on the Table)

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I rise under Standing Order No.75, following the Communication from the Chair on Thursday 4th of March on the question of Offices of Ministers Bill. Your conclusion, since the House reconvened on 23rd February, 2010, means that the Memorandum should be considered not later than Monday, 15th March, 2010. In recognition of the fact that you have disposed of Order Noes. 8 and 9 and gone straight to the agenda on page 29, then it means there is no other day for the House to consider this matter.

Mr. Speaker: Order, the Member for Turkana Central! You have a valid point.

Indeed, I had prepared to make communication on this aspect. Perhaps the opportune moment is now. I think this is the right point at which to make it.

COMMUNICATION FROM THE CHAIR

PRESIDENTIAL MEMORANDUM ON OFFICES OF MINISTERS BILL

Mr. Speaker: Hon. Members, by way of response to the concerns of the Member for Turkana Central and in conformity with the direction that I gave last week, I wish to make the following communication.

Hon. Members, you will recall that on Thursday 4th March 10, 2010, I drew the attention of this House to the fact that after the National Assembly passed the Offices of Ministers Bill, 2009 on the 9th of December, 2009, and upon presentation of the Bill by the hon. Attorney-General to His Excellency the President, the President did not assent to the Bill and submitted a memorandum to the Speaker in accordance with Section 46(3) of the Constitution.

The Hon. Member for Westlands and the Minister for Regional Development Authorities, you may walk in.

(Mr. Gumo proceeded to take his seat)

Hon. Members, the President did not assent to the Bill and submitted a memorandum to the Speaker in accordance with Section 46(3) of the Constitution.

Hon. Members, you will also recall that in my communication to the House on 4th March, 2010, I indicated that in accordance with Standing Order No.125(6), this House is required to deliberate on a memorandum submitted by the President within 21 days of the date when the House next meets and that this will take us up to the 15th March, 2010, as the last day by which the House should deliberate on the Memorandum. Given our calendar of sitting days, it means that the Memorandum should be considered on or before Thursday, 11th March, 2010. I had accordingly directed that the matter be listed in today's Order Paper. Subsequently, upon careful consideration of the Memorandum submitted by His Excellency the President, I have noted that important questions of law and of the appropriate procedure for the disposal by this House of this particular Memorandum have arisen. In this respect, I have commenced consultations with the Office of the Attorney-General with a view to determining the best way to proceed.

Hon. Members, I therefore, find it necessary to invoke Standing Order No.1 and defer deliberations on the Memorandum in order to allow the consultations to take place. I, therefore, direct that the Memorandum submitted by the President be placed on the Order Paper on Wednesday, 17th March, 2010, afternoon sitting.

Hon. Members, you will note that the Memorandum as submitted by His Excellency the President covers unexplored ground. It is the first time that this Parliament has received a Memorandum in that form. Therefore, these consultations are necessary.

Thank you.

Mr. Ethuro: Mr. Speaker, Sir, while I appreciate your ruling and, indeed, maybe, that is the only way to go, the Standing Order No.125 that you have quoted gives a

timetable within which this business will be done. When I look at the other Bills that were passed at the same time and assented to by 31st December, 2009, the latest date could only come to 16th March, 2010 and not 17th March, 2010. So, I am wondering whether you may just not wish to re-consider given that this is a matter of constitutional issues. I have gone even further to clarify in the Standing Orders and it is very clear. I think Standing Order No.1, with due respect, is for issues not provided for. All of these ones are provided for!

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. As much as I do not want to challenge your ruling, being in your Panel and also for the reasons given by Mr. Ethuro, who is also a Member of the Speaker's Panel, even as you make the consultations with the Office of the Attorney-General, they need to be within the Constitutional provisions regarding the manner in which we handle memoranda from the President. I am concerned that we may be extending the period beyond what is provided for in the Constitution. I am of the view, subject to your own directions, that that matter be restored to the Order Paper for tomorrow and if, necessary, we do not go to Naivasha before we deal with that Memorandum from the President.

