

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 13th July, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following papers were laid on the Table:-

Report of the Joint Sitzings of the Committees of Public Accounts and the Departmental Committee on Health which were charged with investigation in the procurement of medical goods and equipment for the Ministry of Medical Services by a company known by the name of Dol International Limited and associated companies in the year 2006.

(By Dr. Khalwale)

The Second Quarterly Report for the year 2010 covering the period 1st April 2010 to 30th June, 2010 of the Kenya Anti-Corruption Commission.

(By the Attorney-General (Mr. Wako))

NOTICE OF MOTION

ADOPTION OF REPORT ON PROCUREMENT
OF MEDICAL GOODS AND EQUIPMENT BY
DOL INTERNATIONAL LIMITED

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

THAT, this House adopts the Report of the Joint Sitzings of the Public Accounts Committee and the Departmental Committee on Health to investigate the procurement of medical goods and equipment for the Ministry of Medical Services by Dol International Limited and associated companies in the year 2006.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Due to the fact that I was laying a report on the Table, I did not follow the Attorney-General very clearly. Is it true that he has laid copies of the Report by the Kenya Anti-Corruption Commission that was enquiring into the maize and Free Primary Education (FPE) scandals and if so, if you remember, you had given a particular directive?

Mr. Speaker: Mr. Attorney-General, just clarify what you have laid on the Table.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I know what the hon. Member is talking about.

Mr. Speaker: What have you laid on the Table this afternoon, Mr. Attorney-General?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I have laid on the Table a Report by the Kenya Anti- Corruption Commission. It is the second quarterly report for the year 2010 covering the period 1st April 2010 to 30th June, 2010.

As you know, we lay on the Table---

Mr. Speaker: Order, Mr. Attorney-General! Restrict yourself to that and leave it there.

QUESTIONS BY PRIVATE NOTICE

CIRCUMSTANCES SURROUNDING DEATH OF JOYCE GAKII

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

(a) What circumstances led to the death of Joyce Gakii, a Form III Student of Makuri Girls High School in Maara District?

(b) Could the Minister confirm whether there was negligence by the school administration, how long the girl was ill in school and how many times the Principal visited the girl in hospital?

(c) Who reported the admission to hospital and subsequent death to the parents and who from the school attended the student's funeral?

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

(a) The Joyce Gakii who is alleged to have died is not a student at Makuri Girls High School in Maara District. The student of Makuri Girls who died on 8th June, 2010 was Carolyn Ntinyari of Form 3N. The Ministry is saddened by the death of that young girl and a thorough investigation is being undertaken to establish whether there was negligence by the school administration. The Question will be appropriately answered after getting all the facts relating to her death on the ground. We need about two weeks to complete the investigations.

Mr. Ruteere: Mr. Speaker, Sir, this Question came here about a week ago. The Assistant Minister had a lot of time to do the investigations. When he seeks a further two weeks, I presume he is using delaying tactics. I will not mind if you give him two or three days but not two weeks.

Mr. Speaker: Mr. Assistant Minister, shall we allow you another week?

Mr. Mwatela: Mr. Speaker, Sir, first of all, I take the concerns of the hon. Member very seriously. Indeed, personally, I am very sorry about that matter. I really would like to get to the bottom of that issue. That involves getting to the ground, talking to the school administration and getting reports from the hospital. We cannot take for granted matters of that nature. That is a very serious matter. The deaths of our young people should not be taken for granted.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. In fact, this Question, as you may be aware, was here last week. I am surprised that the answer being given today is totally different from the one that was given last week. I have my own suspicions as to whether, indeed, what he wants to do is to conduct further investigations.

Last week, the Assistant Minister asked for more time up to today to produce the postmortem report which would form the basis as to whether there would be need for further investigations. He should not come and tell us that he needs more time to conduct further investigations when the issue was to lay on the Table the postmortem report, so that we know whether there is need for further investigations or a public enquiry under the Criminal Procedure Act. That is what he undertook to do this afternoon. Is it in order for him to detour from what he undertook in the House and seek more time, when we know that the circumstances under which that child died are very suspect? Personally, I have had an occasion to talk to the parents and I know that there is an absolute and compelling need for an inquiry under a district magistrate as provided for in the Criminal Procedure Code. What investigations will he carry out if he cannot even lay on the Table of the House the postmortem report?

Mr. Mwatela: Mr. Speaker, Sir, the necessity for more time has come about because I have instructed my officers to physically go to the ground.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The Assistant Minister is not telling me what he did with the postmortem reports. Where is the postmortem report, which he undertook to bring to this House today? He should not to request for more time to conduct further investigations. He should not tell us that he is concerned.

Mr. Speaker: Order, Member for Central Imenti. You have made your point. Do you remember your undertaking to the House? Do you?

Mr. Mwatela: Yes, Mr. Speaker, Sir. There was an undertaking by my colleague.

Mr. Speaker: And are you now departing from that undertaking? Why?

Mr. Mwatela: Mr. Speaker, Sir, I am because I have taken up the issue myself. I have instructed an officer to go to the ground and get this information. If you can agree---

Mr. Speaker: Order, Assistant Minister! You have made your point. I will defer this Question to Tuesday, next week at 2.30 p.m. Mr. Assistant Minister, please, go and re-acquaint yourself with the undertaking that you made to the House because I intend to revisit it on Tuesday and give directions accordingly. If you give an undertaking, you are bound by that undertaking until it is discharged. So, note!

Member for Baringo Central!

PATIENTS HANDLED MONTHLY AT MOI
TEACHING AND REFERRAL HOSPITAL

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

(a) Could the Minister give the number of patients that the Moi Teaching and Referral Hospital handles monthly?

(b) How many surgical theatres does the hospital have vis-à-vis the standard required?

(c) What is the Minister doing to improve the existing facilities of this hospital?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply.

(a) The Moi Teaching and Referral Hospital on average attends to 18,000 outpatients and 20,000 inpatients every month.

(b) The World Health Organization (WHO) standard for surgical theatres in large teaching hospitals is one theatre for every 50 inpatients. The Moi Teaching and Referral Hospital has ten theatres, which for a bed capacity of 710, gives a shortfall of 4 theatres. In spite of this shortfall, the hospital optimizes utilisation of these theatres to ensure that no surgical patient is delayed for surgery or turned away.

(c) The strategic direction of the health sector is to invest in primary and preventive health programmes to minimize the incidence of diseases and, therefore, the need for people to visit hospitals. Patients are then supposed to access specialized services in big hospitals like the Moi Teaching and Referral Hospital through an effective referral system, linking various levels of care and specialization. To enhance the capacity of the Moi Teaching and Referral Hospital to offer tertiary, namely, specialised services, the following improvements are planned to take place in the medium-term.

(i) Construction of a cancer treatment centre at a cost of Kshs945,815,000.

(ii) Establishment of the Moi Medical Research Centre in partnership with Moi University at a cost of Kshs170 million.

(iii) Construction of a 200-bed children's hospital at a cost of Kshs710 million.

Mr. Mwaita: Mr. Speaker, Sir, I wish to thank the Minister for the comprehensive answer, especially with regard to the planned programmes. However, he has stated that there is a shortfall of four theatres. I am aware at the hospital, patients who require critical surgery queue for a period of not less than 72 hours. What is the Minister doing to bridge this gap, given the fact that this is both a referral and a teaching facility?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member is correct. We are aware of this bottleneck at the Moi Teaching and Referral Hospital as a result of the shortage of theatres. It is because of this that we are planning to decongest the hospital by expanding Huruma Sub-District Hospital. A key reason why the Moi Teaching and Referral Hospital has a heavy workload is lack of a district hospital in the larger Uasin Gishu District. This not only stretches facilities at the hospital, but also visits upon patients a higher cost of treatment as fees at the Moi Teaching and Referral Hospital are a little bit much higher than those at district hospitals. As soon as we can get enough resources, we have already acquired additional four acres of land at the Huruma Sub-District Hospital. We shall definitely develop it, so that it can ease the pressure on the Moi Teaching and Referral Hospital.

Finally, we must congratulate the Chief Executive, Moi Teaching and Referral Hospital, Prof. Meng'ech, who with his team has done very well in trying to get development partners support in providing facilities at the Moi Teaching and Referral Hospital. I am currently working with both the Chief Executive and the Board to expand this support and not only ensure that Huruma Sub-District Hospital is properly developed, but the facilities that I have referred to earlier are also put in place in good time.

Dr. Khalwale: Mr. Speaker, Sir, may I also congratulate the doctors and nurses who work at this hospital. The pressure on this hospital is because it serves the vast area of the North Rift, Central Rift and the entire Western Province. So as to relieve this

pressure, what plans does the Minister have to fast-track the upgrading of the Provincial General Hospital, Kakamega, into a teaching and referral hospital attached to Masinde Muliro University?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am grateful to Dr. Khalwale for raising that issue. Indeed, several times, I have talked about improving the referral system in the nation. Recently, there was a very useful editorial in the Daily Nation on this issue for which I commend that particular newspaper. It has taken some time to have discussions with the relevant people and the institutions involved, but we have agreed on the terms of reference for a taskforce that will now help us to put in place a proper referral strategy, which will include, as Dr. Khalwale says, upgrading the provincial hospitals to referral facilities. It has taken time because we had to do a baseline survey, both quantitative and qualitative, to know exactly what exists in the facility that we have at the moment, so that when a referral strategy is put in place, we are talking from the point of view of proper information. The taskforce begins its work very soon. We have a new Budget. The constraints of the Budget may not make it possible for us to achieve all that we want. However, at least, we must begin upgrading these provincial Government hospitals into referral facilities.

Mr. Mbugua: Mr. Speaker, Sir, if you look at most health facilities, you will find that either they do not have qualified medical practitioners or there are no facilities to cater for the patients. What is the Minister doing to ensure that inpatients are catered for?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, we have a tremendous problem in this nation in that the doctor/patient ratio is, perhaps, one of the highest in the developing countries. Many patients go to hospitals and find that there are no doctors to attend to them within the requisite time. This is because either the specialists are not available or the specialists who are there are over-stretched. The City of Nairobi is very badly hit, first, because the architecture of medical facilities is all wrong. The City Council is supposed to own and operate clinics in the City, yet it is not capable of doing so. Most of these facilities, as the Member has stated, do not have enough specialists and equipment to function as such. Our proposal to the City Council of Nairobi and the Office of the Deputy Prime Minister and Ministry of Local Government is for these facilities to be handed over to the Ministry of Medical Services, because it is that Ministry which has the qualification and, indeed, the infrastructure to do so.

Regarding specialists in the medical sector, we know what the shortage is. We are in discussions with universities, both public and private, about this shortage. However, this is something that we will have to live with for some time. I believe that if, indeed, we want to meet the goals of Vision 2030, our Government must invest enough in the medical sector, one, for us to have the specialists and, two, for us to have the equipment and infrastructure to deliver effective medical services to our people.

Mr. Kiuna: Mr. Speaker, Sir, I would like the Minister to inform this House what measures he intends to take in Nakuru Provincial General Hospital where for any patient to be admitted, he or she has to bribe so that he or she can be admitted because it is full and there are no hospital beds. In some instances, three or four patients share a bed.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I agree with the hon. Member that we have many problems with Nakuru Provincial General Hospital. Not too long ago we had to completely reshuffle the personnel and deal with some of them in the department of pharmacy

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I listened to the hon. Member for Molo very carefully and the words he used were “the people have to bribe in order to be admitted”. Now, the Minister rises and says that he agrees with the hon. Member. Is he in order to admit and confirm that, indeed, to be admitted at the provincial general hospital, you must give a bribe?

Prof. Anyang’-Nyong’o: Mr. Speaker, Sir, what I said is that I do agree with the hon. Member that we have problems at the Nakuru Provincial General Hospital. I am not aware that you have to bribe but, indeed, if that is the allegation the hon. Member has made, it is very serious. It is incumbent upon me and my officers to investigate and establish the veracity of that allegation. I would not take it lightly and I would not think that an hon. Member would make a point frivolously. I, therefore, take him seriously and we shall, indeed, look into the issue as we have dealt with other problems in the general hospital in Nakuru. The bottom-line is that we must, first, invest effectively in these hospitals. Secondly, we must revamp the management and administration of hospitals so that we put people in position who are professionally qualified in administering hospitals. The current assumption that any doctor can become a manager or administrator of a hospital is wrong and outdated. Hospital administration is a special profession and we need to train and put in position of responsibility men and women who are professionally qualified to administer hospitals.

Mr. Speaker: Last question by the hon. Member for Baringo Central.

Mr. Mwaita: Mr. Speaker, Sir, now that the Minister has said that in the medium term he will construct a 200-bed children’s hospital, when will he avail these funds? Which financial year will he do that?

Mr. Speaker: Mr. Minister, when will you avail the funds?

Prof. Anyang’-Nyong’o: Mr. Speaker, Sir, I did mention earlier on that one of the problems we have in the Ministry of Medical of Services is a shortage of development funds. In other words, in the Budget, the Recurrent Budget may be available but the development aspect of the Budget is wanting in the Ministry of Medical Services. We try as much as possible to work with development partners in this capital development. All I can assure the hon. Member is that we shall continue to look for funds other than the Exchequer resources because from the last two years up to now, the Exchequer has not been very generous to the development of health infrastructure in this country. That is something that I have always appealed to the Parliament, particularly the Departmental Committee on Health, to take seriously so that we can jointly pressurise the Exchequer to realise that a healthy nation is a developing nation.

NON-FACILITATION OF VOLLEY BALL
TEAM FOR PERSONS WITH DISABILITIES

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I beg to ask the Minister for Youth Affairs and Sports the following Question by Private Notice.

