

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 14th December, 2010

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

HARASSMENT OF KENYAN FISHERMEN BY UGANDAN SECURITY FORCES

Mr. Mbadi: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Why are Kenyan fishermen residing in Migingo Island on Lake Victoria continuously being harassed by Ugandan Security Forces?

(b) Was the Joint Boundary Survey commissioned by the Kenyan and Ugandan Governments completed and, if so, provide the report to the House?

(c) What steps has the Government taken to implement the resolution passed in the House urging the Government to use all possible means available to reclaim the island, including registering the dispute with the United Nations Security Council?

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

(a) It is true that Kenyan nationals who are residents on the island have sometimes reported police harassment from the Ugandan security personnel. The Government has not taken this matter lightly. We have raised the issue with our Ugandan counterparts on several occasions, the most recent one being the Kenya/Uganda Joint Border Commission's meeting which was held in Jinja, Uganda from 15th to 19th November, 2010. The Ugandan authorities attributed these incidents to the routine transfers amongst Ugandan security personnel. The new officers who are assigned work at Migingo Island do not understand the place and do not have the necessary sensitivity. I can assure this august House that our country will not relent on this matter until a lasting solution is found. Thank you.

Mr. Mbadi: Mr. Deputy Speaker, Sir, the Assistant Minister has not even completed answering the Question. He has only answered part "a" of the Question. Could he finish before I ask my supplementary question?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Pardon me, Mr. Deputy Speaker, Sir.

(a) Members of this august House will recall that a joint Ministerial team that met in Kampala on 13th March 2009 agreed on a joint boundary survey as a way forward in determining the ownership of the Migingo Island. The joint communiqué issued at the end of this meeting directs as follows:-

(1) That the Order in Council of 1926 and the schedules to the Ugandan Constitution of 1995 and the Kenyan Constitution of 1963 would be the primary documents in dealing with this issue.

(2) There would be an immediate withdrawal of all security forces from the island to create an enabling environment to carry out the joint boundary survey.

(3) There would be no more harassment of fishermen from both sides, provided that fishing regulations agreed upon under the Lake Victoria Fisheries Organization would be in force.

Mr. Deputy Speaker, Sir, this House will also recall that after this meeting, an experts' team worked out a budget of US\$1,659,180 for the joint survey and border marking exercise as well as applicable work schedules and time frames.

After a joint Ministerial fact-finding tour of Migingo Islands in March 2009, further discussions between the two Heads of State centered on the withdrawal of security forces from the island. After that, a joint survey exercise kicked off on 11th May, 2009. The survey exercise progressed well until 10th July, 2009 when the Ugandan team left Lake Victoria for Kampala after significant differences emerged on matters of technicalities. One of such technicality was on the interpretation of the exact location of the westernmost point of any given island as described by the 1926 Order in Council. These disagreements will require expert advice in accordance with International Maritime Law.

Following this impasse, both Foreign Ministers discussed the matter and agreed that another joint Ministerial meeting was needed. Uganda offered to host the next bilateral Ministerial consultations in Kampala. The exercise of asserting the boundary was, therefore, not completed.

(b) The Government is committed to resolving the Migingo Island dispute once and for all but peacefully. We actually owe it to our citizens to resolve the Migingo issue in a friendly and constructive atmosphere. The Government resolve in this matter was aptly re-iterated during a courtesy call on H. E. President Museveni by the Rt. Hon. Prime Minister on 2nd April, 2010 when he went to Uganda.

Kenya and Uganda enjoy historical and strategic relations that cover a wide range of spheres. It would, therefore, be quite unfortunate that these relations between our two countries are defined by a disagreement over Migingo Island. Indeed, this would be contrary to the spirit of East African integration.

Furthermore, African States have resolved to put in place a new form of pragmatic border management aimed at promoting peace, security and stability and also facilitating the integration process within the East African region. Regional economic communities have also been called upon to assist the States in mobilizing the necessary resources and expertise which would include facilitating the exchange of experiences and promoting inexpensive border delineation and demarcation practices.

Pursuant to the declaration on the African Union (AU) border programme and its implementation modalities as adopted by the Conference of African Ministers in charge

of border issues held in Ethiopia on 7th June, 2007, African States are encouraged to undertake and pursue bilateral negotiations on all forms relating to the delineation and demarcation of their borders, including those pertaining to the rights of the affected populations with a view of finding appropriate solutions to this problem.

Finally, the Kenyan Government realizes that whereas it may be useful at some point to turn to the United Nations Security Council for help in this matter, I wish to advise that it would be premature to take this matter to the United Nations even before we have exhausted all our political dialogue that is required because Uganda, indeed, is our best neighbour so far.

Within the AU, there are principles and decisions which we are bound by and which make it necessary that we first exhaust these options that are available and are political.

Mr. Mbadi: Mr. Deputy Speaker, Sir, it is sad that the Assistant Minister can only manage to give such a lazy answer to this important Question. This is the only country that keeps on referring to another country as a friendly neighbour when that country harasses its citizens. I do not understand how friendly the Ugandan Government is when it harasses the Kenyan citizens who are undertaking normal economic activities within their territory.

When the communiqué was issued, which I witnessed in Uganda, we agreed and the Assistant Minister has reiterated in his answer that there would be an immediate withdrawal of all security forces from the island to create an enabling environment to carry out a joint boundary survey. Now that the Ugandan Government has refused or failed to honor this provision of the communiqué, why has the Kenyan Government not taken its security forces to Migingo Island to ensure that Kenyan citizens doing business and residing in Migingo are protected from the harassment by the Ugandan security forces?

Mr. Onyonka: Mr. Deputy Speaker, Sir, I would like to answer my colleague by saying that I hope he is not asking us to make a declaration of war against Uganda. The point I made earlier on was that---

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I do not understand why the Assistant Minister should hope when my question is very clear. I have asked: Now that the Ugandan Government has refused to withdraw its security forces from Migingo Island as was agreed, why has the Kenyan Government not also maintained its security forces on Migingo Island to provide security to Kenyan citizens? I am not calling for war. I am asking why you are not providing security to Kenyan citizens on Migingo Island.

Mr. Onyonka: Mr. Deputy Speaker, Sir, Kenya is a very friendly country. The Minister of State for Provincial Administration and Internal Security would most likely answer that question, but I will state categorically that the Kenya Government has put in place mechanisms to make sure that our people are not harassed in Migingo. The forces which exist on that island are the Uganda Police, and not the military. We believe that the problem we have right now should be sorted out as soon as possible because we understand the sensitivity and complexity of this matter.

Mr. Imanyara: Mr. Deputy Speaker, Sir, it should not have escaped the Assistant Minister's attention that for the last few months, there have been very many high level visits of Kenyan leaders, including Members of this House, to meet President Museveni. Could he convince this House that those visits had nothing to do with undermining the sovereignty of Kenya over Migingo Island?

Mr. Onyonka: Mr. Deputy Speaker, Sir, as far as I am concerned, there is no communication, Press statement, correspondence or otherwise which has discussed the issue of Migingo Island.

Mr. Ochieng: Mr. Deputy Speaker, Sir, the Ugandan forces at Migingo Island continue to harass Kenyan fishermen. They continue to demand levies in the name of taxes. They continue to confiscate fishing gear from the same fishermen. What is the Assistant Minister doing to make sure that all that has been confiscated from those poor fishermen, including "revenue", is returned to them?

Mr. Onyonka: Mr. Deputy Speaker, Sir, I would want to say that the Kenya Government is aware of the incidents that have been taking place. As I said, we are waiting for the Ugandan Government to invite us, since we cannot invite ourselves, so that we can go and have the next bilateral Ministerial consultative meeting, which is supposed to take place in Kampala. I can assure you that diplomacy messages are being sent over to make sure that the Migingo Island issue is sorted out once and for all. I can assure you that the Government will make sure that we achieve the results that are required without necessarily declaring war on Uganda.

Dr. Nuh: Mr. Deputy Speaker, Sir, the Assistant Minister intimated that there is an allocation of some money that was done. Has this money been utilised as he said that survey work has not been done? Has the money been utilised elsewhere?

Mr. Onyonka: Mr. Deputy Speaker, Sir there was a dispute as to what was required to be done, and how much money was to be spent. The money has actually not been spent. The Kenya Government has been waiting for the agreement to take effect, so that we can perform our part of the bargain and make sure that demarcation work starts and make sure that we achieve the desired results. I also said that in case we do not agree amongst ourselves, then we will have to go to the ICC to make sure that we have international arbitration to solve this matter once and for all.

Mr. Deputy Speaker: Last question, hon. Mbadi!

Mr. Mbadi: Mr. Deputy Speaker, Sir, I was a bit concerned when the Assistant Minister said that we would go to the ICC. Anyway, he has corrected himself, although informally.

We have been on this matter for far too long. Since this House has resolved on what the Government needs to do, and the Government has refused or failed to do it, could the Assistant Minister now tell this House categorically what steps the Government is going to take to reclaim this island once and for all, because it is in Kenya? It is in my constituency. Could he tell me when it is going to be reclaimed?

Mr. Onyonka: Mr. Deputy Speaker, Sir, earlier I explained to my colleague that the issue of Migingo Island is, indeed, very sensitive, and that the Government is determined to make sure that we have mechanisms to try and deal with the challenges we are encountering. I believe that within the first few months after Parliament re-opens next

year, the Ministry of Foreign Affairs and all the other Ministries which are concerned with this matter, including the Ministry of Lands, will make sure that we present our memorandum to the Uganda Government. In case there will be failure, we will inform the House and suggest the next course of action. I promise him that this matter will be handled expeditiously and officially to make sure that we achieve the best results.

Mr. Deputy Speaker: Next Question, Eng. Gumbo!

LIST OF EMPLOYEES AT KENYA AIRPORTS AUTHORITY

(Eng. Gumbo) to ask the Minister for Transport:-

- (a) could the Minister table in the House a list of all employees (excluding the casuals) of the Kenya Airports Authority (KAA) categorized into stations, indicating their respective names, dates of birth, dates of first employment by KAA, academic/professional qualifications, job group/rank, department and home district;
- (b) could the Minister also provide a comprehensive/detailed oranogram of the Kenya Airports Authority; and
- (c) what steps is the Minister taking to ensure equity and regional balance in employment at the Authority?

Mr. Deputy Speaker: Is Eng. Gumbo not here? We will come back to this Question.

Next Question, hon. Letimalo!

INVASION OF ELAND DOWN FARM BY ADMINISTRATION POLICE

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

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

(b) What were the circumstances under which 18- Month-old baby Lekamario was burnt during the illegal operation, and why did police officers deny the Kenya Red Cross and human rights officers entry into the farm to assist victims with medication?

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

Mr. Deputy Speaker: Is the Minister not here? We will come back to this Question.

ORAL ANSWERST TO QUESTIONS

Question No.561

OPERATIONS OF COFFEE SACCOS
AFFECTED BY LOAN DEFAULTERS

Mr. Kathuri asked the Minister for Co-operative Development & Marketing:-

(a) whether he is aware that since July 2010 coffee farmer SACCOS have experienced difficulties when dealing with loan defaulters;

(b) when he will implement the Presidential directive to waive the arrears owed by the farmers; and,

(c) what incentive the Government will offer to farmers who have painfully and with a lot of sacrifice continued to pay their loans without falling into arrears.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Deputy Speaker, Sir, it is unfortunate that I have not been given instructions on the Question. I did not stand up to answer when you called out the Question because I thought that my Minister was here. I did not get any instructions from my Minister, as his Assistant Minister.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. The Standing Orders are very clear that a Minister is a Minister. So, I do not understand what the Assistant Minister means when she says she has problems with another Minister. Is she in order?

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Deputy Speaker, Sir, unless, I am given permission to go and look for the answer from the Ministry, I cannot answer this Question today.

To answer hon. C. Kilonzo, Assistant Ministers assist Ministers when they are not there to answer Questions. That is what we do. So, it is unfortunate in this case that I have not gone to the office to be given the answers because I have just arrived from my constituency, Marakwet East. So, given time, I would go and look for the answers in the office.

Mr. Deputy Speaker, Sir, may I be given until tomorrow so that I can reach the office after the adjournment of the House today.

Mr. Deputy Speaker: Madam Assistant Minister, indeed, for the purpose of the Standing Orders and the functions of this House, a Minister is defined as the President, the Prime Minister, the Vice President, Ministers and Assistant Ministers. So, you are a Minister for all practical intent and purposes for the functioning of this House. But nevertheless, now that you say that you do not have the answer, we have got a communication from your Minister, which frankly the Chair thinks is not tenable. Your Minister says that he will not be a position to answer this Question until sometimes next year. The Question itself is a property of the House. The Chair directs that this answer should be available tomorrow, whether he comes and delivers it himself or he sends you. Anything other than that, the Chair will take a stern action. It is, indeed, disorderly for a Member to fail to ask a Question or a Minister to fail to answer a Question.

Next Question, Question No.562.

Question No.562

FORMULA USED BY KSB
TO PAY SUGAR-CANE FARMERS

Mr. Washiali asked the Minister for Agriculture:-

- (a) whether he could state the formula used by Kenya Sugar Board (KSB) to pay sugar-cane farmers; and,
(b) whether Mumias Sugar Company (MSC) is in compliance with the formula.

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

(a) The Kenya Sugar Board through sugar-cane pricing Committee is using simplified cane pricing formula to pay sugar-cane farmers as follows: That is net price, that is “x” factory minus VAT minus sugar-cane development levy times 50 per cent times 50 over tonnage of cane versus tonnage of sugar. The farmers share ratio adopted at 50 per cent, tonnage cane and tonnage sugar was set at ten, being the industry average.

(b) Mumias Sugar Company is among the sugar millers with high percentage of compliance with this formula.

Mr. Deputy Speaker, Sir, we have held four meetings with the Sugar Pricing Committee and we have agreed. They are signing an agreement next week to confirm that they will stick to the formula. Any miller who will not pay the farmers according to the formula will be punished.

Mr. Washiali: Mr. Deputy Speaker, Sir, the answer is rather disappointing to the farmers of this country especially sugar-cane farmers.

Mr. Deputy Speaker, Sir, I would request that you rule that on 30th September, the same Ministry gave us an answer where they indicated that Mumias Sugar Company was not in compliance with the sugar pricing formula by Kshs881 million. I would want to table the HANSARD Report of the same answer so that you can check.

(Mr. Washiali laid the document on the Table)

Mr. Deputy Speaker, Sir, I, therefore, request for a ruling why a Minister has a different answer from that of 30th September. I request you to invoke Standing Order No.97, where a Member can deliberately give false information to the House.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I did not say that Mumias Sugar Company violated the formula. I said, it is among those millers whose compliance is 96 per cent. If you look at the formula and the calculation, you will find that their compliance is 96.2 per cent. If you look at the others, they range between 89 and 90 per cent. But we appointed a committee to purely audit Mumias Sugar Company because it had the biggest problem of not paying. When that Committee sat down and looked at it, they found that Mumias Sugar Company has arrears. The arrears is about Kshs295,477

according to the new calculations. There is a team going round and they have been given two weeks to come up with the actual position in every mill so as to know who is complying and who is not. So, I am not lying. An audit has been thoroughly done. We have written to Mumias Sugar Company and asked them to tell us how they will pay farmers.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. This is the second time the same Assistant Minister is misleading the House. The first time he attempted to mislead the House, hon. Washiali tabled a document. In the second one he has just said that Mumias Sugar Company has a compliance of 96 per cent. Is he in order to mislead the House when, in fact, according to the documents and proceedings of a meeting held by the Cane Pricing Committee, which I want to table, held on 23rd November, 2010, Mumias Sugar Company is found to be behind compliance at 90 per cent? The best compliance is West Kenya Sugar Company at 98.5 per cent, followed by Nzoia Sugar Company at 94.6 per cent and so on. Is he in order to mislead the House to protect Mumias Sugar Company, when it is owing farmers, Kshs899 million? I wish to table documents. He is misleading the House unless he wants to protect the miller against the farmers.

