

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th November, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

The Report of the Third Session of the Second Legislature of the Pan African Parliament held from the 4th to 14th October, 2010 in Midrand, South Africa.

(By Mr. Imanyara)

POINT OF ORDER

DELAY IN TABLING COMPLIANCE REPORT
BY FINANCE MINISTER

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. On behalf of the Budget Committee, I would like to bring to the attention of the House the fact that the first quarter of the Fiscal Year 2010/2011 has come to an end. However, the Deputy Prime Minister and Minister for Finance, has not yet laid before the National Assembly the Compliance Report as envisaged under Section 14 of the Fiscal Management Act, 2009.

Mr. Speaker, Sir, I would like to seek your direction as to when the Deputy Prime Minister and Minister for Finance will make the Compliance Report available so that we can know the level of compliance within the fiscal limits of what we passed in the Budget. If he has not, we would like to know the reasons because this is a legal requirement and we expect the Deputy Prime Minister and Minister for Finance to do so. The quarter actually ended last month. We have been waiting to see the Minister table the Compliance Report. I am sure the Treasury has not advised him. Maybe, he could check on the issue and comply accordingly.

Mr. Speaker: Very well. Mr. Deputy Prime Minister and Minister for Finance, do you have any reaction to that?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I am not 100 per cent sure, but I think we have until 25th November, 2010 to table that Report. We are in the process of doing that. I think we should table the Compliance Report before the deadline.

Mr. Speaker: The Member for Garsen, unless there is any statutory restriction that binds the Deputy Prime Minister and Minister for Finance to table the Report within a certain timeframe earlier than 25th November, 2010, obviously, the Minister still has time.

Mr. Mungatana: Mr. Speaker, Sir, according to the calculations we made, it was actually supposed to be 25th of the previous month. However, we are willing to wait if they are preparing it. We will be quite happy to wait for the Report because we do not want to harass the Deputy Prime Minister and Minister for Finance.

Mr. Speaker: Very well! Mr. Deputy Prime Minister and Minister for Finance, you need to be sure about the timelines. If the outer limit is already burst, then ensure remedial action within a reasonable period. In law, reasonable period will be a period not exceeding 30 days from the threshold.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, that is noted. We will act on it and ensure that we expedite the process.

Mr. Speaker: Fair enough.

NOTICES OF MOTIONS

APPROVAL OF INCREASE OF GOVERNMENT'S TOTAL CONTINGENT LIABILITY

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Section 38 of the Guarantee Loan Act, Cap.461 of the Laws of Kenya; this House approves the increase of Total Contingent Liability of the Government for the time being outstanding in respect of principal amount of money borrowed or credit under the guarantee given under Section 3(1) or referred to in Section 8 of the Act from US\$1 billion or Kshs80 billion to US\$2.5 billion or Kshs200 billion.

ADOPTION OF REPORT OF THIRD SESSION OF SECOND LEGISLATURE OF PAP

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

THAT, this House adopts the Report of the Third Session of the Second Legislature of the Pan African Parliament held from the 4th to 14th October, 2010 in Midrand, South Africa laid on the Table on Wednesday, 10th November, 2010.

ORAL ANSWERS TO QUESTIONS

Question No.390

OCCUPATION OF CHESINENDE PLOT BY MR. CHEBORGE NG'ENO

Dr. Laboso asked the Minister for Lands:-

(a) under what circumstances Mr. Cheborge A. Ng'eno is occupying Plot No.51 in Chesinende Scheme, while the title holder, Mr. Kibet A. Turgut, is landless; and,

(b) what the Ministry is doing to ensure that Mr. Turgut regains his property.

The Assistant Minister for Lands (Mr. Rai): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Cheborge A. Ng'eno is occupying Plot No.51 in Chesinende Settlement Scheme, although the actual registered owner is Mr. Kibet A. Turgut.

(b) The matter was brought to the attention of the Ministry way back in 1980 and after investigations Mr. Turgut was advised in December, 1988 to seek assistance from the Provincial Administration in evicting the intruder. The issue was revisited once more in June, 1992 and Mr. Turgut was advised to pursue eviction through the court process.

Dr. Laboso: Mr. Speaker, Sir, this is a very serious matter and I find the answer by the Assistant Minister completely unsatisfactory. This man has continued to suffer. For 36 years, he has tried to pursue occupation of his land which the Ministry has rightfully allocated him. He has a title deed to the land.

The man has gone to court and he has several cases. I do not have all of them here, but he has followed the due process of the law in trying to occupy this land. I find the answer by the Assistant Minister completely unsatisfactory. This man has gone through all those processes and 36 years later, he is still a squatter in my constituency. He has been unable to remove Mr. Ng'eno from his land.

Mr. Speaker: Order, the Member for Sotik! Please, come to the question!

Dr. Laboso: Mr. Speaker, Sir, could the Ministry give the rightful occupier of the land his land?

Mr. Rai: Mr. Speaker, Sir, I have made it very clear who the rightful owner of the land is. However, in view of the fact that there is an intruder on that land, the only remedy available to my Ministry is to advise the owner of the land to either use the Provincial Administration or go through the court process. Those are the issues I have raised with the land owner.

Mr. Twaha: Mr. Speaker, Sir, one of the former Ministers for Lands is on record as having stated that a title deed is just a piece of paper. The current Minister for Lands has been going around revoking people's title deeds, knowing very well that he does not have those powers. How does the Assistant Minister expect wananchi to respect title deeds?

Mr. Rai: Mr. Speaker, Sir, that could be a different Question altogether because my understanding is that a title deed is a title deed, unless challenged in court. I can only abide by what has been directed by the court. In this issue, we have advised the owner of this land to seek redress from the courts so that once that is done--- We are prepared to give evidence because we have certified that this is the rightful owner. The other person does not have any papers. Mr. Turgut has to pursue the matter either through the Provincial Administration or through the court process.

Mr. Speaker: Order, Mr. Assistant Minister! The question by Mr. Twaha is legitimate and you cannot say that it is a different question. Even now, you have been addressing yourself to validity of title deed and ownership. Mr. Twaha is saying that you

have been going round revoking titles. How do you expect the public to respect title deeds if you are revoking them?

Mr. Rai: Mr. Speaker, Sir, I said this could be a different question because things go on merit. That applies to grabbed land. That is when we say a title is not valid. However, when land is given through due process, the title deed is considered valid.

Mr. Twaha: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the House that he has powers to declare land grabbed when we know that the law states that it is only the High Court of Kenya that can declare a title deed null and void? Where does he derive his powers from?

Mr. Rai: Mr. Speaker, Sir, it is true that those powers are not vested in us. However, in some of these instances, we are actually trying to advise the people who are affected to pursue them through the court process so that they can, at least, get the correct position.

Mr. Njuguna: Mr. Speaker, the Assistant Minister has admitted that this is a very needy case and the owner of the land has been waiting for the last 30 years to be assisted. We also know that if this person lived for another 50 years, he will not be able to realise the amount of money required to present a fresh case to court. Could the Assistant Minister consider some humanitarian assistance to bail out this family?

Mr. Rai: Mr. Speaker, Sir, I sympathise with the Questioner. We wrote a letter to the Land Adjudication Officer explaining that the rightful owner is So and So. That is why we said that if he could use the Provincial Administration, they could assist because the other person does not have any papers. Secondly, he could pursue the matter through the courts. As far as we are concerned, our work is to issue the title deed and nothing else.

Mr. Kabogo: Mr. Speaker, Sir, we have seen and heard in this House a Minister say that a title deed is a paper and that they can revoke any title deed by way of just declaring it null and void. What is the Government's position as far as genuine title deeds are concerned?

Mr. Rai: Mr. Speaker, Sir, my position is that a title deed is a title deed unless otherwise challenged in a due court process. Whoever does it has to face the due court process because nobody has the powers as far as the Constitution is concerned to nullify a title deed. If anybody is aggrieved, he has the right to pursue the matter through the due process of the law.

Mr. Imanyara: Mr. Speaker, Sir, we are aware that the Attorney-General is the protector of public interests. Clearly, this is a case which demands that the Attorney-General gets involved to protect the interest of this poor individual in the public interest. Has the Assistant Minister considered referring the matter to the Attorney-General with the advice that his officers on the ground take up this matter in court and get representation for this landless Kenyan who clearly deserves justice?

Mr. Rai: Mr. Speaker, Sir, our correspondence with our officer on the ground confirms that we were actually prepared. The other thing we need to put into consideration is that this matter has been taken to court by the rightful owner of the land.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. My question was: Has the Assistant Minister considered approaching the Attorney-General where the law clearly provides for his intervention in circumstances such as this so that he can get the court to

issue the necessary order? That is the role of the Attorney-General. Has the Assistant Minister considered advising the Attorney-General to intervene?

Mr. Rai: Mr. Speaker, Sir, as far as my office is concerned, we have not done that yet. I will advise the Questioner to take up the matter with the Attorney-General in view of the fact that it is in court so that the Attorney-General can do something. We have made our position clear that the rightful owner is So and So. We even said that if the Provincial Administration can be used, then it would be much better. We will use the Attorney-General as the last resort if the court process fails to give the truth.

Dr. Laboso: Mr. Speaker, Sir, can I donate a minute to Mr. Olago?

Mr. Speaker: You can donate the chance and not part of it.

Dr. Laboso: I donate the chance, Mr. Speaker, Sir.

Mr. Olago: Mr. Speaker, Sir, I thank my colleague, Dr. Laboso for donating a chance to me. From the answer of the Assistant Minister, it is clear that the Ministry is fully aware and concedes that the land is occupied by an intruder and a trespasser. On two occasions they have advised that the owner seeks assistance from the Provincial Administration to remove the intruder. Why is it not possible for the Assistant Minister to look clearly at the provisions of Chapter 300, Registered Land Act, within which he has got the powers to order the removal of an intruder and put the right owner on to the land?

Mr. Rai: Mr. Speaker, Sir, the land ownership dispute was raised with the Director of Settlement in 1984, 1986, and 1988. After investigations, he was advised in 1988 that since he was the legal owner, he could seek the eviction orders either through the Provincial Administration or the court process. In 1990, a letter was written by my Ministry to the District Land Adjudication and Settlement Officer to have Mr. Ng'eno, who was in unlawful occupation of the plot evicted so that Mr. Turgut, the rightful owner could take possession. From the foregoing, it is clear that Mr. Ng'eno has been occupying the land belonging to Mr. Turgut, the registered owner and the only remedy for him is to seek legal redress.

Unless there is another way, it is like saying we cancel the title deed and yet those powers are not vested with us.

Mr. Olago: On a point of order, Mr. Speaker, Sir. My question was not how the rightful owner can seek legal dress, but why the Assistant Minister is not able to look at Cap. 300 for powers which the Commissioner of Lands has to remove the intruder.

Mr. Speaker: What Section do you have in mind, Mr. Olago?

Mr. Olago: Mr. Speaker, Sir, I do not have it of head, but if I had a chance to go through the Chapter here, I can get it.

Mr. Speaker: Could you liaise with the Assistant Minister and give him that legal advice so that the Minister can comply? Mr. Assistant Minister, liaise with the Member for Kisumu Town West so that you can see if you have those statutory powers and invoke them.

Mr. Rai: Mr. Speaker, Sir, I will oblige as and when my colleague does it.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. You have heard this Assistant Minister say that the Government has no power. You remember that the same Government removed people from the KICC. What method did they use if they cannot remove this poor man who is occupying somebody else's land? These are double standards!

Mr. Speaker: Order, the Member for Juja! That is a genuine point of order except for the way that you have articulated it, which makes it a question. I want hon. Members to be careful and frame your points of order correctly so that they fall within that parameter.

Mr. Kabogo: I am guided, Mr. Speaker, Sir.

Mr. Speaker: Are you saying that the Government is helpless and cannot enforce the law? What are you saying?

Mr. Rai: Mr. Speaker, Sir, what happened to the KICC Involved executive powers, which as an Assistant Minister, I do not have. Secondly, the powers to evict are not vested in my Ministry.

Mr. Speaker: Order! Mr. Assistant Minister, did you say that the Government is unable?

Mr. Rai: Mr. Speaker, Sir, the Government is not unable. That is why I assisted the owner to seek court redress.

Mr. Speaker: Very well! That is just as much as you should have given for an answer.

Next Question, Mr. Kiilu!

Question No.395

DELAYED REHABILITATION OF MANOONI DAM

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

(a) whether she is aware that the rehabilitation of Manooni Dam which was to supply water to residents of Mbitini, Matiliku and Mulala Divisions that was to be undertaken during 2009/2010 at an estimated cost of Kshs21.3 million has not commenced; and;

(b) what has caused the delay and when the works will commence.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the rehabilitation of Manooni Dam has not commenced.

(b) The delay has been caused by a disagreement between the local residents to allow rehabilitation works, even though they had given consent for the dam construction in 1983. The works will commence once the local residents agree to allow the rehabilitation works on the dam. Meanwhile, a total of Kshs10.5 million has been allocated to the dam for the supply of Matiliku Division. Funds have been provided to supply water to Mbitini and Mulala divisions.

Mr. Kiilu: Mr. Speaker, Sir, I am not satisfied with the answer given by the Assistant Minister. I would like him to tell us when these disagreements, which he has talked about and which I am not aware of as the representative of the people, started. I am reading mischief in the answer. In October, 2008, in an answer to an earlier Question No.619 which led me to ask this Question, the Minister confirmed to this House that funds had been set aside for the rehabilitation of this dam in 2009/2010. What has made him deviate from that answer?

Mr. Waititu: Mr. Speaker, Sir, the information from the ground is that there are disagreements between the residents on the accessibility to the site. The Government has

put in place some measures to make sure the residents get some water. We have started some water supply to Matiliku, Mbitini and Mulala divisions. I would also like to mention here that I am ready to visit the site with the Member, so that we can fast-track the disagreements together with the officials and solve the problem to the Member's satisfaction.

Mr. Affey: Mr. Speaker, Sir, it is very clear that the Assistant Minister is not prepared to answer the Question. At the beginning, he says that there was consent and then he goes ahead to say that there was a disagreement. I want to understand from him how the disagreement came about after they had achieved consent earlier enough.

Mr. Waititu: Mr. Speaker, Sir, the consent was given in 1983; over 25 years ago. Now when the project is ready for implementation, there are some disagreements on the ground. As I said, I have talked with the officials at the Ministry headquarters and I am ready to travel to the area at the convenient time of the Member, so that we can find out the truth on the ground.

Mr. Bahari: Mr. Speaker, Sir, water is life. I realize that some money has been set aside to supply water, particularly in Ukambani where this is extremely important just like where I come from. The Assistant Minister says this project has not been completed because of the dispute on the ground. The Member, who is always there every week, says there is no dispute. Could he provide evidence to show that there is a disagreement, so that there is an aspect of accountability on the part of the performance of this Ministry?

Mr. Waititu: Mr. Speaker, Sir, the officials who are supposed to implement the project tells us there are disagreements on the accessibility of the site. The Member could assist us in solving this problem.

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

Mr. Speaker: Order, Member for Makueni! You have the last opportunity! Assistant Minister, have you finished?

Mr. Waititu: Mr. Speaker, Sir, honestly, if there is a problem about the accessibility of the site, the Member who is closer to his people than anybody else, could assist the Ministry to solve it. I am ready to visit the area together with him at his convenience, so that we can find out the truth about the issue. He has just said that he suspects some foul play in this issue. Since the Minister had promised that this matter was going to be solved, I am ready to travel with the Member to his constituency.