(a) Could the Minister clarify why, the National Sitting Volley Ball Team for Persons with Disabilities has not received financial and other administrative support from the Ministry to travel to the USA on the 7th of July, 2010 despite having qualified to represent the country in World Championships, in Oklahoma USA?

(b) Is the Minister aware that failure to facilitate such travel is tantamount to perpetuating discrimination against persons with disabilities, contrary to Section 82 of the Constitution of Kenya?

(c) What urgent measures is the Minister taking to ensure that the members of the team are assisted to get visas and to attend the event, considering that failure to appear attracts a two-year ban and a fine of Ksh7,000,000?

The Minister for Youth Affairs and Sports (Prof. Sambili): Mr. Speaker, Sir, I beg to reply.

- (a) The National Sitting Volleyball team for person with disabilities was not able to be sponsored by the Ministry to travel to the United States of America (USA) on 7th July, 2010 due to lack of funds. The Federation submitted their budget for support to the Ministry on 7th May, 2010 which was towards the closure of the financial year and the Ministry had committed all the funds to other sports activities.
- (b) The Ministry is committed to the development of sports for all persons, including persons with disabilities. In this regard, the Sitting Volleyball Federation received 100 per cent financial support in the financial year, 2009/2010 to participate in the first open international cup of sitting volleyball in the great lakes region in Kigali, Rwanda. Secondly, the Ministry supported the Women Sitting Volleyball World Championship qualifiers in Nairobi and the sitting volleyball national championships held in Eldoret this year.

In addition, my Ministry supported the Kenya National Paralympics Committee, the body that manages the affairs of sportspersons with disabilities, to organise and participate in various local and international activities in the year 2009/2010. It also conducted three programmes for sports persons with disabilities. This shows how the Ministry is keen to support sports for persons with disabilities.

(c) The International Paralympics Committee, the body that manages the affairs of sports for persons with special needs at the international level has no rules and regulations banning and imposing fines on countries which fail to participate in championships. The Ministry will, however, discuss the issue with the World Organization of Volleyball for the disabled to ensure that such a ban or fine is not imposed on the team.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, in this country we have always treated the issue of persons with disabilities lightly. From the information that the Ministry has given, you can see that the Ministry actually prepared this team towards the international championships. When they finally qualified, the Ministry, acknowledged that it had less than Kshs10 million and asked them to source for Kshs2.3 million. What is stopping the Minister from asking the team to reduce the number because the games are still going on up to 21st July, 2010? The Minister can ask for a re-adjustment so that they play later. What is stopping the Ministry from asking them to reduce their numbers so that we do not perpetuate discrimination against persons with disabilities?

Prof. Sambili: Mr. Speaker, Sir, I want to confirm that the Government does not have bias against people with disabilities. During the last financial year the Ministry actually supported the preparation of this team. This particular Sitting Volleyball is a new sport and we supported many activities including six activities and three programmes. I said that the Kenya National Paralympic and Deaf Athletics Championships was supported as well as the International Paralympics Committee. But to be specific, I said

that this organization submitted the requests very late. If they can reduce the number of people going, and if we have the money for this financial year, which has not been received yet, we can consider but we have no bias against people with disabilities.

Mr. Koech: Thank you, Mr. Speaker, Sir. Listening to the Minister, I have noted with great concern that in athletics, there are proper structures right from the grassroots to the nationals. However, the paralympic participants have been relying on well wishers to participate at the grassroots and even at the national levels. This is a clear indication of discrimination against people with disabilities. What stopped the Minister from asking for well wishers to support this team so that they are not locked out? Could she even make appeals to well wishers?

Prof. Sambili: Mr. Speaker, Sir, I said that the Ministry has supported this team 100 percent. The National Sitting Volleyball Federation was registered only recently and the National team for men and women was given 100 percent financial support by the Ministry to prepare for participation in this particular competition. In February, 2010, we gave the team all the money that they needed; Kshs2 million. To show that the Ministry is committed, when this request came, we did not have enough money but we wrote letters to 50 organizations asking them to support the team; we made recommendations to 50 organizations to support this team but this request came late.

I confirm once again that we have no discrimination against the paralympic team. Actually, in 2008, we sponsored the team that did so well in Beijing Olympics. The Ministry supported them fully. So we do not have any discrimination against this team or any other team.

Mr. Olago: Mr. Speaker, Sir, the answer by the Minister is so full of contradictions that the only conclusion the House can draw is that the Ministry is perpetuating discrimination against persons with disabilities. Part “c” of the question by Mrs. Odhiambo-Mabona asks: “what steps is the Ministry taking to ensure that failure to appear will not attract any penalty of Kshs7 million”? The answer the Minister has given is that the National Paralympics Committee has no rules or regulations banning or imposing fines to countries which fail to participate. In the next sentence, the Minister says that the Ministry will discuss the issue with the World Organisation of Volleyball for the Disabled to ensure that a ban or fine is not imposed. How is it possible then that, in one way, the Ministry is saying there are no rules or regulations for imposing penalties and in the next sentence, they are saying they are going to discuss with the world body to ensure that no penalty is imposed? This is a clear contradiction. How do you reconcile that?

Prof. Sambili: Mr. Speaker, Sir, we have clearly said that the international body that organizes sports for people with disabilities does not have rules that actually require countries that do not participate to be fined. What we are saying there is that we will find out why this issue of Kshs7 million that the hon. Member has said will be imposed against our team. So there is no contradiction because we are saying there are no rules like that but we will get to the bottom of the matter. We do not understand where this penalty of Kshs7 million came from. So there is no contradiction, hon. Olago.

Mrs. Odhiambo-Mabona: There are members of this national team who have been in this city for the last week from all over the country; Eldoret, Mombasa and elsewhere. They have been waiting for the Minister to intervene so that they can travel. They are doing a lot of preparations and planning on their own. Can the Minister, please,

assure us that they can go to her office so that her office can facilitate them to get credit facilities for their air tickets and the things that can be done here, so that the only balance that they need to give them in cash is Kshs2.3 million for their accommodation?

Prof. Sambili: Mr. Speaker, Sir, I want to confirm here that if this team is in Nairobi, they have not come to my office. I am aware that about a week ago, there were media reports---

Mr. Speaker: Order! Minister, just try and stick to the question. Can you confirm if they are free to come to your office so that you assist them?

Prof. Sambili: I can confirm here because I want to support this team. Let them come to my office so that we can discuss.

Mr. Speaker: Okay, fair enough!

Next Question!

CIRCUMSTANCES SURROUNDING KILLING OF FRANCIS GATHOGO KARIUKI

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

(a) What were the circumstances surrounding the killing of Mr. Francis Gathogo Kariuki by a Police Constable, Francis Sang, attached to Mau Narok Police Station on 30th May, 2010 in Sururu Forest?

(b) Could the Minister clarify why the five armed police officers; namely Cpl. Evans Yegon, PC Paul Rotich, PC Milton Biket, PC Charles Langat and PC Francis Sang failed to arrest an unarmed man but shot him to death elsewhere and dumped his body in the forest?

(c) Will the Government compensate the next of kin for the death?

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

(a) On 30th April, 2010, police officers from Mau Narok Police Station received a report from one corporal Evans Yegon, who is a forest ranger, that there was shooting at Sururu Forest and requested the police to visit the scene. Immediately, police officers from Mau Narok Police Station under the Command of Chief Inspector Richard Siele, the OCS Mau Narok, visited the scene accompanied by Scenes of crime support services personnel. On arrival at the scene, it was established that the following five forest rangers were on duty within Sururu Forest; Corporal Evans Yegon was armed with Mark 4 rifle serial No. 168799 loaded with three rounds of 0.303 calibre ammunition, forest ranger Peter Rotich was armed with a G3 rifle serial No. J40628 with 19 rounds caliber 7.62mm ammunition and forest ranger Charles Sang was also armed with a G3 rifle serial No. J40559 loaded with 20 rounds of calibre 7.62mm ammunition.

Mr. Speaker, Sir, serial No.20020242121, Forest ranger Milton Biketi was unarmed, Number 94002688, forest ranger Kipkoech was also unarmed. During their patrol, they came across a suspect who had felled a podo tree and was in the process of preparing to burn charcoal when he was challenged to surrender. The suspect who was armed with a panga charged at the rangers and slashed forest ranger Milton Biketi Namasake, sustaining a deep cut on the palm of the left hand. He cried out for help while at the same time struggling with the suspect to free himself.

Forest Ranger, Mr. Sang', who was trailing his colleague noticed that Milton Biketi Namasake had been pinned down and the suspect was still attacking him with a *panga*. He challenged him to let go his colleague and surrender. The suspect refused to heed the warning and the Forest Ranger, Mr. Charles Sang' shot at him twice to save Forest Ranger, Milton Biketi Namasake, killing the attacker Mr. Francis Gathogo instantly. Charles Sang' was arrested and is now helping the police with investigations.

Mr. Speaker, Sir, other forest rangers went to the scene, called the police and administered first aid to the injured ranger. Scene of Crime personnel took photographs before the body was taken to Nakuru Municipal Mortuary and the ranger taken to hospital.

(b) The officers involved were not police officers but forest rangers attached to Sururu Forest Station. Secondly, the deceased, Francis Gathogo, armed with a *panga* had attacked and seriously injured a forest ranger, Milton Biketi Namasake. The body was not dumped as alleged. It was not moved from the scene until the police arrived and took photographs at the scene. The body was moved to Nakuru Municipal Mortuary where the postmortem was later conducted.

(c) An inquest file No.3/210 was opened and forwarded to the Chief Magistrate Court Nakuru for public inquest. Consequently, the family of the deceased can move to court to seek compensation.

Thank you.

Mr. Kiuna: Mr. Speaker, Sir, I am not satisfied with the answer that I have been given by the Assistant Minister. This is because the forest rangers were patrolling the forest and this young man was grazing next to the forest. How he was caught by the game rangers and taken to the forest is a mystery.

Secondly, the Assistant Minister has said that this young man defied orders to surrender yet he was not armed. He has said that he slashed one of the officers. Could the Assistant Minister table any evidence in this House to prove that this harmless young man was armed? If that police officer---

Mr. Speaker: Order, Member for Molo! It is Question Time. Ask a supplementary question! You can debate or give opinions another time.

Mr. Kiuna: Mr. Speaker, Sir, could the Assistant Minister Table evidence to prove that this gentleman was armed and that he slashed a police officer?

Mr. Ojode: Mr. Speaker, Sir, from the investigations report, we have evidence that Mr. Gathongo was armed with a *panga*. He was found by the rangers cutting a tree for purposes of making charcoal. When he was asked to surrender, he refused and started beating one of the rangers. Later on, Mr. Sang' came to the aid of his colleague and in the process, Mr. Gathogo was shot dead.

Mr. Speaker, Sir, Mr. Sang went to Nakuru Hospital but I do not have the charge sheet, neither do I have the hospital sheet to prove that he was actually slashed with a *panga*. In the event that my colleague wants some proof, I am ready to avail the proof to him to check whether they actually went to hospital, were treated and discharged.

Mr. Kiuna: On a point of order, Mr. Speaker, Sir. Could the Assistant Minister clarify to this House whether that young man was burning charcoal---

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

Mr. Mututho: Mr. Speaker, Sir, could the Assistant Minister explain whether it was impossible to shoot that man on the leg instead of shooting to kill when there were five armed men against one man with a *panga*?

Mr. Ojode: Mr. Speaker, Sir, the investigation report says that the fellow was using a *panga* to kill the forester and his colleague came to rescue him. In the circumstances, the forest ranger was defending himself.

Mr. Kathuri: Mr. Speaker, Sir, from the explanation given by the Assistant Minister, it sounds as if there is a cover-up. Could he explain how a tree meant for burning charcoal can be cut using a *panga*? Were there any other items he was using which could have been used as evidence or this is just a cover-up to prove that the police were innocent?

Mr. Ojode: Mr. Speaker, Sir, I did not say that they used a *panga* to cut a tree. I said the person had a *panga* which he was using to fight the forest ranger.

Mr. Kiuna: Mr. Speaker, Sir, I would like the Assistant Minister to inform the House when exactly he will bring enough evidence to prove that those police officers were harmed by that young man.

Mr. Ojode: Mr. Speaker, Sir, I am on record for having said that the police officer who was attacked was taken to Nakuru Provincial Hospital and there is evidence to that effect. In any case, I can avail the evidence to the hon. Member, if he so wishes.

Mr. Speaker: Next Question by the Member for Laisamis!

ORAL ANSWERS TO QUESTIONS

Question No.020

LONG-TERM POLICY ON LESS FORTUNATE MEMBERS OF SOCIETY

Mr. Lekuton asked the Minister for Gender, Children and Social Development:-
(a) what the Government is currently doing to encourage businesses and individuals to support the less fortunate members of the society; and,
(b) what the long-term policies to encourage businesses and individuals to increase contributions to charity are.

The Minister for Gender, Children and Social Development (Ms. Murugi):
Mr. Speaker, Sir, I beg to reply.

(a) The Government at the moment does not have any law or policy that requires or encourages businessmen and individuals to support the less fortunate members of the society. This means that support to vulnerable sections by individuals or corporate organizations whether in kind, cash or services is voluntary and is at the discretion of such philanthropic donors, some of whom have well established corporate social responsibility programmes and they also give generously in harambees.

(b) If there are any long-term policies, I believe this will be through the Ministry of Finance because it will have a financial angle to it.

Mr. Lekuton: Mr. Speaker, Sir, this is a capitalist society and people become very rich through companies. The rest of the world encourages businesses to give to the poor by giving them tax breaks. I know the Minister is not the Minister for Finance but I

am sure she could have an idea. Why can our Government not encourage our people to give to the poor by giving them small tax breaks like the rest of the world?