(Dr. Khalwale laid the document on the Table)

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I am not protecting anybody. I do not even know the people of Mumias. I am talking about a finding by the Kenya Sugar Board. I am not disagreeing that West Kenya Sugar Company has the highest compliance percentage. It has 98.5 per cent. I have said that Mumias Sugar Company has 96 per cent compliance and they have arrears to pay to the farmers.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The point is that the Assistant Minister is saying 96 per cent compliance to please the audience. The truth is that Mumias Sugar Company is not complying at 90 per cent. So, he is raising it to 96 per cent so as to please the audience. In the process of failing to be compliant, it is costing our farmers, Kshs899 million. Is he in order to defend the company to the extent of misleading the House that it is compliance at 96? Why does he not check to confirm? That is your own Board paper and it was chaired by the former Chairman, Mr. Obado, on 23rd November?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I would like to table this report which was done last week. The sugar price varies. It is not really constant. It could be going for Kshs4,000 per tonne and the way they calculate this pricing of cane is that they take “x” factory price minus statutory deduction, which is VAT minus sugar-cane development fund.

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. The issue of sugar means a lot to the economy of western Kenya. There have been a lot of contradictions---

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

Mr. Chanzu: Mr. Deputy Speaker, Sir, I want guidance from you. Would I be in order to request you to rule that this matter be referred to the relevant Departmental

Committee so that all these information can be harmonized in order for the matter to be properly addressed?

Ms. Karua: Mr. Deputy Speaker, Sir, the Assistant Minister has already tabled the schedule showing the rates of compliance and it is true that West Kenya is leading at 98.5 per cent, Nzoia Sugar Company at 94.6 per cent and Mumias Sugar Company at 90.6 per cent. What will the Assistant Minister do to ensure that all the millers are compliant and are at 100 per cent? How much time does he think he will utilize to make them comply because we want total compliance?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I have said the pricing Committee has given every miller two weeks to comply. We are waiting for them to come up with a report in two weeks time.

Mr. Washiali: On a point of order, Mr. Deputy Speaker, Sir. In view of what the Assistant Minister has said in response to the supplementary question, could I be in order to ask him to go and have a meeting with his Committee members and report back to this House in two weeks time?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I am ready to do so. I do not have a problem with that. It is me who requested for the meeting and we have already held three of them. I have given them two weeks to comply.

Mr. Deputy Speaker: Do you want the Question to be deferred so that you can report at that time?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I will bring the information with or without the Question.

Mr. Deputy Speaker: Fair enough! The Chair directs that the Question appears on the Order Paper two weeks from today. That will be on a Wednesday or Thursday after two weeks.

Let us move on to the next Question by Ms. Karua!

Question No.567

REPOSSESSION OF PUBLIC FACILITIES IN WATAMU

Ms. Karua asked the Minister Lands:-

(a) whether he is aware that the social hall and the stadium at Watamu New Town have been alienated and allocated to individuals thereby denying the public their use; and,

(b) what steps he is taking to revert the said facilities to the public.

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

I am aware that the Social Hall in Watamu was allocated to an individual in 1999. However, according to the records available, the stadium is still intact. I have directed that a restriction be placed on the title deed pending revocation and repossession of the public land.

Ms. Karua: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the answer but it is neither comprehensive nor thorough. On 22nd March this year, residents

of Watamu wrote to the Commissioner for Lands indicating that the stadium, the secondary school, women's social hall, market and church had all been grabbed. By now the Assistant Minister should have revoked the title deeds. They even annexed a map showing all the plots marked "X" which had been annexed. I want to table that bundle of documents. Could the Assistant Minister go back, do a thorough check and tell us what he will do to reclaim all these public plots which have now been grabbed?

Mr. Wakoli: Mr. Deputy Speaker, Sir, we are aware of that and that is why we have referred this matter to the Kenya Anti-Corruption Commission (KACC) to assist us repossess this land like we have done in other areas. We will do that.

Mr. Mbugua: Mr. Deputy Speaker, Sir, what long-term measures has the Assistant Minister taken to recover the grabbed public utility plots especially for hospitals, schools and fire stations? What long-term measures has he put in place in order to stop land grabbing in this country because most of the land grabbers even after the cancellation of the title deed rush to court to stop this?

Mr. Wakoli: Mr. Deputy Speaker, Sir, with the new Constitution, we will set up the National Land Commission. It is our responsibility to cancel title deeds so that those who have stolen can go to court because we cannot go to court.

Mr. Imanyara: Mr. Deputy Speaker, Sir, I know that both the Questioner and the person answering are both serious presidential candidates who are committed to eradicating this disease of land grabbing. If, indeed, this Ministry is very committed to stop land grabbing and this document speaks for itself, why was it necessary to refer the matter to the KACC? The Ministry could have made the revocation without any further reference to any other person.

Mr. Wakoli: Mr. Deputy Speaker, Sir, we do not just want to revoke the title deed but we also want these people to be investigated. That is why we referred the matter to the KACC. We have revoked very many title deeds and I expect this House to thank this Ministry.

Mr. Murgor: Mr. Deputy Speaker, Sir, what measures has the Ministry taken because county council chairmen and clerks are now disposing of public land in a hurry? To them, it seems that there is an eclipse of the law and they do not want the next measures in the law to catch up with them. What measures has the Ministry taken immediately to stop that?

Mr. Wakoli: Mr. Deputy Speaker, Sir, our Ministry has put an embargo on all public land so that whatever they do does not go anywhere. So, no transaction will be done until 2013.

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

Ms. Karua: Mr. Deputy Speaker, Sir, now that the Assistant Minister has agreed that he needs to revoke the irregular allocation of public utility land in New Watamu Town, could he agree to go back, revoke and then report back to this House even if it means in four weeks so that we can know that the public can have back their social hall, their school, the stadium and all the other irregularly grabbed utilities?

Mr. Wakoli: Mr. Deputy Speaker, Sir, I want to assure the hon. Member that we will revoke these title deeds immediately.

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

Question No.575

FUNDING OF MOBILE SCHOOLS
IN MADOGO DIVISION

Dr. Nuh asked the Minister for Education:-

(a) whether he is aware that Arid Lands Resources Management Programme surrendered the responsibility of funding mobile schools, including Malka Mansa mobile school in Madogo Division, to the Ministry since December 2009;

(b) to explain to the House the reasons why the school has not received money since January 2010 despite the Ministry having all necessary details and state when the Government will disburse money to the school; and,

(c) to state how much money is owed to the school and how much is for payment of salaries.

The Assistant Minister for Education (Mr. Mwatela): Mr. Deputy Speaker, Sir, this matter came to my attention this afternoon and it touches on a very fundamental right of the people of this Republic. When somebody does work, he should be paid. The answer supplied by my officers is totally unsatisfactory. I plead for more time so that I can bring a concrete answer tomorrow in the afternoon so that noble citizens can be paid their money.

Mr. Deputy Speaker: Dr. Nuh, are you comfortable with tomorrow afternoon?

Dr. Nuh: Mr. Deputy Speaker, Sir, as the Assistant Minister has confirmed, this is about teachers who have not earned salary for the last one year. I have no problem if this issue can be addressed adequately tomorrow in the afternoon.

Mr. Deputy Speaker: Fair enough! The Chair directs that the Question appears on the Order Paper tomorrow afternoon.

(Question deferred)

Question No.590

PREPARATION OF TWO REPORTS ON POST-ELECTION
VIOLENCE BY KNCHR

Mr. Deputy Speaker: Hon. Ruto! He is not here?Next Question!

Question No.606

NON-REMITTANCE OF BENEFITS TO LATE
MOHAMED S. SALIM'S FAMILY

Mr. Yakub asked the Minister for Foreign Affairs:-

(a) whether he is aware that a Kenyan national, Mr. Mohamed Swaleh Salim (holder of Passport No.A1116160), passed away while working at the Sheraton Jiddah Hotel in Saudi Arabia on 9th July 2008; and,

(b) why the Ministry has not remitted the money paid by the hotel through the Kenyan Embassy in Jiddah to the family and when the money will be remitted.

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

(a) I wish to confirm that I am aware that Mr. Mr. Mohamed Swaleh Salim, holder of Passport No.A1116160, passed away while working at the Sheraton Jiddah Hotel in Saudi Arabia on 9th July, 2008.

(b) Following the unfortunate demise of Mr. Mohammed, the Sheraton Jiddah received a document dated 22nd July, 2008, headed "Special Power of Attorney", by which a Mrs. Wafa Abdulrahman Said, holder of ID No.20170648 of P.O. Box 98734, Mombasa, appointed a Mr. Ahmad Mohammed Barak, holder of residence permit No.2224859492 to represent her family to collect the deceased properties and dues. The Sheraton Jiddah wrote to the Kenyan Embassy in Riyadh on 23rd July, 2008, informing that Mrs. Wafa Abdulrahman Said was the wife of the late Mohammed Salim and had been nominated by the deceased as the next of kin for dues payments. They hence forwarded the power of attorney to the Ministry of Foreign Affairs office in Jiddah for verification in order for these dues to be paid to Mr. Mubarak.

The Embassy, in a response dated 26th July, 2008, informed that it did not provide approvals for any persons to collect dues unless they were the next of kin. They recommended that the deceased dues be prepared by the hotel and the same be remitted to the Mission for onward transmission to the Ministry of Foreign Affairs in Nairobi for the release of the funds and whatever that the deceased might have owned, to the next of kin and as it is appropriate and required by law. The Sheraton Jiddah duly responded on 18th January, 2009, conveying the deceased documents as well as a cheque with his dues which are worth Saudi Riyal 30,542. This included his final employment settlement dues as well as his insurance settlement. The same were remitted by the Embassy to the Ministry headquarters in Nairobi via the Central Bank of Kenya. The remittance was by Saudi Holland Bank, Riyadh, transaction reference No.FT09129237000007 on 9th May, 2009. The funds to the amount of US\$8,144 were received by the Ministry in its deposit account.

Since we received this money in the Ministry which belonged to the late Mohammed Salim, no beneficiary of the deceased estate has approached us for the money. The Ministry is unaware of any person who may have an interest. We are making a request that anybody who may know this individual and has been provided for with letters of administration of his estate to collect the cheque because it is available.

Mr. Yakub: Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for a very long and detailed answer. Every single sentence of his answer is true. However,

allow me to table some documents, so that he can go through them. This case was sent to the Kadhis Court. The beneficiaries were duly identified and the letter was addressed to the Permanent Secretary. I wish to table all these three documents.

(Mr. Yakub laid the documents on the Table)

He has agreed that the money is already in the Ministry's deposit account. I would like him to go through the documents which I have tabled and make sure that the cheque is paid to the concerned people at the earliest date.

Mr. Onyonka: Mr. Deputy Speaker, Sir, I will guarantee my colleague that as soon as we receive information from the Kadhis Court, we will forward the cheque, through the Attorney-General's office, for onward transmission to the individuals who are supposed to be bequeathed this money.

Mr. Deputy Speaker: Mr. Yakub, are you satisfied with that answer?

Mr. Yakub: Yes, Mr. Deputy Speaker, Sir. I am.

Question No.622

LIST OF GAZETTED/UNGAZETTED DISPENSARIES IN MASINGA

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

(a) whether he could provide a list of all the gazetted and ungazetted dispensaries in Masinga Constituency;

(b) why the newly recruited nurses under the Economic Stimulus Programme were not posted to the gazetted dispensaries without nurses; and,

(c) When the Ministry will post a nurse to every dispensary.

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

(a) The following are the 26 gazetted dispensaries in Masinga Constituency:- Masinga Health Centre, Kivaa Health Centre, Mukusa Dispensary, Ngechani Dispensary, Katulye Dispensary, Kikumini Dispensary, Kangode, Ikatini, Ekalakala, Mutesya---

Mr. Deputy Speaker, Sir, I do not know whether I should read the entire list because I have already given the Member the list.

Mr. Deputy Speaker: Could you table that list? It is not just for the Member alone!

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Deputy Speaker, Sir, I will table it as soon as I finish reading the answer.

A total of four dispensaries have not been gazetted, which were built by the community through the Constituencies Development Fund. These are Nzukini, Mukuyuni, Ndokeleni and Kanywoni dispensaries.

(b) The 20 Economic Stimulus Programme nurses have been fairly deployed as follows:- Kithyoko Dispensary – two, Kitundumini – one, Gakongo - one, Ekalakala - one, Masinga Health Centre - two, Kikumini - two, Muthesya - one, Ndithini - one,

Mananja - one, Endei - one, Kivaa Health Centre - three, Mukusu - one, Katulye - one, Kikumini - one and Kyondoni - one. That makes a total of 20 nurses who were employed in Masinga Constituency.

(c) My Ministry is in the process of recruiting 2,500 nurses during this Financial Year 2010/2011 under the Economic Stimulus Programme. I hope this will address the staff shortage in the affected facilities.

Mr. Deputy Speaker, Sir, the shortage of medical personnel is all over the country.

Mr. Mbai: Mr. Deputy Speaker, Sir, first of all, I thank the Assistant Minister for the answer. However, four dispensaries are missing on his list. I do not know whether they have been gazetted or not. Could he tell us the status of these dispensaries? These are Kiatine, Kikule, Katothya and Ndovoini dispensaries. Could he tell us the status of these dispensaries?

Dr. Gesami: Mr. Deputy Speaker, Sir, there are three dispensaries that are not operational but are gazetted. These are Kaewa, Kyatimini and Katothya dispensaries. The Ministry has already advertised for the posts of about 1,050 Kenya Community Enrolled Nurses and ten Nursing Officers, three per constituency. We believe that we should operationalize them as soon as we get these nurses. There will be 15 nurses per constituency.

Mr. Deputy Speaker: Hon. Mbai, can you ask the last supplementary question on the same?

Mr. Mbai: Mr. Deputy Speaker, Sir, he has mentioned three out of the four dispensaries that I have mentioned. What of the other one; that is Kikule Dispensary?

Mr. Deputy Speaker: Could you answer that one, Mr. Assistant Minister?

Dr. Gesami: Mr. Deputy Speaker, Sir, I will find out about that dispensary, because this is the list that I was given by the Medical Officer of Health (MoH) in Masinga. I will find out where this dispensary is.

Mr. Mbai: Mr. Deputy Speaker, Sir, could the Assistant Minister give us the time within which he is going to post nurses to the dispensaries which do not have nurses?

Dr. Gesami: Mr. Deputy Speaker, Sir, I have already answered that question; that we are actually employing 15 nurses per constituency this financial year and that, that issue will be addressed when we employ them.

Mr. Deputy Speaker: That is fair enough!

Next Question by Mr. Ochieng!

Question No.631

FREQUENT PURCHASE OF FOREIGN CURRENCY BY CBK

Mr. Ochieng asked the Minister for Finance:

(a) to explain why the Central Bank of Kenya is frequently purchasing foreign currency;

(b) whether he could confirm or deny that the above practice is one way of manipulating the value of the Kenya shilling; and

(c) how much reserve the bank is holding currently and what the shortfall is, if any.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I would like to beg for your indulgence to answer this Question next week. This is because, originally, we had received the answer for only parts “a” and “b”, and the other part, which is part “c” only came the other day and we have not had time to raise enough information. I have discussed with the hon. Member if we can be able to answer the Question on Tuesday next week. Thank you.

Mr. Ochieng: I do not have a problem with that. We have discussed this and I quite agree.

Mr. Deputy Speaker: Are you sure you would want to discuss a Question as critical as the Central Bank of Kenya (CBK) in the public domain? You realize that the CBK and the printing of money is a national security matter. Nonetheless, the Chair directs that this Question be deferred to next week and advises that you have further consultation – both the Leader of Government Business or the Prime Minister’s Office, for that matter and the Deputy Prime Minister and Minister for Finance – so that this is cleared out.