Mr. Kiilu: Mr. Speaker, Sir, I want to restate that there is no dispute at all. If there is a dispute, it is the creation of the Ministry. In his final reply, the Assistant Minister said that some Kshs10.5 million has been set aside. Where did the Kshs21.3 million go to? How did the money disappear?

Mr. Waititu: Mr. Speaker, Sir, this matter is very important to the people of Nzau District. Therefore, I would have found it convenient to visit the site. I do not know why the Member is not very excited to go with the Assistant Minister and the Ministry officials to his constituency, so that we can find the truth on the ground. I am ready to do so.

Mrs. Noor: On a point of order, Mr. Speaker, Sir. The Member has asked a straightforward question. Where is the Kshs21.3 million? The Assistant Minister has not answered the question. Is he in order not to answer the question that was asked?

Mr. Waititu: Mr. Speaker, Sir, this Budget for the Financial Year 2009/2010, which has passed--- The money could have been returned to the Treasury when the

financial year ended. If the Member is not satisfied, and I would like him to be satisfied, I seek your indulgence that this Question be deferred to another day, so that---

Mr. Speaker: Order, Mr. Assistant Minister! As far as I am concerned, you have adequately dealt with this matter, except that you need to go to the ground to ascertain the truthful position and proceed to implement the project. Confirm that you will go to the ground and thereafter, proceed to implement the project. Please, do so!

Mr. Waititu: Mr. Speaker, Sir, I am ready at the convenient time of the hon. Member, to travel together with him, so that we can ascertain the position on the ground. I guarantee that I will make sure that the project is implemented immediately.

Mr. Speaker: Very well! Hon. Members, Question No.414 on Prosecution of post-elections Violence Suspects after Passing of the New Constitution was previously dealt with to the satisfaction of the Member for Garsen. Therefore, it is spent.

Member for Samburu East! The Question is dropped.

Question No.332

CONSTRUCTION OF RIVER SEIYA BRIDGE

(Question dropped)

Mr. Speaker: Member for Yatta. The Question is dropped.

Question No.489

TARMACKING OF KITHIMANI-MWALA-
MAKUTANO ROAD

(Question dropped)

Mr. Speaker: Next Question, Member for Uriri Constituency.

Mr. Ochieng: Mr. Speaker, Sir, I allow me to ask---

Mr. Speaker: Order, Member for Nyakach, I have no information that the Member for Uriri Constituency authorized you to ask the Question on his behalf. Normally, the procedure would be that I be notified.

Mr. Ochieng: Mr. Speaker, Sir, I think the letter is with the Clerk.

(The Clerk-at-the Table consulted the Chair)

Mr. Speaker: Yes, I am now satisfied. You may proceed.

Question No.418

INTRODUCTION OF GREENHOUSE FARMING

Mr. Ochieng on behalf of **Mr. Omollo** asked the Minister for Agriculture:-

(a) if the Government has plans of introducing greenhouse farming in most parts of the country to improve agriculture, given the pressure on food supply to feed all parts of the country and retain surplus for export;

(b) when the Government will expand this emphasis or programme, including intensive demonstrations in Uriri Constituency as a way of tapping-in small scale production of vegetables, fruits and flowers; and,

(c) if the Government has enough personnel and technocrats to help in new farming technologies in the newly created counties and how many are currently in Uriri District.

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

(a) The Government is already implementing plans for greenhouse farming in most parts of the country to improve agricultural production although the take off is slow owing to high startup capital and water availability. This policy is derived from the realities of climate change, where rain-fed production is unpredictable.

(b) The Government has expanded this programme and in particular, is funding construction of greenhouse for the Ombo Village Health Development Group in Uriri Constituency for tomato production and demonstration purposes.

(c) The Government and stakeholders in the agricultural sector have enough personnel and technocrats to help in the new farming technologies. However, following the creation of new districts, the Ministry is experiencing shortage of personnel and hope to recruit more to cope with the demand. Currently, Uriri District has eight Ministry of Agriculture officers.

Mr. Ochieng: Mr. Speaker, Sir, you have heard the Assistant Minister mentioning only one particular project for one particular group, yet there are several other groups. When does he intend to roll out these projects to other groups which have not benefited from this project?

Mr. Ndambuki: Mr. Speaker, Sir, as I said, to startup this Greenhouse exercise is very costly. Even some Members of this House have given greenhouses to schools and groups through the CDF.

It is very costly for the Ministry to do that exercise. So, I am appealing to other Members to do the same. Some Members have given this project to schools and women groups. They are doing very well.

Mr. Olago: Mr. Speaker, Sir, from the answer of the hon. Assistant Minister, he says that Greenhouse farming is being encouraged in most parts of the country and that Uriri District has got eight Agricultural Officers. Could he confirm to the House that Kisumu North District is one of those areas that have been considered and why it does not have even one officer?

Mr. Ndambuki: Mr. Speaker, Sir, I have a breakdown of where we have some of these projects in the new districts. In Western Province, we have 74 Greenhouses in nine districts, Eastern Province we have 800 in 11 districts, Rift Valley, 357 in 17 districts, Nairobi 79 in four districts, North Eastern one, Central Province 678 in 25 districts and Nyanza we have 74 in 11 districts.

Mr. Yakub: Mr. Speaker, Sir, with regard to part “c” of the Question, where are the offices situated in the Mombasa County?

Mr. Ndambuki: Mr. Speaker, Sir, in Coast Province, we have 36 in seven districts.

In addition, we have greenhouses in every Agricultural Training Centres (ATC) for demonstration. If you go to Mombasa Show Ground, we have also a greenhouse there for demonstration. We also have it here in Nairobi and other areas.

Mr. Bahari: Mr. Speaker, Sir, the Assistant Minister in giving the distribution of greenhouses, he indicated that there is only one in North Eastern Province. What criteria did he use because if I heard him right, the disparity is so large that, to me, it is not acceptable? Could he spell out the criteria that he used?

Mr. Ndambuki: Mr. Speaker, Sir, I said that one of the criteria is availability of water and then, the other one is groups. According to what I have, we have only one in North Eastern. I can only find out why it is only one and go back to the Member.

Mr. Ochieng: Mr. Speaker, Sir, the Minister has only mentioned that putting up one greenhouse is expensive. Could he reveal how much it costs to put up one greenhouse, so that the groups that have benefited know how much Government has given to them?

Mr. Ndambuki: Mr. Speaker, Sir, it varies from one company to another. But if you go Amiran Kenya, one for 700 plants costs Kshs140,000.

Mr. Speaker: Member for Emuhaya. The Question is dropped!

Question No.445

MINERAL RESOURCES POTENTIAL IN KENYA

(Question dropped)

Question No.515

NON-PAYMENT OF SALARY TO ABDALLAH

Mr. Yakub asked the Minister for Education whether he could clarify why Mr. Abdallah M. Adam (TSC No. 252668) was not paid his salary for the period between May and November, 2005, and when he will be paid.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, this Question was handled quite a bit last week, except for the month of November. The House wanted to know what the Ministry will do with the salary of Mr. Abdalla Adam for the month of November because he was posted to a wrong institution.

So, the issue is why the Ministry is not paying his salary for November, 2005. This is the way forward. Mr. Abdalla was posted to Mombasa Teachers Training Institute (TTI) on 2nd November. When he reported, it was found out that he did not have the right subjects for that institution. However, he reported on 23rd. He did not report as early as we thought he would. So, he reported on 23rd of November. For that reason, we are going to pay him the salary from 23rd of November to 1st December.

Mr. Yakub: Mr. Speaker, Sir, after a long discussion with the Assistant Minister on behalf of Mr. Abdalla M. Adam, I agree with the seven days payment and I am satisfied with the response.

Mr. Speaker: Very well! The matter will rest there.
Let us move on to the next Question by the Member for Rongai.

Question No.518

PROVISION OF AMBULANCES TO CONSTITUENCIES

Mr. Kigen asked the Minister for Public Health and Sanitation:-

(a) whether she could confirm that each constituency will receive an ambulance before the end of 2010/2011, in line with an earlier Government commitment on the same;

(b) how much funds the Ministry will use to ensure that enough ambulances are bought; and,

(c) whether she could also explain how the Ministry intends to utilize the Kshs294,000,000 provided for the 2010/2011 Budget to hire ambulance services, considering that there is no policy frame work on the same.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Speaker, Sir, I beg to reply.

(a) I can confirm the distribution of ambulances to each constituency before the end of 2010/2011 Financial Year.

(b) My Ministry has been in consultation with the Office of the Deputy Prime Minister and Ministry of Finance on the leasing of ambulances for referral purposes. Already the Office of the Deputy Prime Minister and Ministry of Finance has invited qualified and interested companies on the expression of interest which was advertised in the local dailies on 16th September, 2010 as the Government requires to lease 300 ambulances for distribution to health facilities countrywide. Based on the conclusion of this process, the Treasury will be in a position to know how much it will cost.

(c) Currently, the technical evaluation on the request of expressions of interests on leasing of vehicles for Government transport as stated above is ongoing. As soon as the process is complete, the Office of the Deputy Prime Minister and Ministry of Finance will invite bidders and receive formal request for proposals as specified. A draft policy framework is available and work is going on towards this conclusion.

Mr. Speaker, Sir, I would like to table this Draft Concept Paper for leasing of Government vehicles.

(Dr. Gesami laid the document on the Table)

Mr. Kigen: Mr. Speaker, Sir, as I thank the Assistant Minister for responding to this Question. If you look at part “b”, you will find that I have asked expressly how much is available and how much she is going to utilize to buy an ambulance for each constituency. However, the Assistant Minister has gone ahead to explain about leasing.

Let him answer part “b” of my Question because he has not answered it. How much money is available to him to buy an ambulance for each constituency?

Dr. Gesami: Mr. Speaker, Sir, when we wrote about the model health centres in the country, our budget in the Ministry was to get an ambulance for every model health centre within the country. However, a modern Four-Wheel-Drive ambulance will cost about Kshs5 million. That means that we should have---

Dr. Eseli: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to say that an equipped Four-Wheel-Drive ambulance will cost Kshs5 million and yet my Constituency Development Fund (CDF) in Kimilili has been able to buy Four-Wheel-Drive ambulances for two hospitals costing less than Kshs2 million each and yet they are well equipped? Is he in order to mislead this House?

Dr. Gesami: Mr. Speaker, Sir, I am not misleading the House. Our budget from the Ministry to the Treasury for buying a well-equipped Four-Wheel-Drive ambulance was Kshs5 million. That was our estimate. That turned out to be Kshs1 billion for the 210 constituencies. We did not have that money in our budget. Therefore, we turned to leasing of ambulances as stated by the Deputy Prime Minister and Minister for Finance in this august House. I want the House to understand that when the Deputy Prime Minister and Minister for Finance read his Budget Speech, we debated it and passed it as a good policy statement for the Government. So, we want to have this innovative way where the Office of the Deputy Prime Minister and Ministry of Finance wants to give us leased ambulances.

Mr. Chanzu: Mr. Speaker, Sir, from the point of order raised by Dr. Eseli, the Assistant Minister has said that the estimate from the Ministry was Kshs5 million. What was the basis of that estimate?

Dr. Gesami: Mr. Speaker, Sir, let me say that I do not know what kind of ambulance Dr. Eseli has bought for his constituency but a well equipped ambulance with oxygen---

Dr. Eseli: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to imply that the CDF office in Kimilili might have bought inadequate ambulances and yet we took an example of an ambulance supplied by the Ministry within the same constituency using the same standards?

Dr. Gesami: Mr. Speaker, Sir, this is a matter of argument. As a Ministry, our estimate was Kshs5 million for an ambulance and I am saying that we may review---

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. This is a matter of common sense. The Assistant Minister should tell us the basis of his estimate. He cannot just come up with an estimate. He should tell us the basis of his estimate. He should tell us if it is a motor company that quoted or he drew the figure.

Mr. Speaker: Order, the hon. Member for Vihiga! I do not see that being a point of order.

Mr. Chanzu: He is misleading the House, Mr. Speaker, Sir.

Mr. Speaker: Order, the hon. Member for Vihiga!

Mr. Assistant Minister, can you proceed? Proceed and answer the question which was put by the hon. Member for Vihiga. What was your basis for arriving at that estimate of Kshs5 million?

Dr. Gesami: Mr. Speaker, Sir, that was done by the technocrats in my Ministry. We can review that if hon. Members feel that it is on the higher side and give another budget for the next financial year.

Eng. Rege: Mr. Speaker, Sir, since I joined this Parliament, the idea of providing ambulances to all constituencies has been mooted. It is not a rocket design to find an ambulance to give to constituencies. If the Ministry of Public Health and Sanitation will not mind, the CDF can do that if the money could be channeled through it.

Mr. Speaker: Very well! There is no question there.

Mr. Mwathi: Mr. Speaker, Sir, I am also as much surprised by this estimate of Kshs5 million as the other hon. Members. However, that notwithstanding, I would like to know what criterion was used and how he came up with the budget of Kshs294 million for the lease of the ambulances that he has listed here?

Dr. Gesami: Mr. Speaker, Sir, I have already mentioned that we had given the Treasury our budget and it decided to give us Kshs294 million for hiring of ambulances. This is, indeed, innovative and I would like to give a chance to the Treasury to give us these vehicles on hire.

Mr. Olago: On a point of order, Mr. Speaker, Sir. The Assistant Minister has repeated twice before the House that the idea of leasing ambulances is innovative but he has said that there is no framework yet. Is he saying that he will commit about Kshs294 million for ambulances on an idea which is innovative? Is it innovative to misappropriate?

Dr. Gesami: Mr. Speaker, Sir, I have tabled a document from the Treasury trying to show the innovative way of hiring Government transport. So, the hon. Member can look at it.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to say that the idea is innovative when he has no framework on how to spend the money?

Mr. Speaker: Order, the hon. Member for Kisumu Town West! The Assistant Minister is saying that he has given you a Concept Paper, which he has tabled. In his opinion, to which he is entitled to, he believes that the idea of leasing ambulances is innovative. He has given reasons for the innovation in the Concept Paper. So, you need to acquaint yourself with that concept paper before you can challenge the Assistant Minister on whether or not, it is innovative.

Mr. Imanyara: Mr. Speaker, Sir, the Assistant Minister has said that this is a Draft Concept Paper. So, we have no idea when the document will be completed, brought to this House for approval and whether that will happen within the current year, given the fact that he does not determine the calendar of Parliament. Given the circumstances, will he consider allocating the Kshs294 million to various constituencies which can purchase computers at Kshs2 million rather than working on estimates that have been contradicted by no lesser person than a medical officer of health who has purchased two ambulances at a cost less than Kshs5 million?

Dr. Gesami: Mr. Speaker, Sir, when the Minister for Finance read the Budget Speech here, we debated on these issues. Actually, the figure of Kshs294 million was clearly discussed here and as for the document that I have tabled, I have been assured by the Treasury that, in fact, in the next two months, it should be ready. So, really, that is the

basis from which I answered the Question that; yes, we are going to give ambulances before the Financial Year 2010/2011 expires.

Mr. Kigen: Mr. Speaker, Sir, considering that ambulances are actually medical tools, what becomes of those ambulances that you are going to hire when the lease time expires?

Dr. Gesami: Mr. Speaker, Sir, this is a new innovative way of hiring these ambulances---

(Dr. Eseli stood up in his place)

Dr. Gesami: Mr. Speaker, Sir, please protect me!

Mr. Speaker: Order, honorable Member for Kanduyi!