(Applause)

Mr. Speaker: Hon. Members, I have heard what both the Members for Turkana Central and Imenti Central – by coincidence, both of them are central – have said. I have, in fact, in making that Communication, taken into account all those aspects. In making this Communication, I have considered, among other things, the balance of convenience. That is why I have exercised the discretion vested in the Speaker, the Chair, by Standing Order No.1. Like I have said, this is the first time that we have a Memorandum in the form that it has been submitted to the Speaker. The provisions of the Constitution under the Section that I have referred to, Section 46, do not set out the fixed timelines on when the Presidential Memorandum must be considered by the House. But it does, among other things, indicate the substance that goes into the Presidential Memoranda and if the two hon. Members just took care to acquaint themselves with what goes into the Memorandum, then you may find that there is a serious Constitutional matter that must be addressed before we deliberate on that Memorandum. It is for this reason that I am persuaded; I am convinced beyond all reasonable doubt and I feel that it is right that I make the Communication in the manner in which I have made it. We will have to continue with business until 6.45 p.m.

Thank you, hon. Members!

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER
THAN THE NEXT NORMAL SITTING DAY

Mr. Midiwo: Mr. Speaker, Sir, I rise to move the Motion that this House do adjourn until Tuesday, 16th March, 2010, at 2.30 p.m.

Mr. Speaker, Sir, this is with regard to your earlier communication from the Chair and due to our agreement in the House Business Committee that we needed to send hon.

Members to a retreat to thrash out issues in the Draft Constitution so that we could come back here with a document which is fully agreeable to all of us.

[Mr. Speaker left the Chair]

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

That was a very welcome invitation. We want to thank you for that. I would caution that as we go to Naivasha, there are issues because we have been canvassing. Personally, as the Whip of ODM, I would be very uncomfortable going to Naivasha to try and mutilate a document which has been presented in this House. I hope that is not the case as is being presented to us by many hon. Members.

A constitutional document, particularly this one, has taken us a long time. We want to go to Naivasha but personally, I will not be party to mutilating the Draft. May I inform the House that in my party, we had said we want the document as is, where is and I think we shall stick to that. We do not want to disagree and we do not like the tone that we are getting.

With those remarks, I beg to move and I ask Mr. Thuo to second.

Mr. Thuo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to second this Motion. As my colleague has said, it is necessary to adjourn the House so as to give us time to go and acquaint ourselves with the Constitution.

I emphasize the point because we must not allow ourselves to be sidetracked by the media who might be thinking that we are going there to mutilate the Draft Constitution. During debate on the Presidential Address, we all confirmed our willingness and desire to seize this historical opportunity to pass a Constitution that Kenya has been attempting to do for over two decades. I have no doubt in my mind that once we have acquainted ourselves with it, unless hon. Members generally feel by consensus that they have issues they want to deal with, I have no doubt we will bring back the same document and pass it in this House.

With those remarks I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, remember your contribution will be for five minutes.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I must oppose this proposed adjournment. We cannot afford to go to Naivasha because there is nothing we are going to do there other than waste taxpayers funds.

The proposed constitution has been circulated, read and subjected to scrutiny by a committee of this House. It has been sent to the Committee of Experts. There is nothing we are going to do in Naivasha other than to mutilate it. We must not provide an opportunity for those who want to postpone the passage of a new Constitution to the people of Kenya. I urge all hon. Members to say “no”. Let us discuss whatever needs to be discussed in this House. If it is necessary to have a *Kamukunji*, let us have it here rather than go and spend public funds in Naivasha to waste taxpayers’ money to discuss

zero. We have agreed as Mr. Thuo said, that we will pass this Constitution as it is. If that is the case, then what are we going to do in Naivasha other than to waste money?

I beg to oppose.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to oppose this business of going to Naivasha. The law is very clear. It is now the role of Parliament. We have nothing to go and do in Naivasha. Everybody who was involved in the process has completed their work, including the Committee of Experts and the Parliamentary Select Committee on the Constitution. Unless we want to go and just bath in the sun in Naivasha, there is nothing that we are going to do. Some people in this country want to put us back to the old days of having no Constitution. Those greedy people who want power, want to create an imperial Presidency. They want to create a President who is going to be a dictator and who will continue the business of perpetrating things that happened in the last regimes.

Mr. Temporary Deputy Speaker, Sir, the question of detention and disappearance should be done away with. People do not want to have a good Constitution for this country. We are just not going to Naivasha.

Mr. Affey: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving this opportunity. First of all, we are discussing a life time opportunity for most of us. Perhaps, in our lifetime we might not get an opportunity to discuss a constitutional dispensation for this country. In fact, the one we are having now, most of us were not even born when it was enacted. Now we have a very unique possibility to make a new constitution for this country. We all support it.