Ms. Murugi: Mr. Speaker, Sir, as far as I know, there is no policy as we speak today. But there is a big movement right now over the world and the Commonwealth is encouraging philanthropic ideas so that business communities can give. But like I have said, business communities are already giving and once you approach them, they give generously. But there is no policy as we speak today. But they help when they are called upon to do so.

Mr. Abdirahman: Mr. Speaker, Sir, one big problem with this Government is that it totally operates in an isolated way. That is not the responsibility of the Ministry of Finance alone. This particular Ministry of Gender, Children and Social Development has such programmes as the Orphaned and Vulnerable Children (OVC). They can, in the same way, design appropriate strategies and policies to get businessmen and individuals to contribute to the welfare of Kenyans. Why can the Ministry not do that?

Ms. Murugi: Mr. Speaker, Sir, like I have said, as and when we have a need, we go to specific individuals and they come to our aid. But I have said that we do not have a policy. But when there is a need, we go to them and we are assisted. For instance, when we require sanitary pads, we get a lot of them. When we had issues of rape and some problems in Naivasha, many well-wishers came on board. So, as and when required, the business community comes on hand.

Mr. Abdirahman: On a point of order, Mr. Speaker, Sir. I am talking about long term development initiatives. I am not talking about *ad hoc* initiatives. Is the Minister in order not to answer the question about the long term solutions?

Mr. Speaker: Ms. Murugi, do you have any plans for the long term?

Ms. Murugi: Mr. Speaker, Sir, I guess we can look at it.

Mr. Mbadi: Mr. Speaker, Sir, first of all, I would have wished that the Minister takes this matter seriously because---

Mr. Speaker: Order, Mr. Mbadi! Ask your question!

Mr. Mbadi: Mr. Speaker, Sir, the Minister needs to be more proactive and tell us, as a country, what she is going to do to come up with policies that are going to encourage that noble cause and not evade the questions by saying: "If". She does not see the need! I am shocked that the Minister, whom I thought could see the need before all of us, is not seeing the need. So, could she tell us exactly what she is going to do to encourage that noble cause?

Ms. Murugi: Mr. Speaker, Sir, policies are not made overnight. I guess we are going to look into it. I have already said that the Commonwealth is already steering member countries into that direction and we shall take it on board.

Mr. Lekuton: Mr. Speaker, Sir, the Commonwealth countries adopted that issue almost 56 years ago. So, there is nothing new in that aspect. My question to the Minister is this: We have many wealthy people and companies in this country. They are willing to give and so, we do not have to go and beg. We just need to give them an incentive! Could she undertake to this House that, as a Ministry, they will go and look very critically on how the poor could be helped? They should liaise with the Ministry of Finance to see how they can tap the great wealth of this country?

Ms. Murugi: Mr. Speaker, Sir, I think we have already been tapping into that. If you look at the Gates and Melissa Foundation, they are already giving very generously. I

think that is just one of them. So, we need to have specific programmes so that we can go to the business community for assistance. But we need to have specific policies.

Question No. 199

LIST OF RETIRED/DEAD KISUMU MUNICIPAL
COUNCIL STAFF FROM 2000

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

(a) whether he could table a complete list of names of staff of Kisumu Municipal Council who have either retired or died from the year 2000, but whose pensions or death benefits have not been paid or paid partially, showing dates of retirement/death and amounts owed as at today;

(b) who administers the pensions, retirement funds benefits and death benefits for the Kisumu Municipal Council; and,

(c) what steps the Ministry is taking to assist and encourage the Council to make those payments without undue delay and to ensure that pension and retirement funds are administered?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) As stated in my reply on 1st July, 2010---

Mr. Olago: On a point of order, Mr. Speaker, Sir. Last week, I had asked for certain details from the Minister and this afternoon, I got the details showing that funds have been deposited with the NSSF, LAP Trust, LAFPRO Fund and Public Trustee. There are a lot of figures and pages here. I need time to interrogate this fully because there are retirees of the council who say that their funds have not been remitted to those funds and I need to find out before the Question is answered.

Mr. Speaker: Are you happy with two days so that we can defer it to Thursday afternoon?

Mr. Olago: That will suit me, Mr. Speaker, Sir.

Mr. Speaker: So, Thursday at 2.30 p.m. Mr. Nguyai, please be available on Thursday at 2.30 p.m.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I will be available but I hope he would have looked and then we could have a meeting in the office where we could---

Mr. Speaker: Order, Mr. Nguyai! You should have supplied the figures a lot earlier than you have done. So, 2.30 p.m. on Thursday!

(Question deferred)

(Applause)

Next Question, Dr. Otichilo!

Question No.063

NON-PAYMENT OF ALLOWANCES TO MEMBERS
OF LAND DISPUTES TRIBUNAL

Mr. Speaker: Dr. Otichilo is not here? The Question is dropped.

(Question dropped)

Question No.129

EXPANSION OF PUBLIC BEACHES IN MOMBASA

Mr. Mututho asked the Minister for Lands:-

- (a) whether he could consider the expansion of public beaches in Mombasa through compulsory land acquisition, as the only public beach – Kenyatta Beach -is dangerously congested; and,
- (b) when the Ministry will also open all the 18 public beaches in Lake Naivasha?

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

(a) My Ministry is aware that there is need to provide more land for public beaches in Mombasa, but it cannot undertake compulsory acquisition of land due to unavailability of funds. The Ministry has not been provided with any budgetary allocation for acquisition of land for public beaches. However, if the Mombasa Municipal Council can avail the funds, the Ministry will assist in compulsory acquisition of the required land.

(b) The issue of opening all the 18 public beaches in Lake Naivasha has not been brought to the attention of the Ministry. However, the mandate or the responsibility of opening public beaches vests in the local authority - that is Naivasha Municipal Council - which has enforcement powers under the Local Government Act, Cap.265.

Mr. Mututho: Mr. Speaker, Sir, there is one very popular beach called Kenyatta Beach in Mombasa, which is a health hazard. There is another one which is muddy and contaminated in Naivasha called Karagita. Could the Assistant Minister do something very urgently to, at least, acquire or expand the existing clumsy beaches for now, so that Kenyans' lives are not at risk because of those messy beaches?

Mr. Bifwoli: Mr. Speaker, Sir, as I have told the hon. Member, our Ministry cannot acquire land by force from anybody. But if the beach is owned by the Government and it is congested and poses a health hazard, then it falls under the Ministry of Public Health. It has a campaign called *Bora Afya* and it is the one to do that!

Mr. Yakub: Mr. Speaker, Sir, last year, the Assistant Minister was here and informed the House that among the plots surrounding Kenyatta Beach, there were several plots which were returned to the Ministry. Could he tell us what happened to those plots surrounding Kenyatta Beach? That is because he told us that they had seized them.

Mr. Bifwoli: Mr. Speaker, Sir, my memory serves me very well and I do not remember saying that there are plots surrounding Kenyatta Beach unless he furnishes me with the information. Maybe, it will jog my memory. I remember I have never said that!

Mr. Abdirahman: Mr. Speaker, Sir, I think we have heard the Assistant Minister right. He has said that the Ministry cannot acquire land by force. I am surprised because it is like they are reneging on the promise they made to Kenyans. They had told the people that they will bring back the land that was irregularly acquired. But this afternoon, he has said that he does not have any power. Could he confirm that he is not able to pursue what the Government had promised Kenyans?

Mr. Bifwoli: Mr. Speaker, Sir, compulsory acquisition is about property which a person got legally. But the Ministry is repossessing public land that was acquired illegally.

Mr. Njuguna: Mr. Speaker, Sir, I would like the Assistant Minister to remember that land grabbing in this country is a real threat. School land and even road reserves have been affected. What is the Ministry doing to make sure that Kenyatta Beach is protected and will not be grabbed the way other properties have been grabbed?

Mr. Bifwoli: Mr. Speaker, Sir, I can confirm that Kenyatta Beach will never be grabbed. But we cannot expand it because it is surrounded by private land. If the hon. Member has information regarding any land for a school or public land that was grabbed, and he has documentary evidence to prove that fact to my Ministry today, we will revoke that allocation.

Mr. Mututho: Mr. Speaker, Sir, could the Assistant Minister show us any item in the Budget intended for compulsory acquisition of those pieces of land or for expansion of those beaches that was rejected by the Treasury?

Mr. Bifwoli: Mr. Speaker, Sir, as I said earlier, we have never received any request that we acquire through compulsory methods. That is why we have not requested the Treasury to give us money to acquire land compulsorily.

Mr. Speaker: Member for Naivasha, that is a good answer and it makes sense in law.

Next Question!

Question No. 076

ANNUAL BUDGET ALLOCATION TO
MARSABIT NORTH DISTRICT

Mr. Chachu asked the Minister of State for Immigration and Registration of Persons:-

- (a) what has been the Ministry's annual budget allocation to Marsabit North District in the last three years; and,
- (b) what specific steps the Ministry will take to enhance registration of persons in the vast and remote district, taking into account the poor transport infrastructure in the whole of upper eastern region.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang'): Mr. Speaker, Sir, I beg to reply.

- (a) The total budgetary allocation to the three districts carved out of the former Marsabit District for the last three years is as follows: in 2006/07 on national registration of persons – Kshs1.5 million; on civil registration – Kshs1.360 million. This gives a total of Kshs2.860 million.

In 2007/08 Financial Year a similar amount of Kshs1.5 million for registration of persons and Kshs1.571 million for civil registration, giving a total of Kshs3,071,254. In 2008/09 a similar amount Kshs1.5 million for registration of persons and for civil registration, Kshs1.360 million giving a total of Kshs2.860 million.

In the last financial year, 2009/10, the budget was reduced by almost a half to Kshs765,000 for registration of persons; the amount for civil registration was also reduced to Kshs1 million. So, there was a total allocation of Kshs1.765 million.

(b) The Ministry will take the following steps to enhance registration of persons in Marsabit North District:

- (i) post registration officers as soon as the Public Service Commission recruits or promotes an officer from within the service in that position as a Registrar;
- (ii) avail adequate registration material and equipment;
- (iii) conduct awareness campaigns in the district for registration; and,
- (iv) conduct mobile registration if funds are available in the Financial Year, 2010/2011.

Mr. Chachu: Mr. Speaker, Sir, identification cards (IDs) and birth certificates are vital documents. You need them to secure employment transact business, vote and register for a national examination like the Kenya Certificate of Primary Education. My constituency, North Horr, is as large as four provinces put together. The diameter from one corner to the other is over 800 kilometres. Somebody from Iliret, one of my centres, has to travel for 600 kilometres just to secure an ID card, which is centralized at Marsabit Town. What will the Minister do to ensure that people living in certain vast districts are provided with enough support, so that they can get these IDs wherever they live in those vast regions? What will the Minister do specifically to facilitate his officers to ensure that they deliver these services to our people?

Mr. Kajwang: Mr. Speaker, Sir, I understand the feelings of the hon. Member. We have discussed this outside the House before. We have requested the Public Service Commission (PSC) to allow us to recruit additional staff, because we are really constrained. We have also asked the Treasury to provide money for more vehicles, so that we can give vehicles to areas which really need them to connect to different townships and villages. Unfortunately, so far we have not got approval for additional officers, but I hope we will get it very soon.

We got some money for materials and equipment this financial year. That is not a serious constraint. The real serious constraint is under-staffing and mobility. I can assure the hon. Member that immediately we get approval for new officers and vehicles, the areas that need them more will be the first ones to be considered. I can assure the hon. Member that the former Marsabit District will benefit.

Mr. Chepkitony: Mr. Speaker, Sir, of the amount allocated to the district, could the Minister give a breakdown as to how much goes to vehicle maintenance and running of the vehicles? How much is for the equipment and so forth?

Mr. Kajwang: Mr. Speaker, Sir, I am sorry I do not have those details with me, but I can say that the amount of money given for maintenance of vehicles is inadequate across all the Ministries, but is much more inadequate for departments that deal with matters that require that we move on a day to day basis to register people in locations and villages. We only get Kshs10,000 a year for fuel, and that is extremely inadequate. In fact, I do not think it can even take the vehicle for service. Maybe the hon. Member can

help us inform the Treasury that this kind of money is not helpful in supporting the job that we have to do.

Mr. Lekuton: Mr. Speaker, Sir, I would like to thank the Minister for a job well done in his Ministry, but I have one question for him. We have some very incompetent officers in some parts of this country, and specifically in Laisamis. We have a lot of waiting cards for the last three years; some of the mistakes on them are made with a purpose. So, a person cannot get an ID card using those forms back in Laisamis. What will the Minister do to make sure that the officers who discriminate against people on the basis of their values and beliefs will be punished accordingly?

Mr. Kajwang: Mr. Speaker, Sir, it has never come to my attention that there are some officers who actually make mistakes deliberately, so that they deny people access to these very important documents.

If you suspect anything like that, please, write to me. I will investigate and deal with it. But I also know that there are many officers who actually make mistakes because they are incompetent. We have a whole floor in the Department of National Registration where we have young people whose jobs is to check whether the forms were filled in correctly; whether the photograph was taken correctly, whether the chief signed, whether the applicant signed and whether the thumbprint was taken properly. This is a duplication of work. I have told them that there is no need for somebody being a Registrar in a district and bring forms to the headquarters which have glaring mistakes. If he does so, then he is not competent enough to hold the office of a Registrar. So, we are holding Registrars now culpable. We have told them that if they bring us forms which have mistakes that show that they are incompetent, we will take disciplinary action against them. But, please, if you suspect that there is somebody who has done so deliberately, write to us.

Mr. Chachu: Mr. Speaker, Sir, I know the Minister means well. He mentioned that this year they will conduct a mobile programme where officers will issue identity cards to our people.