Dr. Gesami: Mr. Speaker, Sir, as a Ministry, we will try the hiring of ambulances and we shall give a feedback to the Treasury if it does not work. But this is a new idea that was read out during the Budget Speech and we all listened to it.

Mr. Kigen: On a point of order, Mr. Speaker, Sir. It looks like it has not occurred to the Assistant Minister that the Government has withdrawn the hiring of vehicles. Why is he coming here to talk about hiring of vehicles when the policy position is that there is no more hiring of vehicles? Is he in order?

Mr. Speaker: Order! That does not become a point of order by simply asking: "Is he in order?" I am afraid I rule that out. It is not a point of order.

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

Mr. Speaker: What is it, the honorable Member for Kanduyi?

Dr. Eseli: Mr. Speaker, Sir, it is Kimilili.

Mr. Speaker: Sorry!

Dr. Eseli: Mr. Speaker, Sir, is the Assistant Minister in order while talking about innovation, not to state whether it is a positive or negative innovation, considering that at the end of the lease when the ambulances are returned, what is going to happen to the patients who have been using them? That is what hon. Kigen wanted to know and the Assistant Minister has not answered that.

Mr. Speaker: Order! Order! That is also now just a question. Nothing in it makes it a point of order.

(Mr. Twaha stood up in his place)

What is it? Are you also on a point of order?

Mr. Twaha: Mr. Speaker, Sir, I want to ask a Question.

Mr. Speaker: The Question is already dispensed. We took the last Question. The honorable Member for Makadara!

Question No.549

DEMOLITION OF CITY COUNCIL OFFICES
IN HARAMBEE WARD

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

(a) under what circumstances were City Council offices in Harambee Ward, Makadara Constituency demolished and transferred to Jericho;

(b) to state why the land meant for the said council offices is currently occupied by a private developer; and,

(c) what action the Ministry is taking to ensure that the land reverts to the public.

Mr. Speaker: Is the Deputy Prime Minister and Minister for Local Government not here? Prof. Ongeri, would you hold brief for your colleague? What is happening to him?

The Minister for Education (Prof. Ongeri): Mr. Speaker, Sir, I will, certainly find out and be able to take the information to the Deputy Prime Minister and Minister for Local Government to be able to answer this Question next week.

Mr. Speaker: I will note the provision of Standing Order No. 97; that, that amounts to disorderly conduct.

The Minister for Education (Prof. Ongeri): Mr. Speaker, Sir, I just seek your indulgence. I am sure there must be very extra ordinary circumstances. It is not in the habit of the Deputy Prime Minister and Minister for Local Government to absent himself in this sort of manner.

Thank you.

Mr. Speaker: This Question is deferred to Tuesday next week! I will expect the Deputy Prime Minister and Minister for Local Government to offer an explanation to the House as to why he was not here during this sitting to answer the Question.

(Question deferred)

Hon. Members, I have looked at the documents tabled by the Assistant Minister for Public Health and Sanitation in answer to Question No.518 and this document is stamped in both the prints with the words "Draft Leasing Concept Notes for discussion only. Not for circulation."

(Laughter)

So, Mr. Assistant Minister, I will prove that this is not admissible unless you are able to justify why you are circulating a document which is otherwise restricted by the Government. Are you in breach of your own regulations?

Dr. Gesami: Mr. Speaker, Sir, we actually pressed the Treasury to tell us about this hiring of vehicles and they decided to give us that as evidence that they are doing something about it. So, I decided to table it because they gave it to us.

Mr. Speaker: So, can this now be circulated? Say "yes" or "no".

Dr. Gesami: No, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker: If you have tabled it during a public sitting of the House, then it will be circulated.

(Applause)

Very well, that brings us to the end of Question Time.

Next Order!

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. I just heard you say that, that brings us to the end of Question Time and I see that the Prime Minister is in the House and this is a Wednesday---

Mr. Speaker: The Prime Minister's Time is not Question Time, honourable Member for Central Imenti. You are a Member of the Speaker's Panel and I thought you would have a lot more knowledge of the Standing Orders.

I have information that there was a commitment by the Front Bench that a Statement would be issued today pursuant to a request by the honourable Member for Makadara with respect to security of students and teachers of Buruburu Girls High School. Is that Statement now ready? It is supposed to be given by the Minister of State for Provincial Administration and Internal Security. I can see that the Minister is not here.

Mr. Mbuvi: On a point of order, Mr. Speaker, Sir. I am supposed to request for a Ministerial Statement over the same matter.

Mr. Speaker: You are supposed to!

Mr. Mbuvi: Yes, Mr. Speaker, Sir.

Mr. Speaker: I thought you informed me that you had requested and that it was due this week.

Mr. Mbuvi: Mr. Speaker, Sir, I think there was a communication breakdown.

Mr. Speaker: A communication breakdown, then I am afraid, it is also not provided for in the Standing Orders.

(Laughter)

If you see the Standing Orders, the honorable Member for Makadara, I think it would be useful for you to know that if you want to request for a Ministerial Statement, then you must have audience with the Speaker one hour before the sitting. You have not done so. I have also made communication from the Chair that honorable Members will not be allowed to request for Ministerial Statements from the Chair after the sitting commences. So, just be guided accordingly.

Mr. Mbuvi: Mr. Speaker, Sir, I requested in the morning to ask for this Ministerial Statement.

Mr. Speaker: Who did you request?

Mr. Mbuvi: Mr. Speaker, Sir, I requested Prof. Kaloki. He was in the Chair then.

Mr. Speaker: That is wrong. You do not do that when the Chair is already sitting in the Session.

Mr. Mbuvi: And, again, Mr. Speaker, Sir, it was---

Mr. Speaker: Just comply with the directions which I have given.

Mr. Mbuvi: Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well!

(Mr. Affey stood up in his place)

Mr. Speaker: What is it, hon. Affey?

Mr. Affey: On a point of order, Mr. Speaker, Sir. I stand under Standing Order---

Mr. Speaker: Order! Order! We are not yet at that point. We have to finish this Order before you can rise on that point.

The Rt. Hon. Prime Minister, it is now your time.

PRIME MINISTER'S TIME

PRIME MINISTERIAL STATEMENT

KENYA'S ECONOMIC COMPETITIVENESS

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I rise to make a Statement on Kenya's economic competitiveness.

Mr. Speaker, Sir, I am aware that the notice did not go out to hon. Members on time. I want to apologise for that communication breakdown.

Mr. Speaker, Sir, and hon. Members of Parliament, in my Statement this afternoon, I would like to discuss our country's competitiveness, namely our ability to attract private investment, expand exports and thus attain our goal of accelerating economic growth and sustaining it to more than 10 per cent.

Higher economic growth is necessary to create jobs for Kenyans, particularly the youth, who are currently unemployed. The rate of unemployment is unacceptably high. I am aware, and I am also pleased, that Kenya's economy is gathering pace and the nation is awash with optimism. The role and responsibility of the Executive and Parliament is to translate this optimism to reality. In other words, our collective duty to the nation is to adopt and execute the policies that will strengthen our competitiveness to sufficiently transform our country to a middle-income nation by the year 2030 as envisioned in Vision 2030.

Mr. Speaker, Sir, the latest issue of *The Economist*, which is a well respected weekly journal, painted an optimistic picture of Kenya, calling our country "the region's dynamo", but it concludes that Kenya remains vibrant, yet fragile. The gap between the rich and the poor, as well as ethnic groups competing for abundant resources and usable land is frightening. The total investment in our country is only slightly about 20 per cent of Gross Domestic Product (GDP). When the Asian tigers sustained growth at 10 per cent, they boasted of investment of 35 per cent of GDP or even 40 per cent.

More worrying is that private investment in our country remains low, at about 12 per cent of GDP. Our economy is growing at about 5.5 per cent this year. Even this growth is largely financed by borrowing. This is because we, as a country, save only about 15 per cent of GDP. It is therefore clear that we must dramatically boost private investment. We must attract a very large amount of foreign direct investment. We must substantially enhance our competitiveness.

Mr. Speaker, Sir, the Global Competitiveness Report of the World Economic Forum gives us a useful hint on where Kenya stands relative to other countries in the

world, and what we should do to strengthen our position. As you may know, Kenya is ranked at 106 out of 139 countries surveyed. I do not agree with such a low ranking for Kenya. Methodically, the data base may not be completely perfect, but that is what business people see, and what they see determines their investment. We should accept it as a benchmarking tool and make best use of it.

Mr. Speaker, Sir, you will be pleased to know that Kenya is internationally competitive in several key areas. Kenya has a fairly sophisticated financial sector services, and efficient labour market with a well educated workforce. In fact, in financial market development, Kenya ranks above China and is nearly at par with India and South Africa. Kenya is above India and South Africa, and at par with China, in labour market efficiency. In higher education and training, Kenya is nearly at par with India and close to China and South Africa. Clearly, the policies we have been pursuing in these areas are paying off. Let us continue in this direction and strengthen even further.

As we know, Kenya is seen to be rich in the quality of Government institutions and infrastructure. More than one out of five business leaders say that corruption is the most problematic factor in doing business in Kenya. The quality of our health and primary education also scores poorly. Importantly, our micro-economic environment is ranked very poorly, even in comparison to South Africa and the sub-Saharan African average. This diagnosis is broadly in line with the Government's own analysis and, indeed, we have begun to address the weaknesses identified.

Mr. Speaker, Sir, we have been implementing the most ambitious Infrastructure Investment Programme in our country's history. We have already made remarkable progress in building roads, and more are coming. We are also making significant progress in expanding our power generation capacity. Last week, the Government successfully hosted an Infrastructure Conference under the theme "Transformative and Effective Infrastructure". We have embarked on several reforms, which are critical to addressing the general status of our macro-economic environment.

A number of Bills are awaiting this House's action. Once enacted, those legislations will have significant positive impact on business environment, tax administration, licensing and implementation of special economic zones. Most important, however, is the full and speedy implementation of the new Constitution. The new Constitution provides the foundation for ensuring political and economic stability, as well as effective and sound management of our economy.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. With due respect to the Prime Minister, we did not, today, get in the Order Paper, any indication that there would be any Statement, although I noted that the Prime Minister made an apology. It would still be in vain, because we, as Members of Parliament, are unable to interrogate the Statement he is making since we were not aware that such a Statement would be forthcoming. I think you have made a ruling in the past that there would definitely be advance information to hon. Members via the normal procedures. Would I, therefore, be in order to request that, possibly, the Rt. Hon. Prime Minister postpones making this particular Statement until such time that Members of Parliament are given adequate notice, so that they can easily prosecute the matter?

Mr. Speaker: Hon. Members, I will allow the Prime Minister to present the Statement to conclusion, and permit those hon. Members who are able to interrogate it to do so this afternoon. Those who may have issues and require time to prepare themselves

to interrogate, or seek clarifications on the Statement can do so later on, maybe even next week, in which case I will be willing to defer the Statement for further clarifications, if need be.

Proceed, Rt. Hon. Prime Minister.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, as I was saying, the Constitution requires substantial strengthening of public institutions, including the Judiciary. The latter has, indeed, been a major bottleneck in creating confidence in investors that any dispute will be resolved fairly and swiftly.

The Constitution upholds access to adequate education and health care as the Bill of Rights for all Kenyans. The Constitution requires realization of these ideals. Finally, let me touch on the issue of corruption. We all agree now that corruption is a cancer that has plagued our nation since independence. The Constitution demands high standards of leadership and integrity for all holders of public office. President Kibaki and myself place particular importance to full adherence to this constitutional requirement. The Government is committed to tackling corruption once and for all. I urge institutions charged with investigating corruption to remain transparent, non-partisan and above all, vigilant. These institutions have our full support.

Mr. Speaker, Sir, as I conclude, allow me to emphasize once again that the implementation of the Constitution is key to bringing Kenya at par with middle income emerging economies in terms of competitiveness. It is the key to achieving our goals of Vision 2030. President Kibaki and myself are firmly and fully committed to this historical task. I call on you, honorable Members of Parliament, to do your part for making our shared dream a reality.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Mr. Prime Minister, please, take notes.

Mr. Imanyara: Mr. Speaker, Sir, I commend the Prime Minister for the statement he has made and he made reference to the *Economist* which I also read and he cited the approval the same *Economist* magazine has predicted that the Prime Minister will be Kenya's next president. So, given that that prediction is the basis upon which the Prime Minister cites his approval, I am asking whether in the proposed laws, that in order to achieve the development goals that you have elaborated, you are considering increasing the allocation to the Constituencies Development Fund (CDF), given that the CDF has played a very major role and made a great impact in the development that has led to the *Economist* prediction and assessment of Kenya.

Mr. M'Mithiaru: Thank you, Mr. Speaker, Sir. I thank the Prime Minister for the Statement that he has made and especially the reference to the foreign investors and the kind of confidence they should have in our country for them to do the investments.

Mr. Speaker, Sir, I think part of what has driven away even foreign investment is corruption and the Prime Minister has said that him and the president are already in the forefront and they are not going to tolerate corruption in whatever form. While the Prime Minister says that him and the President are very keen to stamp out corruption and that they are not working alone, they are with the Cabinet, what measures have they taken to ensure that the Cabinet Members also are in the same boat as they are so that if anyone of them is mentioned adversely on corruption, resigns or steps aside?

Mr. Twaha: Thank you, Mr. Speaker, Sir. I would like the Prime Minister to clarify one issue. A few months ago, he talked about Kenya going the nuclear way. There

is no way we are going to be competitive as long as our power bills cost five times higher than South Africa or Egypt. So, could the Prime Minister clarify when we are going to have the cheap nuclear energy?

Mr. Wamalwa: Thank you, Mr. Speaker, Sir. The hon. Prime Minister has talked about corruption and indeed, it has hampered our economic growth. We have several Ministers who have been implicated in corruption. We also have a bloated Cabinet. Mostly, the right hand will not know what the left hand is doing. In view of the provisions of the new Constitution, would the Prime Minister and the President be willing to do something about this bloated Cabinet? Are they willing to do a radical surgery and bring it down to 24 as Kenyans are asking?

Mr. Mwathi: Thank you, Mr. Speaker, Sir. I also want to congratulate the Prime Minister for that information that he has given to us and want to seek two clarifications. The first one is on foreign direct investment. I would like to know what the plans or policy of the Government is so that foreign direct investors do not edge out the citizens who are also in the same business. The second one is the effect of congestion in our city on our competitiveness and those investors who are either within; that is citizens or those who come from outside. What plans are there to decongest our city so that investments can be robust?

Mr. Speaker: Prime Minister, you may want to respond to those issues and when you finish, if there is still interest, we will take another five.

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. The hon. Imanyara of course, read the *Economist* and he is fully aware of the assessment. His concern was about increasing the CDF. The country will not develop purely on the basis of allocating resources for CDF to constituencies. We have now agreed that we are devolving and the structure that we have is a devolved system of Government. We have devolved now to the counties and resources are going to go to the counties; a minimum of 15 percent. Depending on how the capacity is going to be built, those resources will be increased progressively as the country moves on. My view is that what we are trying to do with CDF is to ensure that resources go down to the people and I know that CDF was just a start. Now, it has been properly institutionalized in the Constitution, so resources are going to go down to the grassroots for the purposes of providing services at the grassroots. So, those funds do not necessarily have to be called CDF. We can increase allocation to the counties; still, we will be taking funds down there.