(Question deferred)

Question No.633

NON-RECRUITMENT OF SAMUEL M. KARIUKI INTO ARMED FORCES

Mr. Warugongo asked the Minister of State for Defence:

(a) whether he is aware that Mr. Samuel Munga Kariuki, who rescued two persons from drowning in Chinga Dam in Othaya Constituency, was not recruited during the recently concluded armed forces recruitment exercise despite an earlier commitment by the Central Provincial Commissioner to consider him; and,

(b) whether he could consider recruiting him in the next recruitment exercise, in view of his demonstrated courage and determination.

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

(a) It is true that Mr. Samuel Munga Kariuki, who is alleged to have rescued two persons from drowning in Chinga Dam, Othaya Constituency, on an unknown date and time, was not recruited into the Kenya Defence Forces (KDF) during the recently concluded recruitment exercise, according to our record. However, the Ministry of State for Defence was not aware of any arrangement or agreement to have Mr. Samuel Munga Kariuki recruited into the KDF since we were not privy to the alleged earlier commitment by the Central Provincial Commissioner on the matter. Suffice to say that the military has well defined rules and procedures for carrying out recruitment exercises countrywide. This negates external influence whatsoever at all levels while, at the same time, promoting equal opportunity for all Kenyan citizens.

(b) Mr. Samuel Munga Kariuki will be accorded an equal chance, just like any other Kenyan citizen in the future recruitment exercise without any preference, despite his past achievement where he is alleged to have demonstrated courage and determination. The act is commendable, but he should, however, note that many other Kenyan citizens have also been involved in similar acts of valor or self-sacrifice, but have never been recruited into the military as a reciprocal gesture. Mr. Samuel Munga Kariuki, therefore, is advised to present himself to the respective recruitment centre during a future recruitment exercise for consideration, among others, if he meets the stipulated requirements. Accordingly, the Ministry of State for Defence cannot commit itself to recruiting a particular person in future.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Warugongo: Mr. Deputy Speaker, Sir, let me thank the Assistant Minister for that answer. This young man was not “alleged” to have saved two people. He actually did exactly that. When he saw some people drowning, he removed his clothes and jumped into the water, swam across 50 meters and came up with the first person. As if that was not enough, he went back into the dam and came out with another person. He would have gone back for the third time were it not that he got tired. This act should be commended and the young man should be recognized by the Government. If the young man presents himself in the next recruitment drive and he qualifies, will he be recruited into the armed forces?

Maj-Gen. Nkaisserry: Mr. Deputy Speaker, Sir, I do commend Mr. Munga Kariuki for his act of sacrifice to save other people’s lives. But saving people’s lives is not a qualification to be recruited into the KDF. So, I would like to advise the young man to present himself during the next recruitment, but on condition that he meets all the requirements as per our procedures and regulations.

Mr. Warugongo: On a point of order, Mr. Deputy Speaker, Sir. He did not answer my question. I asked him, will this young man be recruited if he qualifies? That is my question.

Mr. Deputy Speaker: Order, hon. Warugongo! Indeed, he has answered that question. The Assistant Minister has told you that if the young man qualifies or if he meets the requirements, he will be recruited. The Assistant Minister has answered. Could you ask the last question on the same?

Mr. Warugongo: Mr. Deputy Speaker, Sir, I do not have another question. Thank you.

Mr. Deputy Speaker: That is fair enough!

QUESTIONS BY PRIVATE NOTICE

Mr. Deputy Speaker: Let us go back to Questions by Private Notice.
Next Question, Eng. Gumbo!

LIST OF EMPLOYEES AT KENYA AIRPORTS AUTHORITY

(Eng. Gumbo) to ask the Minister for Transport:-

(a) Could the Minister table in the House a list of all employees (excluding the casuals) of the Kenya Airports Authority(KAA) categorized into stations, indicating their respective names, dates of birth, dates of first employment by KAA, academic/professional qualifications, job group/rank, department and home district?

(b) Could the Minister also provide a comprehensive/detailed organogram of the Kenya Airports Authority?

(c) What steps is the Minister taking to ensure equity and regional balance in employment at the Authority?

Mr. Deputy Speaker: Is Eng. Gumbo out of the Chambers today on any official parliamentary business inside or outside the country? The Question is dropped!

(Question dropped)

INVASION OF ELAND DOWN FARM BY ADMINISTRATION POLICE

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

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

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

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

Mr. Deputy Speaker: Minister of State for Provincial Administration and Internal Security? Leader of Government Business, the Minister of State for Provincial Administration and Internal Security is not in the House to answer Questions.

The Vice President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, both the Minister and Assistant Minister are actually out. I happen to know that Prof. George Saitoti is representing the President at the Great Lakes Summit, which is taking place in Lusaka about this time. Mr. Orwa Ojode and Mr. Lesrima, I think they are probably not within town. We will catch up with them. If the Question could be deferred, we will have it dealt with tomorrow afternoon.

Mr. Letimalo: Mr. Deputy Speaker, Sir, this is the fourth time that this Question is appearing on the Order Paper. The Assistant Minister has been taking us round in circles, saying that we should table documents. The last time the Question was deferred on Thursday, he requested that we table a certified copy of the original court order, which

I have with me. I did consult the legal counsel of Parliament and today I even showed him the certified copy and he said that is what is required.

Mr. Deputy Speaker, Sir, I want to report to this House that the situation is getting bad. On Monday, this matter attracted the attention of the international Press. Journalists of the BBC were there yesterday and they took pictures of an old man being assaulted. I would like to seek the indulgence of the Chair that, now that the Leader of Government Business is here--- He is a lawyer who believes in the rule of law; he is a staunch christian; he sees the way the people are being harassed by the Kenyan police. I would like to request that he compels the Minister to withdraw these police officers and restore order. There is no reason why we should have court orders that are not obeyed by Government agencies, particularly the police. Otherwise, there was no point in us enacting a new Constitution that is not being respected by the Government.

Mr. Deputy Speaker, Sir, I seek your indulgence.

Mr. Deputy Speaker: The Chair realizes that the Leader of Government Business cannot answer on behalf of the Minister. Nonetheless, could you give an undertaking to the House?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, I want to give a very firm undertaking, because the passion with which the hon. Member for Samburu East has put this Question, is very clear. I want him to rest assured that we will have to deal with this matter.

I had originally said that, with your indulgence, it can be handled tomorrow afternoon, so that we can be absolutely sure that the Ministers are available to answer the Question. It could actually be put in for Thursday afternoon, it being understood that it could very well be the day when we will discuss other important business. If the Ministers will not be here by Thursday afternoon, I will personally deal with this Question.

Mr. Deputy Speaker: Mr. Vice-President, if what the hon. Member says is true, the Government is breaking the law. The court order is here, and the Legal Department of Parliament has said that it is authentic. If you have your forces still in the ranch then they should be cleared from it. There is a problem here. Can you give an undertaking that you will give a directive that they be removed so as to respect the law?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, I give that undertaking. But as I said, if the Ministers are not around on Thursday afternoon, either myself or Dr. Sally Kosgei will deal with this matter. I want the hon. Member to rest assured that we are serious in this particular matter of our undertaking. I want to seriously seek your indulgence.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. You will remember that this Question has been coming to the House on a daily basis. The issue at hand, as was said by Mr. Ojode, was that the order presented to the Chair then was from River Road. If the Vice-President can confirm that, that court order is genuine, could he then undertake to remove the police from the ground without waiting to come to the House on Thursday to answer this Question? Could he come and confirm to the House what he will have done on Thursday?

Mr. Deputy Speaker: Hon. Members, this is a law-making body, and the least the Government and Members of Parliament can do is to respect the law. There are two orders here. There is one which was issued on the 22nd of November by the High Court in Nyeri. Another one was issued on 24th November, 2010. The one of 22nd November says:

“An order for the *status quo* to be maintained is hereby granted until 24th November, when the case shall be mentioned”.

The order for 24th November states as follows:

“The plaintiffs’ advocate and the second defendant to liaise with the second defendant to identify and ensure that the squatters in occupation or grazing on the site plan are not evicted nor harassed until this suit is heard and determined”.

If, indeed, it is true that there are members of security forces who are harassing Kenyan squatters on the ranch, then it is the Government that is breaking the law. The Chair would be very happy and comfortable if the Vice-President, who is the Leader of Government Business, can say that he will direct that the orders given by the court be respected until the matter is heard.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, talking to you now and addressing the House as an advocate of the High Court, there are obviously several issues that arise out of the communication you have just read.

First of all, was this order served? I cannot answer that question right now. Was it served on the Government side? I also heard you say “until 24th November”. We are now on the 14th of December. Were these orders extended? These are issues that I cannot deal with right now. I do undertake that on Thursday, if the Ministers will not be here, I will personally handle this Question.

Mr. Deputy Speaker: This matter was on the Floor of the House way earlier than this, when the Assistant Minister contested the authenticity of the order. As a matter of fact, the HANSARD will bear me out. The Assistant Minister said that the order could have been made in River Road. If, indeed, it has now been authenticated, that is something else that, under our Standing Orders, might lead to some sanctions. What do you have to say, Mr. Letimalo? Have these orders been extended?

Mr. Letimalo: Mr. Deputy Speaker, Sir, I have a copy here showing that both the DC, Laikipia East, and the AP commandant were served on the dates shown. I had to bring that copy from the High Court to prove that it is a certified copy of the original.

Mr. Deputy Speaker: Could you table them before the House?

(Mr. Letimalo laid the documents on the Table)

Mr. Letimalo: Mr. Deputy Speaker, Sir, I also have a photograph of the child who was burnt when the police officers were torching houses. It is as sad as that. It is my request that the police be withdrawn from that land.

Mr. Deputy Speaker: Indeed, this order has been served on both the District Commissioner and the Administration Police Commandant, Laikipia, and they have signed it. In accordance with our Standing Orders this is admissible. It was served on the

DC, Laikipia East, and the Administration Police Commandant, Laikipia East District, one Paul Okeyo.

Even more shocking is that I have a picture of a young man who is burnt. If it is true that the police force is doing this, this is very sad thing. Nonetheless, this is for the Executive. The Chair can only give direction. The Question will appear on the Order Paper on Thursday this week. It is my prayer that as the Vice-President has said that he will deal with this matter, the status quo will be maintained until the matter is resolved or determined. Mr. Vice-President?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, much obliged.

ORAL ANSWERS TO QUESTIONS

Question No.561

OPERATIONS OF COFFEE SACCOs AFFECTED BY LOAN DEFAULTERS

Mr. Kathuri: Mr. Deputy Speaker, Sir, we dealt with this matter and agreed that it would be in the Order Paper tomorrow afternoon. I hope that this time round, there will be no games because farmers are really anxious and waiting for an answer.

Mr. Deputy Speaker: Order! Mr. Kathuri, the Chair has also given direction on the same.

Where is Isaac Ruto? Is he out of the Chamber on official parliamentary business? Indeed, he is a member of the Departmental Committee on Justice and Legal Affairs which is holding a meeting outside the precincts of Parliament. Under those circumstances, the Chair directs that this Question appears on the Order Paper on Thursday afternoon.

Next Order!

(Question deferred)

POINTS OF ORDER

DISRUPTION OF HON. WAMALWA'S RALLY AT KAMUKUNJI GROUNDS

Mr. Kombo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Prime Minister, as the Supervisor of Government, on why the police brutally dispersed a rally organized by Saboti MP, Mr. Wamalwa, on Monday, 13th December at the Kamukunji Grounds. In the Statement, I want him to clarify the following:-

(a) Has the Bill of Rights in the Constitution, which ensures the freedom of assembly and expression been suspended?

(b) Who was the officer “from above” who gave the orders to disperse the meeting as claimed by the officers on the ground since they said that they were acting on orders from above?

(c) Who was the officer in charge on the ground who ensured that this unlawful act was perpetrated? The new Constitution demands that individuals take responsibility for whatever action they take.

(d) Why did the police behave as if we were still in the dark days of autocratic rule?

Mr. Deputy Speaker: That is for the Minister of State for Provincial Administration and Internal Security. In his absence, could we have the Leader of Government Business, hon. Vice-President?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, I have heard hon. Musikari Kombo. I am sure that the information will be expeditiously conveyed to the Right Honourable Prime Minister. Indeed, he may want to deal with it as part of the Prime Minister’s Time tomorrow.

Mr. Deputy Speaker: It is so directed. The Prime Minister will deal with the issue tomorrow in the afternoon. The same should be communicated to the Prime Minister’s Office.

KILLING OF MR. OPIYO BY ADMINISTRATION POLICE OFFICER

Mr. Outa: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security.

A 25 year old businessman by the name Martin Opiyo from Kisumu East District, Nyando Constituency, Kisumu County, was recently robbed, shot and killed by a rogue administrative police officer in Turkana North District. Fortunately, the residents helped to arrest the man and handed him over to the police. I seek a Statement from the Minister explaining the steps taken by his Ministry to ensure that the culprit is brought to book. The Minister should also state how the Government will compensate the bereaved family and how soon the compensation will be done considering that the deceased was the breadwinner to his family. The Minister should also explain the action that the Government is taking to ensure that this trend of killings by police officers is brought to an end and sanity is restored to the Force. Lastly, what immediate measures is the Government taking to help the bereaved family to transport the remains of the deceased to his ancestral land soon?

Mr. Deputy Speaker: The same undertaking should be done by the Leader of Government Business.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, while I sympathize with the tragedy that hon. Outa has referred to, I advise him to file a Question by Private Notice. However, that, notwithstanding, I hope that the matter can be dealt with this Thursday because of its nature. If the House was to adjourn, and I am not anticipating debate on the Motion of Adjournment, it seems as if the family would suffer seriously. So, we will do the best that we can.

Mr. Deputy Speaker: It is so directed.

BILLS

THE TOURISM BILL

First Reading

(Order for the First Reading read – Read for the First Time, and ordered to be referred to the relevant Departmental Committee)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE INSURANCE (MOTOR VEHICLE THIRD PARTY RISKS) (AMENDMENT) BILL

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, I have been told that the Chair of the Departmental Committee on Justice and Legal Affairs has requested for the deferment of this Bill since there are some consultations they want to make. I was asked by Mr. Speaker to agree with them although, as a Ministry, we were ready to proceed with the Bill as it is. However, there is a request by the Committee on Justice and Legal Affairs.

The Temporary Deputy Chairman (Mr. Imanyara): How long will the consultations take?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Chairman, Sir, as a Ministry, we are ready. I do not know how long they will take. I understand that the Committee Members of the Departmental Committee on Justice and Legal Affairs are in a meeting.

The Temporary Deputy Chairman (Mr. Imanyara): Therefore, I will defer the Bill until later on and we can fix a time when it can come.

(Bill deferred)

THE TEA (AMENDMENT) BILL

(Clauses 2 and 3 agreed to)

Clause 4

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended-

(a) in the proposed paragraph (e) by inserting a new subparagraph immediately after the proposed paragraph (iv) as follows-

(v) two persons appointed by the Minister who shall possess such knowledge and experience as the Minister considers beneficial to the Board from amongst producers and trade unionists whilst giving consideration to gender balance;

(b) renumbering the proposed subparagraph (v) as subparagraph (vi).

(Question of the amendment proposed)

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

(Clause 4 as amended agreed to)

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Kones, also has an amendment on Clause 4.

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I do not know what happens in such circumstances because the amendments are more or less similar.

The Temporary Deputy Chairman (Mr. Imanyara): In that case, why do you not withdraw your proposed amendment?

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, they are more or less similar but mine has a few additional provisions. We want to make provisions for organizations of farmers to be represented.

The Temporary Deputy Chairman (Mr. Imanyara): What is your proposed amendment?

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I beg to move-----.

The idea behind this is that there is a slight improvement in that we also want to include farmers organizations in the Tea Board of Kenya (TBK).