Mr. Speaker, Sir, with a budget of Kshs3,500 per month and without a vehicle, how will his officers in Marsabit North District undertake this programme?

Mr. Kajwang: Mr. Speaker, Sir, I said that we have constraints with the budget, especially on fuel, maintenance and allowances for officers when they go for mobile registration.

We have asked the Treasury to give us money, so that we can actually increase our presence, especially as we approach the next general election, so that every Kenyan who has reached the age of 18 can have an opportunity to register. I think we are getting good response from the Treasury. I can assure you that you will see me in Marsabit soon doing some mobile registration.

Question No. 224

PROGRESS OF DISCUSSIONS ON USE OF COAL
IN DRYING TEA LEAVES

Mr. Maina Kamau asked the Minister for Agriculture:-

(a) what the progress of the discussion between the Ministry of Agriculture and the Ministry of Energy is on the use of the recently discovered coal as an alternative in drying tea leaves; and,

(b) what the progress made on the initiative of value addition by processing tea, marketing and products' diversification launched in Kangaita is and when the same initiative will be extended to Nduti Tea Factory in Kandara.

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

(a) Consultations between the Ministry of Agriculture and that of Energy on the use of coal as alternative in drying tea leaves have not been initiated because no mining of coal has yet been done.

(b) The tea value addition initiatives launched at Kangaita are still at pilot stage. They will be rolled out to other factories, including Nduti, once reliable markets for the products have been indentified.

Mr. Maina Kamau: Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given, but could he tell this House what has hindered production of coal? Sometimes last year around 8th of September, he told us that there were deposits in Ukambani area. What has happened since then?

Mr. Ndambuki: Mr. Speaker, Sir, it is true that coal has been found in Mwingi District, but they have not started exploiting it. What has been done is that an inter-ministerial committee has been formed. They intend to start concessioning and bidding in September, 2010 according to the Ministry of Energy. I table a letter from the Ministry of Energy.

(Mr. Ndambuki laid the document on the Table)

Mr. Speaker: Anybody interested! Member for Kandara last question.

Mr. Maina Kamau: Mr. Speaker, Sir, value addition means more income to the farmer. The Assistant Minister has just told us that they have only rolled it out at Kangaita. How come they have taken so long to go to Nduti in Kandara?

Mr. Ndambuki: Mr. Speaker, Sir, first of all, we are looking for the market whereby all the factories could use this value addition. What is being produced in Kangaita is black orthodox tea, green orthodox tea, white tea and purple tea. Once this pilot study is finalised, it will be rolled over to all factories in the area.

Question No.214

PROGRESS ON SOCIAL RESPONSIBILITY PROGRAMMES
BY TURKWELL HYDRO-POWER PROJECT

Mr. Murgor asked the Minister for Energy:-

(a) what progress the Turkwell Hydro-power project has made towards realization of its promise of benefiting the local residents through social responsibility programmes; and,

(b) whether he could inform the House when the organization will fulfill the promises.

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, I beg to reply.

(a) Turkwell Hydro-Power Project is owned by the Kenya Electricity Generating Company Limited (KenGen), a parastatal under the Ministry of Energy. This company is committed to building good relationship with all communities surrounding her projects, including those around Turkwell Power Station, for mutual co-existence and the fulfilment of her corporate social responsibility. In particular, the company has carried a number of corporate social responsibility projects for communities in the Turkwell area, some of which are going on. These projects are key sectors such as education, energy, transport, employment and include the following:-

(i) On education, the company grants scholarship to four local students every year; two for secondary schools and two for university education. These have run for the last five years and have benefited 20 students from the area. The pupils from the community are also admitted to primary schools which have been built by the company. The company has also completed a staff room and administration block for Litein Primary School at a cost of Kshs800,000.

(ii) On electricity, the company supplies Litein Primary School with electric power. In addition, it has contributed Kshs17 million towards the supply of electricity to Kainuk Market, whose total cost was Kshs31 million. The balance of the Kshs31 million was contributed by my Ministry under the Rural Electrification Programme Budget.

(iii) The company is also supportive of the community transport needs. It provides weekly commuter services to Kitale for shopping by the members of the community. In addition, emergency transport is provided for the sick to the nearest hospitals in Ortum, Kapenguria or Kitale. Additionally, the company transports relief food for local and school feeding programme and cumulative transport cost per year is to the tune of Kshs300,000.

(iv) The company also provides both casual and permanent employment to the local people within the Turkwell plant. We have about ten permanent employees from the area and about 200 seasonal casuals.

(b) KenGen has already fulfilled its promise to the local communities in the neighborhood of Turkwell as mentioned above. The company will continue to collaborate with the local communities to ensure that they benefit from the company's activities in the area.

Mr. Murgor: Mr. Speaker, Sir, what the Minister has said is actually not true. For example, if what he has said about education or scholarships is true, we should have had ten students from West Pokot graduating in our universities now. However, there is none. I am yet to be told of one. With regard to the construction of classrooms, what is Kshs800,000 compared to what KenGen gets? I know that the classroom they purport to have built had its foundation raised by Red Cross. What the Minister has said has no specifics at all.

Mr. Speaker: Order, Mr. Murgor! The Minister has given you an answer. If you are not satisfied with the answer then you must interrogate it further by asking specific questions. Can you ask one such question?

Mr. Murgor: Could the Minister name a student who has graduated from any university from Pokot?

Mr. Murungi: Mr. Speaker, Sir, the information I have from the company and I spoke to the Managing Director today before I came to Parliament, is that the company

grants scholarships to four local students every year. That is two for secondary school and two for university education. This has run for the last five years and has benefitted 20 students. I do not have the names of the secondary schools or universities these students have attended. However, I can provide this information to the Member of Parliament if requested.

Mr. Litole: Mr. Speaker, Sir, I want to thank the Minister for answering this Question. Unfortunately, this is a very sad day for the Pokot. A lot of anomalies were done. Unfortunately, I cannot ask more than one question, but if I can build my question, there is an area of 40 kilometres where the dam is now situated and the Pokot in that area have not benefitted. Now these are some of the---

Mr. Speaker: Order, hon. Member! I have previously given directions that we do not refer to Kenyans by tribes. If you want to talk about the local community which is 40 kilometres away from Turkwell, say so. However, let us not go into tribes.

Mr. Litole: Those are the people living in the area, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Litole!

Mr. Litole: Thank you, Mr. Speaker, Sir. I take your advice well. These are historical injustices that have been meted to the people of the area. That is why I am saying that the Proposed Constitution should be passed today so that those historical injustices are addressed. The Minister has talked about permanent staff. How many permanent staff are from the area and what ranks do they hold?

Mr. Murungi: Mr. Speaker, Sir, I stated very clearly that we have ten permanent employees from that area. We also have 200 seasonal casual labourers from that area who work in that plant. Again, I do not have the names of either the casual workers or the ten permanent employees, but I got this information from the company. We are ready to give these names if requested.

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. Since the Minister does not have a proper answer to this Question, could it be deferred to a later date so that he can come with proper names and details of the people who have benefitted from this scheme?

Mr. Speaker: Order, the Member for Nyakach! The Minister has given an answer. If you are talking about the Minister not having names, that would be different matter. However, the fact that he does not have names does not make the answer improper. Are you asking that the Question be deferred for the Minister to furnish names?

Mr. Ochieng: So, that the Minister can bring those names the Members are asking for, Mr. Speaker, Sir.

Mr. Speaker: Then say so clearly.

Mr. Murungi: Mr. Speaker, Sir, I have answered the Question as asked. It was not asked about names but about the progress the Turkwell Hydro-power Project has made towards realization of its promise of benefitting the local residents through social responsibility programmes.

Mr. Speaker: Mr. Minister, you have made your point. The Question as asked is properly answered up to that point.

Mr. Chepkitony: Mr. Speaker, Sir, when the hydro-power project was built, it was a multi-purpose project. What has KenGen done to assist promote irrigated agriculture below the dam?

Mr. Murungi: Mr. Speaker, Sir, I visited Turkwell about two years ago and that issue was raised by the residents when we visited the plant. The irrigation component was not to be carried out by KenGen, but it was to be done by the Government of Kenya. KenGen does not have the ability neither does it have in its programme the construction of any irrigation projects around Turkwell Dam.

Mr. Litole: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mr. Litole. Yes, Mr. Murgor!

Mr. Murgor: Mr. Speaker, Sir, I am not satisfied by the answer given by the Minister. When will KenGen supply power to Turkwell? He should not talk about Kainuk because it is almost 40 kilometres away as opposed to. Turkwell, where this plant is located. When will the Ministry or this company supply power to Turkwell?

Mr. Murungi: Mr. Speaker, Sir, what the Member of Parliament is concerned about is my business. The Ministry has a programme to supply power to all urban centres in this country, secondary schools and other public institutions. We supplied power to Kainuk upon the request of Kainuk residents. If there is, indeed, no power in Turkwell, then the Member of Parliament should, through the usual programme that we have, apply for the supply of power to that township and we will supply it.

Mr. Speaker: Mr. Minister, could you confirm to the house that you will make names available to the hon. Members away from the House so that they are satisfied that the community has benefitted?

Mr. Murungi: Mr. Speaker, Sir, I undertake that I will supply the names to the Member of Parliament, maybe, through correspondence.

Mr. Speaker: Please do so.

Let us move on to the Question by the Member for Wajir South!

Question No. 220

DISMISSAL OF ABDISIRAT BUNDID
DAAR FROM POLICE FORCE

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

(a) why Abdisirat Bundid Daar, P/No. 63597 a police officer (CID Department) based at Thika Police Station was dismissed from the police force; and,

(b) what steps the Minister will take to re-instate him to the force considering that he had served for a period of 19 years and seven (7) months with a clean record of service.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, we had supplied the reply to the Clerk's Office this morning.

Mr. Speaker: The hon. Member does not have it. If you have an extra copy, can you give it to him and then he will indicate if he wants more time to interrogate the answer or proceed now?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I can get a copy of this.

Mr. Speaker: Mr. Abdirahman, are you able to proceed without the written answer?

Mr. Abdirahman: Mr. Speaker, Sir, I will have to have the answer. If it can be brought immediately, I can allow him to proceed.

Mr. Speaker: Can we defer it to tomorrow afternoon at 2.30 p.m. since the answer is already here?

Mr. Abdirahman: Mr. Speaker, Sir, if it can be provided immediately---

Mr. Speaker: The Question is deferred to tomorrow at 2.30 p.m. Mr. Assistant Minister, please, make the copy of the answer available to the hon. Member.

(Question deferred)

Question No.258

CIRCUMSTANCES SURROUNDING DEATHS OF SIMON
NDUNG’U AND HIS WIFE IN KWANJUI VILLAGE

Mr. Speaker: Is the Member for Gatundu North not here? The Question is dropped.

(Question dropped)

Question No.247

REVIEW OF DIRECTIVE ON
LOGGING IN KENYA

Mr. Speaker: Is the Member for Eldoret South not here? The Question is dropped.

(Question dropped)

Question No.263

LEGISLATION TO TAME ERRANT PROPERTY
PRICING TRENDS

Mr. Speaker: Is the Member for Butula also not here? The Question is dropped.

(Question dropped)

The Minister for Housing (Mr. Shitanda): On a point of order, Mr. Speaker, Sir. The Member for Butula had asked this Question in the last Session. When it was listed for answering, he was not in the House. He came and refiled the Question and now it has appeared and, again, he is not here. I would want to get direction from the Chair. I am

sure he will come and re-file the Question again only to disappear when it comes up for answering.

Mr. Speaker: Very well! That is a genuine concern, hon. Minister. It is disorderly conduct for a Member to fail to ask a Question when it appears on the Order Paper. So, I find the Member for Butula to be guilty of disorderly conduct. I will want to hear an explanation from him within the next seven days, whereafter we shall take further action as the Standing Orders permit. So, the Question will not reappear on the Order Paper until that is done.

Hon. Members, before we move to the next Order, I have the following Communication to make.

COMMUNICATION FROM THE CHAIR

BANNING OF RADIO AFRICA MEDIA REPRESENTATIVES FROM PRECINCTS OF PARLIAMENT

Mr. Speaker: Hon. Members will recall that on 6th July, 2010, the hon. Shakeel rose on a point of order in which he informed the House that on a radio broadcast aired that morning on the radio station Kiss FM, the presenters had made remarks that were demeaning to the Office of the Speaker and this House as a whole. Hon. Shakeel sought the directions of the Chair as to the action that ought to be taken in that instance.

Hon. Members, the media is an important facet of our democracy. So important is the media that it has often been referred to as “the Fourth Organ of Government” or “the Fourth Estate” due to its increasing influence over public opinion as well as its direct and indirect influence in the workings of the organs of Government. Traditionally, the Press has served as the voice of the people by keeping the Government in check. This is a role whose significance cannot be over-emphasized, particularly with regard to the National Assembly.

Hon. Members, as you are aware, in recognition of the central role played by the media, the National Assembly has over time sought to enhance the relationship between the House and the media. Our Standing Orders, which were adopted by this House on 10th December, 2008, made a deliberate attempt to ensure that the media is facilitated as it continues to discharge its mandate concerning the National Assembly. Among other things, the Standing Orders allow the media to cover not just the proceedings of the House, but also of the Committees of the House. In further seeking to facilitate the media, the House has taken steps to establish and equip a Media Centre within the precincts of the House. This House has engaged a Media Relations Officer at a senior level, who serves as a liaison between the National Assembly and the media. These developments have, indeed, enriched the interface between the National Assembly and the media.

Hon. Members, the Chair has had occasion in previous Communications to this House to note that the relationship between the media and the National Assembly is predicated on a delicate balance of power and responsibility. Both the National Assembly and the media must ensure that they discharge their functions and relate with each other in a manner that best serves the interests of our country. In particular, the dignity of this House and its Members, must at all times continue to be protected.