Mr. Speaker, Sir, hon. M’Mithiaru is concerned about corruption just like hon. Wamalwa and, of course, they have endorsed the stand that has been taken by the President and the Prime Minister. They are concerned about steps that have been taken by the executive to ensure that those who have been mentioned in corruption step aside. This language of stepping aside is now influential in our country; any time somebody mentions your name, you are asked to step aside, even if there is no proper evidence. Once investigations are carried out, then the argument is that somebody is then accused. If we say that anybody whose name is mentioned must step aside, we will be running a country on the basis of malice, where anybody can wake up in the morning and make wild allegations---

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to contradict himself when he is on record as having said that Mr. Samoei and Prof.

Ongeri should step aside in order to facilitate investigations? Now he is saying we should investigate first before they step aside. Is that not a contradiction?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I am not contradicting myself. At the time when I asked Ministers to step aside, some investigations had been carried out. In the case of Mr. Samoei there was a PricewaterhouseCoopers Report, which had been published and which, therefore, said that they needed more investigations to be carried out by KACC. So, that was a very different situation I was talking about. What I am saying today is that somebody will wake up in the morning and just say so and so has been involved in corruption and wave some document. I am saying that, that is not sufficient proof to warrant somebody to step aside.

Mr. Speaker, Sir, sometimes this idea of stepping aside has been pushed too far, to the level of vindictiveness. For example, I want to highlight the question of the cemetery land, which has been raised here. Hon. Members will remember that the KACC has already investigated it. People are already in court. A Permanent Secretary is in court, a mayor is in court. Many people are in court. So, why are we again asking other people to step aside when investigations have already been completed and people are already being prosecuted?

All that I am saying is that we should not run a country on the basis of vindictiveness, where somebody will just wake up in the morning and say so and so has been involved in corruption; he has been mentioned adversely; let him step aside for investigations to be carried out. No, that is not how to do it. That is not how to run a civilized State.

We have institutions which have been charged with investigations. We have got the KACC; we have the Inspectorate of State Corporations; we have Internal Audit Office in the Treasury and we have the Efficiency Monitoring Unit within the Government. So, assumptions should never be made that the Government does not have the capacity to carry out investigations. It has the capacity and we have, therefore, a supervisory capacity to supervise the Executive.

What I am trying to say is that we will not sit down and watch when our resources are being misused by members of the Executive. I want it to be understood that in this regard, our role is complementary to that of Parliament. This is what I wanted to state, so that we are very clear about it from the very beginning.

Mr. Speaker, Sir---

Mr. Ruto: On a point of order, Mr. Speaker, Sir. If the Prime Minister could oblige, the issue which has riled Members of Parliament from the Executive is that they have been insisting that Parliament is overstepping its powers when it is doing its oversight role, especially in investigating cases of corruption within the Government. Parliament has a unique and special role in the Constitution to ensure that we continue to do this.

Is the Prime Minister saying that the work of committees is, therefore, wanting; that it should not go on or cannot be undertaken until those other external bodies do their work? We have got the constitutional responsibility of oversight and we do not intend to renege on it. We will perform our duties as---

Mr. Speaker: Order, Member for Chepalungu! I have given you indulgence, so that you are satisfied that the Chair is fair, bearing in mind that just before I left the

country I had ordered you to withdraw. I am still not satisfied that, that is a point of order within the realm of our Standing Orders.

Please, let me draw your attention, and that of other hon. Members, to the fact that it is a conduct which is grossly disorderly to raise a false point of order. That is captured in Standing Order No.97(1)(b). It states as follows:

“Conduct is grossly disorderly if the Member concerned knowingly raises a false point of order”.

Member for Chepalungu, you are very seasoned. You have been in this House for ten years or so. So, you have experience. You know what a point of order is. What you are doing now is just a matter of argument. The Prime Minister has said one thing and you are saying a different thing. You are now asking why the Prime Minister does not seem to agree with your position. That is not a point of order. A point of order normally would be pointing out something that is away from the rules; something that is irregular or abusive, or something that is in breach of the laid down procedure in which the House conducts its business. You know that only too well.

In future, I will want to invoke the provisions of this Standing Order under paragraph (2). I have that authority, which I will invoke, as I have said previously, without fear or favour.

Prime Minister, you may proceed.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, indeed, frivolous and vexatious is what the hon. Member is talking about---

Mr. Speaker: Mr. Prime Minister, I have already given direction. I think it helps if you let it rest where it is.

(Mr. Ruto stood up in his place)

Member for Chepalungu, please hold your peace. I have already put the Prime Minister back on course, and I have given direction.

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir.

The hon. Member for Lamu West was concerned about the high cost of energy and wanted to know when we will go nuclear. We have a very comprehensive programme on green energy, which includes nuclear energy. We are not just looking at nuclear energy. We are looking at others like geothermal, wind, solar and bio fuels in order to not only reduce the cost of energy, but also to go the route of clean energy. We are now very concerned about global warming and environmental degradation as a result of burning of fossil fuels.

We have a nuclear programme and we are trying to collaborate with the Governments of France and Korea in our nuclear programme. Shortly, we will begin the process of recruiting manpower for training, because we need to develop the capacity to handle nuclear energy.

In this programme, we have planned to save our generation capacity. When this Government came to power three years ago, our total capacity was 1,200 megawatts. We have since increased it by 300 megawatts, and we intend to double it by the year 2012. It is not only the Government that is involved. We are encouraging the private sector to invest heavily in that field. That is because the field is now fairly liberalized.

Mr. Speaker, Sir, Mr. Wamalwa was concerned about corruption which I have already talked about. But he is also concerned about the bloated size of the Cabinet. I want to take the hon. Member on a journey down memory lane. How did we end up where we are? The hon. Member will understand that by the time we were forming the Grand Coalition Government, there was a Cabinet already in place. It was consisting of 17 Ministers from the Party of National Unity (PNU) side. When we came to negotiate a coalition, because the PNU side was, by its own nature, a coalition of so many political parties, they demanded that, instead of reducing to what we were demanding as ODM--- We wanted a Cabinet of 20 or a maximum of 24 members. But our partners had so many other parties, each one of which wanted a piece of the cake. That is the reason why we ended up with a bloated Cabinet the way it is. So, if the hon. Member would want us to reduce, I want to invite him to understand that we are in a coalition. He only needs to urge his own side of the coalition to downsize and we will follow suit.

(Applause)

Mr. Mwathi was concerned about the Foreign Direct Investments (FDI). He asked what steps the Government is taking to ensure that FDIs do not edge out locals. I want to give him an assurance. We do not intend to have foreign investors dislodge local investors. It has not happened anywhere else. There is room and scope for both foreign and local investors. We are conscious of the fact that no country can ever develop on the basis of foreign investments alone. Foreign investors come into a country when the conditions are right, so that they can be able to make profits and instead of ploughing the profit back into the economy, they repatriate it back to pay dividends to their shareholders. Therefore, there is also need to encourage local investments and we are consciously encouraging local investors by ensuring that capital and credit is available to local investors to engage in productive activities. It is also necessary for us to encourage the culture of saving as a people. It is only through saving and borrowing that we are going to be able to break this vicious cycle of poverty. So, we want to encourage Kenyans and challenge them to come up and get involved in venture activities.

Mr. Speaker, Sir, the entrepreneurship spirit is what will help our people. Currently, we still have the mentality of employment. The elite or the educated of our society must develop entrepreneurship spirit so that we do not have only this spirit of peddling CVs all over and talking about employment all the time. When we go to the rural areas, we keep on lamenting that our people are not employed in the Government. They say, “we have no Managing Directors; we have no chairmen of parastatals; we do not have Permanent Secretaries; we do not have this and that”, and so on. These hon. Members have to understand that they have a responsibility in educating our people to think outside the box. The Government has only about 500,000 employees. Those are the only jobs that are available in the Public Service, if you include the civil servants, the police, the military and teachers, all those positions are filled; they are not vacant. We only get vacancies when people retire or when they die. That is a very small number. That is why this idea of our tribe having no MDs or chairmen of parastatals is misplaced.

Eng. Maina: On a point of order, Mr. Speaker, Sir. The Prime Minister is just answering the first set of questions. The way we are going, time will lapse before any other substantive questions have come up. Is it in order to ask the Prime Minister to be a

bit more direct to the point so that we can also have a chance to ask a few questions on this important subject?

(Applause)

Mr. Speaker: Very well! Mr. Prime Minister, you know the rules!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, actually, I was concluding. All I was asking the hon. Members is to stop encouraging lamentations about lack of employment in Government institutions and parastatals. That is because those positions are not vacant and even if they were all filled, it would still not solve the equation of unemployment in our country.

Mr. Speaker: Very well! We will take another set of five!

Mr. Mwathi: On a point of order, Mr. Speaker, Sir. Is it in order for the Prime Minister - he has answered my first question - to leave out the other one? As you go to the second round, am I in order to request him to answer the second about the congestion in our City? The congestion is a deterrent to many things. What plans does the Government have to de-congest the City of Nairobi?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I apologize to the hon. Member. I want to tell him that because of the rush by Eng. Maina, I omitted his last question. Yes, the Government is concerned about congestion and it is doing something. The hon. Member will have noticed that there is a lot of construction work going on in the City. This is also part of the cause of the congestion that we are experiencing currently. But the Government is expanding the road network in the country in order to de-congest the City centre. There is a lot of traffic at the City centre that does not belong to the City. The transit traffic, for example, coming from the Coast going westwards does not have to come through Uhuru Highway. Likewise, the traffic coming from the north, that is, Nyeri and Thika going to the west, that is Nakuru or Mombasa, does not have to pass through the City. So, we are creating by-passes around the City. We are also widening the roads - like Thika Highway - as a way of trying to de-congest the City. So, I would like to urge hon. Members to bear with us. The congestion is temporary, but within another one year or so, it is going to be very smooth running within the City of Nairobi.

Eng. Maina: Mr. Speaker, Sir, the Prime Minister has brought up a very important topic for this country. The greatest resource a country has is its people. The unemployment in this country is growing instead of decreasing, even as we say we are developing. That is because we do not involve the local people. The climate in this country - and ask any entrepreneur - is hostile to local people. Today not a single local legal company is involved in big jobs that are done in this country. Not a single consulting firm is involved in big projects that are being undertaken in this country. When is this Government going to come up with policies that are clear and not give officers a chance to create a frustrating climate that most local people face? Only then will Kenya develop. Kenya cannot develop when we relegate our own people into cotton carriers, trench diggers and road sweepers. We have that level of development but we are talking about the country developing in earnest where Kenyans are in charge of this country and its wealth.

When are we going to have policies that Malaysia adopted? When are we going to have the policies that United States of America (USA) adopted when President Roosevelt started putting USA into economic recovery?

Mr. Speaker, Sir, the other one is that---

Mr. Speaker: And that must be the last one, I am afraid.

Eng. Maina: Mr. Speaker, Sir, the Government is aware that things like electricity continue to hamper locals from conducting business. When is this Government going to come up with clear policies? These should not be policies where the so-called foreign investors - starting with those coming with Kshs2 million - come to open a small restaurant in Kilimani. When are we going to have local people having the right policies? I do not mean big companies coming from outside and small people opening fish and chips restaurants everywhere in this town in the name of investment. When are we going to have the local people being offered the opportunity and the climate? When are these preferential treatments we are witnessing in this country with foreign companies going to end?

Mr. Bahari: Mr. Speaker, Sir, I wish to seek two clarifications from the Prime Minister.

One, I think the Government has been finding a lot of comfort in the growth of the Gross Domestic Product (GDP) at about 5 per cent. The export as a percentage of the GDP has declined from 40 per cent to 26 per cent over a period of time. This is such a large drop and it frightens. No country can grow without exports. What is the Government doing to ensure that the exports are increased to a level that can sustain the continued growth of this economy?

Secondly, in terms of attracting direct foreign investments, I think we may be putting our standards very low. In some countries, to set up a company it takes only one day. In this country I believe it takes up to 30 days. How does the Prime Minister expect this country to attract direct foreign investments when our standards are so low?

Mr. G.O. Nyamweya: Mr. Speaker, Sir, I am rather concerned when the Prime Minister speaks about corruption and stepping aside. I got the impression that the Government tends to feel that stepping aside is a very strange concept yet within the Government itself, in the public service when somebody is being investigated, they are actually interdicted. They step aside until investigations are completed. I cannot see why we were clamouring for the Chapter on Integrity in the new Constitution, if we think that by implementing that Constitution, it appears to be witch hunting.

Mr. Speaker, Sir, I find that it may apply to you and the Prime Minister. It is a concern that the Chairmen of our Committees have been invited to join the Cabinet in their retreat. That, to me sounds alarming---

Mr. Speaker: Order, Mr. Nyamweya! Please, resume your seat!

It is not accurate to say that Members of Parliament, namely, Chairs and Vice-Chairs have been invited to join the Cabinet in its retreat. The retreat, yes, was convened by the Executive but I as your Speaker was consulted on whether or not we can have a session where Parliament's leadership has an opportunity to interact or engage with the Executive so that we can work together to ensure that there is effective governance in the Government, which the Legislature is part of. That is why you talk about the Government in its tripartite form. So the Legislature must see itself as part of the Government. This interaction is obviously important because it is intended to ensure that we give good

governance to Kenyans. So, it is not a decision taken arbitrarily by the Executive. We have been involved in the decision. I just wanted to put the record straight. I will not permit this House to be overrun by the Executive.

Mr. G.O. Nyamweya: Mr. Speaker, Sir, thank you for that clarification. If it had been communicated I may not have read what I read from the Prime Minister's Statement and that particular thing. The Committees intend to continue working and do intend---

Mr. Speaker: You are now corrected! So, just make your point.

Mr. G.O. Nyamweya: Mr. Speaker, Sir, the Committees do intend to do their oversight role. I am just reminding the Prime Minister that Chapter Six on Integrity requires that if there is something adverse about a public officer, they must step aside. Stepping aside is not the same as saying there is criminal culpability. Truly it is not. So, we would like assurance from the Prime Minister and the President that there is not going to be stepping back on this fight against corruption because that is what is hampering the development of this country. The cost of corruption is incredibly high. If you read the billions of shillings that have been lost, I do not think we should allow ourselves to waver on this.

Mr. Ruto: Mr. Speaker, Sir, I wish to get further clarification from the Prime Minister now that he has indicated the commitment to the fight against corruption. We as Members of Parliament have heard, on a number of occasions, some rather threatening statements emanating from the Executive, in particular his office, that Members of Parliament are overstepping their mandate when we exercise our oversight responsibilities through Committees and investigate cases of corruption. I would like the Prime Minister to clarify whether the Government appreciates the role of Parliament in the fight against corruption.

We are, indeed, also worried that although the Chair has made the clarification, we had a feeling that probably the Executive would like to co-opt us and possibly request us to go slow and compromise us through---

Mr. Speaker: Order, Mr. Ruto! Clarification has been made, so, please move to a different area.

Mr. Ruto: Thank you, Mr. Speaker, Sir. I just need that clarification. We do not intend to be co-opted.

Mr. Njuguna: Mr. Speaker, Sir, I also take this opportunity to thank the Prime Minister for his very reassuring Statement in improving the investment climate in this country. Nevertheless, I would be seeking one clarification; what efforts have been taken to enhance security of our citizens? Recently, innocent Kenyans lost their lives and our fishermen at Vanga Island are being harassed by police from a neighbouring country. You also note that our fishermen are not at peace in Mizingo Island.

Finally, merchant ships coming to the Port of Mombasa are being attacked by pirates. What efforts have been taken to improve the investment climate in order to attract even big industrialists to bring their merchants to this country?