The Temporary Deputy Chairman (Mr. Imanyara): The effect of your proposal is to amend the amendment which has just been carried, is that so? Clause 4 has already been amended!

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I thought you were going to give me a chance to move the amendment so that we could discuss it!

The Temporary Deputy Chairman (Mr. Imanyara): The right time you should have said it was when I called the Minister. You should have indicated to the Chair that--

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Dr. Kones: But you told me to sit down and wait for the Minister.

The Temporary Deputy Chairman (Mr. Imanyara): Madam Minister, what do you have to say to his proposal?

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, the proposal that we brought has already been carried. This matter was debated and the next amendment that is sought now will fundamentally alter the one which has just been passed.

The Temporary Deputy Chairman (Mr. Imanyara): I do agree. Dr. Kones, that will be the position in view of the House having carried the amendment. I will treat it as withdrawn and go to Clause 5.

Dr. Kones, do you have an amendment to Clause 5? Sorry, it has been pointed out to me that Dr. Kones has several amendments, and not just one, to Clause 4 and he is not making that clear. We have just dealt with the first one.

Hon. Members, if you look at page 1097 of the Order Paper the Minister's amendment relates to (e); so, (f), (g) and (h) are different. So, we can deal with them.

Dr. Kones, you can propose the amendments to (f) onwards.

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended in paragraph (a)-

(a) in the proposed paragraph (a) by deleting the expression "paragraph (e)(i),(ii), (iii) or (iv) and substituting therefor the expression "paragraph (h)".

(b) by deleting the proposed paragraph (e) and substituting therefor the following new paragraph-

(e) two members to represent smallholder tea growers elected by the directors of tea factories at a meeting convened by the Minister and appointed by the Minister, one each representing the two tea growing regions as set out in the First Schedule;

(f) one member to represent plantation tea growers elected by the directors of plantation tea growers at a meeting convened by the Minister and appointed by the Minister;

(g) two members to represent farmers' organizations; and

(h) three persons appointed by the Minister through a competitive process who possess knowledge and experience in-

(i) agriculture;

(ii) finance; or

(iii) marketing.

As I explained, the idea is that we want to increase the number of people who have professional experience in the various fields to the TBK, and at the same time give farmers a chance to be represented on the Board through their organization.

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I disagree because the Member's concern is already taken care of by the proposed amendments under Clause 4 of the Agriculture Bill while giving room to utilize the currently established electoral process which has worked well. Also, the Ministry's Bill is more comprehensive in terms of representation. It seeks to empower key industry representatives and gives autonomy to the Board. The Chairman shall be appointed from among nominated industry representatives, and industry representation is set at 50 per cent. The Member's amendment seeks to empower the Minister in determining the chairmanship of the Board and limiting the Board's autonomy, contrary to the spirit of the new Constitution, and the debate that took place in this House on this Bill.

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I oppose the amendment. One of the reasons is that I am looking at it and seeing (g) of the proposed amendment which reads:-

“Two members to represent farmers’ organizations”;

Which farmers’ organizations are these? All the farmers are already represented under Clause 4(e) which provides:-

“(i) Two persons nominated by factory organizations to represent small tea producers”;

(ii) one person nominated by plantation tea producer organizations”;

(iii) one person nominated by registered auction organizers.

(iv) one person nominated by registered tea packers;

(v) two persons nominated by the Minister”

Who are these farmers’ organizations? Can you bring coffee farmers to rule the tea industry? Can you bring horticulture farmers to rule the tea industry? I would want to urge my colleague to abandon this amendment. It is misplaced and the things that are being proposed have already been taken care of. It will introduce confusion.

I beg to oppose.

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Kones, do you have anything to say?

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, the representation of small scale tea producers referred to by Ms. Karua, are actually directors of factories who do not necessarily represent the farmers. They represent interests of the factories. The proposed (g), which I am talking about, is to cater for farmers who at the moment seem to be playing a background role in the management of the industry.

I do not agree with the Minister when she says that I am giving more powers to the Minister, because I have not changed the spirit of what is in the amendment. So, the idea here is that these three people we are talking about will bring in professionalism. These are people who do not necessarily have interest in this sector. We want them to also run the---

The Temporary Deputy Chairman (Mr. Imanyara): Dr. Kones, just explain to me how different that is from the amendment moved by the Minister, where two persons

appointed by the Minister shall possess such knowledge and experience as the Minister considers beneficial to the Board.

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, that is almost the same as (h) only that we are increasing the number to three in my proposal. What is fairly new is (g), which talks about farmers' representatives. Ms. Karua is asking; which farmers? Farmers have an organization called KUSTO, which is registered.

The Temporary Deputy Chairman (Mr. Imanyara): I refer you to Clause 4(v), which reads:-

“Two person nominated by the Minister who possess such knowledge and experience that the Minister considers beneficial to the Board”

Do you want that number increased to three?

Dr. Kones: Yes, I want that increased to three, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Imanyara): That is in relation to (h) but (g) is taken care of.

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, (g) is not taken care of. It is different, because under this one, farmers will directly get their representatives into the Board.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I believe the Minister has brought a very comprehensive amendment that takes care of this and in following through, even the hon. Member himself, you can see from the body language that he is agreeing. I am not quite sure whether he has been taken care of but, because we are legislating a law for the country, let us be very careful that we do not come up with a law that, in itself, is conflicting at this late hour. I would like to urge the hon. Member to withdraw his amendment so that we, first of all, go with what is very clear and sure. There is no harm, at some subsequent point, to bring the amendment later on when we have seen the impact on the entire Bill. Right now, we might be doing some patch work and then we end up with a law that is good in some areas and conflicting in others. There is something very positive that we have within the amendment brought by the Minister are holistic.

I would like to appeal to the hon. Member--- We see his concerns but when we are passing a law and we bring within it reference to farmers organizations, it could even be coffee farmers or any farmer. It could be pyrethrum farmers and they represent the Tea Board. Let us be very clear on what kind of amendment we are bringing and because of that, perhaps, at this point we could as well just urge the hon. Member to withdraw it and we go with the Minister's amendment.

The Temporary Deputy Chairman (Mr. Imanyara): What does the Committee say?

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, I believe these are issues which could have been adequately canvassed at the Committee stage. From the look of things, these are very serious amendments and they affect a very big industry. We would, therefore, persuade the hon. Member to reconsider his position so that if he is still aggrieved at this point, he can still come back in future and pose further amendments. As of now, as I see it, we cannot comprehensively go through each and every concern here at

this eleventh hour. I would go by the Ministry's amendment because of those reasons I have stated.

The Temporary Deputy Chairman (Mr. Imanyara): I will let the House decide!

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I have just listened to the Chairman of the Committee and he has said that the amendments are really weighty and he is suggesting that there is another way out; that some of these issues can be addressed. Let me ask the Committee or the House to then give me an indication on how that can be done and then we can move this process forward to that point.

Mr. Temporary Deputy Chairman (Mr. Imanyara): I think that is not an issue we can canvass at this stage. I will let the House decide this issue!

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

(Dr. Kones' proposed amendment to Clause 4 negatived)

Clause 5

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 5 of the Bill be deleted and substituted with the following:-

5. Section 3A of the principal Act is amended-

(a) in sub-section (1) by deleting the expression "(b) and (c)" appearing after the words "appointed under paragraphs" and substituting therefor "(b), (c) and (d)" and

(b) deleting sub-section (3) and substituting therefor the following-

(3) The chairman and the members of the Board to whom this section applies shall hold office for a period of three years and shall be eligible for re-appointment for one further term of three years.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Imanyara): Have you referred to the Committee to see whether you would like to deal with all of them in---

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, that is what I had said initially. If the Committee can accept that we look at all of them at once, then I can---

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Mututho, would you take that option; to look at all these proposed amendments as a Committee and, if necessary, take the amendments as---

Mr. Mututho: Mr. Temporary Deputy Chairman, Sir, yes, for any avoidance of doubt, we have had a meeting with the hon. Member. We have given that undertaking as a Committee that we will deal with the Minister--- Let it pass as it is; these amendments,

and if there are areas of serious concern, like hon. Members have expressed, they will come to the Committee, we shall canvass and call all these hon. Members and then get further amendments to that particular law. That is the best way to go at this moment in time.

The Temporary Deputy Chairman (Mr. Imanyara): I would like to hear from the Minister because I asked Dr. Kones. Is that proposal acceptable to you?

The Minister for Agriculture (Dr. Kosgei): Yes, Mr. Temporary Deputy Chairman, Sir.

Mr. Temporary Deputy Chairman (Mr. Imanyara): Dr. Kones, the Minister is in agreement with the proposal from the Departmental Committee on Agriculture, Livestock and Co-operatives. So in view of that, are you prepared to withdraw your amendments so that they can all be looked at?

Dr. Kones: Mr. Temporary Deputy Chairman, Sir, I am in agreement!

(Applause)

(Proposed amendment to Clause 5 withdrawn)

(Dr. Kones withdrew all his proposed amendments to the Bill)

(Clauses 5, 6, 7, 8, 9, 10, 11 and 12 agreed to)

Clause 13

The Temporary Deputy Chairman (Mr. Imanyara): Madam Minister, bear in mind that Dr. Kone's proposal has been withdrawn.

(Dr. Kones' proposed amendment to Clause 13 withdrawn)

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended by deleting the proposed subsection (3) and substituting therefor the following-

(3) The *ad valorem* levy collected under subsection (2) shall be apportioned as follows-

(a) fifty per cent shall be applied by the Board in the manner provided in section 19;

(b) forty per cent shall be remitted directly to the Tea Research Foundation of Kenya; and

(c) ten per cent shall be used for the development of infrastructure for the tea industry.

(Question of the amendments proposed)

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

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

(Clause 13 as amended agreed to)

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

The Temporary Deputy Chairman (Mr. Imanyara): Let me just get it from Dr. Kones that just like the other proposals, you are also withdrawing these proposals to add new Clause 7A, B, C, 19, a New Schedule and a new Second Schedule. This is just to confirm! For the record, I take it that you have also withdrawn these ones!

Dr. Kones: Yes, Mr. Temporary Deputy Chairman, Sir.

(Proposed New Clauses 7A, 7B and 7C withdrawn)

(Proposed New Clause 19 withdrawn)

(Proposed New Schedule withdrawn)

(Proposed New First Schedule withdrawn)

(Proposed New Second Schedule withdrawn)

(Title agreed to)

(Clause 1 agreed to)

The Minister for Agriculture (Dr. Kosgey): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Tea (Amendment) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

[The House resumed]

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE TEA (AMENDMENT) BILL

Mr. Imanyara: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Tea (Amendment) Bill and approved the same with amendments.

The Minister for Agriculture (Dr. Kosgei): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Agriculture (Dr. Kosgei): Madam Temporary Deputy Speaker, I beg to move that the Tea (Amendment) Bill be now read a Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

Ms. Karua: Madam Temporary Deputy Speaker, this is to thank the Minister for bringing this Bill and also hon. Kones because it was the pressure of his Tea Bill, which got the Government to act with speed.

I want to very shortly point out that this is only phase one of the reform of the tea sector. We have the Tea Development Authority (TDA) which brings the small scale farmers together. This Bill will regulate and improve governance in the tea sector.

With those few remarks, I beg to support.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I wish to congratulate the Minister and Members of the Departmental Committee on Agriculture, Livestock and Cooperatives for the reforms taking place in the tea sector. This is a sector that is doing very well. Farmers are energised and I believe this will go a long way.

Madam Temporary Deputy Speaker, let me take this opportunity to recognise the effort by hon. Kones and his understanding of the proposal by the Committee that we make progress and leave room for adjustments and consideration of his amendments. I really wish to record our appreciation for that effort.

Mr. Mututho: Madam Temporary Deputy Speaker, I want to congratulate the Minister for responding very fast to challenges by Dr. Kones. I also wish to thank both of them for their understanding and coming up together with this Bill which will greatly help the tea farmers.

Having said that, I would like to urge the Minister to put her foot firmly on the ground in the tea industry, particularly the new inventions, where they want to act as bankers and things like that. She should capture the entire event within that industry to avoid what is happening in the coffee industry. Having said that, I would also encourage hon. Members to look at other sectors, so that ultimately, the Minister brings consolidated amendments to the Agriculture Act, Cap.318, which will capture the mood and the events of the agricultural sector.

With those few remarks, I beg to support.

Mr. Njuguna: Madam Temporary Deputy Speaker, I take this opportunity to thank the Minister for this very timely Bill that has come to the House. One clear thing that has come out is that tea hawking in this country is outlawed. Tea hawkers are now warned to look for alternative business because the law will catch up with them.

With those few remarks, I fully support the new Bill.

Mr. Nyambati: Madam Temporary Deputy Speaker, I also want to congratulate the Minister for Agriculture for these amendments which are good for the farmers. I also want to recognise the efforts of hon. Kones in this Bill.

Madam Temporary Deputy Speaker, since we all know the tea farmers are suffering, I urge the Minister to look into ways and means of assisting them, so that they can do proper husbandry in the tea industry. We want to see this crop assist our farmers. Where I come from, we grow nothing but tea and our farmers suffering.

With those few remarks, I beg to support.

Mr. Kabogo: Madam Temporary Deputy Speaker, I also want to join my colleagues in congratulating the Minister, the Departmental Committee chaired by hon. Mututho, and also Dr. Kones for work being initiated in reforming the tea sector.

I also want to request the Minister, if the same can be extended to the Coffee farmers. Kiambu County, where I come from is a huge producer of tea and coffee. I hope the same reforms will follow.

With that I beg to support.

Dr. Kones: Madam Temporary Deputy Speaker, I also want to thank the Ministry for the Bill. I also want to agree with my colleagues that this industry requires some reorganization.

Madam Temporary Deputy Speaker, what I was doing was not about competition on who can do better than the other. It is really about the drive to assist the farmers who feel that they are not getting proper returns from their crops. I want to thank the Committee for giving that window and accepting that much as we have passed this Bill, we have not concluded what we need to do. We will still bring in those few other amendments, which deep in my heart, I still believe we need them, so that we can have a vibrant tea sector.

The Minister for Agriculture (Dr. Kosgei): Madam Temporary Deputy Speaker, we live and learn. I want to take this opportunity to thank the Members for engaging seriously on this Bill, which is very important for a lot of people and for a large part of our economy.

I want to thank Members of the Departmental Committee on Agricultural, Livestock and Co-operatives for their advice. They are very informed about all areas of agriculture. They advise constantly and we value their advice.

Madam Temporary Deputy Speaker, as you gave me only one minute, I want to spend that saying two things. One; we do not take for granted the amendments brought by hon. Kones. We shall work together to see how we can improve this sector. I want to tell the House that hon. Dr. Kones understands the sector and as one speaker said, he, probably, pushed the Ministry to move faster than it would have done. I acknowledge that and thank him for that. I assure him that we shall continue to engage in this industry which is dear to his heart and mine. This is to open the way for for us to make that industry more dynamic. Thank you.

(Question put and agreed to)

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

MOTION

ADOPTION OF 2007/2008 PAC REPORT

Dr. Khalwale: Madam Temporary Deputy Speaker, I beg to move:-

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya accounts for the Year 2007/2008 laid on the Table of the House on Tuesday, 7th December, 2010.

Madam Temporary Deputy Speaker, I do this on behalf of the Public Accounts Committee and pursuant to the provisions of Standing Order No.181(3). It is, therefore, my pleasure and privilege to present the Report of the Committee on the Government expenditure for the 2007/2008 Financial Year.

Madam Temporary Deputy Speaker, I would like to point out that it is only last week when I moved debate on the PAC Report on the accounts of the Government of Kenya for the financial year 2006/2007. The Membership of the Committee I cited in the Committee' Report on the accounts for 2006/2007 remains the same, which I used to work on the current Report. The Members of the Committee include me as the Chairman; Hon. (Dr.) Julius Kones, MP, Vice-Chairman; Hon. Martha Karua, MP; Hon. (Pastor) Daniel Muoki, MP; Hon. Charles Onyancha, MP; Hon. Alex Mwiru, MP; Hon. Boaz Kaino, MP; Hon. Francis Ganya Chachu, MP; Hon. (Dr.) Nuh Nassir Abdi, MP; Hon. David Ngugi, MP, and Hon. Edick Anyanga, MP.