The Parliamentary Select Committee did not mean that they have a monopoly of opinion. They made a wonderful proposal to us, which as a Parliament, we must be given an opportunity to ventilate. Now we have an opportunity to do so. What we require is not more time for this House to ventilate this document. Some of the things that the PSC together with the Committee of Experts have proposed cannot be allowed to pass the way they are. It must be noted that constitutions all over the world are meant to mostly protect the marginalized and the minorities. That is why constitutions are made to protect these people. Now we have a situation where if we are given an opportunity to convince Parliament, whether in Naivasha or through a Kamkunji, we should see whether we can panel beat a little bit those clauses, particularly where you want to have an executive Presidency in the manner the draft has suggested.

Under the current Constitution, for one to become President, he must get majority votes in at least five provinces of the eight provinces of Kenya. They have reduced the threshold to a minimum of two to three provinces and they have talked about more than 23 counties. The counties are 47. I want the Prime Minister to pay a lot of attention to this because, not only as a Prime Minister, but also as a party leader, he can help us to move forward. We have very serious concerns. Currently the draft suggests 47 counties and half of those counties can vote for one to become the President of this country. This means that if three provinces in this country combine forces--- We know political ethnicity in this country is not likely to end. If they combine the Rift Valley, Central and Eastern or the Rift Valley, Western and another province, they can easily get the threshold of 23 counties. If we do not have an opportunity to ventilate and let the Members tomorrow---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Affey! Time up!

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, let us go to Naivasha, Safari Park or anywhere else to discuss and ventilate.

Mr. Njuguna: Thank you, Mr. Temporary Deputy Speaker, Sir. I also rise to support the Mover of this Motion that it is important for us to adjourn to go to Naivasha, so that we can discuss this document as a family. His Excellency the President of this nation has already given a commitment that he would like this draft Constitution to be approved.

The Prime Minister has also publicly given commitment that together with the President, they will create an enabling environment, so that Kenyans can get this Constitution which they have missed for the last 20 years. The document that is operating today in this country is the Lancaster Constitution that we are trying now to review, to guarantee Kenyans a better Constitution that will cater for the national interest of this country. The 40 million Kenyans are now watching the steps that are being taken by this House. It is, therefore, important that the entire House goes together and comes out with one voice. That is what the entire Kenyan population is waiting for.

Mr. Speaker, Sir, I, therefore, fully support that I move immediately to Naivasha to bond with the others.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I rise to oppose the Motion. I oppose because I believe that this Parliament's role has already been played. One of the roles of this Parliament was to put in place the Committee of Experts. Another role was to elect amongst ourselves the Parliamentary Select Committee, whom we had confidence in, so that they could look into these issues carefully for us. It means, therefore, that if we feel that we need a new process that Parliament must engage in, then we must be saying that we have no confidence at all in the past processes that we put in place and, therefore, have no confidence in ourselves. Therefore, there is no point of wasting taxpayers' money in processes that we, ourselves, put in place and guaranteed Kenyans a Constitution within a timeframe.

Mr. Temporary Deputy Speaker, Sir, I oppose our going to Naivasha.

The Minister of State for Public Service (Mr. Otieno): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity.

Honestly, this is a good document that is going to radically change the political practice in this country. The hon. Members need to understand the implications of each and every clause. To be able to understand the implications of the key clauses in this document requires that a Member be allowed to ask as many questions as he can, not only in the presence of colleagues but also experts. I do not think that this is something we can do here in a Kamukunji. We need to focus and concentrate our thinking in this document with resource persons so that each Member will be confident when selling this document to the rest of the population. I have gone through so many clauses but each time I read them the second time, I realize implications in future political practice in this country as being affected by a simple clause. It is not a matter of reading it through. It is really a matter of not only exchanging but also kind of interacting with each other and asking questions left and right until we are convinced that what we are going to pass is the Constitution for the future of this country.

Honestly, let us not do a rushed job. We have time. We can sit for two-and-a-half days of intense thinking, asking questions, giving answers and consulting resource persons, and then we can come back and pass it. If we were to go through it here in the

House, I bet there are some of us who will begin to say that the majority have it. But that is not what we want. We want you to help us out there as well, because the political practice in this country will change right from councilors down there and we have to go back and literary do the teaching before the Referendum.

I beg to support that we go to Naivasha.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I also rise to support the Motion.

Mr. Temporary Deputy Speaker, Sir, the only fear I am seeing here why we should not go to Naivasha is that there is a risk of the document being mutilated. I think that fear has no basis whatsoever. We cannot mutilate the Proposed Constitution in Naivasha. It will be a *Kamkunji* just to transfer to Naivaha. The only place we can mutilate it is here in the House not in Naivasha.