(Applause)

Hon. Members, I have carefully studied a transcript of the radio broadcast by Kiss FM aired on the morning of 6th July, 2010 and the point of order raised by the hon. Shakeel. I have noted that the subject of discussion in that transcript was the question of the terms and conditions of service of Members of Parliament, which had been deliberated in this House in the afternoon of 30th June, 2010 in a Motion on the adoption of the Report of the Akiwumi Tribunal to review the terms and conditions of service of Members and staff of Parliament.

Hon. Members, this House and its Members enjoy a number of Parliamentary privileges, critical for the proper functioning of the Legislature. These privileges seek to protect the House and its Members from undue interference as it discharges its mandate. At Westminster and in many jurisdictions similar to ours, it is the accepted law and practice that indignities directed at the Legislature by words spoken or writings published reflecting on its character or proceedings, are punished by the Legislature upon the principle that such acts of abuse tend to obstruct the Legislature in the performance of its functions by diminishing the respect due to it. As hon. Members are aware, the Standing Orders enjoin the Chair to make certain decisions based on usages, forms, precedence, customs, procedures and traditions of the National Assembly of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

Hon. Members, this House has shown tremendous restraint in its dealings with the media on the clear understanding that the media constitutes an integral partner to all organs of Government and the Legislature in particular, in matters of governance. There are, however, minimum bounds that must be set and adhered to. In the present matter, the Chair finds that the broadcast by Kiss FM aired on the morning of 6th July, 2010 did not meet the barest minimum bounds of good taste and civility. It was intended or had the effect of demeaning if not all together insulting the House as a whole and certain Members of it in particular.

Hon. Members, in dealing with this affront on the House, I wish to borrow from the precedent set by my predecessor on 26th April, 2006, by directing that commencing forthwith Kiss FM and all media representatives of Radio Africa be and are hereby excluded from the Press Gallery, Press Center, Parliamentary Committees, Press conferences and from the precincts of the National Assembly for a period of two months or until further orders from the Chair. I further direct that the Clerk of the National Assembly and the Chief-Serjeant-at-Arms take all measures necessary to implement this directive beginning now.

Finally, hon. Members, it is important to point out that the action taken by the Chair does not prejudice the right of any Member of this House who is individually aggrieved by the broadcast from taking legal action in accordance with the laws of this country.

I thank you.

STATEMENTS

MINISTERIAL STATEMENT

REINSTATEMENT OF SUSPENDED CIVIL SERVANTS
INVOLVED IN FPE/MAIZE SCANDAL

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, on 30th June, 2010, you directed that I table before this House copies of reports submitted to me by the Kenya Anti-Corruption Commission (KACC) on its investigations into allegations of irregular importation and sale of maize by, and, or through the National Cereals and Produce Board (NCPB) from the Strategic Grain Reserve (SGR) herein referred to as the maize scandal.

Mr. Speaker, Sir, in regard to investigations into the maize scandal, I wish to confirm that on 30th June, 2010, I received from KACC a total of five separate enquiry files together with accompanying reports and recommendations thereon pursuant to Section 35 of the Act. On Friday, 2nd July, 2010, I received a comprehensive letter from the Acting Director of KACC covering all the five enquiry files. The investigations carried out in respect of the five files followed the release, in February 2010, of an independent forensic report by PriceWaterHouseCoopers into the implementation of the subsidized maize meal scheme at NCPB. The directive by His Excellency the President was that a thorough and comprehensive investigations be conducted on all those who had been adversely mentioned in that Report. While it is not my intention to challenge and, indeed, I fully respect your directive requiring me to table in this House copies of the Reports submitted to me on 30th June, 2010 by KACC under Section 35 of the Act, I would, nonetheless, humbly request for your guidance on the advisability and the potential legal consequences of tabling of the said reports at this stage of the legal process.

In this regard, I would respectively urge you to note and consider the following factors:-

- (1) The investigation files in respect of whose reports you have directed me to table were submitted to and received by my office on 30th June, 2010. As hon. Members may be aware, under Section 35 of the Anti-Corruption and Economic Crimes Act, KACC is required, upon completion of its investigations, to submit to the Attorney-General, a report on the results of such investigations. In such reports, KACC includes – and it has to include – recommendations as to whether any person or persons should be prosecuted for corruption or economic crime.
- (2) The said files are now being independently reviewed and re-evaluated by the Department of Public Prosecutions after which I shall, in the exercise of my Constitutional Powers and Functions conferred upon me by the Anti-Corruption and Economic Crimes Act, decide whether or not to accept KACC findings and recommendations in respect thereof or in respect of any one of them. In other words, I am not necessarily bound to accept the findings and recommendations of KACC.
- (3) The Anti-Corruption and Economic Crimes Act provides a sequential and orderly process through which the Attorney-General reports to the National Assembly regarding investigation reports submitted to him by KACC under Section 35 of the Act. For instance, under Section 36, KACC is required to prepare and publish in the Gazette, quarterly reports of all matters submitted to the Attorney-General during the preceding quarter, with indications whether or not his recommendations to prosecute were accepted

or not by the Attorney-General. Indeed, I did, this afternoon, submit the Second Quarterly Report of KACC for the quarter which ended 30th June this year.

(b) Under Section 36(4), the Attorney-General is required to lay before the National Assembly a copy of such quarterly reports which I have done, and it is up to date.

Under Section 37, the Attorney-General is required to prepare and lay before the National Assembly an annual report indicating all cases submitted to him by KACC during the year, the status of each case and where the Attorney-General did not accept the recommendations of KACC to prosecute any person for corruption or economic crimes, the Attorney-General must set out succinctly the reasons for not accepting the recommendations.

(4) The sequencing which I have just outlined is intended to avoid the potential prejudice such as may be likely to occur in the present situation, if the National Assembly was to discuss and make adverse comments concerning investigation reports which are still under the consideration of the Attorney-General in accordance with the Act.

(5) In such a case, any decision reached by the Attorney-General may rightly or wrongly be condemned or criticized on the premise or perception that the Attorney-General may have been unduly influenced by the discussions or debates in the National Assembly.

We have had instances in past Parliaments, where constitutional applications were filed in courts because of the comments made here in this House and before Parliamentary Committees. Parties have gone to court to challenge the prosecution that has arisen thereafter that they cannot get a fair trial.

Mr. Speaker, Sir, I recall a recent ruling that you delivered concerning a related report by the PricewaterhouseCoopers where you directed that if the matter is under active consideration by an investigative or other law enforcement agency, such agency should be given the necessary latitude to complete its task. I, therefore, humbly and respectfully submit that, that ruling applies to the matter at hand. This should wait the tabling of the quarterly report by the Kenya Anti-Corruption Commission (KACC) through the Attorney-General or the annual report by the Attorney-General. It is for the foregoing reasons, that I humbly seek your guidance.

Mr. Speaker: The Attorney-General has raised fairly substantial matters in his quest for directions from the Speaker. Some Members are, perhaps, interested to raise issues on points of order, before I give directions.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. It is quite clear that what the Attorney-General is seeking to do is to get you to overturn your own ruling. He is seeking to review your ruling without complying with it. I submit that before you can even address that issue, he ought to table the report as ordered by you, with a request, if necessary, that, that report should not be debated or quoted. There must be compliance with the Speaker's rulings.

Secondly, you will recall that the background to this is that certain officers who may or may not have been mentioned adversely in those reports, but whose names were made public in this House and acknowledged by the Minister, have since been reinstated on the basis of reports that have not been made public.

That is the reason that you ordered that this report be tabled. Therefore, is it in order for the Attorney-General to mischievously seek to avoid complying with your order? Is there not a significant constitutional issue here, regarding the scope of the

Executive authority over Parliament? What the President did may very well be within his constitutional mandate, but so is the Speaker's decision within the constitutional mandate. The fact that a report is laid on the Table of the House does not in any way waive the rights of any person who may be adversely mentioned. As I said, he can request that, that report should not be debated or quoted until such time as those investigations are completed.

Mr. Speaker, Sir, finally, is it correct and reasonable that the hon. Attorney-General should seek you to review your order without even disclosing how long he needs or the time the authorities will require to carry out investigations before the documents are laid on the Table of the House?

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. We were waiting for the end of the investigations, so that the Permanent Secretaries and other senior officers involved could either be cleared or be found to have done something wrong. The only way that this House would have known that is if that report had taken the legal route, which requires that it goes through the Attorney-General. That has not been done. We are satisfied that the investigations are complete because the Executive which ordered them to be done has used that information to then act, namely, it has lifted the suspension of those Permanent Secretaries.

If the Attorney-General was asking that the report may not be laid before this House, probably, as Members of the Back Bench, we would have accepted, if at that time, the Executive had not already used the report. Since the Executive has already used the report, it is important that the country be told what it is that was inside that report which informed the decision by the Government to lift the suspension. It is very important that as you rule, either yourself or you ask the Attorney-General to tell Parliament and the country at large, the legality of the current presence of those Permanent Secretaries who were not cleared by this report and who currently are working. We already know what is inside the report. We know that the report only cleared Dr. Mohammed Isahakia and Mr. Caroli Omondi. But the same report actually indicts the other Permanent Secretaries. It is important that the report be tabled, so that the country, once and for all, know its contents.

The Assistant Minister for East African Community (Mr. Munya): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is your point of order, Mr. Munya?

Dr. Khalwale: But I am on a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Dr. Khalwale! The Chair has discretion to allow points of order!

The Assistant Minister for East African Community (Mr. Munya): On a point of order, Mr. Speaker, Sir. Is it fair for Dr. Khalwale to quote a report and tell us who has been cleared and who has not been cleared by a report which has not been brought to the Floor of this House and authenticated?

Dr. Khalwale: Mr. Speaker, Sir, the hon. Member should form a habit of attending the House continuously. He would have known the natural history of this issue, namely, a report has since been tabled in this House which could only be confirmed or otherwise by the Attorney-General tabling what he calls his authentic document.

It is, therefore, important that even if the President or the Head of State is using his powers within the Constitution, it be known to Kenyans that: "Yes, those powers are

being applied, but the probe has found the following". So, it will be important that you find and rule that this report be tabled.

Mr. Speaker: Hon. Attorney-General, do you have a reaction to this?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I want to assure the hon. Member, who is also my learned colleague, that nothing has been done here mischievously. It has been done taking into account, and to use his own words, "the significant constitutional issues that this matter raises". So, let us not bring the issue mischievousness. You will agree and he has agreed that this issue raises significant constitutional issues. Because it raises serious constitutional issues, I am seeking your guidance on this matter.

The HANSARD will bear me witness that when the Minister of State for Provincial Administration and Internal Security was making the Statement, he talked of a letter that had been written by the Director of KACC directly to the President. You should not forget that the President had ordered investigations into this matter. Therefore, whatever action he took was based on that letter that was written by the Director, KACC.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. When we created the Kenya Anti-Corruption Commission (KACC) it was intended to be independent but he is now saying that it has been ordered by the President. Is he not misleading this house by referring to a report or a letter written to the President by the KACC on the order of the President directing them to investigation when we know that they are not supposed to be receiving direction from any quarter?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I said that His Excellency the President had asked the KACC to investigate. Let me make it clear that under the Anti-Corruption and Economic Crimes Act, even an ordinary citizen of this land can ask the KACC to investigate a matter. On this matter, the President had asked the Commission to investigate and it wrote to the President directly. I believe that the letter was tabled. However, the issue of the report came out somehow and the Minister was asked to table the report. Since he did not have the report in the Office of the President he went to the KACC which told him that the report, in accordance with the Act, had been forwarded to the Attorney-General of the land. That is where we are at now. I am concerned with this report and not the letter that the KACC wrote to the President. I am concerned with my duties under the Act. I have received this report---

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

Mr. Speaker: Order! Let us hear the Attorney-General. Let him conclude.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I am concerned with my functions under the Act which require that on completion of investigations, the file will be handed over to the Attorney-General. These are the investigation reports which I have received in accordance with the Act, which I am now being asked to table in this House. That is why I have raised issues which I believe should be considered. You can make a formal ruling on them.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. The issue is that the Attorney-General stands on the Floor of this House constitutionally as the overall Legal Advisor to the Government. Therefore, if a letter is written to the President or not and whether it is received by the President or not the right person to comment and answer questions relating to it is the Attorney-General. Is it in order for him to say that he cannot talk about the letter to the President or by the President when he addresses this House and

he can only confine himself to matters under the Act when he knows that as the Attorney-General he is the Principal Legal Advisor to the Government even though his advice in many occasions has been found to be wanting?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I will not lower myself to answer that question because of the way he has asked it. I am slightly above that. I confirm that I am the Principal Legal Advisor to the Government but the issue before this House now is the production and tabling of the investigation reports which I have received pursuant to the Act. Therefore, I am within my rights to seek your guidance on the grave constitutional issues that have arisen.

Mr. Speaker: Order, hon. Members! Indeed, the matter raised has serious Constitutional implications depending on the directions that I give from this position. I want to raise two issues which I would like the Attorney-General to respond to before I finally give guidance to the issues the Attorney-General has sought. As I understand it, the Attorney-General is asking for guidance and not a review of the order that I made. Please, let it be noted that I did not make a ruling but an order which I expected would be complied with. Hon. Attorney-General, the issues that I want to raise are, first, save for the legal implications of the guidance that I may give hereafter, are you prepared to comply with my order? Secondly, you have asked what implications these will have with respect to the stage of the legal process, as at where we are. How long will it take for you to complete the legal process? Is it infinite? If you respond to those two issues then I will give direction.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, on the first issue as to whether the Attorney-General will comply with the order, of course, you are the ultimate authority on the proceedings of this House and I did not challenge that order contrary to what has been stated. You are the final authority and we are all subject to your orders in this House. The Attorney-General must set the example of complying with the orders of the Speaker. The other issue was about how much time. We try to complete considerations of these files which are received within the quarter. Normally, we are talking about six files which are very heavy. We have to go through them very carefully for, at least, a month.