As I said earlier, since this Report comes up soon after the one we passed last week, I will not go into similar details about the general observations, because the same general observations contained in the previous Report are in this Report. May I just highlight the fact that in the general observations, we still found that even with regard to the accounts for the period under review, there had been inadequate preparation and failure to avail documentary evidence in time for audit review.

In this regard, we have recommended that Accounting Officers should ensure that accounts are well prepared, and that in the likely event of anomalies, corrective action should be taken and documentary evidence availed in time for audit review to forestall unnecessary audit queries. We have also proposed that punitive action be taken against officers who fail to ensure compliance to this particular recommendation. Further to that, we have recommended that the Government's investigatory agencies should liaise with the Accounting Officers and agree on modalities of making available original documents in their possession accessible for audit whenever they are required.

Madam Temporary Deputy Speaker, the second observation is on the culture of impunity and lack of fiscal discipline amongst Accounting Officers. In this regard, we have recommended that Accounting Officers should at all time exercise prudent financial management to ensure that public funds are well spent and that value for money is realised. Secondly, we have recommended that the Permanent Secretary (PS), Treasury, should move with speed to ensure that the Government Financial Management Act is reviewed to ensure improved fiscal management. He should particularly ensure that the Act gives him powers to sanction and terminate appointments of inept and errant Accounting Officers, if impunity is to be rooted out in Government.

We also observed that the public debt continues to be mismanaged. We went on and recommended that the PS, Treasury, should move with speed in ensuring that the Internal Loans Act is reviewed to provide for the approval of domestic borrowing by Parliament to safeguard it from possible abuse by the Government.

We further observed that auditing of Government entities was in dire need of the new approach of value-for-money audits. The Committee observed that Sections 54 and 56 of the Central Bank of Kenya Act were against the spirit of The Public Audit Act, 2003. We went on and recommended that the Kenya National Audit Office (KENAO) should expedite the establishment of the Value for Money Audit Unit and ensure that value-for-money audit reports are produced alongside the financial audit reports of every financial year.

Secondly, we recommended that the PS, Ministry of Finance, should take appropriate action to ensure that The Central Bank of Kenya Act is reviewed to allow the KENAO to be auditing the CBK without conditions that render the spirit of the Constitution of Kenya, and The Public Audit Act, 2003, nugatory.

Madam Temporary Deputy Speaker, we also observed that the roles and execution of public works by the Ministry of Roads and the Ministry of Public Works were very wanting. In this regard, we recommend that the Government should review the role of the Ministry of Public Works in the procurement of service providers for the Government and execution of public works with a view to enhancing accountability, professionalism, transparency and overall public satisfaction for works done.

We also found general lack of a legal framework to regulate the building and construction industry. In this regard, we recommend that the Government should, as a matter of agency, develop a legal framework to regulate the building and construction industry to ensure satisfaction of service to recipients.

Madam Temporary Deputy Speaker, we also found re-current and repeated under-expenditure and under-collection of Appropriations-In-Aid (A-In-A) in about all the

Ministries. In this regard, our Committee has recommended that the Government should ensure that once and for all, it addresses the issue of under-expenditure and under-collection of A-In-A in Ministries and Departments.

The other general observation was on pending bills. Due to the large pending bills, we have recommended that Accounting Officers, in conjunction with the Treasury, should put in place sufficient austerity measures to ensure that bills are cleared within the financial year to which they relate, to avoid possible negative consequences that may arise from their being carried over to subsequent financial years. We have also recommended that the Government should ensure that the Pending Bills Closing Down Committee finalises its work by 31st December, 2010, and that action be taken on the recommendations made by that particular committee.

Madam Temporary Deputy Speaker, we have also observed that there is general lack of clear Government policy on bailing out ailing state corporations. Towards this end, we have recommended that the Government must develop a clear policy on the bailing out of ailing state corporations, to which it must strictly adhere at all times. We also discovered, in this financial year, lack of a clear policy on recovery of Government dues from deceased officers. We recommended that the Government must develop a clear policy on recovery of its dues from deceased officers to enable Accounting Officers to act in time on such matters and avoid unnecessary audit queries.

The 11th observation we made generally was that on conflict of interest on the part of the Attorney-General in acting for the Government in certain court cases. In this regard, we have reiterated our earlier recommendation, which is that the Office of the Attorney-General should disqualify itself from acting for the Government in all matters in court arising from contracts in which it advised the Government to execute, and in which the Government ended up being in court. Instead, this role should be left to the Kenya Anti-Corruption Commission (KACC).

Madam Temporary Deputy Speaker, we also observed generally that there was blatant breach of Government financial regulations and procedures by the Accounting Officers' appointing authority. In this regard, we recommended that the PS, Ministry of Finance, the appointing authority of all Government Accounting Officers, must lead by example by strictly adhering to all Government financial regulations and procedures at all times.

The 13th general observation we have made is on the introduction of the Integrated Financial Management and Information System (IFMIS). This has posed challenges. To overcome those challenges, we have recommended that the Government should always ensure that operational systems to be introduced are thoroughly evaluated and decided upon, and that adequate measures are put in place to mitigate against any disruption of Government operations, and further that the Government should implement the IFMIS in full to cover both revenue and expenditure transactions.

Madam Temporary Deputy Speaker, the other observation is that on missing documents, in respect of which we recommend that the Criminal Investigations Department should investigate all cases of missing documents captured in this Report with a view to establishing their status and prosecuting officers responsible for their mismanagement, loss or deliberate destruction.

Finally, we observed that there was need for creation of a forum on financial accountability in the public sector.

My Committee observed that a forum comprising of players in public financial accountability such as the legislature, the Ministry of Finance, the Kenya National Audit Office (KENAO), the Kenya Anti-Corruption Commission (KACC), the Police Department and the Institute of Certified Public Accountants of Kenya (ICPAK) be created. The main objective of this forum would be to work jointly to ensure that financial accountability in the public sector is enhanced. The Committee's desire is necessitated by the fact that the Controller and Auditor-General only comes in to audit at the end of the financial year when the financial impropriety has been committed and the Government has already lost financially. With such a forum in place, our assumption is that it will be possible to develop a preventive line of action aimed at saving the public from actual financial loss and ensuring adherence to the Government's financial regulations and procedures.

Madam Temporary Deputy Speaker, towards this end, the Committee seeks your approval and support to spearhead the process of the creation of such a forum. Before I conclude, I would like to highlight a few sticky issues that we found in this financial year. The first one is; just like in the previous year, the public continues to pay the debt of KENREN which was incurred in the 1970s. During the financial year under review, Kshs169 million was paid. The remarks we made last week are still applicable to this particular one.

The next highlight is about the amount of deliberate theft that public officers get involved in when procuring goods and services. I would ask hon. Members to look at page 150, paragraphs 45, 46, 47, 48, and 49. I am using these paragraphs as an example to show this House how procurement is done irregularly. In this case, bitumen worth Kshs77 million was procured. The procurement documents were done in the normal way. The bitumen was assumed to have been delivered at Wilson Airport and yet there was none delivered at the airport. Even a proforma invoice was raised for Kshs77.4 million and payment was made. So, until KACC came in and people started back-peddling, that is when some form of delivery started being made by senior officers of the Ministry.

In the process, there is no evidence that can be accessed by the Controller and Auditor-General to ascertain how much bitumen was subsequently delivered long after payment had been made against the proforma invoices. Had the KACC not moved in, these guys would still be sitting high and pretty. They would have pocketed Kshs74.4 million without a question. They have managed to pocket part of that money because up to today, the Office of the Controller and Auditor-General is unable to ascertain the little deliveries that were made belatedly. I would like hon. Members to see that kind of direct theft that goes on in about all our Ministries.

(Loud consultations)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, please, could you lower your consultations so that we hear the hon. Member's contribution?

Dr. Khalwale: Madam Temporary Deputy Speaker, I very well understand why they are making noise at that corner. The anxiety because of tomorrow has started building up. You know that tomorrow is a big day for this country.

When our Committee was going through the activities of the Ministries, we also found another very open case of theft at Wilson Airport. Laptops worth Kshs64.3 million were bought and delivered at the depot of Wilson Airport. However, after that, the laptops found their way out of the place. So, there is this kind of treachery whereby procurement officers procure equipment and subsequently steal it. A case in point is this one I have mentioned where Kshs64.3 million was lost. We noted that the engineer in charge had sought some official direction in the matter and was informed that consideration could be made in case the supplier had no bank account. We have recommended that the Accounting Officer should ensure that this practice is completely stopped as it is prone to corruption and other malpractices. Suppliers and service providers who fail to open bank accounts with a view to encouraging cash payments should be excluded from tender awards.

The final example I want to give is the issue of the Strategic Grain Reserve Trust Fund. This was a matter that took centre-stage in this House. This pertains to the way maize was lost at the SGR. Maize worth Kshs2.1 billion was delivered at the SGR. However, when the auditors went there, they found a loss of Kshs152.3 million. When pressed to account for this loss, the Controller and Auditor-General was told that, in fact, the loss was a normal one. They said the loss was normal as it was as a result of drying of maize. They said that the moisture content of maize dropped after drying. They also said that natural drying levels were below the standard and that removal of foreign materials from the maize also contributed to the loss. All these factors, according to them, are supposed to have accounted for the loss of Kshs152.3 million. This is one of the many conduits that senior officers and those in responsible positions use to siphon public funds.

As I request this House to pass this Report, I want hon. Members to conceptualize in their minds how a National Assembly can allow its oversight role to fall short of performance by accepting that a public officer, say, a Permanent Secretary, or a Minister, can walk away with Kshs152.3 million and just say that it was a normal loss that resulted from the difference in moisture content of maize.

Madam Temporary Deputy Speaker, those are the highlights that I wanted to make for this financial year. I have kept it brief and I want to end by registering my appreciation to all those who appeared before us, the Clerk of the National Assembly for the support that he has given us, Members of the Committee and Ministers who ensured that accounting officers appeared before us.

With those many remarks, I move and request Dr. Nuh to come and second the Motion.

Dr. Nuh: Madam Temporary Deputy Speaker, I rise to second this Motion. From the outset, I would like to bring to the attention of the House that through our oversight role as Parliament, this is one of the reports that this House should take very seriously. This is because the audited accounts of a whole financial year for the Government performance is being reported to this House. If there are any allegations of funds being channeled towards the wrong direction, misappropriation and monies that were not

utilised in the right way, this House has to take it very seriously and follow it to the letter. Hon. Members are very concerned when issues of boundaries are raised and this House becomes full but when we deliberate the Public Accounts Committee report, you can barely notice the full House.

In seconding the Motion, I would also like to run through a few issues that were of great concern to the Committee. As ably articulated by the Chairman, I would like to say that under-collection and under-expenditure cuts across all the Ministries. It has become a norm. Ministers complain day in day out when they present their budgets to this House about under-funding in their Ministries. They urge this Parliament and the Office of the Deputy Prime Minister and Ministry of Finance to increase the allocation towards their Ministries and yet at the end of the year, an accounting officer explains to the PAC that he or she has valid reasons for failing to expend funds which were allocated to the Ministry. That is a very serious concern. If we keep on stating in this House that the Ministries are under-funded and at the end of the year we are unable to expend, then it shows that even if we increase the level of funding to those Ministries, those monies will still be returned to Treasury. This is an issue of great concern.

There are areas where monies are expended and some departments would really be craving to have some little funds to offset very serious development issues. If Ministries are unable to expend monies allocated to them, then there is no reason why the Office of the Deputy Prime Minister and Ministry of Finance should not increase the level of funding to the Constituency Development Fund (CDF) to 10 per cent because it is well spent.

Madam Temporary Deputy Speaker, the second issue that I would like to bring out is with regard to pending bills. There is a trend in the Government and Ministries to try and do procurement towards the end of the financial year. Accounting Officers and the people concerned wait until they have about two or three weeks to the end of 30th June before they start to haggle and rush through procurement processes. This is of great concern because this is where things go wrong. In a bid to try and beat the deadlines and ensure that development projects are commenced within the financial year, they flout some regulations. They always circumvent some regulations in place by giving a flimsy reason. They say that the project has to commence because the financial year is ending. They come up with huge pending bills when they initiate those procurement processes. They say that they were unable to pay because the financial year came to an end. They carry over debts that they expect even our grandchildren to come and pay in the later years.

The Government is not supposed to spend outside its means. It is irregular when officers procure goods and services because the Treasury has pledged to allocate them some money. You can only spend what you have and not what the Treasury has pledged to allocate you. At the end of the day when the Treasury comes up with Supplementary Estimates and urges that some measures be taken to reduce Government spending, we do not realise the benefits of the reduction because the bills are carried over to the next year.

Madam Temporary Deputy Speaker, the third issue is about delay in completion of projects. There seems to be a cartel in this area because projects which commenced in 2003/2004 keep on recurring in the subsequent years on flimsy grounds that the

Exchequer releases were delayed, there were issues which were unresolved or the scope of work has changed. There would be cost implications if a financial year lapses and these projects are carried over to the next year. The officers will talk about rising fuel prices, the cost of materials going up, standards of living being high and the wages going up. You will see contracts being varied by 200 per cent or 300 per cent over the initial cost. This is of great concern. When timelines are set for contractors to complete their work, they should do so unless there are valid reasons to extend the time.

When you explain to a citizen or lay man in Bura Constituency that the loss of Kshs153 million in Strategic Grain Reserves was due to moisture content, he cannot understand how you can attribute that loss to evaporation or poor storage of maize. That is money that can be shared by about three constituencies in terms of the CDF. These are issues that the Kenya Anti-Corruption Commission (KACC) should take very seriously. There are many cases that we forwarded to the KACC for further investigations. We would like those who steal public money to be apprehended and arraigned in court so that it can serve as a lesson to others. In the new constitutional dispensation, Parliament will even be more apprehensive on how public money and resources are utilized.

Madam Temporary Deputy Speaker, lastly, I urge the Committee and the House to focus more on value for money audit. Financial audit is about book-keeping, how accounts are maintained, whether there are enough balances and whether vouchers correspond. However, in value for money audit, Kenyans would like to know whether the funds expended to buy chairs are commensurate to the prevailing market prices or whether the office built at Kshs1 million is worth the money. Whether the Kshs1million that was spent to built an office somewhere is worth it. It should not be that the Kshs1 million is shown in the books of accounts as having been paid to the contractor, the vouchers, the dates they were due and the percentages of work. We would want to focus towards value for money audit while in essence trying to take care of the financial audit.

Madam Temporary Deputy Speaker, with those few remarks, I wish to second.

(Question proposed)

The Minister for Public Works (Mr. Obure): Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity. First, I want to commend this Departmental Committee for making the effort and producing this kind of report on the accounts for 2007/2008.

However, I stand because of some of the remarks contained in this Report in respect to the Ministry of Public Works. The impression given is one of condemnation. The Ministry of Public Works has been condemned wholesale. It has been accused of causing delays in the procurement of various services. It has been accused of inflating costs. Generally, it has been accused for failure in the performance of certain contracts. The Ministry has also been condemned for not being accountable and professional in the way it delivers services. This is an issue of great concern to me.

The role of the Ministry of Public Works has been misunderstood grossly in making this report. The role of the Ministry, especially in the light of the procurement and disposal of goods, is very specific. Its role is to advise Government departments and

Ministries. Contracts are entered into between the user Ministries and the contractors. The role of the Ministry of Public Works is merely advisory. We keep a register of contractors and the responsibility for identifying the contractors lies with the user Ministries. The role of the Ministry is to provide specifications and standards in respect of materials. Our role is to ensure that safety standards are maintained, so that projects and buildings that are constructed conform to safety standards and are safe for use by the general public.