I want to agree with hon. Otieno that it is a historical opportunity. It will be the Tenth Parliament that will give this nation a new Constitution. We want to prepare. Let us go to Naivasha, take time and go through this document together with experts. Let us build consensus. Naivasha is a very historical place. It is where ten per cent of this House went as the PSC and built a consensus. There is a certain spirit that touches people in Naivasha. It is where the Comprehensive Peace Accord (CPA) of Sudan was made, where John Garang and the rest were. Let us go there as a House and build consensus; ask questions and refine the draft so that when we come here we are better prepared to actually pass this Constitution.

I also believe that in this House, the mood is that we are going to pass this Constitution. But where we are hearing the voices of threats for the first time, there are politicians who have been threatening to shoot down this Constitution, now we are saying we want it. But religious leaders are threatening to shoot down this Constitution. I would urge that, perhaps, an invitation be extended to the religious; if they can also be invited to Naivasha to join us, we can actually bond.

With those few remarks, I beg to support.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, at the very outset, I want to advocate for adjournment so that we go to Naivasha.

Mr. Temporary Deputy Speaker, Sir, I think it is well worth for us to remember that Kenyans have been waiting for the new Constitution now for about 21 years and every time that we have tried to move forward, it has not been possible to actually get the consensus. We, therefore, need to go for those two days or two days and half to be able to go through the Proposed Constitution without any interference, so that all of us understand it. I am sure we will understand it.

I am sure the much more repeated it is, the more it will sink into our minds. I think we need that. Once we have gone through this document and understood it, let us then go case by case and make sure that we build a consensus. We cannot, at this particular time, when the nation is expecting this parliament to give them a new Constitution, deny them a Constitution. I think we would have done a great deal of disservice to the Kenyan people and to ourselves. Not only will Kenyans be happy once we actually give them a new Constitution, but they will be confident that their rights will be respected and justice will prevail. It will also build cohesion among different

communities. We will ensure that our people remain as Kenyans and they will forget all these negative ethnicity which has done us a great deal of harm.

The other thing we should take into account is that the world today is watching us.

With those few remarks, I beg to support.

Dr. Laboso: Madam Temporary Deputy Speaker, I believe that already, daggers have been drawn.

From the contributions that are coming in this House, there is definitely a need for bonding. Even if we do nothing else in Naivasha, if we are able just to understand that document clause by clause and understand what it says---. Not everybody is at the same stage in the understanding of the Constitution. Some have read and some have not. Some are lawyers and some are not. I believe just the fact that we can go through the document together as a team, as Members of Parliament, I believe is a worthwhile cause.

Mr. Temporary Deputy Speaker, Sir, I strongly urge our Members to support this Motion so that we go to Naivasha. Let us come back from Naivasha speaking, even if not with one voice, but at least, speaking a language that is closer

I beg to support.

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

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

Mr. Mbadi: Thank you, Madam Temporary Deputy Speaker. Even though some of my colleagues are intimidating me to support this Motion, I think I will do exactly what I wanted to do; I oppose this Motion.

Madam Temporary Deputy Speaker, I would have loved to go to Naivasha; I mean, it is nice to go and rest there for two-and-a-half days. But the reason why I am opposed to going to Naivasha is because I do not see any value that sitting in Naivasha is going to give to this country.

Madam Temporary Deputy Speaker, already, the two political blocks have taken positions. ODM has had its Parliamentary Group (PG) meeting and issued a statement that is known to everyone – that they want to pass the Draft Constitution from the Committee of Experts (CoE) as it is. The PNU has been making some statements which are really disturbing. In fact, yesterday, when PNU came from their PG meeting, I was convinced that there was no need for Naivasha; it is like the PNU side of the Government is trying to use Naivasha to mobilize support for a bid to mutilate the Constitution and make it a document of the political class.

Madam Temporary Deputy Speaker---

The Temporary Deputy Speaker (Prof. Kamar): Your time is up!

Mr. Ethuro: Madam Temporary Deputy Speaker, on behalf of the Parliamentary Select Committee on the Constitution, where I am an hon. Member, I need to say that, maybe, we did not explain ourselves.

Madam Temporary Deputy Speaker, I want to appeal to this House that you are absconding your responsibility by remaining in the House when we should be in Naivasha.