Mr. Speaker: The last one will be by the Member for Alego Usonga. I have made that exception because the Member for Alego Usonga is very involved in the private sector.

Mr. Yinda: Thank you, Mr. Speaker, Sir. I would like to thank the Prime Minister for the timely statement. However, I would like him to clarify what the Government is doing to ensure that the foreign investors that are coming into the country

know that it would be a good idea to have some percentage of shareholding in the companies that they are setting, held and controlled by the local entrepreneurs. This is one of the countries where foreigners come in and have 100 per cent shareholding held by them. Many countries have deliberate policies to protect the local entrepreneurs. What is the Government doing to have our local entrepreneurs protected in a way that, at least, 51 per cent shareholding is held by them?

Mr. Speaker: Mr. Prime Minister, you may now make the last responses.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the Member for Mathira was concerned about unemployment, which we are all concerned about. But he went further to say that local citizens are not being given opportunity in business in the country. He went on to say that jobs like consultancies and construction are not given to locals. The Government has got a policy which enables it to give preferential treatment to local contractors. We have even in the procurement rules allowed up to 15 to 20 per cent for locals. If they are hired, they are allowed to be awarded those contracts. A lot of efforts have been made to try to ensure that our people can compete effectively. In some areas, affirmative action has been exercised. I know, for example, that in the field of road and building construction and water, right now, there are quite a number of local consultants and construction companies that are engaged.

Mr. Speaker, Sir, we must also know that we have a country to develop and that our people, once given opportunity, must perform. If they do not perform, I do not think that the Government will be justified in giving them more jobs. We must also have some cultural change in our attitude, so that when a contractor is paid money, he should invest it back into the work that he or she is doing and not divert the funds to go and marry more wives!

Mr. Speaker, Sir, the hon. Member himself is a member of the business community and knows exactly what I am talking about. He knows that there are cases where contractors have let the Government down badly. As we give our local people opportunity to engage in the field of construction, they must deliver. If they do not deliver, we will not be justified in spending public funds on them.

Eng. Maina: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Mr. Prime Minister, do you want to be informed by the Member for Mathira?

The Prime Minister (Mr. Raila): No, Mr. Speaker, Sir. I am answering his question and so, I do not want to be informed.

Mr. Speaker, Sir, we will continue to offer opportunities to our people and ensure that the field is level for them, but then they must measure up.

Mr. Speaker, Sir, the Member for Isiolo South, of course, was concerned like ourselves that the exports as a percentage of the Gross Domestic Product (GDP) had dropped. Several factors are to blame for this. An unfavourable environment is what is responsible for the reduction of exports as a percentage of the GDP. We know that negotiations have been ongoing in the World Trade Organization (WTO) regarding removal of subsidies, particularly in as far as agricultural produce is concerned. That will make our produce more competitive on the international market.

Mr. Kutuny: On a point of order, Mr. Deputy Speaker, Sir. I have heard the Prime Minister talk about subsidies on farm produce. I would like him to confirm to the

House that this year the Government has removed subsidies on fertilizers and as a result, its price has risen from Kshs2,000 to Kshs2,800?

Mr. Speaker: Order! That is not a point of order!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I am talking about subsidies aimed at protecting the market outside, where we export our goods. This has been a problem and is something that is not only confined to Kenya. A number of countries, particularly in the south have been negotiating for a long time at the WTO for the removal of subsidies, which will make our goods more competitive and also open those markets for us.

Mr. Speaker, Sir, we have been saying that we do not want to depend anymore on aid and that aid has been pumped into this economy for a long time without much to show for it. That is why we are saying that we need---

Mr. James Maina Kamau: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to say that he would like our goods to be more competitive when he is aware that when we bring Chinese contractors into this country, they bring in their own people, food, toilet papers and everything, including even soda?

The Prime Minister (Mr. Raila): Precisely, that is what I am talking about. If the Chinese can bring Chinese workers from China and they are cheaper than Kenyan workers, then something must be wrong with us. So, it is us who need to look at ourselves. Why is it that a Chinese worker can accept to be paid less to work in Kenya?

Eng. Maina: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! The Prime Minister is responding to a point of order. Hon. Maina, please, resume your seat. Mr. Prime Minister, please, also resume your seat for a minute!

Mr. Prime Minister, the point of order raised by the Member for Kandara is to my knowledge very valid. There was a time in this country when certain jobs were protected and reserved for Kenyan citizens. What happened to that policy? For example, foreigners were not allowed to come to this country to be cooks or watchmen, but now it appears they come and do all these jobs. What happened, Mr. Prime Minister?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, in as far as I know, that policy is still in place. The workers that come to the country are skilled workers. They are technicians who come to work, for example, in road construction. Those are the ones who are entitled to work permits and not cooks, hair dressers or *dhobis*. Those are trades that are easily available locally. The point I am trying to make here is that the cost of labour is much higher and that is what is making us less competitive in the international market. We must enhance skill training. Secondly, we must look at our cost of labour so that we can be a more attractive investment destination.

Hon. Nyamweya was concerned about interdictions. I want him to understand this: We have not said that somebody will not be asked to step aside. All I am saying is that there must be substantial material. Somebody should not wake up in the morning and hold a Press conference and says that hon. Nyamweya was involved in "A", "B", "C" and "D" corruption and, therefore, he should step aside. If you allow that to happen, tomorrow there will be so many other people standing up and saying that so and so should step aside. Finally, they will want all Members to step aside because there have been allegations that they have been taking money so as to ask Questions in Parliament. How far can we extend that? There has to be sufficient material that will warrant

somebody to step aside. That is what I am talking about. However, the idea of saying that somebody should step aside because they have been adversely mentioned--- Mentioning somebody adversely does not necessarily mean that, that person is guilty of an offence. We have institutions that are charged with the responsibility of carrying out investigations. If the institutions have carried out the investigations and there is sufficient evidence, of course, we will ask somebody to step aside. That is consistence with Chapter Six of the Constitution.

Mr. Ruto, although the Speaker answered him, said that MPs were overstepping their mandate, no one has implied or said that. All we have said is that Parliament has a clear role which is spelt out in the Constitution - oversight. Oversight must be properly interpreted. The Executive has also a very clear mandate. The Executive must also execute responsibilities which are conferred upon it by the Constitution and also by Parliament. Parliament approves Budgets. That Budget must be implemented. Money must be spent by the Executive in order to implement the projects that are in the Budget. If Parliament is living in the Executive, then there is no point of there being an Executive and a Parliament. Oversight does not mean that Parliament is doing the work of the Executive. There is a very clear line of demarcation. We also said that Parliament must be transparent in its oversight work. For example, in Britain, there was a time when Members of Parliament were accused of receiving money to ask Questions in Parliament. That was intended to smear the names of other Members of Parliament. Parliament must use the same standards it demands of the Executive so that the Executive is allowed to function efficiently and effectively.

The hon. Member for Lari was concerned about the security of citizens. There can be no economic development or growth without proper security in our country. The Government is not compromising on this issue. He talked about fishermen in Vanga, Migingo Islands and the pirates in the high seas. We are very concerned, as a Government, and we are spending a lot of resources to provide security to the citizens. As we know, Migingo Island is in dispute and the matter is in the process of being resolved. With regard to Vanga Island, we have a very good relationship with our neighbouring country - Tanzania. There are always some criminals who move around and interfere with the peace of citizens of other countries. However, our security forces are on the alert.

With regard to the piracy on the high seas, this is an issue of serious concern as I am talking. The pirates have now moved into Kenyan waters. As I am talking, the attacks are not only confined outside the Kenyan waters. They are moving to the waters of our country and even arresting our fishermen. So, security is being revamped in the country. We may also have to revise our laws.

There was a ruling of the High Court two days ago, which freed some pirates who had been arrested in the high seas by a foreign country and handed over to our country. The ruling was that the offence was not committed on the Kenyan soil and, therefore, it was not an offence under our laws. The ships that are being pirated are carrying goods destined for Kenya and East African Coast. As a result of the activities of the piracy, insurance premiums have gone up and the goods coming into our country have become very expensive. That ruling has very far reaching consequences to our national security and trade. This is an issue that we may call upon Parliament to address.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to challenge a ruling by a High Court judge by saying that there are things that he may ask this Parliament to consider doing something about? Is he in order to pit this National Assembly against the Judiciary, which is a different arm of the Government?

Mr. Speaker: Order! Hon. Member for Bura that, definitely does not pass the test of being a point of order. You are merely asking the Prime Minister whether or not he is questioning a judgment of the court. Really, that cannot be a point of order. There is nothing disorderly in what the Prime Minister has just said.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I did not challenge the ruling. I simply commented on it

Mr. Speaker: Could you, please, proceed! I have already given directions on that.

The Prime Minister (Mr. Raila): Hon. Yinda wanted to know what conditions the Government will put to foreigners who have come to invest in the country, and whether those foreigners will offer shares to local citizens. I know that in some countries, it is mandatory for foreigners to offer shares to local citizens. I am not quite sure whether that, itself, has advanced the economic development of the people in those countries. We know that partnerships are negotiated freely in a free enterprise society. So, we encourage our citizens to enter into joint ventures with foreigners who are coming to invest in our country. But we also want them to venture on their own because capital is now available locally. I know that some of our people are shy when it comes to taking risks. Taking a risk to venture into the private sector is a big problem. That is why I was saying that Members of this House must join the Government in trying to create a culture of risk-taking, rather than a culture of employment mentality that says: "Just put me somewhere". The culture that "I must be employed somewhere" is what we must discourage, so that the private sector can thrive in our country.

Mr. Speaker: Order, hon. Members! Right Hon. Prime Minister, so that the record of this House is accurate and consistent with the history of this country, I know, as your Speaker, that in the days that we used to practise law, I and perhaps, hon. Orenge, hon. Kiraitu and a few other lawyers who may be in this House, there was a deliberate Government policy in place by which we stood guided, that you would not incorporate a limited liability company unless Kenyans had a majority share up to 51 per cent. We complied with that regulation. What happened to it? It is applied in other countries like the United Arab Emirates and works for the benefit of the citizens of those countries.

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. You have rightly said in the days when you were practising law. This country has gone through an evolution. There was a time when we had a policy of protecting infant industries in our country. When you opened a factory in this country and you could produce to satisfy the local market, you could apply for protection and you would be---

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

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

Mr. Speaker: Mr. Prime Minister, do you want to be informed? There are two Members who want to inform you!

The Prime Minister (Mr. Raila): Yes, Mr. Speaker, Sir. I will take from hon. Imanyara.

Mr. Imanyara: Mr. Speaker, Sir, I can confirm to the Prime Minister, because I still practise law even as of today right from the days that you mentioned that, that is the

position even today. When you present the documents of incorporation, you must show that there is, at least, 51 per cent Kenyan shareholding. Is the Prime Minister aware of this? If he is not, I am informing him. Could he, please, check? This is the same with manufacturers. You cannot be a manufacturer and a retailer at the same time. That is in the law. It has been the practice for many ages and has not changed.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I do not know about law, but I am talking about business.

Mr. Gunda: On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to tell this House that this nation has allowed investors to come in and invest without due regard to what Kenyans will own? If that happens, we will not own this nation. What belongs to Kenyans is the wealth of the nation. If we allow a policy where people come in and invest without restrictions, at the end of the day, this nation will not belong to us. It will belong to those people who will have invested in this nation.

Mr. Speaker: Order! Prime Minister, you need not respond to that because it is not a valid point of order. I know it may be a very important matter that you have canvassed, but unfortunately, it does not pass the test for a point of order. Prime Minister, if you have something else to say, you may.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, that was an opinion and not a point of order. We have gone through an evolution. We reached a stage where we said that we must remove the incubator because that was a period of incubation, when we were trying to bring up Kenyan entrepreneurs. A time reached when protection against imports was removed when the economy was liberalized. So, a number of companies survived and some collapsed. I know that there are certain privileges that if you want to get, for example, exemption from taxes for a certain period of time, you cannot get them unless there is a certain percentage of Kenyan participation in the venture. But I do not know as of now any law which requires that a foreigner coming into the country must give Kenyan citizens 51 per cent shareholding. If we did that, we would discourage very many foreign investors from coming into our country. We must also know that we now live in a very competitive world. That is why we are talking about Kenyan competitiveness. Why are we talking about our competitiveness? This is because if we did not offer certain incentives, the foreign investor will go to a country which offers it.

Foreign capital is risk-shy and it will go to a place where there are incentives and protection. We know that we need foreign direct investment in our country. Therefore, yes, there are certain privileges which are restricted to companies with Kenyan participation, but we have also not refused any foreigner who wants to come and invest to come merely because he has not offered so much shareholding to our people. I would like to urge Members of Parliament to join us in this effort of trying to make our country more competitive, so that we can attract more investment into our country which will help to create more employment opportunities for our people.

COMMUNICATION FROM THE CHAIR

ENFORCEMENT OF RULES AND PRACTICE OF HOUSE

Mr. Speaker: Order, hon. Members! That matter now must rest there. That brings us to the end of that Order. As we come to this point, you will have noticed that we spent

40 minutes to dispose of Questions which were on the Order Paper, which is quite fine. In future, we must ensure that we deal with Questions as much as possible within one hour. Ideally, Question Time should run from 2.30 p.m. to 3.30 p.m. in Afternoon Sittings, so that it lasts one hour. But of course, there has to be room for exceptional circumstances. We then spent roughly one hour on Prime Ministers Time, which should ideally last 45 minutes. But this matter was a matter that had a lot of interest in it and so, we allowed that latitude.

Hon. Members, in future, we will want to apply the rules strictly and the practice of this House, that when you rise to ask a question, you will ask one question and it will strictly be a question. Do not take the opportunity to ask a question to begin to debate and present your opinion or argue with positions previously taken.

On Ministerial Statements, we will allow Members one clarification when you catch the Chair's eye. Please, note and we will want to live within that practice and, indeed, the spirit of the Standing Orders. Please, note this, so that there are no complaints that some Members are treated more fairly than others as we have, indeed, heard. I thought it was important for me to make this Communication. Those that preside over our business will live strictly within those directions beginning from tomorrow.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 23

SECURITY OPERATION IN NORTH EASTERN PROVINCE

Mr. Affey: On a point of order, Mr. Speaker, Sir. I beg to move that this House adjourns pursuant to Standing Order No.23, to debate the ongoing security operation in North Eastern Kenya where the security forces have tortured local leaders and residents.

Mr. Speaker: Hon. Members, indeed, I have received Notice of this Motion in accordance with Standing Order No.23. I have reflected on the matter, considered it and I am satisfied that it is of national importance and urgent.

(Several Members stood up in their places)

I am satisfied that you have the numbers. You may resume your seats!

Hon. Members, I direct that we proceed with this Motion as at from 5.30 p.m. onwards and I allow one hour for that debate.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairperson
(Mrs. Odhiambo-Mabona) took the Chair]*

THE COMPETITION BILL

The Temporary Deputy Chairperson (Mrs. Odhiambo-Mabona): Hon. Members, we are now in the Committee of the whole House to consider the Competition Bill (Bill No.3 of 2009).

(Clauses 2 and 3 agreed to)

Clause 4

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 4 be amended in Subclause (3) by deleting the words “is a single dominant undertaking, or an undertaking which together with not more than two other independent undertakings” appearing immediately before paragraph (a).

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 4 as amended agreed to)

Clause 5

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 5 be amended in Subclause (1) by inserting the words “all persons including” immediately before the words “the Government”.