We have had our own challenges, arising out of the fact that we have not been allowed to employ and replace staff who leave the Ministry. However, we are in the process of addressing some of these challenges like staff shortages and inefficiency among some members of staff. We are trying to cope with the high volumes of work which we are facing at the Ministry of Public Works, in the face of these acute shortages of staff, including work that we traditionally never handled like some of the projects for the CDF. I would like to put it on record that considerable improvements are being achieved. Today, we can stand proud that we have delivered a number of projects to the satisfaction of the general public.

This condemnation, therefore, is not fair. It is a little harsh on the Ministry of Public Works. I want to put it on record that we will be making a formal response through a Treasury Memorandum in respect of this report. I hope that this House will appreciate my concerns about these very harsh remarks relating to my Ministry.

With those few remarks, I plead for understanding.

Mr. Mwadeghu: Bi. Naibu Spika wa Muda, nimesimama kuunga mkono Hoja hii ambayo imewasilishwa hapa na Kamati ya Bunge inayohusika na hesabu ya pesa za Serikali.

Ni jambo la kuhuzunisha kuwa kila mwaka ni lazima hesabu ya Serikali ikosolewe. Hii ni kwa sababu maofisa wa Serikali wamekataa katakata kuajibika na kufanya kazi yao kulingana na sheria za nchi hii. Waziri wa Ujenzi wa Umma amejaribu sana kutetea Wizara yake. Hata hivyo, ukweli ni kuwa maofisa wake wamezembea kazi. Ikiwa kazi inahitajika kutekelezwa, wao hawaitendi. Wakati wanapotenda kazi hiyo, kuna ulanguzi wa hali ya juu. Ni aibu kuona wao wanabana kila kitu mifukoni. Maofisa hawa wanapotoa kandarasi, mara nyingi wao huongeza bei ili wapate pesa zao. Ukweli ni kuwa ikiwa maofisa hawa wanaweza kuwa waaminifu kwa kazi yao, basi kandarasi hizo zinaweza kufanyika kwa bei nafuu. Mara nyingi, utaona ya kwamba hawazingatii vipimo ambavyo vimependekezwa na Serikali. Mhe. Dr. Nuh amesema ya kwamba katika karandarasi hizi, sisi kama Wakenya hatupati *value for money*. Ukitazama pesa ambazo zinatumika kutekeleza mradi fulani, utaona ya kwamba pesa nyingi za Serikali hupunjwa na maofisa wake. Katiba inahitaji kila ofisa wa Serikali ahakikishe kuwa utendaji kazi ni wa hali ya juu.

Ni sikitiko kubwa kuona Idara mbili za Serikali kutoa gharama tofauti kuhusu ujenzi wa darasa moja. Kwa mfano, katika eneo langu la Wundanyi, Wizara ya Elimu na Wizara ya Ujenzi wa Umma hutofautiana sana kuhusu bei ya ujenzi wa darasa moja. Wizara ya Elimu hushikilia kuwa ujenzi wa darasa moja hugharimu Kshs750,000.

Wizara ya Utendaji Kazi ama Wizara ya Ujenzi inasema kuwa darasa hilo lijengwe kwa Kshs1.2 milioni. Ukweli uko wapi? Haya ndio matatizo unayoyakuta kila

wakati yanakumba nchi hii, na tukiendelea hivyo, hatutaenda popote. Hela ambazo zinapatiwa maofisa wa Serikali wakati wanaenda safari ama likizo ama kwa uwajibikaji katika kazi za umma, unakuta mara nyingi hawazirudishi na inatakikana akirudi kutoka safari, muda wa masaa 48, awe ametoa hesabu kamili ya kuonyesha kuwa “Nilipewa fedha za umma kiasi fulani, nimeenda safari na nimezitumia hivi na hivi na nimerudi na kiasi hiki; ama zimeisha.” Unakuta kuwa wengi wamezitumia fedha hizi kujenga majumba yao na hakuna lolote linalofanywa na maofisa wakuu wa Serikali.

Kama unavyojua, Bi Spika wa Muda, tukiangalia Ofisi ya Waziri wa Fedha, ofisa mkuu katika ofisi hiyo anahitajika kila mwaka aje hapa Bungeni na aeleze waziwazi kuwa “Mwaka jana, Kamati ya Bunge ilinikosoia kwa mambo haya na haya na haya. Na baada ya mimi kukosolewa ama baada ya Wizara kadha wa kadha kukosolewa, tumeenda tukatenda hiki na hiki na hiki na tumekirekebisha hapa na hapa.” Hawaji kufanya hivyo; imewashinda! Na wakati umefika Bunge lichukulie hawa maofisa wa Serikali hatua kali. Ufujaji wa pesa za umma lazima usimamishwe na tukiendelea hivi, kusema kweli watu wa Kenya wanaendelea kupata shida. Ni maoni yangu kuwa hata fedha hizi za CDF zichunguzwe kwa undani. Fedha hizi zinapunjwa na wanaozipunja fedha hizi ni wanakamati na kila mwaka ripoti inatoka. Ripoti hii ikitokea, ni hatua gani inachukuliwa? Maofisa wangapi wa Serikali wamepelekwa kortini kujibu mashtaka kwa kufuja pesa za umma?

Bi Spika wa Muda, singependa kuchosha wenzangu kwa maana wako na nia na hamu ya kutoa maoni yao. Kwa hivyo, naomba niweke tamati hapa nikiunga mkono Ripoti hii ya Kamati ya Fedha, Mipango na Biashara.

Asante, Bi Spika wa Muda.

Mr. Njuguna: Madam Temporary Deputy Speaker, I also take the opportunity to make my contribution to this very important Report. Firstly, let me thank the leadership and the Chair of the Committee for the manner he has led the Committee, not forgetting that a few days ago, he was making another Report on 2005/2006 in this House. The diligence exhibited by this Committee is really commendable. I also wish to thank the hon. Members of this Committee for their commitment in serving in this Committee and in assisting in the production of this Report. I would, therefore, echo my total appreciation for the entire document.

Madam Temporary Deputy Speaker, I also note that the Government agents also co-operated in the production of the documents that were required to facilitate the compilation of this Report, not forgetting the Kenya Anti-Corruption Commission (KACC) and even other Government departments. Their preparation is also noted. This should be the way forward if we need to come up with credible reports and good services to our people.

Nevertheless, Madam Temporary Deputy Speaker, Sir, I note that the accounting officers were not compliant when they were called upon to produce documentary evidence required by the Committee. The accounting officers must realize that they are employees of the Kenyan people. They get their wages or salaries from the taxpayer and, therefore, it is important that they be dedicated in their duties.

Madam Temporary Deputy Speaker, I note that some goods were missing at the Port of Mombasa and nobody was ready to account for these goods. The custom value of

these disappearing goods amounted to Kshs679,446,383. In modern Kenya, we cannot allow or continue to be losing money in this manner - goods expected or intended for this country or even for the neighboring countries disappearing at the Port of Mombasa – this is real shame to those people charged with this responsibility. This is tantamount to spoiling or tarnishing the good image of this country. Therefore, I would call for speedier investigations as to the missing of these goods and culprits must be held and prosecuted in order to stem this vice.

Madam Temporary Deputy Speaker, I also note that some Ministries were not able to respond well and I would urge all the Ministers to remember that they are responsible for performance in their Ministries. When they do well, Kenyans are happy; when they fail to deliver, Kenyans would be aggrieved. I wish to cite the Minister for Public Health and Sanitation, who is inside this House today. She has responded so well to health matters in this country. This should be emulated by other Ministers so that Kenyans can have faith and confidence in the manner we discharge our responsibilities. It is through the Ministries that the lives of Kenyans could be worsened or improved and it is, therefore, important that the Ministers should take their responsibilities more seriously.

Madam Temporary Deputy Speaker, irregularities have been noted by the Committee and apologies offered. Why should they offer apologies after they have irregularly committed or misappropriated the funds of this country? These are unnecessary apologies and I would also call for speedier investigations to be carried out and those found to be culpable, action should be taken appropriately. Inappropriate expenditures have been noted and this is really reflecting very badly on the performance of the Permanent Secretaries involved or charged with these Ministries because this, really, should not happen. Theft of public funds is another vice that has been noted; unnecessary imprest amounting to colossal amounts of money has also been taken by civil servants, and this should not be allowed.

Madam Temporary Deputy Speaker, on the external debt, we note that the amount has been skyrocketing to Kshs1.2 trillion, and this could be reduced or tamed if the vice of corruption that has been noted in some of the Ministries is brought down. Therefore, I would be calling on Kenyans to be more committed and to sacrifice for the interest of this nation, if the external debt is to be brought down. I note, with appreciation, that the Minister for Finance has been prudently managing internal borrowing. This is a commendation to the Minister and for this dedication, he should maintain and redouble that effort.

Madam Temporary Deputy Speaker, we note with a lot of disappointment that at the Strategic Grain Reserve (SGR) Department, a loss of more than Kshs150 million was incurred. This is glaring daylight robbery and theft. We cannot imagine that drying of maize and removal of foreign material from the traditional maize that we take to the Strategic Grain Reserve – would really reach to that height. We, Kenyans, are educated and enlightened and even those who have not gone to school know how to dry their maize. Maize has stayed in our granaries for ages and it has never gone bad. Therefore, it is not correct to say that we allow this huge loss. I would be calling for the overhauling of the Strategic Grain Reserve Department immediately so that we continue to save money

that we have invested in the health of our people. This is money that could be used to buy drugs. We realize that we have very needy Kenyans who do not even get a single meal a day. If this money is saved, it can go to the Kenya Medical Supplies Agency (KEMSA), which will buy drugs and improve the lives of Kenyans.

Madam Temporary Deputy Speaker, I note that His Excellency the President has taken a very firm action to make sure that the unclear views are investigated and action taken. I would request after the investigation that the findings are made public, so that the public will know exactly what has really caused this huge bill amounting to Kshs120 billion.

With those few remarks, I beg to support the document and its contents.

Dr. Kones: Thank you, Madam Temporary Deputy Speaker. I want to join my Chairman and Members of this Committee in first of all, appreciating the work done by the Committee, and in supporting the Motion.

As we said last week in the other Report of 2006/07--- I want to correct the Member for Lari: the report we discussed last week was for the year 2006/07 and not for 2005/06. This report is for 2007/08. There are still a number of leakages within Ministries that cause loss of public funds.

Madam Temporary Deputy Speaker, we want to request that the recommendations made in this report be taken seriously by the Executive arm of the Government. I will give very few examples on areas where this Committee has been making recommendations and it appears like no action has been taken.

We have been recommending in our earlier reports that there are some dormant funds which exist within the Government; this Government has continued pledging that the funds will be wound up in a short while. In the Ministry of State for Planning, National Development and Vision 2030, we do have the District Development Fund, which as per this year held up to Kshs14 million in an account. The Rural Development Fund is another dormant Fund, which holds about Kshs3 million in an account.

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

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

Mr. Temporary Deputy Speaker, Sir, the question one may ask is; who is using these funds? Why do we have funds that are dormant for long, holding a lot of money like this, and nothing is being done to make sure that the funds are used to provide the much needed services to our people.

I want to believe that this time, the Ministries concerned, and the Government in general, will make a deliberate move to ensure that these funds, which have been highlighted here - I have talked about the District Development Fund, the Rural Development Fund, the Cereals and Sugar Finance Fund and many other dormant funds - are wound up within the shortest possible time.

Mr. Temporary Deputy Speaker, Sir, in respect of the Ministry of Gender, Children and Social Development, the auditor raised some serious concerns on the disbursement of the women funds to the constituencies. It is noted that as at some time, and it appears like it is still the case up to now, the disbursement of women funds has potential for misuse. There are various concerns raised by the Controller and Auditor-General that, there is no proper documentation or channels of disbursing these funds. The Committee has recommended to the Ministry that it has to demonstrate that a water-tight system has been put in place in that Ministry to ensure that these funds are not misused.

Mr. Temporary Deputy Speaker, Sir, I want to give one example in the Ministry Higher Education, where finances have not been used properly. This is on pages 260 to 263 of the Report. The Ministry procured goods and services in the year 2007/08 worth Kshs31.8 million. The goods were procured through single sourcing in blatant violation of the procurement rules. When they asked the Ministry why they did that, they said they had to procure those services directly through a unit which they refer to as “Kabete Maintenance Unit”. After grilling of the Permanent Secretary, he admitted that this unit is not efficient. It was actually more costly to use the unit than to procure competitively. This is a classical case of misuse of funds where failure to adhere to procurement rules may have cost the Government to lose Kshs31.8 million in procuring the services, which were the renovation of offices in Nairobi and in some provinces for the Ministry of Higher Education, Science and Technology.

Mr. Temporary Deputy Speaker, Sir, these are just few examples amongst the many which are contained in this booklet. We have made several recommendations here that the Kenya-Anti Corruption Commission should pursue these cases with speed. In the case of the Ministry of Higher Education, Science and Technology, we have recommended that the KACC should investigate the activities of the Kabete Maintenance Unit to establish whether public funds were competently expended according to the Government rules. It is also up to the Government officers who are running institutions, the Accounting Officers in particular, to take administrative action to ensure that some of these things do not occur. We may overload the KACC with so many cases which would otherwise have been avoided if our Accounting Officers were doing their work accordingly.

Let me finish by saying that as a Committee, we shall endeavor to continue revealing the malpractices that happen within our Government. We hope we will go to a new dispensation where we will be talking about value for money audits; expect to get more insight into whether we get value for the money that we spend in our Ministries.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): It is now time for the Mover to reply.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Once again, it gives me a lot of pleasure to close this Debate. However, as I close it, I would like to say that this is a unique closure in the sense that it has marked the end of the backlog in the department of public accounts. This is not a minor achievement. This means that future reports will be more qualitative and if they are intended to make arrests, they will make arrests of people who are either still in office or if they will not be in office; they will

have been transferred next door. If not so, they will have been recently retired. If they will have died, their graves will still be fresh. We could even go there in the Luo style and weep at the grave and ask why someone caused such kind of losses to the public. I just want to appeal to Ministers – I can see hon. Mrs. Mugo is here, a very senior Member of the political class – now that we have removed backlog, that they remain on their toes.

That, therefore, means that we will not be waiting for them to misappropriate funds the way they have been doing it. We will deal with you during the act. I am not talking about you as an individual. I am talking about the Cabinet. You are just a good messenger.

We want you to be on your toes and to co-operate for the sake of prosperity in this country. I also want to make an appeal to the Clerk of the National Assembly. The Clerk of the National Assembly will now have to remodel his thinking. He will have to think differently. He is used to inviting accounting officers to come and appear before us. He should be prepared to respond to immediate requests from us, for forensic audits, so that little things that I have been seeing happening in the Ministry of Water are dealt with and we put the House in order.

There is one thing that hon. Members did not comment on, and which I would like to conclude on. It is the issue of imprests. The issue of imprests is extremely embarrassing in the sense that the Government financial regulations and procedures are very clear. Imprests must be surrendered 48 hours after the completion of the assignment for which the imprest was given or taken. However, when you visit all Ministries, you will find senior officers, Ministers, Assistant Ministers, cooks and *askaris* holding imprests beyond 48 hours to two days, weeks, months and, in some cases, for years. We even have former Assistant Ministers, who are no longer Members of Parliament holding imprests! This is a sign that the Government system is not efficient and we want this to end.

With those few remarks, I beg to move.

(Question put and agreed to)

MOTION

ADOPTION OF REPORT ON CATTLE RUSTLING IN KENYA

THAT, this House adopts the Report of the Select Committee appointed to Investigate the Root Causes of Cattle Rustling in Kenya laid on the Table of the House on Thursday 4th November, 2010.