Mr. Speaker: Hon. Attorney-General, taking into account the interest of this House and, therefore, the public interest in this matter, bearing in mind that Members of Parliament are merely representatives of the larger public interest, is it possible that, that process can be expedited?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, we can try to expedite the process and by the end of the month we should have finalized it.

Mr. Speaker: That is a reasonable indication. Hon. Members, considering that there are constitutional matters which I will have to address, and which will set a precedent in this area, I would like to defer this matter for ruling to Tuesday at 2.30 p.m. I will give guidance to the Attorney-General.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Just before you conclude, the Attorney-General wants to give the impression that your orders were limited only to the probe into the maize scandal. However, it also included the probe into the free primary education funds. So, could he also avail that report at the same time?

Mr. Speaker: I am certain that the Attorney-General understands that.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, from what I know, the investigations into the free primary education funds report, some people are already in court but I am yet to receive more investigation files. I have been promised that I will be receiving them in due course. What I have today and what I received was only in relation to the maize scandal.

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Given the fact that the Attorney-General has formed the habit of giving an undertaking, and here I am referring to the undertaking in relation to the insertion of words in the proposed Constitution, where he gave us a specific timeline within which investigations were to be completed and that time has long lapsed, what are the consequences should the latest undertaking to finish the investigations within a month not be met?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, my learned friend has to make clear distinctions between investigations and a decision to prosecute where investigations are complete. The issue of the 30 days limit that I gave to the Criminal Investigation Department (CID) to investigate that matter--- The fact is that the 30 days are over but I am yet to receive the report. That cannot be blamed on the Attorney-General. However, on this issue of how long it takes, it is now my responsibility and I have always lived up to it. I have the investigation files and I am considering them. I have indicated to this august Assembly how long it normally takes, but because of public interest I have even narrowed that date to the end of the month.

Mr. Imanyara: Mr. Speaker, Sir, the Attorney-General is giving the impression that when he is exercising his constitutional mandate to direct investigations or order investigations, and he orders the Commissioner of Police, whoever is investigating to conduct an investigation within a certain time and give him a report, and that officer does not comply, therefore his hands are tied. Is that the position that he wishes this House to understand?

The Attorney-General (Mr. Wako): That is the position and the most I can do is to send reminders to the Commissioner of Police, which I have done. The A-G or any prosecutor cannot undertake any prosecution until he has received a file with sufficient evidence to prosecute. That is the position.

Mr. Speaker: Order hon. Members! I have indicated that I will give a well considered ruling on this matter on Tuesday afternoon. I will among other things, cover all the issues raised by hon. Members; I will review the law as the A-G has appraised the House over, and I believe that we will do so to the satisfaction of Members and the Kenyan public at large.

STATEMENT

TWIN BOMBINGS IN KAMPALA, UGANDA

The Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Speaker, Sir, for availing me an opportunity to make an unsolicited Statement on the events that happened in Kampala, Uganda, on Sunday.

On Sunday, 11th of July, 2010, terrorist elements struck two public facilities in Kampala, Uganda, through twin bomb attacks that deliberately targeted innocent

civilians. This odious act has so far resulted in the death of 74 people and injured 57 others who were watching the televised World Cup foot ball finals.

Mr. Speaker, Sir, Somalia's Al Shabaab spokesperson, one Sheikh Ali Mohamud Rage, confirmed in a statement in Mogadishu that the terrorist organization was responsible for the bombing. Sheikh Rage termed the attack as a message to Uganda and Burundi, stating that if they did not take out their armies from the peacekeeping troops in Somalia, the bombings would continue, and it would happen in Burundi's capital, Bujumbura, as well.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, His Excellency President Mwai Kibaki immediately sent a condolence message to the President of Uganda, Yoweri Museveni yesterday on 12th July, 2010, and also spoke to him on phone, following the twin bomb attacks. President Kibaki condemned the atrocities and pledged that Kenya Government would fully support efforts of Ugandan security personnel in tracking down the culprits.

Mr. Temporary Deputy Speaker, Sir, as you may be aware, there are tens, if not hundreds of thousands of Kenyans living in Uganda, including approximately 30,000 students studying in various institutions. My Ministry has been liaising with our Mission in Kampala to establish if there are any Kenyan casualties in the twin bombings, and we have established that no Kenyan lost life there, but more importantly that one Kenyan lady named Alice Mueni, was injured in the blast and is admitted at the Kampala International Hospital with head injuries.

Mr. Temporary Deputy Speaker, Sir, we will continue informing Kenyans on her state. I want to add my voice and I believe the voice of this House and Kenyans at large, to send our deepest sympathies and condolences to the Government and the people of Uganda. Our sympathies go in particular, to the families of the bereaved as well as those who were injured. I wish them a quick recovery.

I also wish to reiterate the solidarity of the people of Kenya with our brothers and sisters in Uganda and to re-affirm the commitment extended by President Kibaki to work together with Uganda to apprehend the perpetrators of this reprehensible and cowardly act.

Mr. Temporary Deputy Speaker, Sir, these bombings are an indication that the extremist groups are expanding terrorist activities across this region. There are indications that as many as 200 foreign fighters affiliated to *Al Qaeda* may now be hiding in Southern Somalia and several hundred others could be making their way into Somalia from different parts of the world, particularly the Middle East and Afghanistan. This trend was recognized during the recent 15th Extra ordinary Summit of IGAD held in Addis Ababa, Ethiopia. The Summit noted with serious concern the deteriorating security situation in Somalia which poses a serious threat to the peace, security and stability of the people of the Transitional Federal Government (TFG) of Somalia, the region and the international community. The lawlessness in Somalia has also led to the proliferation of small arms and light weapons and an upsurge in piracy activities off the coast of Somalia

and the Gulf of Eden. This has had severe consequences for the economic and social well being of countries in this region, Kenya included.

Mr. Temporary Deputy Speaker, Sir, the Summit in Addis Ababa also further observed that the conflict in Somalia is not a conflict among the Somalis but between the people of Somalia and the group of international terrorists. The IGAD member states resolved to commit themselves to give unswerving support and assistance to the TFG in the struggle against extremist groups in Somalia. They also emphasized the need for an urgent and robust response by the international community led by the UN Security Council and in particular, the need to send into Somalia immediately, 2,000 additional troops to support the Government of Somalia in the fight against these extremists.

Further, it was decided to request the UN to convert AMISOM into a UN Peace-Keeping and Peace Enforcement Operation without any delay.

Finally, Kenya strongly supports the measures to consolidate the political and security situation in Somalia. The bomb attacks in Uganda only serve to strengthen our resolve to combat terrorism and terrorist organizations in all their manifestations wherever they occur because they threaten innocent civilians in our region and elsewhere around the world. It is only through concerted action, that Somalia's neighbours including Kenya, and the international community can arrest the situation in Somalia from deteriorating any further.

Mr. Temporary Deputy Speaker, Sir, you may have heard or seen on television that the same grouping has issued similar threats against Kenya. And we want to send them, as a Government, a clear warning that we will not sit back and wait for them to do any similar acts. We will be ready and available to repulse any threats to the security and tranquility of this country.

This Government and the people of Kenya, will neither fear to act or act in fear, in fighting against terrorism.

Thank you.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, I was listening to the Statement of the Minister through my radio. I have also heard the last part here. I am glad that we are trying very hard to face the scourges of terrorism and the problems in our neighbouring countries. However, I seek two clarifications from the Minister's Statement.

To begin with, there are many Somali governments that have been sworn in here in Kenya. Other governments were sworn in Djibouti and one time, even some efforts were done in Ethiopia. Every time we in the region and the international community want to address the Somali issue with a view to helping the Somali people, we form a government and ask them to go to Mogadishu and establish law and order. How does the civilian politician, whose government was formed either in Nairobi or Djibouti, go back to Mogadishu and create the machinery that is supposed to maintain law and order in the place and secure the four corners of the country?

The international community is supposed to help the Somali people and the Somali governments with the requisite arms and firepower that they need to defeat terrorism in that place. We have never done that before. We have not given them helicopters, we have not trained pilots for them, we have not given them armoured personnel carriers and basic armaments. They go with AK-47 rifles and the insurgents also have the AK-47s. This is a clear indication that the international community has no interest in establishing a viable government in Somalia---

The Temporary Deputy Speaker (Mr. Imanyara): I think the Minister has gotten that clarification.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, we in Kenya are incurring the wrath of the terrorists and *Al-shabab* in Somalia because we trained a force for the Somali Government. The force was supposed to go into Somalia to secure and create a buffer zone for us in Jubaland which borders us. Up to this moment, no action has been taken. The force is just staying in here. The only action that has been taken is that, countries in the neighbourhood are insisting on this force being taken to Mogadishu. Ethiopia has trained a similar force. They use that force to secure and create a buffer zone between them and Somalia---

The Temporary Deputy Speaker (Mr. Imanyara): Minister, I hope you have got that.

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, how soon are we going to deploy this force through our own border here so that we can secure ourselves from the threats of *Al-shabab* by securing Jubaland which neighbours us? Why is it that our relation, as far as Somalia is concerned, is always subordinate? We do not come out strong enough to take our national security as being cardinal to us and fundamental without any need for us to listen to any other country; superpowers, Ethiopia or any other countries in the region. These are the clarifications I am seeking from the able Minister.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, first of all let me also express my sympathies with our neighbour Uganda for the kind of loss that we witnessed. I am sure as a country, we condemn these terrorist acts.

I have two issues to raise; first, the Minister needs to tell us in concrete terms what the international community is doing in order to bring stability in Somalia. Without this, the entire region is at risk. It is an international crisis.

Secondly, there is something close to what Mr. Maalim has just talked about; a clarification with regard to protecting our borders. You will remember a few days ago, the Kenya Police arrested some grenades – very dangerous weapons – right inside the city of Nairobi, in Rongai. This is just next to the city of Nairobi. These dangerous weapons must have come from other countries. I am sure this exposes us to danger and it is a real scare.

The Temporary Deputy Speaker (Mr. Imanyara): It is clear what clarification you are seeking!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, what is the Government doing with regard to this?

The Temporary Deputy Speaker (Mr. Imanyara): I will take Mrs. Rachael Shabesh, Mr. Mungatana and Dr. Khalwale, in that order.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, can I answer the first three?

The Temporary Deputy Speaker (Mr. Imanyara): I think so. After Shabesh, the Minister can answer and then I come to the next lot.

Mrs. Shabesh: Mr. Temporary Deputy Speaker, Sir, I would like to send my condolences to the people of Uganda. I would like to ask the Ministry, on the issue of Somalia, Kenya has totally been involved in the process for very long. Certainly, even if we do not have our troops there, we know that we can be a target because of our involvement. Each time I hear the Minister speak, I do not hear the voice of the Minister

of State for Defence or that of the Minister of State for Provincial Administration and Internal Security on this issue.

For me, the Ministry of Foreign Affairs is a diplomatic channel. You can only do so much. When it comes to dealing with the issue of the threat of terrorism in this county, we need to hear from the Ministry of State for Defence. I would like to know how the Minister is working with the Ministry in dealing with this issue of threat of terrorism.

The Temporary Deputy Speaker (Mr. Imanyara): Order! We have agreed that the Minister will respond to those, then I come to the next lot.

Minister, please, proceed!

Mr. Farah: On a point of order, Mr. Temporary Deputy Speaker, Sir. With your indulgence, I was hoping that before the Minister answers that, as a sign of the condolences that we have to express to our brothers in Uganda who have taken a noble continental African cause on their own and suffered very heavily, could we as a House, observe a moment of silence in solidarity with the deceased and as a sign of condolence from all of us before the Minister answers the clarifications?

The Temporary Deputy Speaker (Mr. Imanyara): I am not certain that it is a matter that I can handle. These are issues that are dealt with at the start of the proceedings of the House. I think if the intention was to raise that issue, the right position would be at the close of prayers. This is not to indicate that the House does not take seriously what Mr. Maalim raises. I think the right moment would have been at the beginning of the sitting of the House when Members were present.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I agree with Mr. Maalim that that should be done. I hope that tomorrow morning or afternoon, we will have an opportunity to observe a moment of silence in respect to the departed brothers and sisters. It is also important to note that our President has sent a message of condolences in writing and has spoken to his counterpart. I have done the same and I believe this afternoon before Mr. Maalim walked in, I was speaking on behalf of this Parliament and the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, the Government in Somalia that was elected after a long process in Nairobi, was not a government that was imposed from outside; it was a long negotiated Government that took 14 months in Nairobi. It started from Eldoret to Mbagathi and they eventually agreed on a formula called 4.5 to give an opportunity to representatives of various clans and interests in Somalia to evolve a Government.

As we know, when the Islamic Courts Union (ICU) came into play in Somalia, a process to reconcile them with the Transitional Federal Government (TFG) was started in Djibouti under the auspices of the United Nations (UN). They were then brought into the fold, elections were held and the current President came in.

All this was transitional and everybody expected that these new leaders of Somalia would embark on the reconciliation of their country and various interests including clan interests, warlords and others. I believe that is going on, although not at a pace that is admirable. We hope it will work.