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 5 as amended agreed to)

(Clauses 6, 7, 8 and 9 agreed to)

Clause 10

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 10 be amended by—
(a) renumbering the existing provision as Subclause (1);
(b) inserting the following new subclause immediately after the renumbered subclause (1)—

“(2) The persons proposed to be members of the Authority under Subsection (1) (f) shall, before their appointment to the Authority, be vetted and approved by Parliament through the relevant committee of Parliament”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 12 be amended-

(a) in Subclause (1), by inserting the words “with the approval of Parliament” immediately after the words “appointed by the Authority”;

(b) in Subclause (2), by inserting the following new proviso at the end thereof—
“Provided that the Director-General shall hold office for a renewable term of five years, subject to a maximum of two terms”.

(Question of the amendment proposed)

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Chairlady, I beg to oppose this amendment and seek to persuade this Committee.

While appreciating the need for the oversight role by Parliament at the appointment of Chief Executives, we are creating an authority here. We, as Parliament, have given the responsibility of vetting of the Board to Parliament. But having vetted a Board and given them authority to then hire a Director-General, perhaps, we are going into micromanagement at the point of even vetting a Chief Executive who is hired by the Authority. The operating words here are the “Director-General appointed by the Authority”, not appointed by the Government. It is an authority that has been created by Parliament with specific mandate and specific qualifications. My worry is that if we continue this, the Chief Executive we so appoint, will have his allegiance not to the Board, not to the Authority, but to the ultimate appointing authority, which is the approval by Parliament. Our Chief Executives, when they become politicized could now end up missing out what they should be doing and fail to be accountable to the Board.

I know that the Committee has very good intentions in terms of wanting to see that the Board has appointed the right person, but when we put this law it will be used for

us and generations to come. We do not know whether the other Committee will see this appointment as political. They will want to see their mandarin rather than an institution or person. So, I would like to persuade the Committee that for now let us live with what we have past intended. Let Parliament vet the Board. Let us then give a free hand to the Board to then appoint a Chief Executive who is answerable to the Board without divided loyalty.

I know I have discussed this with the Chair of the Committee. I know there are merits and demerits of both. But on balance, since we are creating this new Authority today, we can go first of all by appointing the Board. If we find there is need to reinvent this, we can bring this as a subsequent amendment during the miscellaneous amendment rather than trying to delete this. There is legitimacy that the people we might want to attract to be Director-General of this organization might fear being discussed in Parliament. So that you only find people who would be applying are those who want to subject themselves to a debate. We have seen this happening in some of the recent debates. I know there is precedent although that is not necessarily the best practice. It worked well because of the Members of the Committee and the process but you cannot guarantee that the same people will be there in future.

Madam Temporary Deputy Chairlady, I persuade the Committee sitting in Parliament that if we do not want to take that risk in future of dual loyalty, we leave out this amendment for today. If need be, we can always introduce it in future.

I beg to oppose.

Mr. Okemo: Madam Temporary Deputy Chairlady, we have held a few discussions with the Minister. I think this will be going against the spirit of the Constitution. Parliament is vetting all public officers and this is one of them. This is a key institution. I do not think that Parliament will be serving the public by leaving the appointment to be done by the Board and the matter ends there. I will give the example of the Public Procurement and Oversight Authority. They did not have a CEO for more than three years. It is only because of the fear that we would raise the matter in this House and somebody had to appear before a Committee that they had to rush through it. So, we do not want a repeat of that. We want to be sure that even part of the vetting is to make sure that, that is done in time and the position is filled expeditiously. I persuade Members of Parliament that there is merit in this. Any Committee of Parliament is supposed to be credible. So, we should not cast aspersions on a Committee of Parliament that is supposed to be doing its job properly. Therefore, I would like to go by the amendment as it stands.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 12 as amended agreed to)

(Clauses 13, 14, 15, 16, 17 and 18 agreed to)

Clause 19

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 19 be amended in Subclause (1) by deleting the word “be” appearing immediately before the word “deem”.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Clause 19 as amended agreed to)

Clause 20

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 20 be amended in Subclause (4) by inserting the words “In case of oral evidence, the claim may be” immediately before the word “made”.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 20 as amended agreed to)

Clause 21

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 21 be amended in Subclause (9) by deleting the words “one million” and substituting therefor the words “ten million”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 21 as amended agreed to)

Clause 22

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 22 be amended in Subclause (6) by deleting the words “one million” and substituting therefor the words “ten million”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put and agreed to)*

(Clause 22 as amended agreed to)

Clause 23

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 23 be amended by in Subclause (1) by deleting the following words “together with not more than two other independent undertakings” appearing immediately after the word “which”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 23 as amended agreed to)

Clause 24

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 24 be amended—

(a) in Subclause (1), by deleting the following words “on the part of one or more undertakings” appearing immediately after the word “conduct”;

(b) in Subclause (3) by deleting the words “one million” and substituting therefor the words “ten million”.

(Question of the amendment proposed)

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 24 as amended agreed to)

(Clauses 25, 26, 27, 28 and 29 agreed to)

Clause 30

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 30 be amended by inserting the words “together with the reasons thereof” immediately after the words “exemption revoked”.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 30 as amended agreed to)

Clause 31

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 31 be amended—

(a) by deleting sub-clause (3);

(b) in sub-clause (4), by—

(i) deleting the following words “For the purpose of” appearing immediately before the words “an investigation” and substituting therefor the words “If the Authority decides to conduct”;

(ii) deleting the word “authority” wherever it appears in paragraphs (a), (b) and (d), and substituting therefor the word “Authority”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put and agreed to)*

(Clause 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 33 be amended by deleting the expression “whether or not such statement, document, information or matter would otherwise be admissible in a court of law” and substituting therefor the expression “but a statement, document, information or matter shall not be received in

evidence unless it meets the requirements for admissibility in a court of law”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put and agreed to)*

(Clause 33 as amended agreed to)

(Clauses 34, 35, 36, 37, 38, 39, 40 and 41 agreed to)

Clause 42

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 42 be amended—

(a) in Subclause (3), by deleting the expression “Subsection (1)” and substituting therefor the expression “section 41”;

(b) in Subclause (5) by deleting the words “one million” and substituting therefor the words “ten million”;

(c) in Sub-clause (6), by—

(i) inserting the words “the preceding year’s” immediately before the words “gross turnover”;

(ii) inserting the word “annual” immediately before the word “turnover”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put and agreed to)*

(Clause 42 as amended agreed to)

Clause 44

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 44 be amended in Subclause (1) by deleting the words “authority” and “thirty” appearing in paragraph (b) and substituting therefor the words “Authority” and “sixty” respectively.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 44 as amended agreed to)

(Clauses 45, 46, 47, 48, 49, 50, 51, 52 and 53 agreed to)

Clause 54

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 54 be amended in Subclause (3) by deleting the words “one million” and substituting therefor the words “ten million”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 54 as amended agreed to)

Clause 55

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 55 be amended by deleting the words “or commerce” appearing immediately after the word “trade”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 55 as amended agreed to)

Clause 56

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 56 be amended –

(a) in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade”.

(b) In Subclause (8) by deleting the words “or commerce” appearing immediately after the word “trade”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 56 as amended agreed to)

Clause 57

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 57 be amended –

(a) in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade”.

(b) in Subclause (2) by deleting the word “the” appearing immediately before the words “business consumer”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 57 as amended agreed to)

(Clause 58 agreed to)

Clause 59

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 59 be amended in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 59 as amended agreed to)

Clause 60

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 60 be amended in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 60 as amended agreed to)

Clause 61

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 61 be amended in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 61 as amended agreed to)

(Clause 62 agreed to)

Clause 63

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 63 be amended in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade” in paragraph (a).

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 63 as amended agreed to)

Clause 64

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 64 be amended in Subclause (1) by deleting the words “or commerce” appearing immediately after the word “trade”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 64 as amended agreed to)

(Clauses 65, 66, 67, 68 and 69 agreed to)

Clause 70

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 70 be amended by deleting the words “one million” and substituting therefor the words “ten million”.

(Question of the amendment proposed)

Mr. Njuguna: Madam Temporary Deputy Chairlady, could the Chairman of this Committee explain to us what really motivated the Committee to raise the bar or to raise the penalty from Kshs1 million to Kshs10 million, because this is very punitive?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Chairlady, this is not actually punitive because it is between Kshs1 million and Kshs10 million. When you take a company, for example Shell, Kenya Breweries or Safaricom and you penalize them with Kshs1 million, what incentive is there? I mean, Kshs1 million to them is nothing; it is pocket change! So, this is why we need it to raise it, to make sure that---

The Temporary Deputy Chairlady (Mrs. Odhiambo-Mabona): Honourable Member, are you convinced?

Mr. Njuguna: *Tosha!*

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 70 as amended agreed to)

(Clause 71 agreed to)

Clause 72

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 72 be amended by deleting paragraph (c).

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Paragraph (c) deleted)

(Clause 72 as amended agreed to)

(Clauses 73, 74, 75, 76, 77, 78, 79, 80 and 81 agreed to)

Clause 82

Mr. Okemo: Madam Temper Deputy Chairlady, I beg to move:-

THAT, Clause 82 be amended in Subclause (1) by deleting the word “the” appearing immediately before the words “it may by law”.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Clause 82 as amended agreed to)

(Clauses 83 and 84 agreed to)

Clause 85

Mr. Okemo: Madam Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 85 be amended in Subclause (1) by deleting the word “chairperson” appearing in paragraph (a) and substituting therefor the word “chairman”.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 85 as amended agreed to)

(Clauses 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 agreed to)

(Schedule agree to)

(Title agreed to)

(Clause 1 agreed to)

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Competition Bill, 2009, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE COMPETITION BILL

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Competition Bill, 2009, and approved the same with amendments.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Public Works (Mr. Obure) seconded.

(Question proposed)

(Question put and agreed to)

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Speaker, I beg to move that The Competition Bill, 2009, be now read the Third Time.

The Minister for Public Works (Mr. Obure) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

The Temporary Deputy Speaker (Dr. Laboso): Next Order!

**MOTION FOR ADJOURNMENT UNDER
STANDING ORDER NO.23**

SECURITY OPERATION IN NORTH EASTERN PROVINCE

Mr. Affey: Madam Temporary Deputy Speaker, I beg to move that this House adjourns, pursuant to Standing Order No.23, to debate the ongoing security operation in North Eastern Kenya, where security forces have tortured local leaders and residents.

First of all, I would like to take this opportunity to thank the Chair for evidently finding it proper that this matter be debated by the House as a matter of national importance. I also thank the House for agreeing with me that this matter is, indeed, of great national significance.

Madam Temporary Deputy Speaker, as we all know, the role of our security forces in this country is to protect the lives and property of our people. The matter I intend to raise today arises as a result of the fact that our own security forces, instead of giving protection and security to our citizens, have turned to torturing and intimidating them at will. I raised this matter on the operations the officers are conducting in parts of northern Kenya and particularly in Wajir North Constituency; in the towns of Buna, Ingirir, Bute and many other locations of Wajir North Constituency. I raised this matter with full knowledge and understanding of the local Member of Parliament who happens to be out of the country on engagements. At the beginning of this month, the security officers undertook an operation in Wajir North and part of Moyale whose intention and purpose the people who reside in that constituency had no idea, had no prior information, had no knowledge of. Therefore, there was an operation where the citizens who live in that part of the country had no idea exactly what was happening.

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

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, these same officers, in pursuit of whatever they were pursuing, broke the law. They defied the constitution and contravened the Constitution of Kenya, particularly Section 4 of our Constitution which is elaborate on the Bill of Rights.

Mr. Speaker, Sir, on this day, the security forces found it fit to constantly harass the people of Wajir North to the extent that the local leadership in the area who as we know, are the ones appointed by the Government---. The chiefs of Wajir North entirely, as we speak today, have been intimidated and are nowhere to be seen, most of them. I would like to tell the House of a shocking incident where the security forces who were supposed to work with the Chief for Buna, Mr. Abdullahi Yusuf, and the chief for Ingiriri Location, Mr. Abdikadir Dahir, instead, physically assaulted these same chiefs. They were physically assaulted and beaten up in the full presence and view of the people they are supposed to lead; the residents of Wajir North. You have a situation where the chief

of the town is beaten and intimidated by the security forces in full view of the local population. This was done under the command of the Deputy Police boss, Eastern Province. It was done in the full presence of the OCPD, Wajir North. It was done in the full presence by Chief Inspector of the Administration Police, Wajir North. It was done in the full presence of the District Officer, Wajir North. We know that in the chain of command, chiefs work with the DO and the OCPD. These were the same fellows in whose presence the police officers were beating up these chiefs.

Mr. Speaker, Sir, I want to share with the House the graphic details of what happened in Wajir North two days ago. Here you have the photograph of the chief of a town being beaten up by our own security forces.

(Mr. Affey displayed photographs to the House)

Hon. Members: Shame!

Mr. Affey: These are vital organs as you can all see. They used forceful methods, perhaps they were trying to castrate him without using anaesthesia.

Mr. Speaker: Order hon. Affey! Who took those photographs you are referring to and when?

Mr. Affey: Mr. Speaker, Sir, these were taken two days ago by the Human Rights Watch Group in Wajir and I know the chief. This is the chief for Bute, Mr. Abdullahi Yusuf. I know him as we speak. I will table them

Mr. Speaker: When were the photographs taken?

Mr. Affey: On Monday Mr. Speaker, Sir.

Mr. Speaker: Which Monday?

Mr. Affey: Monday this week; 8th November, 2010.

Mr. Speaker: Very well.

Mr. Affey: Mr. Speaker, Sir, I want to show the shorts the chief was wearing. This is a photograph but this is the short the chief was wearing. You can see this short has blood stains all over---

Hon. Members: Shame! Shame!

Mr. Affey: This photograph could be disputed but no reasonable Kenyan can dispute this. It is very evident and I table it for the House to understand the circumstances in which our people are suffering.

(Mr. Affey laid the photographs and the clothes on the table)

Mr. Speaker, Sir, what will happen to ordinary Kenyans, the local women in our farms and the villages if this is happening to a chief who is on the Government payroll? These chiefs have been intimidated, almost to the level of being killed! This is what the officer was using to drain blood. This is the blood of a chief; the blood of a Kenyan!

Even after we have promulgated a new Constitution, it seems that our security forces have not understood that the basic rights of Kenyans, the rights on which this House votes money to pay them, must be protected. Their main duty is to protect the same Kenyans whose blood you can see before us. There is fear in Wajir North and parts of upper Eastern Province, absolute fear! We are asking the Government to immediately

stop this operation and arrest and prosecute the officers who are responsible for these acts.

Mr. Speaker, Sir, here, we have the Vice President, who is also the Leader of Government Business and all Ministers. These chiefs have been flown to Nairobi, because they require very critical and immediate medical care. We want the Government to urgently intervene, give them professional medical treatment and pay the bills so that, perhaps, we can save the chiefs.

Mr. Speaker, Sir, we have asked and we want to request that the entire security committee under the leadership of the District Commissioner, the OCPD, the DO and all the officers who are currently stationed in Wajir North must be removed. They must be arrested, charged, and qualified, reasonable and sensitive Kenyans posted there to work for the people of Wajir North. This matter has continued for a long time. It is a shame that for some of these chiefs, perhaps this is the third or fourth time that they are being brutalized. But it does not happen in any other part of the country where you have a chief who is on Government payroll being treated the way these chiefs for Wajir North have been treated.