(Mr. Kaino on 9.11.2010)

(Resumption of Debate interrupted on 9.11.2010)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Kaino, you have a balance of 40 minutes to conclude moving the Motion.

Mr. Kaino: Mr. Temporary Deputy Speaker, Sir, in moving the Motion, I narrated the problems that people who are living in pastoral areas are undergoing. My Committee Members worked very hard. They travelled almost three-quarters of the areas that we had targeted, and where people have suffered for many years. To talk further about the problems that those people have been undergoing, I want to say that Kenyans do not only live in Nairobi, Mombasa and Kisumu. Kenyans live in rural areas. But we seem to be more concerned about those who are living in the rural areas and not those who are living in pastoralist areas. Those people chase wild animals from one corner of the country to the other. The animal could even die as they chase it.

Mr. Temporary Deputy Speaker, Sir, those people require education so that they can realize that it is not only livestock that can sustain their lives. Education is very important for them and the Government must come in very fast and help them. While we are not looking at the problems of people who are living in the rural areas, many of them have died while others have been rendered poor due to the same. The Moi regime failed in that area and the Kibaki regime has also failed. The Coalition Government which has one and a half years to go has also failed. I have not seen them doing anything important for those people.

Those areas lack water. People have been killed in those areas while fighting for the use of dams. People travel for almost 40 kilometers in search of water. The one dam you will find after 40 kilometers is shared by many communities and that is where people are killed. People travel for long distances without food. That is why I think it is important for this Government, before the one and half years are over, to do something.

There have been serious massacres in this country. We had a serious massacre in Samburu where over 40 people died in one day just because people were scrambling to fight for ten animals. In another place called Kanambio in Laikipia West, Samburus were slaughtered by the Pokots. In Marakwet, in the Chesongwet Massacre, children, mothers and young men were cleared. If you go to that village today, you will see houses which are deserted and there is nobody living there. That shows how serious this issue is.

We should ask ourselves: Where are the children whose mothers and fathers have died? They now loiter seeking for food. My Committee recommended that those communities be helped. Those children should be looked for and given a livelihood. Those are houses where people were doomed to die. The matter should not be taken lightly. I want the Government to take it very seriously this time round. My Committee looked at the matter and we felt that people were really suffering. We said that we will make sure that those people are assisted.

We also realized that some of those issues are cultural. Part of it is cultural because when a young man wants to get married and he does not have animals, he can do anything to acquire some, including killing up to ten people so as to get married. That is very serious.

While doing our work, we visited many areas. We also had the privilege to visit Botswana and Ethiopia. The most interesting place that we visited and really admired was Botswana where we found many people such as like Dr. Ng'ang'a and Dr. Wekesa. They

told us that they have been there for 20 years. They told us that they used to work in Kabete. The people who are lifting the economy of Botswana are Kenyans.

We went to that place and saw the development of industries. Even those who work at the Botswana Meat Commission (BMC) are Kenyans. You meet Kenyans who have stayed there for many years developing the BMC. We have the technology, and we have given out that technology before developing ourselves.

Mr. Temporary Deputy Speaker, Sir, look at the Kenya Meat Commission (KMC); where is it? Look at Kabete! It is surviving by God's grace. The whole livestock industry has been completely brought down. You will find Kenyans there like Dr. Kariuki, Dr. Nyongesa and others and really regret to say there is somewhere we went wrong. The technology we had was exported even before we catered for ourselves. We are down ourselves and we cannot come up.

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

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

Mr. Temporary Deputy Speaker, Sir, those are the things that we observed. As I said last week, my Committee gave about four recommendations. I will narrate some of them.

(i) We should carry out regular comprehensive livestock census and health centres after every ten years and keep records and that are to be updated by the administration up to location level.

(ii) We should make laws that declare cattle rustling a capital offence and enforce them.

(iii) We should develop a mechanism to control and monitor the movement of animals across determined boundaries.

(iv) The protocol on prevention, combating and eradication of cattle rustling in East Africa should be domesticated and fast tracked.

Mr. Temporary Deputy Speaker, Sir, I understand that Kenya is the only country that has not domesticated that protocol. You really wonder why, yet Kenya suffers cattle rustling. Many animals are taken to Uganda and others to Ethiopia. This renders Kenya a poor nation. It would, therefore, be necessary for Kenya to domesticate the protocol very fast.

(v) We should mainstream the community policing, and each headman should be responsible for the safety of his village.

(vi) We should encourage cultural exchange amongst communities and education as the driver of cultural change.

(vii) We should establish one national and two regional schools in the regions to attract students from across cultural divides to bring harmony and dilute the strong negative cultural practices.

(viii) We should encourage religious groups to set up institutions such as schools and vocational training centres to diversify economic activities.

(ix) We should introduce the fishing industry, so that our people do not depend on livestock alone. We do not have fish rustling. We, therefore, can develop some fish farms in various places. At least, this way, our people will get some food.

(x) We should introduce large communal groups and game ranches, and encourage communities to introduce high yielding cattle to act as commercial entity to better their livelihood and not a cultural wealth.

Today, the animals that people chase, when milked can produce only a litre of milk or less per day. When you go to other places which are developed, you can get a cow that produces up to 30 litres of milk. We should encourage our people to keep animals with high milk yield, and which can be disease resistant.

(xi) We should encourage diversification of economic activities to include agriculture, mining and bee keeping. A very good example is that of Sigor. The Government attempted to do something in Sigor. The youths have now gone into farming as a result of the Sigor Irrigation Scheme. You no longer see them on the streets. You will see them in farms and every month they get some money for themselves. That has reduced cattle rustling in Sigor Constituency. The Government cannot even see that it should replicate such a project in other areas where there is a problem of cattle rustling.

My Committee has recommended that in these areas where there is cattle rustling, we should assist the youth, so that they can undertake agricultural activities. In this way, economic activities will change from livestock to agriculture. Nobody has encouraged bee-keeping in that place. That is why we say that the Government must encourage the youth to engage in bee-keeping.

Mr. Temporary Deputy Speaker, Sir, I understand that in Nyeri, there is the keeping of silk worms. Because we have many forests in pastoralist areas, if such a project is taken there, people will develop.

(xii) We should zone off areas of environmental protection to act as buffer zones between communities by planting of non-indigenous forests in the zones. We have mentioned tea zones that can also act as buffer zones.

(xiii) We can deploy the Anti-Stock Theft Unit in those areas.

(xiv) Security forces should be properly equipped with appropriate equipment. Surprisingly, the people in those areas are used to guns. Even if they hear a gunshot, they will tell you what type of rifle it is. Even children know what gun it is, because they are used to it. They have heard it for many years. The Government has not gone to collect guns and people are still using them. The Government should deploy police officers for security reasons in those areas, and give them proper weapons. The police officers also know what kind of rifles these people use. They say; "No, this one cannot match ours. Ours is inferior and theirs superior". The police, therefore, just go away. They cannot face the cattle rustlers. That is the situation in those areas.

So, even though security officers have been put in those places, the officers have been given inferior weaponry.

(xv) The disarmament programme must be a comprehensive exercise to remove all the illegal guns from wrong hands; the programme should be undertaken without

delay, and in an all-inclusive manner, and the Government should provide adequate security during the programme.

This has been done in some places, but because the Government did it half way, the communities from whom weapons have been taken away are being destroyed by those still holding guns. Those who do not have arms become vulnerable and useless because they do not have any weapons. So, if the Government is serious on disarmament, it should go from place to place and make sure that all those communities have been disarmed. The Government should protect the people. That is the only way we can assist this country.

Mr. Temporary Deputy Speaker, Sir, Kenya should implement a livestock management policy for marketing, production, husbandry and staffing of extension officers even in those areas. The Botswana brand of cattle breed should be introduced in Kenya as it is able to withstand the dry spell. The military and other security agencies should establish more training bases in cattle rustling prone areas like Pokot, Turkana, Samburu, Moyale and North Horr. We should have more police training colleges. The National Youth Service (NYS) intake should be increased and affirmative action encouraged. There should be an administrative inquest on the circumstances under which the Samburu cattle in Lakarote Village were allegedly confiscated. All livestock rustling syndicates should be investigated under the provisions of the Organized Crimes Act with a view to taking immediate action.

Another recommendation is that the Government should set up a special fund to access credit on concessionary terms to pastoral communities. The credit should be tailor-made for the youth in the affected areas for economic empowerment. The Government should also come up with an elaborate plan of restocking and destocking after a calamity. During the dry season, animals die and so, the Government must come up with proper safety measures so that those communities do not incur heavy losses during those times.

The Equalization Fund may be used to benefit the victims of cattle rustling and a commission under the Ministry for the Development of Northern Kenya and other Arid Areas should co-ordinate the activities of the special Stabilization Fund which may be established. Before I conclude, the Government may regulate the cattle trade. Health centres must be created in those areas because diseases are also a big problem. Drilling of water boreholes and sinking of water pans is also recommended. We have indicated several areas where, if the Government can establish schools, health centres, roads and bridges, it will reduce cases of cattle rustling. We have enlisted Laisamis, Igembe North, Tigania, Isiolo, Samburu, Sigor, North Horr, Baringo Central, Marakwet East and Marakwet West, Baringo North, Cherangany and all the districts of Turkana. They are all affected by the menace of cattle rustling and so is Kacheliba. All those places that I have just mentioned are the areas where the Government should set its eyes on so that those people can develop like other communities in Kenya. Our people should come up like any other society because if we overlook this issue, we shall find other communities having gone ahead thousands of kilometers in development while others are not developed; they have not gone to school or done anything productive.

With these few remarks, I beg to move and call upon Mrs. Odhiambo-Mabona, who is also a Member of this Committee, to second.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to second this Report. I want to thank the Chair for very ably moving this Report and highlighting the core issues that, as a Committee, we were confronted with. I want to say that, as the Chair has ably indicated, we visited several areas in the Rift Valley, Eastern, North Eastern and Coast provinces to get firsthand information. We also visited two countries; Ethiopia and Botswana that have embraced very modern livestock management system and it was a very big eye opener, especially for me. Botswana has turned its livestock industry into a major foreign exchange earner and while we were there, we saw many people from different developed countries going there to see how it manages its livestock industry.

The Chair has indicated to us that there is a protocol to combat cattle rustling and it defines it as the stealing, planning, organizing, attempting, aiding or abetting the stealing of livestock by any person, where the theft is accompanied by dangerous weapons and/or violence. I want to go back to the issue of what we have seen in terms of how Botswana manages that issue. I want to say that one of the things that has come out clearly in our Report is that, amongst the people whom we met who are managing the livestock industry in Botswana, are Kenyans. Therefore, it is important for us, either to build a culture of patriotism or look for a way to motivate Kenyans so that the wonderful work they are doing outside, they can come back and do the same in this country. I would also like to say that having visited Botswana, what they are doing there is not rocket science. It is very simple! If we can get a driver in this industry and sector, we can do amazing things in this country. We can surpass Botswana because we have the capacity. It is Kenyans who are running that and it is embarrassing for us, as a country, that people are going to see what Kenyans are doing in other countries when we can do things better within our country. It is something that calls on us as a country to think and wonder what we are doing and much more so, if you consider that the Kalahari Desert covers 75 per cent of Botswana. The wildlife protected area is about 17 per cent and so, the only arable land is 13 per cent and Kenya is almost the opposite. So, we can do much better than that.

Mr. Temporary Deputy Speaker, Sir, one of the areas we visited included the Diabit Codonveld and the Gate which runs across the country and divides the cattle zones. I have not only seen that in Botswana, but I have also seen it in Zimbabwe and Namibia which we visited recently. Those are very simple things that we do not need to get people with PhDs to do. We visited the Mochudi Veterinary Extension Area, the National Master Plan for Agricultural Development (NAMPAD), Modern Dairy Farm at Sunnyside and the Botswana Meat Commission whose chair was trained at Egerton University. We also looked at the Boras Insertion demonstration in the ranch farms and even though they look pretty complex because they use modern technology, again as I keep repeating, there is nothing major that Kenyans cannot do there. We were enlightened on the modern cattle management system including branding, zoning, tracing of animals which is computerized, and management of cattle diseases through branding. That way, you are able to control cattle rustling. You are able to trace cattle in much the same way you can trace a lost vehicle because when you lose your cattle they can be traced right up to the owner as the technology shows the colour of the cattle, name, village and other particulars of the owner.

We went through the process even in their meat commission where we were shown that once the meat is exported to other countries, if there is a problem, they are able to trace where there was a disease outbreak and, therefore, control it.

Even from the packaged meat, if you run a computer on it, it will show you the cow, its age, colour, breed and the owner and his village. We saw it live. It is something that we, as a country, can actually do and build our economy. So, my concern is really if we are committed, we can get there.

Mr. Temporary Deputy Speaker, Sir, to me, the solution lies in embracing that modern technology. However, while we are thinking about it, we need to look at some of the factors that facilitate cattle rustling. We must also deal with them concurrently. One of them is cultural and traditional practices amongst the communities which practice cattle rustling. To them, ownership of cattle is seen as a means of proving manhood. If we could actually encourage cultural exchange, then the person in those areas could actually see that there are different ways that they can exercise their machismo. They do not necessarily need to own cattle in order to prove that.

The other major reason for prevalence of cattle rustling is that people use cattle to pay dowry. I would want to recommend that we encourage our people to discard this culture. If you look at the concept of dowry payment, I think it is a concept that is now very heavily abused. I have actually been in weddings where parents have refused their daughters to marry because the men did not give so much money. In the modern world, it has ceased to be cattle; people are now demanding thousands of shillings. To me, as a women rights crusader, it actually reduces women to a commodity to be owned or purchased. We could actually encourage people to adopt a wedding alone. If we need other cultural means, we can actually get families to dance and do other things. We do not necessarily have to exchange cattle.

Mr. Temporary Deputy Speaker, Sir, the other thing that facilitates cattle rustling is proliferation of small arms and light weapons. This is something that does not just affect the areas that are affected by cattle rustling, but a big problem in this country that we must address. It is also the source of insecurity in this country. We have a lot of arms in the wrong hands. This facilitates cattle rustling because in the past, people did not use this sophisticated weaponry. It makes it more difficult to move heads of cattle. But now because of these small arms, as the Chair was saying, children in that neighbourhood can actually tell you what kinds of guns are used for cattle rustling. Arms are not controlled. So, it is not just a threat to cattle, but also to human beings.

There is also the culture of warlordism. Again, many young people are being used by persons who have declared themselves warlords. We must see what we can do with our young people. Most of them are not just used wrongly during politics, but also in illegal activities such as cattle rustling. We must get gainful employment for them.

The other concern we noted was the issue of porous borders. The issue of porous borders has been discussed in this House many times in the past. It does not only affect the issue of cattle rustling, but increasingly we are seeing a lot of cases of human trafficking, especially affecting women and children. We have also seen a lot of cases of illegal immigrants that are moving because of our porous borders. I would like to encourage the Minister for Immigration and Registration of Persons that we must take

very stern action and secure our borders, especially because of the more recent trends that we are seeing. We should also avoid a situation where we end up profiling our Kenyans assuming that they are coming from outside.

One of the other issues that we noted as a Committee was marginalization and underdevelopment of some of these areas that encourage cattle rustling. I want to agree with the Chair that when we are looking at implementing the Constitution, these areas must be prioritized, not only under Article 100, but under the definition clause which tells us who a marginalized person is. Also with the equalization fund, so that some of the parts of this country that have lagged behind can be brought at par with the other parts of the country.

Mr. Temporary Deputy Speaker, Sir, some of the effects of cattle rustling include abuse of human rights of individuals, abuse of the rights of children and women. During these raids, many women and children are beaten up. Some lose their lives and others end up being sexually abused. There is also the loss of property rights. This has big negative impact on our economy.