Mr. Temporary Deputy Speaker, Sir, Mr. Farah Maalim is right and if he heard me on BBC and all the other international stations on Saturday, I did say - and I want to say it again - that Somalia has not got the attention it deserves or requires from the international community. The attention given, for example, to the problems in Iraq, Afghanistan and elsewhere like Sri Lanka, is different from what Somalia gets. We are

told that it costs the American army close to US\$50 billion a month to mount the war that they are carrying out in Afghanistan. This region has asked the international community for just US\$1 billion to assist in Somalia. But that has not been forthcoming. This region has asked the international community to support the Transitional Federal Government (TFG) with capacity and resources. But that has not been forthcoming. That is why, in the last meeting of Inter-Governmental Authority on Development (IGAD) in Addis Ababa, which was attended by all the Presidents of IGAD, we took a new direction. It will no longer be business as usual. The Summit decided to send in military advisors who are already in Mogadishu. We have realized that we must act as a region. That is why we have conditioned the TFG, as IGAD, that they must bring the forces in their country under a unified and centralized command, so that the troops that have been trained by Ethiopia, the security personnel that have been trained by Kenya, Djibouti and Uganda – and Tanzania has offered to train some more - can all come and operate as a team to bring peace and security to the country.

So, we are no longer going to sit back and cry to the international community. We will do with what we can and what we have, to see how best we can support Somalia. Next week, there is an African Union (AU) Summit in Kampala. The decisions of IGAD in Addis Ababa are going to the AU to get support. I am happy to mention here that one of the major players in the AU, Algeria, which together with Libya, South Africa, Egypt and Nigeria, contribute 75 per cent of the AU budget, has offered unlimited access to their transport capability to transport whatever we have to Somalia to assist her. So, it is true that the international community has not paid much attention.

On what Mr. Mbadi asked, again, I think it is covered by what I have said about what the international community is doing. We are dissatisfied with what they are doing and so, we must do something as a region. We hope and believe that, as leaders of this country, this Parliament will fully understand and appreciate that we cannot sit back, fold our hands, complain and cry. We must get involved and support Somalia.

Mr. Temporary Deputy Speaker, Sir, on the issue of securing our borders, I want to assure Mr. Mbadi and the country that the Ministries of Defence and Internal Security are working very harmoniously with my Ministry on this. That I speak for them does not mean they are not available and this also covers what Mrs. Shabesh said. You may recall that only yesterday but one, a Somali national was arrested with 300 bomb detonators. That shows the vigilance of our security forces. That is not the only one. We have intercepted and arrest many similar issues coming into this country. The flow of small and light weapons has been curtailed to secure the security of this country. All of us can see that the incidences of gun crimes in this country have significantly gone down compared to a year or two ago. That is because of the extra vigilance and hard work that the two Ministries are doing.

Thank you!

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Imanyara): I said that after Mrs. Shabesh, it will be Mr. Mungatana and Dr. Khalwale. Then we will come back to those who have not spoken.

Mr. Mungatana: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to join those who have sent their condolences. But the clarifications I wanted to seek from the Minister are as follows:-

- (i) It is about our own security as a country. Recently, there were those 300 bomb detonators that were found in Rongai, which is within Nairobi area. There was the arms cache in Narok which is also not far from Nairobi. The question that is worrying us is how safe are we as a country? This should be connected with how prepared is the Anti-Terrorist Police Unit; is it properly funded? Can we say that, in fact, with the attacks that have cost a number of lives in Uganda, what is the alert rate because it should be heightened? What assurances are we being given in terms of the safety of our country? How safe are our people when they go to public places? That is the worry that we want the Minister to address!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I also would like to send my condolences. My concern is this: The level of medical care in Uganda, compared to Kenya, is very much lower. What plans does the Government have to immediately airlift Ms. Mueni so that she can come to Nairobi and, if possible, try and assist the Ugandan medical fraternity to see how they can cope with the emergencies they have at the moment?

Secondly, we say in medicine that when you discover pus somewhere in the body, you should always remain alert that there could be pus everywhere in the body. We all know that, recently, we had a bombing incident here in Uhuru Park. Given that we have an unprecedented increase in the number of Somali nationals in Kenya who have established a foothold in Eastleigh, what is the Government doing to ensure that it is on top of things by way of---

Mr. Farah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Dr. Khalwale says that there are many Somali nationals in Eastleigh. I wonder whether he understands the difference between me and a Somali from Somalia.

The Temporary Deputy Speaker (Mr. Imanyara): He talked about Somali nationals.

Mr. Farah: Yes, Mr. Temporary Deputy Speaker, Sir. There are no Somali nationals in Eastleigh. They are Somalis from North Eastern Province who are doing business in Eastleigh. Could he substantiate his claims? The Somali nationals in this country are supposed to be in refugee camps and, if they are not there, it is a failure on the part of our own system to arrest them. But to try and talk about Somali nationals in here and create a situation similar to what some people tried to create last time--- To profile Somalis and create a form of xenophobia emanating from our own House is a very bad precedent. Hon. Members should observe what they say so that they do not create a problem that is essentially much bigger than the one we are trying to solve.

(Dr. Eseli stood up in his place)

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

The Temporary Deputy Speaker (Mr. Imanyara): No! He was on a point of order!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I appreciate the emotions of Mr. Deputy Speaker. But, if it pleases him, I also come from a community that cuts

across the borders. In the late 1970s, the Luhyas who were in Uganda crossed into Kakamega and we were able to live with it. This is a very important issue of security and I will leave it to the Minister of State for Provincial Administration and Internal Security to tell us whether there is an increase in the number of Somali nationals – not Somalis – in Nairobi and, specifically, in Eastleigh. If that is the case, it is important that the Minister assures us how the Government is on top of things to confirm that, yes, indeed, the increased number of Somalis in Eastleigh is not because of Kenyan Somalis, but because of Somali nationals who can pose a threat even to the children of Mr. Deputy Speaker.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, as we appreciate the response given by the Minister, I would like him to indicate whether the continued prosecution of pirates in our courts in Mombasa does not jeopardize the security and peace in this nation.

Secondly, I would like the Minister to clarify what measures they have taken to make sure that trial judges in this court are really secure, considering that the real threat has been directed by these groups towards our nation.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, to answer Mr. Mungatana's question, yes, the cache of arms in Narok and the arrest of the 300 bomb detonators causes concern. It also reassures us that our security systems are working. That is how we bust Narok and Rongai. We have bust many more that have not come to the fore of the media and Kenyans.

I assure hon. Members and the rest of Kenyans that we are secure, and that the Ministries responsible, that is the Ministry of State for Provincial Administration and Internal Security and the Ministry of State for Defence that sit in the National Security Committee with me, are doing their very best to make sure that this country is secure. More particularly, we must protect the soft targets like what we saw in Uhuru Park. We must secure areas that are more vulnerable than others. We have many people on a watch list who are regularly surveilled and checked. I am sure we do not need to parade all our security operations on the floor of this House.

Mr. Temporary Deputy Speaker, Sir, the Anti-Terrorist Police Unit is part and parcel of this operation with all other security arms of the country. If you may recall, they caught up with a man called Fazul, but since one of them bungled the engagement, he disappeared. They are working constantly not alone. Terrorism is not about Kenya. It is not about this region. It is an international network that we must continue engaging our counterparts in, in all the regions and countries affected by this.

To answer Dr. Khalwale, yes, President Kibaki has already offered to Uganda material support, including support in medical terms for those who have been injured for treatment either by our doctors going there on a need basis or being brought here for specialized treatment. We are available to help them on that. He has also offered trauma and counseling experts, who can go and assist the injured and their families; they need to be counseled so that they can take this incident to heart.

He talked about Eastleigh. I want to make it very clear that nobody wants to profile any community in this country. But we also know that apart from the close to 400,000 refugees in Daadab and Kakuma camps, we also have many Somali nationals who are walking freely in this country. Some have regularized papers while others are living here illegally. We have Kenyans living illegally in other countries as well. So, it is

not something unique to this situation. We must continue being vigilant and dealing with these issues. You may recall when I informed the country that part of the difficulties we had with the visas of the UAE was because of the number of passports from Kenya that were being forged in Mogadishu and Somali nationals arriving with them in the UAE.

The Ministry of State for Immigration and Registration of Persons is now dealing with that, and I am sure that very soon, they will come up with a forgery proof passport to secure the Kenyan document.

On the question by the MP for Lari, everything has a price. Kenya undertook the responsibility and the lead to accommodate the prosecution of pirates. Other countries like Tanzania, Seychelles, Yemen have also taken on that responsibility. Uganda and other countries have offered to do so. There will always be some difficulties coming along with this. I do not believe that because people drown when they swim, we should avoid swimming. I think we must take the responsibility and play the role of a leader in the region. We must be ready to secure ourselves.

No country was hurt and its economy damaged much more than Kenya's economy with the resurgence of piracy. So, we must take the lead. I have no doubt that this Parliament will fully understand the role as a leader in this region we must take in helping to secure the region and the interest of the region economically, politically and in security terms.

Thank you.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): On a point of information, Mr. Temporary Deputy Speaker, Sir. The reason why I asked to have the opportunity is to give some information that my colleague has covered comprehensively; the situation the way it is in the country - as the Minister in charge of internal security, I just sat down on this very important matter. I am sure Kenyans actually wondered about what I was doing. It is true as the Minister for Foreign Affairs said that the three Ministries work closely together. These are the Ministry of Foreign Affairs, my Ministry and the Ministry of State for Defence. This is an important matter; apart from touching on our internal security, it also touches on a neighbouring country.

Foreigners who come to this country fall into two categories; those who have got official documents to be residents in this country. Although we may keep an eye on them depending on where they come from, those are considered to be in the country legally. Those who happen to be in this country and they do not have the legal documents irrespective of where they come from, we actually end up arraigning them in court and some of them have had to go back to their countries.

Not too long ago, it will be recalled that we did carry out an operation not only in Eastleigh but all over the country, and that operation netted quite a number of foreigners who were living here illegally. We took action and a number of them were actually apprehended, taken to court, sentenced and eventually kicked out of the country.

It is important to avoid the temptation of just looking at people by virtue of the way they dress, the way they look like, their religion and brand them as possible terrorists. On this matter, we are on the alert. The Anti-Terrorist Unit of the police carries out very thorough investigations. As a matter of fact, had our own anti-terrorist unit not been on the alert, we would have faced major problems. The other thing I want to say is that we can be as alert as possible but sometimes, the terrorists can always sneak in. This

has happened even in the most developed countries with very advanced technology. We have done the best we can. I want to say here that we can---

The Temporary Deputy Speaker (Mr. Imanyara): I allowed you to speak---

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): No, Mr. Temporary Deputy Speaker, Sir. It is important because Kenyans want to know---

The Temporary Deputy Speaker (Mr. Imanyara): Order. If you want to make a Ministerial Statement, I will allow you. But you are informing your colleague. Now, you are turning information into a Ministerial Statement without seeking the Chair's permission. If you want to give an unsolicited Ministerial Statement, I will allow you to do so.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, you know very well that you did allow a number of the Members of Parliament to say that the Minister of State for Provincial Administration and Internal Security must say these things. I was not going to actually stand. As a matter of fact, I would like to say that normally, when another Minister gives a Ministerial Statement, another Minister does not come in.

Members of Parliament, owing to their concern over the security of their people talked to me as a Minister. The point is that if I did not talk on this matter of security, what would be the reaction on the part of Kenyans? I have therefore, to strengthen the Statement made by the Minister for Foreign Affairs; that we will ensure that Kenyans are safe.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): What is it Mr. Konchella? Are you seeking a clarification?

Mr. Konchella: No, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Then let us hear the points of order first. Let us hear the Member of Parliament for Kimilili, Dr. Eseli.

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir. I am on a point of order. I wanted some guidance from the Chair in the sense that the state of Kenya is such that most tribes cross the borders so that you find them in neighboring countries and also in Kenya. In the process, we have some illegal migrations and---

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Eseli, you stood on a point of order!

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, it is a point of order seeking guidance from the Minister.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I allowed hon. Konchella to seek a clarification and he stood on a point of order. What you are now seeking is not a point of order.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. There was a question which was raised by the Deputy Speaker and it was not answered; with regard to creating buffer zones in Jubaland.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, I remember and we will come back to that. Hon. Konchella, what clarification were you seeking?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, we know that Somalia is our neighbor and it will remain so forever, as long as we live here. Therefore, in the

interest of Kenya and the leadership of East Africa to seriously think of sorting out this problem, East African countries are becoming targets of *Al-Shabaab* and other foreign organizations because they are not able to sell their ideas---

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of clarification?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I would like to seek a clarification from the Minister for Foreign Affairs. We have a heavy presence of Somalis in two ways. One is the issue of those who are in Kenya. They are here whether we like it or not and there are many of them in Eastleigh Estate.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Konchella, I asked you to seek a clarification.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I would like to inform him that when I was the Minister for Immigration, I registered 50,000 Somali nationals in Eastleigh alone and the Government could not give me more money to continue because I wanted to make sure that everybody had an identification so that they are able to live freely in Kenya, feed and enjoy their survival since they are human beings.

Could the Minister consider engaging the East African leadership in addressing the issue of Somalis, *Al-Shabaab* and others, by routing them out of Somalia by force and not by engaging them safely?

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, the clarification I am seeking from the Minister for Foreign Affairs concerns the foreign policy being pursued by Kenya in relation to Somali. We know this neighbouring country has been without a government for 20 years now and we have seen repeated attempts by the Somali people to come up with their own government which somehow gets thwarted. The principles behind this thwarting basically happen to be Americans. That is what is being pursued by Uganda, Ethiopia and Kenya.

Since Kenya is paying the highest price by neighbouring a country that continues to destabilize our Government, why can this country not pursue a policy that addresses its interests to have urgent security in Somali by allowing Somali people to exercise their right to self-determination?