Mr. Speaker, Sir, as we speak now, the Assistant Chief for Korondile has been arrested but the Assistant Chief for Laisayu has actually fled. His family members do not know where he is. To date, he cannot be located. It looks like there was a programme by Government officials on the ground to seek out chiefs, arrest them and do what is evidently clear that these chiefs have gone through. Therefore I am glad that the country, and we also appreciate the gravity of the matter and you, yourself, have understood under Standing Order No. 23 that this matter deserves national attention. We would like the Government to clearly take up this matter. I just want to link this up with the Attorney-General's advice to the President not to sign the Indemnity Bill. These are the kind of things that that indemnity Bill wanted to protect. Our security forces have been indemnified to do whatever they want to do. So I would like to bring this to the knowledge of the country. It has not become clear to the House, today in the 21st Century, we have people in Bute taking photographs, I wish to---

Mr. Speaker: Mr. Affey, your time is up!

Mr. Affey: I will be seconded by hon. Bahari!

Mr. Speaker: Could you please be so kind as to put the pair of shorts in the polythene paper?

Mr. Affey: Yes, Mr. Speaker, Sir. This is evidence.

Mr. Speaker: Yes, you can leave it there at the Dispatch Box. Just put it in the polythene paper.

Mr. Affey: This is the blood of Kenyans.

(Mr. Affey put the items in the polythene paper)

Mr. Speaker: Mr. Affey, could you please switch off the microphone? You have done very well.

Mr. Bahari: Mr. Speaker, Sir, I want, from the outset, to thank you for allowing this Motion to be debated due to the significance of this matter. I also want to, in the same vein, thank the Members of Parliament who have been very keen on this matter since we brought it to their attention this morning, and for the overwhelming support that

this Motion has been given. This is because these hon. Members are very sensitive about the lives of Kenyans and we are very grateful.

Mr. Speaker, Sir, this year, Kenyans voted overwhelmingly for the new Constitution. One of the issues that were raised here was the issue of the Bill of Rights. A few months down the line, we now see actions by our own security forces which are very brutal, criminal and which contravene the Constitution. It is high time that this House came out very strongly to condemn anybody or institution that seems to live in the old dispensation, and has forgotten that the new dispensation is here with us. That is the only way in which we can make it a reality in Kenya, that the new dispensation that we are proud of---. Many countries all over the world are now coming to borrow from us. When we go out there representing this country as its good ambassadors, we have always said that we produced a new Constitution of very high standards in a peaceful environment.

I overheard one of the envoys in this country say that if Kenyans actually only implemented 50 per cent of what is in the new Constitution, then they will be far much ahead of everybody. We want to keep that pride and set the pace.

Mr. Speaker, Sir, the effect of all this is that we seem not to have learned from the past indiscriminate actions by the armed forces. There was the Wagalla massacre, Malkamari massacre and so many other massacres in Garbatula and other places. These massacres still haunt this country and somebody somewhere decided to take this kind of action to perpetuate the same trend, which we want to leave behind us. This is very unfortunate. I am sure the Government cannot condone this. Therefore, the only way to express disapproval of it is to take immediate and decisive action against those who were involved.

This has other ramifications. This morning we passed a Motion which required this House to investigate the matters related IDPs, banditry and all that, and come up with a resolution that will guide this House. I have no doubt that this situation has created IDPs because; if word goes round that this has happened in that area, everybody will run to the nearest safe area. Therefore, the Government must move in to support those people. It is very unfortunate when we have not even solved the problem that has been with us from 2007 due to the post election violence. This is not acceptable.

I can speak the whole day but I want to give keen Members time. We are requesting the House to resolve that the Government, and the relevant Ministry, moves in with speed, takes appropriate action and brings the people involved to court without delay. They should then report back to the House what kind of action has been taken. It is very important that this House is apprised of what action the Executive arm of the Government will take.

With those few remarks, I beg to second.

(Question proposed)

Mr. Imanyara: Thank you, Mr. Speaker, Sir, for this opportunity to contribute to this Motion. I speak with a great deal of anger that this is happening in the very beginning of a new dispensation, and a new Constitution which forbids this kind of conduct.

I speak against the background of a great deal of pontification by Members of the Government, from the President downwards, who keep talking about the great things that

are coming to this country because of the new Constitution, yet the truth of the matter is that we are not respecting that Constitution, and impunity reigns. If there was any proof required, here it is, that the events of Monday this week are known to the Kenyan security forces. Had it not been for the hon. Members who brought this to the attention of the House, it would have been another allegation of brutality by the police, the Administration Police or the security forces, which would have been denied by the Government.

In some other countries, at a time like this, the Minister in charge of internal security would have resigned voluntarily. He would not have been in office. He would have been in this House to apologize to the people of Kenya. But this does not happen in Kenya.

The people of North Eastern Province are not seeing this for the first time. The events of the Wagalla massacre are in the courts. I have been dealing with this case for almost 10 years now. We cannot even get a hearing date, because the culture of impunity reigns in this country. The people who perpetrate acts of gross inhumanity continue to walk freely. They continue to hold office. No wonder that the post election violence victims are still seeking justice. It requires a Motion of this House to set up a select committee to investigate the events that the Government undertook to deal with under the Agenda Four Reforms, but nothing happens. They continue shouting on the top of their voices that things are getting better under the new Constitution. They are not getting better. They will not get better until we see some action being taken against those who perpetrate the culture of impunity in this country.

Mr. Speaker, Sir, when hon. Members speak about extra-judicial killings, what we get from the department responsible for security are denials. When gangs kill Kenyans and bodies are found all over the country, the Government denies that it is happening. For how long will we debate these issues when no action is taken? These are questions that we cannot just debate endlessly in this House. We demand action. We demand to see the persons who have been identified in this House. We have seen the evidence. There is no denial. We do not want yet another day to pass while this is forgotten and treated as yet another incident of allegation of brutality against the people of Kenya, particularly the people of North Eastern Province, who have had to undergo many years of living as second class citizens in a free country.

We passed a Bill in this House to repeal the Indemnity Act, but what did the Government do? It sent it back to this House. They do not want it amended because they want to perpetuate the culture of impunity. For how long will this happen?

I think this House must come out in very strong language and tell the President that we will no longer accept these memoranda that he sends to this House that enable his officers to go out there and pretend that nothing is wrong, when we can see from the people we represent that everything is wrong.

No amount of development will take place in this country if the rights of Kenyans cannot be guaranteed; if a Kenyan cannot walk freely in this country, or without running away from police officers. Not too long ago, you heard justifications from the Ministers here that a Kenyan saw Administration Police officers, started running away and drowned. That is the casualness with which we take issues of human rights violations in this country. I challenge the Front Bench to resign en-mass today to show solidarity with the people of Kenya if you do, indeed, care for the rule of law; if you care for what you

were elected to do and if you care about the Oath of Office you took to defend and protect the new Constitution. Do we have any of you who is prepared to do that or is it just lip service to the rule of law?

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

Ms. A. Abdalla: Mr. Speaker, Sir, I wish to also join my colleagues in thanking you for allowing this Motion to take place. At the outset, you can see that the Minister of State for Provincial Administration and Internal Security and his deputies are not here. We hope that since the Leader of Government Business is here, he will be taking the information that we intend to pass on.

(Mr. Duale pointed at himself)

Mr. Duale is saying that he is a Minister but I think chiefs in his constituency are receiving the same treatment. That is because the treatment that this Government gives to chiefs in our areas is equal in all constituencies, whether you are a Minister or not!

(Applause)

Before the new Constitution, there was a similar case where chiefs from Galgadud Division of Mandera, Elwak, were punished in the same manner. My question to this Government is whether chiefs in North Eastern Province have to be subjected to a different set of disciplinary action by the Ministry as opposed to the rest of the country. We have never seen a case of a chief being manhandled by the security forces in the rest of Kenya. But such incidents are repeated in the northern part of Kenya. I am curious because I have heard from the Ministry of State for Provincial Administration and Internal Security and other Ministries about the inflated population figures in northern Kenya. Is this one of the methodologies they are using to rectify the message of saying that our population is inflated?

(Applause)

Mr. Speaker, Sir, what they have done to that chief is a serious matter because they have damaged a chief from one of the most endangered clans in this country.

(Mr. Duale laughed)

Mr. Duale is laughing! I need protection from his laughter!

Mr. Speaker: Mr. Duale, please, respect the lady!

Ms. A. Abdalla: Mr. Speaker, Sir, this is not a laughing matter. The clan from which those two chiefs come from and the acts that have been perpetrated against them are extremely serious. That is because their population is endangered. So, for the Government to take action similar to what the security forces have done is to destroy the already endangered population in that area.

Thirdly and finally, if that is what they have done to a chief who wears the crown of the State, what do you believe is happening to the women and the elderly in that area? So, before they finally make the population of that constituency extinct, legal action must

be taken against the officers who committed those heinous acts. The Minister of State for Provincial Administration and Internal Security must come and report to this House in a week's time or less. If he does not, then we must name him so that we teach the Front Bench a lesson that they do not just take what we present in this House at face value.

With those few remarks, I beg to support.

(Applause)

Mr. Wamalwa: Mr. Speaker, Sir, for many years, we have heard our brothers and sisters from the North cry about how they have been treated as second class citizens. When you travel up there, they still say that when they come to Nairobi, they have arrived in Kenya. But they have been treated as people who are not equal before the law for many years. This can no longer be allowed to happen with the new Constitution. Under Article 27, every person is equal before the law and has the right to equal protection and equal benefit of the law. But those who brutalized that chief, Mr. Abdilahi Yusuf, I am not even sure whether they are aware of the provisions of this new Constitution. The Government has talked of re-training our security forces. We have heard that they will be re-trained, but they still remain the same brutal force when they are supposed to be a service. They are supposed to be a police service and not a police force. The force they used against Mr. Abdilahi Yusuf cannot be justified.

What we have heard in this House today is a shame to the nation. It is something that we will ask the Government, before they do anything, to give an apology to the people, particularly to the family of Abdilahi Yusuf and those who were brutalized by the police forces and to take action against them. But the Government must also move to tell this country and, particularly, those who serve it as chiefs whether, indeed, they are still part of this Government or not; whether, indeed, they are going to restructure the administration to include the chiefs or not. That is because with what is happening already, chiefs everywhere in the country, not only in the North, are worried whether they are still part of the system. However, as my colleagues have said, for one to be beaten in the manner in which Abdilahi was beaten and yet he was wearing the crown of State, leaves a lot of questions to be answered. We urge that immediate action be taken against those people.

Thank you!

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I. E. Mohamed): Mr. Speaker, Sir, I would like to thank you and this Parliament for the very specific reason that in February 1984, over 1,000 people were killed in Wagalla, and this House could not raise 15 people to stand up so that the Motion could be discussed. This means that this House has come of age.

(Applause)

What Ms. A. Abdalla has said is right. It does not matter whether there is a Minister in your constituency. This is the third incident in two years in Wajir County. There was a more recent one before this one. The attackers were faceless people; they had guns, they harassed people, hijacked two vehicles and robbed the people. They were arrested by APs and the police released them. Mr. Affey raised that issue and up to now, there is no satisfactory

answer to it. The people of northern Kenya voted overwhelmingly – over 96 per cent – for this Constitution, for one single reason and most important one - human rights.

(Applause)

So, I hope we will rise to the occasion and ensure that such brutality never happens again. I think it is a test for our Constitution and I do not believe that it is a Government policy. It is not in the Constitution of Kenya. We have to come forward and deal with that issue to change those attitudes. We have had parts of northern Kenya having things like the Indemnity Act and over time, even after those laws were completely removed, individuals keep the practice. We need to come up with a mechanism to change those attitudes. That is because it cannot be human. There is no order that allows you to do that. So, it obviously means that something is quite wrong with certain individuals that we must deal with.

Thank you!

Dr. Laboso: Mr. Speaker, Sir, thank you for giving me this opportunity. We have been appalled! We cannot believe what we have just heard. When we went round this country campaigning for the new Constitution, telling Kenyans that this is a new dispensation, a new order and that things will not be business as usual, we truly believed that this was a new country. I remember clearly Mr. Orendo telling Kenyans that policemen will be saluting Kenyans and asking them: “Can I arrest you?” Can we say the same now? From the scenes we have just seen, are we not ashamed of ourselves? The Government must come out! We must see that this is a new Kenya. We must see action and this Front Bench, you are the Government! Can you execute the new Constitution?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Thank you Mr. Speaker, Sir, for giving me this opportunity.

First and foremost may I begin by saying that it is the Government’s responsibility to guarantee those freedoms and the rights of every single Kenyan without question of creed, tribe or colour. That is the responsibility of the Government under this Constitution.

Secondly, it is also the responsibility of this Government to provide security to all Kenyans. However, I want to agree with those who have spoken before me that even as we provide that security, we need to provide it within the existing laws of the land while protecting the human rights of all Kenyans. If, indeed, what we have seen today is the truth, I join in saying that this is something that requires urgent investigation. We must get the truth and with the truth, immediate action, in order for Kenyans and everybody to know that Kenya has changed. We are under a new dispensation and this kind of thing will not be allowed to go into the future.

Mr. Speaker, Sir, on that basis and with thorough investigations to prove that, indeed, this is what has happened, I support this Motion.

Mr. Keynan: Mr. Speaker, Sir, thank you for giving me an opportunity to contribute to this very important Motion. From the onset, I would like to thank the Chair personally, for having allowed debate on this Motion on very short notice.

The barbaric and brutal action by the overzealous security forces in the North Eastern Province is not something new. The only new thing is that as a country, on the 27th of August, 2010, we promulgated a new Constitution promising Kenyans that everything will change. What has happened in Wajir North today, including the crushing

of the testicles of Chief Abdulahi Yusuf, is inhuman and unacceptable. We cannot accept this in this modern world. This is a shameful act. We know we have suffered in the past; we had the Wagalla Massacre where we lost relatives. I lost a number of relatives. However, this is coming at a time when we are saying we are proud as a nation to lead from the front to show that, as a country, we can be the best example south of the Sahara. Taking into account that the President in his own wisdom has refused to assent to the Indemnity (Repeal) Act which I first moved in 1998 and Mr. Affey took it up again last year and this House passed it, just reminds me that this Government is still hell bent on dealing with the people of northern Kenya the way they did before.

Mr. Speaker, Sir, as a result of this and taking into account that the same security forces cannot be entrusted to investigate themselves, we have consulted with my colleagues on the Committee on Administration and National Security and decided to undertake a joint investigation by the two Committees and come up with a report to this House as soon as possible.

(Applause)

Mr. Speaker, Sir, if somebody out there in the name of serving the security apparatus assumes that North Eastern Province is very far, I would like to tell him that it is not very far. Kenyans in their own dynamic nature are familiar with what is happening in every part of the Republic. It is not even fair to call for the transfer of the individuals who presided over this. We want to see these individuals resign. Let them be sacked, arraigned in court and prosecuted. That is the only solution we can accept.

Mr. Speaker, Sir, three weeks ago, this House passed the Joint Committee Report on the recruitment of Kenyan youths of Somali origin and one of the resolutions was the Kenya Government shall not militarily get involved in the affairs of the failed State of Somalia. I want to say this in broad daylight; if this is a prelude of the efforts by the Kenyan Government and the Ethiopian Government to venture into the affairs of Somalia, that action is going to plunge this country into a civil war. We want to be on record. We are not interested. We do not want to go to Somalia. We are desirous of maintaining law and order. However, this was a joint operation carried out by the Kenyan and Ethiopian governments.