Some of the things that our Committee suggested are that we must adopt modern systems of managing our livestock as has been done in Rwanda and Botswana. We must also acknowledge cattle rustling for what it is. It is a criminal activity and a threat to human security. We must encourage these communities to adopt alternative livelihoods as the Chair has ably indicated. We must get Kenyans to think broader than their neighbourhood. There is a Nigerian saying that a person who is not travelled thinks that the mother's food is the best food. So, let our people know that the mother's food---

(Mr. Ruto consulted loudly)

Mr. Temporary Deputy Speaker, Sir, could I, please, be protected from hon. Ruto who is consulting very loudly and distracting me?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order! He has heard you. Hon. Ruto, allow the hon. Member to present her case.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir. I do not know if he has had sleepless nights or is he dreaming.

Mr. Temporary Deputy Speaker, Sir, our Committee also considered seeking means of employment for our young people. We also considered the enactment and implementation of the National Policy on Small Arms and Light Weapons and the Mifugo protocol.

Mr. Temporary Deputy Speaker, Sir, we also need to eliminate negative cultural practices that encourage cattle rustling. We should also encourage national cohesion and integration, so that our young people can see best examples in other areas. I would also encourage the CEO of the Vision 2030, Mr. Mugo Kibati to consider prioritizing this issue, so that we can move our country forward. There is a lot that we can do with better livestock management.

Finally, because the issue of cattle rustling is an issue of human rights violation, I would want to quote the case of Velasquez Rodrigues versus Honduras, which talked of the concept of due diligence. This is a case which was reported in the Inter-American

Human Rights Court. It says that it is upon the government to ensure and protect human rights, and that where the government is not able to, the ordinary people can take it to court. In this case, the court said that the State's failure to take reasonable steps to prevent human rights violations was a ground for its culpability. Secondly, the court established that the State is obliged to use the means at its disposal to carry out serious investigations of violations committed within its jurisdiction to identify those responsible to impose the appropriate punishment and ensure that the victims get adequate compensations.

Mr. Temporary Deputy Speaker, Sir, we have actually seen wrong practices, as hon. Ruto indicated to me the other day. Sometimes, when you have cases of cattle rustling, what the Government does is to go and round up people in one location and tell them: "You are suspected to have stolen these cattle, we will take your cattle and distribute them to people in the place from where the cattle were stolen". An hon. Member indicated the other day that if we were to use that standard, it would mean that when there is theft in a bank close to Parliament, then all of us, as Members of Parliament, should be rounded up and made to pay the money that was lost in that bank.

What I am basically talking about is the protection of human rights. The protection of victims of crimes, especially women and children, remains the primary responsibility of the state, and the state must make sure that a lot more is done to eliminate the culture of cattle rustling.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I want to thank my brother, hon. Boaz Kaino, for bringing this Motion to the House, even though I have a few concerns, which I hope he is going to take into account during the implementation of this Motion after it is passed.

The views of the people of Marakwet East, which is the epicentre of cattle rustling, were not captured. It is unfortunate that when the Committee went to Marakwet District, they only went to Marakwet West, and not to Marakwet East. In fact, the people who gave their views castigated the people of my constituency, and I beg that the castigation be removed. The Committee says in part of its minutes on page 29: "The area residents had been attacked by people from Marakwet East and their cattle taken away". The minutes go on to say: "The majority of the cattle rustlers were from Marakwet East".

Mr. Temporary Deputy Speaker, Sir, this is not true, because cattle rustling in Marakwet takes place along the Kerio Valley, and affects the people of Tot and Murkutuor. In 2001, we lost 57 people overnight. The views of these people were not captured. I tried to intervene by talking to the Clerk Assistant, who was the Committee's head of secretariat. I asked the Committee to go and have a hearing in Tot. They promised to go back, but they never did so until today, when I see these statements in the report before the House.

On 23rd October, 2002, at Tot District Hospital, we lost 11 children whose heads were just bashed on rocks. The people of Endor at one point were known to be the

terrorised citizens of this country, but their views were never captured. The Committee did not go to sit at their right place. The Committee did not hear the views of the people in Chesegeon, which is between Marakwet East and Pokot Central, which has hon. Litole's people. The Committee should have captured the views of those people.

Mr. Temporary Deputy Speaker, Sir, so far, we have come up with our own ways of trying to ensure that the people of Marakwet and Pokot live in peace. To say that the Committee sat in Kapsowar, where there is no cattle rustling, is wrong. The Committee sat in Makutano, where there is no cattle rustling, even though we understand that at some point, some people went there to steal some livestock.

Therefore, I support the Motion but I am not happy that the people of Marakwet East, who were the culprits--- Due to the fact that we do not move up and down like the Pokots, we are the ones who have suffered most. If I may give the Committee a hint, which is not captured in this Report, cattle rustling started when somebody called "Chelain" was killed in 1975, and when in 1995 somebody was killed in Sang'utan. I hope that the Committee will go back to history.

Mr. Temporary Deputy Speaker, Sir, somebody has published hearsay in this Report; the people of Murkutuor were killed, and their houses are now open graves, yet the Committee never spoke to anybody in that area. So, what is the Committee reporting about this area? I doubt whether the Committee actually visited the people concerned. Maybe, the Committee just talked to people who are found in towns like us. Although now this is water under the bridge, I would recommend that they come to Kerio Valley and see what hon. Kamama, hon. Litole and I have done.

What should have been captured in the Committee's Report is what the Committee ought to have seen happening amongst the people of Marakwet East, Pokot Central and Pokot East. We now have had peace for seven years in that area, because we leaders decided to talk amongst them, and to preach peace without considering whether we would lose politically or not. I remember in my first meeting with hon. Kamama in 2003, we called our people on both sides and talked to them, while still appreciating the fact that our Parliamentary seats could be in danger; the practice then used to be that if you spoke and showed that you could protect the people, then you were the MP of the day. So, we decided that even if one of our brothers, or relatives was involved, they would suffer the consequences.

Mr. Temporary Deputy Speaker, Sir, I had not seen the Kolowa Declaration. What has sustained hon. Kamama and I up to now? How have we been compensating one another? These are things I feel this Committee should have captured in its Report. I would be more than ready to tell them more of what we have done such that we have had peace for the last seven years.

Another cause of cattle rustling, which was not captured by the Committee in this Report is female genital mutilation. You will find that areas which are prone to cattle rustling are areas where young men want to steal cattle to marry wives. It is because somebody has prepared wives for them. Female genital mutilation is a rite of passage from childhood to adulthood. So, when men hear that the girls have been circumcised, they prepare themselves to marry those girls. Due to the need to pay dowry, they go and

steal cattle. In fact, on the day the girls come out of seclusion, cattle rustling will have taken place because men have to be ready with cows to marry them immediately.

Mr. Temporary Deputy Speaker, Sir, therefore, it is important to address the issue of capacity building and helping people to understand the dangers of female genital mutilation, so that they can do away with it. That way, there can be no more cattle rustling, because people will have to look for other ways of raising dowry to marry. Secondly, if girls are not removed from school and circumcised at an early age, they will finish school and, at a later stage in their lives, will make informed decisions; they will be in a position to negotiate and decide whether dowry is to be paid for them or not.

Another issue is that of lack jobs. We have so many youths in areas which are prone to cattle rustling, who are jobless. They have nothing. All they have to do is sit under a tree and scheme what to do next. When it comes to employment, we say that we want people to have a certain number of years of experience. What experience do such youths have? If experience is to be considered, it should be of how many kilometres such youths can run. They will be able to say: "One day, I ran from Marakwet to Turkana looking for my cattle".

Mr. Temporary Deputy Speaker, Sir, you come from that area. So, you understand that our cattle run at a speed of almost 100 kilometres per hour as cattle rustlers chase them.

If this was a way of gaining experiencing, then the youth could get jobs. So, there should be affirmative action for youth from this area when it comes to employment.

Mr. Temporary Deputy Speaker, Sir, another place where the youth can easily access employment is in the forces. It is unfortunate that when they go to the recruitment centres, the recruitment officers start searching for scars. They look at the setting of their teeth. It is unfortunate that because of the practices of cattle rustling, some of them lost their teeth on the way. You will find that the vegetation in cattle rustling areas is mostly thorny bushes. So, they have scratches everywhere which they acquired as they grew up. As a result of this, they are not recruited into the armed forces because of the scars that they have. So, we must have affirmative action for the people in those areas.

Another area which I feel was not captured well is school fees. When you ask somebody who does not grow any crops to pay fees amounting to shs20,000--- They do not sell anything apart from when they sell animals. When that animal is not there, sometimes they will just have to steal to ensure their children go to school. I feel that the Committee should capture affirmative action as far as school fees is concerned for students from those areas. I agree that there is the CDF fund but it can never be enough. If everybody in the whole constituency qualifies to get CDF, that money is not enough.

Mr. Temporary Deputy Speaker, Sir, I once happened to go to Israel and I discovered that the dry parts of Israel; that is where they have put their educational institutions. It is not the case in Kenya. You will find all the universities and colleges in the arable areas where there is development. I really feel that one of the things that should be captured is an educational institution in the form of a university to be taken to the hardship cattle rustling areas. In the process, they will be able to mingle with others. If this is done, automatically, electricity and water will go there and businesses and industries will come up.

As long as we have the rural-urban migration of the people from cattle rustling areas which happen to be the arid lands of this country into the arable lands looking for small plots measuring 10 by 10 or 100 by 100 and looking for jobs, then these people will still always feel secluded. It is no wonder that most of them feel that they are not a part of Kenya. As people from Marakwet East keep on saying, we got our Independence in 2003 when His Excellency Mwai Kibaki became President because he considered the people who had been marginalized by former regimes and were landlocked to clear one another. They got their independence in 2003.

When it comes to the cattle, I did not hear them capture the issue of laboratories for animals. The other day, there was an EPR disease in Turkana which neighbours my constituency. They will have to travel maybe, up to Kitale to get medical care. Between Marakwet and Pokot in Tot area, we got the Rift Valley Fever. They have to bring the specimens up to Eldoret or Nakuru. Why can we not have laboratories in those areas? Since our land cannot support agricultural activities, it supports livestock; then we should have the laboratories there to ensure that those people also do not lose their animals overnight when there is a disease.

Another issue is abattoirs. Why must the animals be brought all the way to KMC in Athi River? I am sure if we got good nutritionists, they would be able to tell us that an animal that has been transported so far will be suffering from stress by the time you are slaughtering it. So, the meat we eat has got a lot of adrenaline from the animal. Why can we not have abattoirs very close to these areas? If I feel that today my cow has been stolen, I will run immediately to the abattoir and wait for the animal that is being brought there to be slaughtered. These are things that have to be done affirmatively by the Central Government and should not be left to the county governments because these mistakes were done when we were still a unicameral Parliament. As we become bicameral and devolve everything to the counties, these counties will be trying to make ends meet on so many other areas because they were left behind. These are things which, if captured, should be something that the Central Government should address to help the devolved governments to be at par with other areas.

With those few remarks, I support.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I want to draw the attention of hon. Members to some years back; the year 1550. In the year 1550, according to the BBC in what they did about three or four days ago, they analyzed and said that China and India were the richest countries and economies of the world. That was in the year 1550 but over time because of invasions, colonization, piracy, cattle rustling, theft of raw materials from third world countries to the industrialized world, the economies of those countries gradually became very poor and Africa is just part of that. Africa which is the oldest continent was left with only cattle rustling and Somalia is doing piracy also.

Coming back to Kenya, we can sit here and talk and discuss this issue but the truth cannot be put more eloquently than what has been done by Mrs. Odhiambo-Mabona that the State is responsible for its omissions and commissions in terms of enforcing security and also ensuring that people do not suffer.

The rulings have been cited, and even without the rulings, the State is bound to protect her people. The people of Turkana, Marakwet, Samburu and Baringo have suffered these injustices because a certain group is armed and they feel so powerful that they are able to intimidate the Government. This should be put to a halt. We are supporting this particular initiative through this Select Committee because the Government must wake up from its slumber. By this, I mean that technology exists. In other parts of the world like Oklahoma, they are still doing cattle rustling in one way or another. The difference is that they will do it but they will be caught. There are systems in place there.

When you look at the number of Administration Police officers that we have, we understand that they are over 20,000 of them. Look at the Army and the police. They still run the way they used to do it in the year 1600. During the Desert Storm, America met a very big Iraqi Army which had over 1 million people and they were outdone within the hour just because of technology.

What we are saying is that we should stop all these bad habits and start good practices by the Government to equip the few helicopters they have, old as they are, with modern weaponry. Modern weaponry includes laser guided, very accurate weapons which have night vision capability. The slight distances are so small that you do not need to get high tech choppers to come and do the job. You just need two pilots and adequate armor and you tame these people at night.

If you could allow me to use a word which is not very parliamentary but I am resisting, it is a word called “idiocy”. For example, cattle rustling has occurred here and then, you have to move about 200 officers in lorries through a bush where there are no roads in the first instance and you are chasing people who are trekking through that place at supersonic speed; it is all a game in futility.

Mr. Temporary Deputy Speaker, Sir, let us be serious for once. Let us even do it at experimental level. Let us start with Turkana or even Marakwet and equip one simple helicopter that we have in the military or the Kenya Wildlife Service (KWS). By doing this, we will be able to contain incidences of cattle rustling. You know that in 1970s, poaching had reached an alarming state that everybody had given up until one man, Dr. Richard Leakey, joined the KWS and formed the Anti-Poaching Unit. They did not use technology but they had a commitment. They used choppers and very old guns but were able to control the menace.

I want to remind this Government that Section 46 (1) to (3) and especially Sub-section 1 (d) of the new Constitution clearly says that citizens are entitled to compensation if they do not receive quality goods and services. So, this Government must be put on notice and I will encourage people who come from pastoral areas to note this and prepare suits against this Government if it cannot protect their welfare and if it offers sub-standard services. Those citizens are entitled to compensation. It is not Mr. Mututho who is saying that but it is in the Constitution and the rulings are there.

The vice is rampant because of lack of equitable distribution of resources. If you look at the skewed distribution of resources over time, you will realise that some people have been condemned to permanent poverty and some people live in conditions that are very degrading as to deny entire human dignity. What makes a human being? What is a

human being if he or she cannot have food or security? What a show when you look through 2009 and see a beautiful Turkana or Pokot lady carrying an AK-47 with full magazine and a baby herding after three sheep which were left by the cattle rustlers? In a country like Kenya which is endowed with enormous resources, we are just behaving worse than that camel that went into a tent and tried to fit. Worse still, we are behaving as if we are squatters in a world that is “theirs”. “Theirs” means those people who have money and those who are in Nairobi and Kisumu and are protected 24 hours. What justification do we have to call for “one man one vote” in a situation like that? If you look at that child, what kind of a child are we bringing up?

Mr. Temporary Deputy Speaker, Sir, I was in this Committee but I did not have to go to Mrs. Kilimo’s area to understand that those things happen there. I know it because you do not need to do any research. The other day, somebody tried to sell me a house alarm and the demonstration went like this. If there is an intruder in the house, from my mobile phone even if I am in the United Kingdom, it will be able to detect and show me that there is intrusion. Through the satellite, I will see the image of my house and the point at which the thugs are trying to enter. That is technology. It is not high technology but standard technology today. We leave the whole of 70 per cent of Kenya where people languish in poverty and sit here and continue to recruit more administration police officers and the Anti-Stock Theft Unit but cannot tell who steals or organizes the theft. One thing we know is that there is a valid or legitimate Government in the country but it is not willing to do its job. What we need to do, as a House, like I said before is for this Government to be taken to court and let the people of Turkana be compensated in total. Let us freeze this Budget so that they wake from their slumber and know that they are supposed to protect people’s lives. This is part of human rights.

I know I am being told that time is up but I will continue---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Mututho, you will have ten minutes to continue when the Motion resumes.

Hon. Members, we have come to the end of today’s sitting. Therefore, the House stands adjourned until tomorrow, Wednesday, 15th March, 2010 at 9.00 a.m.

The House rose at 6.30 p.m.