(Applause)

The stage of the constitutional review process, according to the Review Act that we passed in this House has now brought this process to where the entire House needs to participate. For you to come here and say that because a particular section of the political divide is going to mutilate the document is, I think, as if you do not even understand the process! What we want to do in Naivasha, when we go there as the whole House, is to build consensus.

(Applause)

It is to explain to you, who basically mandated us with the brief, now that the entire document is here, this is the way it is. So, when you come back, you can now actually decide to pass it all as you wish or, for those of us with the courage of our conviction, propose certain amendments! Amendments will not be done in Naivasha; I will do them in this House if I deem that I need them. So, do not fear going to Naivasha; *munakaribishwa Naivasha!*

Thank you very much, Madam Temporary Deputy Speaker.

(Applause)

Mr. Ochieng: Thank you, Madam Temporary Deputy Speaker. I want to oppose this Motion for one simple reason. This is a very serious process, and some people have already suggested – we read it in the papers today – that they are going to mutilate this document in Naivasha. Some of us know exactly what happened in Naivasha last time when the PSC was meeting there and we do not want to be part of that process. This document is acceptable to the people of this country. We do not want to go there and bond for the purposes of wasting public money. We should bond here, and we have been bonding here!

Madam Temporary Deputy Speaker, I beg to oppose.

Thank you very much, Madam Temporary Deputy Speaker.

Mr. Kiuna: Madam Temporary Deputy Speaker, I support this Motion on these grounds. I think this House will agree with me that it selected some Members to go and deliberate on this Constitution and they agreed on everything. The whole nation is watching us keenly. What we come up with in Naivasha should be agreeable to all hon. Members. So, we will not go to Naivasha as ODM or PNU.

QUORUM

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. Is there a quorum in the House?

The Temporary Deputy Speaker (Prof. Kamar): No, we do not have quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kamar): We have a quorum now. You may proceed, Mr. Kiuna.

Mr. Kiuna: Madam Temporary Deputy Speaker, Sir, I think I was on the Floor.

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Temporary Deputy Speaker. Having sensed the mood of the House, is it not in order for the Mover to be called upon to reply?

Mr. Thuo: Thank you very much, Madam Temporary Deputy Speaker. I have heard your sentiments and I beg to move.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Thuo, who gave you permission to stand? Nobody has asked you to reply! This is a timed Motion. There are still two minutes for Mr. Kiuna.

Proceed, Mr. Kiuna.

Mr. Kiuna: Thank you, Madam Temporary Deputy Speaker. I was telling this honourable House that it is very important for us to go to Naivasha. As we go to Naivasha, we are going as one House. There is neither ODM nor PNU. So, I am supporting this Motion. I request all hon. Members to go there united, speak with one voice and agree that we shall come up with a new Constitution.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, we have finished the time for debate. So, I would like to call upon the Mover to reply.

Hon. Members: He is not here!

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. I would like to point out to the Chair that this is an Adjournment Motion. On an Adjournment Motion, there is no room for the Mover to respond. So, could you put the Question?

(Question put and agreed to)

Hon. Members: Division! Division!

The Temporary Deputy Speaker (Prof. Kamar): Yes, there are more than enough members seeking a Division. Ring the Division Bell.

DIVISION

(Question put and the House divided)

(Question negated by 25 votes to 23)

AYES: Messrs. Affey, Bifwoli; Ms. Chepchumba, Messrs. Chepkitony, Ethuro, Gaichuhie, Kabando wa Kabando, Prof. Kaloki; Dr. Khalwale, Messrs. Kinyanjui, Kiuna; Dr. Kones, Messrs. Mbugua, Midiwo, Mututho, Muriithi, Murungi, Njuguna, Nyamweya, Ruteere, Prof. Saitoti, Messrs. Thuo and Wamalwa

Tellers of the Ayes: Messrs. Ruteere and Mbadi

NOES: Prof. Anyang'-Nyong'o, Messrs. Anyanga, Imanyara, Kizito, Kosgey, Dr. Laboso, Messrs. ole Lankas, Letimalo, Magerer, Mbadi, Mudavadi, Nanok, Mrs. Ngilu,

Messrs. ole Ntimama, Nyaga, Obure, Ochieng, Otieno, Dr. Otuoma, Messrs. Outa, Pesa, Mrs. Shabesh, Mr. Shakeel, Messrs Yakub and Yinda.

Tellers of Noes: Messrs. Outa and Njuguna

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, the Motion has been defeated. This House is, therefore, adjourned until tomorrow, Thursday 11th March, 2010, at 2.30 p.m.

The House rose at 7.15 p.m.