I neighbour that constituency. In fact, before 1996, Wajir North was part of my constituency. This is unacceptable. We must tell Kenyans the truth. I want to salute the gallant Kenyans who attended to this victim. I know a number of human rights activists were assaulted as a result of bringing this to the Kenyan public.

Mr. Speaker, Sir, what surprises me is; do we have two sets of rules? Do we have one set of rules for the people of northern Kenya and other rules for other Kenyans? We must be protected. This policy of killing people indiscriminately, raping and maiming is not acceptable. This new Constitution is not just a piece of paper. Our people must be protected.

To show that this Government is not taking Parliament seriously, where are the Ministers and Assistant Ministers of the Ministry of State for Provincial Administration and Internal Security? Even when that Report was adopted, none of them was here. This tells you that they do not care what is happening in the northern part of Kenya. We need protection.

Those innocent women and children in northern Kenya are also human beings. They are part and parcel of the Republic of Kenya. I do not want to recall what happened to my brother, uncle and sister----

(Mr. Keynan broke down and resumed his seat)

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, first of all, I do not want to talk about the Ministry in charge or the Government as a whole. I think I also bear responsibility for what has happened in regard to this Kenyan who has been brutally assaulted. It may be taken that this is an event in isolation. We need some kind of revolution in the way we run the Government, having now achieved the new Constitution.

Mr. Speaker, Sir, if I can go down memory lane, recently in Malindi, there was an attempt to remove some squatters from land that they had occupied for some time and this ended up in two people being killed. In Mombasa, recently, there was an eviction carried out by the police and I have no problems with the evictions being carried out. However, the amount of property that was burnt and the people who were injured during that process was not something that one would be proud to talk about.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, when we talk about human dignity, it means that even if you do not like your fellow human being, even if he is a prisoner, even if he has violated any law or has been found guilty by a court of law of competent jurisdiction, he is required to be treated as a human being. What really makes me a little bit ashamed is that in North Eastern Province, there is now a pattern developing. Mr. Gitobu Imanyara knows that we have dealt with many cases. There was a time I used to go to Mandera to do cases and you would find people who have been collected as if they were chartels. In the courtrooms, you would have a District Officer (DC) who would be conducting the proceedings. Everybody in that courtroom would be somebody from upcountry and the accused would be people from North Eastern. I protested at that time that if you have a system of justice that you cannot call your own, then you cannot expect justice.

This is really the time for us to reform the police force and our institutions so that if people are conducting even a demonstration, a police officer has no right to beat somebody even if it is not a licensed demonstration. They have no right to beat anybody. In fact, in South Korea, if there is a demonstration you would find more policemen hurt than ordinary citizens. Even for those who are hurt, the State has to give full account in what circumstances they got beaten up.

Recently – and I want to say this without any fears – in a little meeting of some Cabinet Ministers, I brought up this issue of the manner in which the police is carrying out their duties, including evictions or the way the Provincial Administration is carrying out certain orders that they are required to enforce. I think if you want to live by the new

Constitution, we must fundamentally change the way we carry out business. For one, I am very happy with what Parliament is doing now. That trend that we had in the old days that anything goes, be it corruption or anything; that age has gone. Right now, if any Kenyan is hurt, we must be given an account immediately because this Constitution says that the sovereign power of the State belongs to the people. The power that we are exercising as an Executive is delegated by the people of Kenya. The Constitution is very clear that even the judicial authority of the State is delegated to the Judiciary by the people of Kenya. Once you hurt any Kenyan, you are undermining the authority of the State as constituted under the Constitution of Kenya.

Mr. Temporary Deputy Speaker, Sir, I want to plead with my colleagues in the Cabinet; that if we do not have a full account of what had happened and heads rolling--- Under the International Crimes Act that we have passed, which is part of the law of Kenya today – and the Minister of State for Provincial Administration and Internal Security said that the operational date is from 1st January last year – what is important is not the policeman who has carried out this assault. What is important is the person who is in command. If the person who is in command cannot give account of what his men are doing, then we have the culture of impunity developing. So, in this one, let us not blame the policeman who carried it out. It is the full accountability, including myself. In fact, at the beginning, I said that the responsibility is not just the Minister responsible; it is for the whole Government to give full account. This is a matter which in some countries can make even a Government to resign or if it does not resign, it can be asked to step up.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support.

Dr. Nuh: Thank you, Mr. Temporary Deputy Speaker, Sir. For the benefit of my colleagues, I want to be very brief in my contribution.

Mr. Temporary Deputy Speaker, Sir, whilst I support this Motion, it has been said very clearly that this culture of maiming, raping and killing people in northern Kenya has been something that has been ongoing. But the expectation of the people from northern Kenya has been that, at least, with the promulgation of the new Constitution, this culture will come to a complete halt.

Mr. Temporary Deputy Speaker, Sir, if I go back to the events of when hon. Affey moved the Motion to repeal the Indemnity Act, the President wrote back a Memorandum. In the explanatory notes to the Memorandum was the fact that even in international law, the officers are allowed to carry out some actions in acts of combat. What baffles is: When security forces are sent to go and police the northern parts of Kenya, are they sent there for combat or to protect the citizenry of northern Kenya? With the Memorandum that came from the President and the current happenings, it is clear that when police are sent to other parts of Kenya, they go to restore law and order and protect the wananchi. But when they are sent to northern Kenya, then they are up for combat and to instill fear. That is why they are allowed to carry out acts of impunity. They kill and maim and none of them is brought to account.

Mr. Temporary Deputy Speaker, Sir, desperate times call for desperate measures. These are desperate times. If we do not prove that the new Constitution is not just a piece of paper, but a legislative agenda that the people of Kenya must live within, this has to be a turning point for the Ministry. We have to see the Ministry acting in accordance with the Constitution for us to have confidence in what we passed as a Constitution; that it

really is there to protect the people of Kenya. Otherwise, we will have nothing to celebrate after 27th August, as the new Constitution.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister for Gender, Children and Social Development (Dr. Shaban): Asante sana, Bw. Naibu Spika wa Muda, kwa kunipatia nafasi hii, na pia kuruhusu swala hili lizungumziwe kwa kirefu.

Jambo la kusikitisha hapa nchini ni kuwa haswa wale ambao ni wanyonge ndio wanazidi kunyongolewa mbali. Ni makosa sana kwa Wakenya ambao ni wadogo kwa idadi ama sio wengi katika Serikali kuonewa namna hii. Si bwana huyu tu ambaye ameharibiwa maisha yake kwa sababu ukitaka kumumaliza mtu, mnyime mbegu zake za kupata watoto na pia maisha yake na utakuwa umemaliza yeye na vizazi vyake vyote.

Bw. Naibu Spika wa Muda, ni jambo ya kusikitisha na huzuni sana kuwa miaka 47 baada ya kupata Uhuru, Wakenya bado wanatesana namna hii. Ni jambo la kusikitisha kuwa sasa hivi tuko na ukoloni mamboleo badala ya ukoloni ule ambao ulikuweco tukipigania Uhuru. Ukiangalia sana, jambo la kusikitisha haswa ni kuwa jamii ya Wasomali na pia waislamu kwa ujumla Kenya hii hawana faida. Kwa sababu hawana faida, wanateswa, wanashikwa na kupelekwa Uganda na kufanywa mambo mengi ya ajabu ajabu kwa sababu wao hawatakikani kuwa kama Wakenya na kufurahia matunda ya Kenya hii, haswa wakati huu ambao tumepitisha Katiba mpya. Haki zao za kibinadamu zinachezwa na kila mtu. Haswa ikiwa chifu anateswa hivyo, hao wengine wanaweza kufanywa vipi? Tunasikitika sana siku ya leo. Haswa nakumbuka vile malalamishi yalivyofika hivi leo, wengine wetu tulishika matumbo kwa uchungu kwa sababu tulishangaa ni nani huyo anayeweza kuwafanyia wenzake kitendo cha kinyama namna hii.

Bw. Naibu Spika wa Muda, ni lazima sisi kama Serikali tuchukue jukumu la kuhakikisha kuwa Wakenya wanaishi kwa amani na kufurahia haki yao ya kuwa Wakenya haswa wakati huu baada ya kupitishwa kwa Katiba mpya.

Bw. Naibu Spika wa Muda, naunga wenzangu mkono kuwa jambo hili lazima likomeshwe sasa hivi.

Mrs. Shebesh: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to add my voice to this important Motion.

Mr. Temporary Deputy Speaker, Sir, first, I would really like to give my condolences and those of the Members of this House, because I think we may be speaking and forgetting that there was one person who lost life, as well as this chief who has, of course, undergone tremendous torture. But as I speak here, I want us to ask the Government to be a bit more open and transparent in the way it is carrying out its responsibilities. We have spoken here about the reason this man had to undergo what he did, because there is a certain security operation. Our colleague has been unable even to finish his sentence because of the kind of emotion that runs high, due to the operations that are carried out across North Eastern Province. I would like the Ministers to listen to me because it is them we are addressing – the Government that does not listen - You are responsible, as a Government, because we are in a Coalition Government. I do applaud those who have spoken and said that this is not the responsibility of one Ministry.

Mr. Temporary Deputy Speaker, Sir, but more importantly, the reason this, for me, is really painful is because a few months ago, as Members of this House, we brought another report to the Floor of this House where we had pictures of young men who had undergone similar torture. I am hoping that the response that will be given by the

Government this time will not be the one we were given when we asked why young men are found in forests having undergone the kind of torture that this chief has gone through. Are there laws for different Kenyans? The most painful thing is that when you torture a human being and we have now the habit of discussing people on the Floor of this House as openly as we do--- We have now discussed the life of a man whose only crime was to be an assistant chief or a chief. Today, he is the topic of national debate. We are discussing the kind of torture he has undergone and, of course, there is going to be psychological effect to his family. That kind of responsibility for the Government is very heavy, because we are not talking only about an individual, but a community. We are talking about evoking emotions that are creating tension in this country.

I want to ask the Government, as it responds, to be very clear about the operation. Let us not hide. We are tired of the Government hiding from us. What is this operation that was being carried out and why did it have to resort to the torture of Government agents? As you answer that question about the operation, you should also tell us how officers of the Government can attack other officers of the same Government. Tell us, as one of our colleagues has said, what the role of the Government was in this issue. We do not want anything to be hidden under the table anymore. Give us the facts because the Committee is also capable of getting the facts. If we see any distortion in bringing out this issue, this Government will have to take major responsibility.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I will be very brief so that I can give time to my other colleagues. It is a very sad day for the people of northern Kenya. It is even sadder after they have passed the new Constitution. It is sad for the people of Kenya and, more so, for the people of northern Kenya who, for 47 years, have been going through terrible hardships. They thought that by voting and passing the Constitution at a rate of 98 per cent that, that would make history.

Fundamentally, we were waiting for the TJRC to visit our place and document the atrocities that previous Governments have committed against our people. If it can happen now, then a lot of moral questions and fundamental human rights questions will have to be answered. I believe that the Government that I serve on behalf of the people of Kenya and, particularly, on behalf of the people of northern Kenya, is not the Government that those individuals who did that serve. I want to say it here that the Government must take decisive action against those individuals. Immediate action should be taken against the administration police officials who did that to Government officials. I will say, as a Government Minister, that, that will not be condoned and as a Front-Bench, we will not accept that.

Key leaders of the Government have spoken and the Leader of Government Business is here. History must not repeat itself. This is an indication of another Wagalla in northern Kenya. This is an indication of marginalization of the people of Somali descent. When our people do good business, it is said that they got their money from piracy. When our people work hard, we are told that we are involved in money laundering. We cannot allow it. We cannot be part of that leadership. I am sure that my colleagues, who have come enmass to this House today, will not accept, under the current Bill of Rights. We will not condone that.

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

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ruto Isaac. You have two minutes because the official Government Responder has five minutes. So, you have two minutes.

Mr. Ruto: Thank you. Mr. Temporary Deputy Speaker, Sir. Indeed, today is a very sad day because there is a clear demonstration that our security apparatus have no idea on how to behave and how to act. They are operating in total impunity and in total violation of the Constitution. With regard to that particular activity, we will demand to have an apology from the Commissioner of Police or else he quits tomorrow morning. We will not tolerate this. We know our colleagues here and we will indulge them. However, they are equally hurt. What is happening with the police? Why are they doing this? I know that they have been doing that even in other pastoralist areas. They have been doing that in Pokot, Turkana, Transmara and in places like Murang'a. We have seen boys being given terrible treatment by police officers. Where are we heading to? Why? The Prime Minister will give his pledges here. The Cabinet will plead but there is something which is not about to change within the police and the Provincial Administration. They are completely oblivious of the complaints that Kenyans have raised during the years. The General Service Unit (GSU), the Anti-Stock Theft Unit (ASTU) and other police officers are not concerned at all. There are very few who are clean. The worst hit is the GSU and ASTU. I am aware of a few cases. Indeed, I filed a Question regarding their activities in Transmara. We have similar cases and we cannot continue to tolerate this. I associate myself with all the views that hon. Members have given. I want to stop there because, as you had indicated, I had two minutes.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, with your permission, I will donate a minute each to hon. Mrs. Noor because she is feeling strongly about this, and to hon. Mr. Kimunya.

Mrs. Noor: Thank you, your Excellency. I want to take this chance to honestly thank all hon. Members who have contributed to this Motion. When I look back, I see history repeating itself. Impunity in North Eastern Province is the order of the day. It is the order of the day and it will continue. It is an unfortunate, unacceptable, unconstitutional and barbaric act that we will not accept in this era and at this time.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I also want to thank the Vice-President and Minister for Home Affairs for donating this one minute to me. I also join other hon. Members in condemning that act. I believe that whether done by a police officer or by a member of the public or by anyone, no Kenyan blood deserves to be spilt under any circumstances. Once we agree on that, it does not matter whether this happened in North Eastern, in Central Kenya, in Lunga Lunga or anywhere. No blood of a Kenyan should be spilt under any circumstances.

I would like to condemn that and, in the same breath, say that we should not be condemning the entire Police Force. As we walk out of here and go back to our homes, we are entrusting our lives to security officers attached to us and we trust them to take care of us and our families. We also trust them to take care of all other Kenyans. So, let us isolate a bad guy from the good guys and hope that we can create a bigger Kenya for all good policemen and citizens without the bad ones.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, in the remaining three minutes, I want to say that the Government takes a very serious view of this matter. I have seen that we are a bit

balanced over this matter. It is good to hear the other side of the story. As hon. Shebesh said, yes, an operation is underway. But it is an operation that has been ordered and everybody has been told to give it a human face. It is not an operation that involves an external country. As we speak, as much as we abhor the suffering of that chief, let us also recognize that we have also lost an administration police officer under similar circumstances - in fact in that operation. Another one was shot in the neck. Those are also Kenyans. The Government takes a very serious view of everybody's human rights.

Having said that, both the Minister and the Assistant Minister responsible for internal security are not with us. I was briefed by the Permanent Secretary and his team and I want to say that a full statement will have to be issued. However, let us recognize that this Parliament has boldly enacted the Organized Crimes Act. We need to educate our people on the full implications of operationalizing that particular Act. All the organized groups, including Mungiki, OLM and others, the moment we fully apply the provisions of that Act, there will be more screaming in this country. However, even if that has to happen, let us recognize that this country has started a new chapter and we cannot afford to be seen to be backsliding. So, let us give ourselves hope. This matter will be thoroughly investigated and the Minister responsible will issue a full statement.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, that concludes the business of the day. The House is, therefore, adjourned until tomorrow, Thursday, 11th November, 2010, at 2.30 p.m.

The House rose at 6.30 p.m.