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, like those who had spoken earlier had said, I would also like to pass my condolences to the people of Uganda, many of whom have been injured. Many of them could probably be my relatives across the border. Could the Minister clarify how much effort the Ministry is putting in to make sure that they involve those of us who come from those border communities in all negotiations that might be going on, so that we do not raise situations where some of us become sort of paranoid when our community is mentioned as probably being illegally in Kenya? This will enable us avoid that kind of antagonism and we get an all inclusive solution. We should not have that kind of reaction again, bordering on almost schizophrenic paranoia.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Eseli. I rule that last bit out of order and it will be expunged from the HANSARD Report of the proceedings.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, from hon. Konchella, the law is very clear. Any person who enters this country is required by law to declare their status. If you are a tourist, casual visitor or business person coming for a conference, for whatever reason, there is a requirement

under the Immigration Act for one to declare their status. But the fact that people do not, it does not mean that there is no law. I think it is important for people to do that. That is why the Ministry of Immigration and that of Internal Security have been from time to time, jointly working together to find out how many aliens are in this country and what to do with them. Those who are normally arrested are prosecuted and deported upon completion of their jail terms.

On the East African leadership, if hon. Konchella was here when I started, I alluded to the Summit in Addis Ababa that made a very clear decision that there will be no business as usual with Somalia where we go to meetings and on arrival, you find a communiqué is ready to be read at the end of the meeting. The region has now said that they will have to operate differently.

This comes to the point raised by the Deputy Speaker about the security personnel trained by Kenya. The Inter Governmental Authority on Development (IGAD) Summit decided that now, it will be an operation of IGAD and not individual member states. That is why we have a unified command and a structure of bringing all the forces together. That is why we have military experts from Kenya, Uganda, Sudan, Ethiopia and Djibouti visiting Mogadishu to see how to work with AMISOM to bring this unified command and better co-ordination so that all the trained personnel can be put under one operational capacity to be able to help Somalia come together.

Mr. Temporary Deputy Speaker, Sir, I honestly do not understand what hon. Baiya means by ‘self-determination’. Somalia is an independent country and so there is no self-determination to talk about in Somalia. That it is in difficulties and is having problems getting a government, does not mean the people of Somalia do not have self-determination. They are a republic – one of the oldest African republics. If he is making any implication of Kenyan nationals who are of Somali origin, that is treason. We cannot even talk about that. You know the history of the 1960s and I do not think we want to go that direction.

The people of Somali origin who are Kenyans, are legitimate Kenyans have every right to be here and the issue of self-determination does not arise and will never arise because we are a unitary state and shall remain so.

Mr. Temporary Deputy Speaker, Sir, on the issue of involving border communities, I agree with Dr. Eseli that, indeed, in dealing with the issues of Somalia, I have at least once joined the Minister for Defence to meet our colleagues from North Eastern Province of Somali origin to discuss about what the Government wants to do with Somalia and there were dissenting voices, but we met and discussed these issues. Where there are issues like those of the Tanzania or Uganda border, whenever they arise, we will involve members. My own constituency touches on Uganda and I have a heavy traffic of in and out movement of Ugandans and Kenyans who travel to and fro.

You may recall in the 1970s and early 1980s when we had thousands of Ugandans living here under similar circumstances and they have all gone back. We pray and hope for a day when the people of Somalia, particularly their leaders, will realize the importance of their country to not only themselves but to the people of Somalia.

When they will realise that warlordism will not help. When they will realise that at some time, a whole generation gets tired of fighting, so that they can go back and build their country. Kenya will be at hand to be part and parcel of this exciting development if it comes to Somalia.

Mr. Temporary Deputy Speaker, Sir, once again, on behalf of all the colleagues in this National Assembly, I send our very sincere and heartfelt condolences to our brothers and sisters in Uganda and assure them that we are together in this, and we will be able to stand by them at any rate in any event on all issues.

Mr. Farah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to tell us that the IGAD Summit has accepted to involve the Front Line States in securing the stability of Somalia when, in fact, we know that we did not have Al-Shabaab in 2006 before Ethiopian forces went into Somalia and occupied that country? We did not have radical islamists who are basically destructive groups in Somalia prior to the engagements of Ethiopian forces inside Somalia. The fact that through our own Government in which the Minister was at that time an Assistant Minister; we very wisely stayed out of Somalia and never committed our forces in Somalia.

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order?

Mr. Farah: Mr. Temporary Deputy Speaker, Sir, I am on a point of order. You stopped me from seeking a clarification. I could have sought a clarification---

The Temporary Deputy Speaker (Mr. Imanyara): Are you not on a point of order?

Mr. Farah: Order! Order!

(Laughter)

Mr. Temporary Deputy Speaker, Sir, my point of order is that it is not in order for any Front Line States to be involved militarily in Somalia. I know our country will never do it. I congratulate the Minister for Foreign Affairs and all the policy makers for that. We can only be involved in building the capacity of the Somali armed forces and help them with the military hardware they need to go and stabilise their country. If Ethiopians go into Somalia, you can expect a totally different ball game because that is what created Al-Shabaab in the first place.

(Mr. Wetangula stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Minister. The Chair of the Department Committee on Foreign Relations wants to seek some clarifications; I would give him a chance. I would not allow further debate on this issue. It has taken a long time.

Mr. Keynan: Mr. Deputy Speaker, Sir, I want to join other Kenyans in sending condolences to the many friends, including some Kenyans who were also affected by the unfortunate incident in Kampala.

Secondly, it is critical that this issue of Somalia is addressed. I want to say this without fear of any contradiction, that the political, social, economic and religious upheaval in Somalia has become a thriving business for individuals in power; warlords who have hitherto remained in the periphery of the Somali culture. I want to demonstrate that.

The Temporary Deputy Speaker (Mr. Imanyara): No! Order!

Mr. Keynan: Okay, I will leave that.

Mr. Temporary Deputy Speaker, Sir, since Somalia plunged into a civil war, if we take into account the number of successive attempts made by the regional States to assist the people of Somalia to come up with transitional arrangements, those individuals who for one reason or the other, have failed or participated directly in the stability of Somalia, are right here in Kenya doing business with senior individuals. When the blame comes, innocent people and refugees are being blamed.

I want to say that Kenya is one of the Front Line States. It is a fact that we have more than 1,200 kilometres unmanned border with Somalia. To that extent, Kenya has great responsibility to ensure that the lawlessness in Somalia does not affect the daily lives of the people of Kenya. We have a transitional Government. I want to bring something very critical, so that Kenyans also understand.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Keynan, I have given you latitude because you are Chairman of an important Committee. But it is not an opportunity to debate.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, what I want to say is that the foreign policy of Kenya towards Somalia must be driven by the interests of the Kenyan people. There is no two way about this fact.

The last attempt was made during the Islamic Court Regime. Ambassador Affey made tremendous efforts in ensuring that there was law and order in Somalia. What happened? When he was about to succeed, he was sacked. That was the last time any meaningful effort was put in place to have peace in Somalia.

Finally, I want to say that it is not fair that the crisis in Somalia is used as a scapegoat. When the Ethiopians invaded Somalia, they trained a number of Somali nationals from Ethiopia. Those people went back and are now engaged in secessionist's movement in Ethiopia. We do not want Kenyan people to be sucked into the issues of Somalia. Kenya is a Front Line State and we will not support any attempt by the Kenyan Government to engage militarily in Somalia. I want the Minister for Foreign Affairs and the Government to get this from the horse's mouth. That is not going to be a decision for Kenya because we do not want Kenya to be sucked into Somalia issues.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Keynan! End it there!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, hon. Keynan may have come in late. At no time, in all I have said here, have I, even by innuendo or conjecture, talked of Kenya being engaged militarily in Somalia. I have not.

Mr. Temporary Deputy Speaker, Sir, this country, its people and Government know their priorities. We know our strategic interests and our security needs, including in relation to Somalia. The Government will not waver on pursuing these interests within the context of our foreign policy that it starts with looking in the region, sub-region and going beyond our continent.

Mr. Temporary Deputy Speaker, Sir, hon. Deputy Speaker as you know, always speaks with a lot of passion on matters of Somalia. But the issues he was raising are the same issues I talked about. All I said was we have strategic and security interests. But we are a region. We are a team leader in this region. We have IGAD with whom we have worked very strenuously to bring normalcy to Somalia. We will continue working with IGAD because with IGAD and the AU, we can do a lot better than we can do alone as an

individual country. We will continue working with them without losing focus or sight of our strategic interests and the need to secure our border that borders with my good friend's constituency.

Finally, I agree with hon. Keynan that there is some thriving war economy in Somalia. There is no doubt about that. Some of the money finds its way here. I have on many occasions expelled some of those warlords when they come here. I have on many occasions imposed sanctions on them and told them that this cannot be a heaven for warlordism for people to come here and use Kenya as a pad for destabilising their country. But the bottom-line is that we, as Kenyans and particularly as leaders, must collectively work together without sending discordant voices on how we want to deal with the situation of Somalia. What has happened to Uganda can happen anywhere else. We must be on a high alert and, indeed, the Government is, to make sure that no such thing happens.

Thank you for the latitude to deal with this very important matter. The very last thing I want to say is what hon. Dr. Khalwale has said. We will consult with our mission in Kampala. If there is any need to bring Mueni back to Kenya for better treatment, we shall not only do so for Mueni, but any other Ugandans that are available for further treatment with the better facilities that we have here.

Thank you!

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE: THE COUNTER-TRAFFICKING IN PERSONS BILL AND PREVENTION OF ORGANIZED CRIMES BILL

Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I have been made to understand that there is some work to be done on the proposed amendments. I have been informed that this Order is being deferred.

Next Order!

BILL

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! As you move your Bill, hon. Kaino, the Minister responsible for answering this has indicated to the Chair that he has a substantive matter to raise before you proceed. May I hear him?

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, with due respect to the hon. Member, I had engaged him outside Parliament about this Bill. I had indicated that the contents in his Bill are all covered in a draft Bill that my Ministry has worked on for so long. It has involved all the stakeholders and

addresses the issue of compensation in far more detail than I have seen in this Bill. I requested him, and he agreed that, as a Ministry, we can take over the Bill so that proper treatment is given to it. However, this afternoon, he indicated that he wants to move it. This is the document that is before the Cabinet and its contents are--- If the hon. Member would like to look at it, he will be very pleased.

I urge the House that this is a matter that we have taken very seriously in our Ministry. We are addressing general issues of wildlife, including compensation.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, have you availed that document to the Member?

The Minister for Forestry and Wildlife (Mr. Wekesa): That is why I have come with it.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kaino, have you been availed this document?

Mr. Kaino: No, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, how do you expect him to respond if he has not seen the document?

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I appeal through you that I avail this document to Mr. Kaino. Perhaps you can use your powers so that this is shelved---

The Temporary Deputy Speaker (Mr. Imanyara): My powers are simply to preside over the business of the House in accordance with the Standing Orders. If you make it available to him and he responds, I will make the ruling. Can you give him a copy of the document to look at?

The Minister for Forestry and Wildlife (Dr. Wekesa): I will do that, Mr. Temporary Deputy Speaker, Sir. Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kaino, have you had the occasion to look at that? How does it impact on your Bill?

Mr. Kaino: Mr. Temporary Deputy Speaker, Sir, this Bill appeared on the Order Paper last week. I thought that the Ministry would be concerned and avail the document it has to me but it did not. However, I will accept what the Minister has said. I would like the relevant Departmental Committee of the House to sit together with the technical persons from the Ministry in order to find the way forward.

People have suffered as a result of Bills being handed over to Ministers. I have a right as a Member of Parliament, to bring my Bill so that it can be passed by the House without any interference.

The Temporary Deputy Speaker (Mr. Imanyara): Are you asking that the Bill be deferred?

Mr. Kaino: Mr. Temporary Deputy Speaker, Sir, I am asking that this Bill be deferred. However, I request that the relevant Departmental Committee of the House sits down with the officers from the Ministry and me in order to find the way forward.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. As you make that ruling, may I just jog your memory a little bit? Before the new Standing Orders, it was very normal for a Private Members' Bill to be taken over by the Government. Under the new Standing Orders--- We had a Bill here last week; that is, the Animal Technicians Bill which was faced with the same challenge. The Minister, Dr.

Kuti, wanted to take up the Bill in the same manner Dr. Wekesa wants to take up this one.

I abundantly, support the idea where the Government takes over a Bill. However, as Parliament, we should not have a Government which goes to sleep, wait for a Member to do all the research and all of a sudden, they become excited and they want to take away the credit from the hard work of the hon. Member. So, as you rule, let it be clear what should be happening under the new Standing Orders when a Member has done this much and a Government Minister wants to take over.

The Temporary Deputy Speaker (Mr. Imanyara): You are out of order, Dr. Khalwale because that is not what the hon. Member is saying. The hon. Member has agreed to sit with the Minister. He has asked for a deferral in order to sit down with the Minister. He is not giving or ceding the authorship of the Bill nor the credit. The Chair is obliged to agree with him if what he wants would advance the course of getting a Bill that addresses the issue comprehensively. So, my ruling is that this matter will be deferred to a period that will enable the Departmental Committee concerned to meet both the Minister and the hon. Member. Mr. Minister and the Mover of the Bill, how long will that take?

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. I was not trying to contradict what the Member has said. I was saying that you give it sufficient thought so that under the new Standing Orders – and this is my proposal – when a Minister who has been overtaken by a Private Members’ Bill wants to attempt to take over, the House orders him to surrender that information to enrich the Private Members’ Bill so that it remains a Private Members’ Bill.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Khalwale. That is precisely what the Minister is doing. He is not taking over the Bill. He simply wants time to consult with the hon. Member and share the information so that the hon. Member may know how to utilise it. I think that is a very reasonable request and I, therefore, order that this Order be deferred to such time as the two camps agree that it appears on the Order Paper.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, 14th July, 2010, at 9.00 a.m.

The House rose at 5.50 p.m.