

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 16th June, 2010

The House met at 9.00 a.m.

*[Madam Temporary Deputy Speaker
in the Chair]*

PRAYERS

PAPERS LAID

The following papers were laid on the Table:-

The Treasury Memorandum on the Public Accounts Committee Report for the year 2004/2005.

The Treasury Memorandum on the Public Accounts Committee Report for the year 2005/2006.

(By the Deputy Prime Minister and Minister for Finance)

NOTICE OF MOTION

APPROVAL OF TAXATION MEASURES

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

THAT, the proposals relating to:-

- (a) Excise Duty
- (b) Value Added Tax
- (c) Income Tax
- (d) Miscellaneous Fees and Taxes contained in the Financial Statement for the year of account 2010/2011 be approved.

(His Excellency the President has signified his consent to this Motion.)

ORAL ANSWERS TO QUESTIONS

The Temporary Deputy Speaker (Prof. Kamar): Question No.156 by the Member for Nyakach!

Question No.156

NON-PAYMENT OF IMPORT DECLARATION
FEES BY MOMBASA MAIZE MILLERS

The Member for Nyakach is not here, I will reserve the call!
Next Question by the Member for Marakwet West!

Question No.137

FUNDING OF ARROR-CHEPKUM DAM BY JAPAN

The Member for Marakwet West is also not here, I will reserve the final call!
Next Question by the Member for Saboti!

Question No.172

SQUATTER PROBLEM IN TRANSMARA DISTRICT

Mr. Wamalwa asked the Minister for Lands:-

(a) what the Government is doing to address the squatter problem in Trans-Nzoia District; and,

(b) what progress the Government has made in addressing “Agenda 4” on Land Reforms in compliance with the National Land Policy passed by the House in 2009.

The Temporary Deputy Speaker (Prof. Kamar): Minister for Lands! The Minister for Lands is not here, I will reserve the third call!

Next Question by the Member for Emuyaha!

Question No.046

NON-PAYMENT OF SHARE CONTRIBUTIONS
TO RAILWAY SACCO MEMBERS

Dr. Otichilo asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that most of the retired members of the Railway Co-operative Society have not been paid their share contributions; and,

(b) when the members will be paid their money, particularly those from Emuhaya Constituency.

The Temporary Deputy Speaker (Prof. Kamar): Minister for Co-operative Development and Marketing!

The Minister is not in; therefore, I reserve the third and final call.

Next Question by the Member for Gwasssi!

Question No.107

GOVERNMENT DECISION TO HIRE
INTERN TEACHERS

The Member for Gwassi is not here! I reserve the last and final call!
Next Question by the Member for Mutito!

Question No.132

NON-UTILIZATION OF FUNDS FOR NEWLY
CREATED NZAMBANI DISTRICT

The Member for Mutito is not here! I reserve the third and final call!
Next Question by the Member for Wundanyi!

Question No.162

INVOLVEMENT OF COMMUNITIES IN DRAWING
BOUNDARIES FOR TSAVO WEST NATIONAL PARKS

Mr. Mwachugu asked the Minister for Forestry and Wildlife:-

(a) whether the Government involved local communities in drawing up boundaries of Tsavo West National Parks and, if so, he could inform the House how many title deeds have been issued from the year 2000 to date; and,

(b) what arrangements he has put in place to end human/wildlife conflicts and how the Government plans to compensate victims of lost human and livestock lives.

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

(a)The Government involved the local communities in the establishment of Tsavo West National Parks through Legal Notice No.17 of 6th April 1948 and Legal Notice No.23 of 29th September 1953. The Kenya Wildlife Service (KWS) acquired title deed for Tsavo West National Parks in the year 2002. This is Grant No.CR36021, LR.No.24360. There is no other title issued on the same land.

(b)My Ministry, through the KWS, is committed to minimising human/wildlife conflict in the Tsavo conservation area and has taken the following steps:-

The Tsavo Conservation Area Management has deployed personnel strategically with radio communication equipment. The following stations are fully equipped to respond to conflict in these areas: Voi Station with two officers and eight rangers, Taveta Station with two officers and 13 rangers, Rombo Station with one officer and four rangers, Komboiyo Station with one officer and six rangers, Kyulu Station with one officer and five rangers and Mutomo Station with one officer and five rangers.

In addition, there are other outposts spread out within the Tsavo area to ensure conflict issues are addressed as they arise. These are equipped with vehicles designated for addressing animal control issues. The job description of officers in these stations include handling human/wildlife conflict, participating in public *barazas* to create awareness amongst the communities and the dos and don'ts pertaining to wildlife.

The KWS has in addition developed and is maintaining conflict data base. This has enabled the Service to map out conflict hot spots, predict occurrences for conflict which allows for strategic decision-making on human/wildlife conflict management. The park is supported with a light aircraft stationed at the park. This is used to undertake daily

morning and evening aerial surveillance and thereafter reconnaissance is conducted. This has greatly mitigated human/wildlife conflicts in the area through early warning or preventive conflict management, for instance, the big mammal like elephants.

Madam Temporary Deputy Speaker, the KWS deploys rapid response teams to support the already existing teams on the ground. The Problem Animal Management teams were from the month of January periodically deployed to Ndi, Kajire, Kasigau, Rombo, Bura, Kishushe, Voi areas among others to beef up the existing teams on the ground.

Repair and maintenance of electric fences in the Tsavos ensure that conflict experiences are minimal. These are the Ndi fences that cover 31 kilometers, Maktau fence that covers 30 kilometers and Umbi to Kasala to Tana River Fence that measures 72 kilometers.

Additional electric fences have been planned for erection to reduce human/wildlife conflict. These are Mackinon Road to Bachuma Gate which is approximately 30 kilometers and Ndi to Kishushe fence that should be 75 kilometers. Such fences are planned to reduce human/wildlife conflicts in these areas and plans are underway to construct them.

The KWS has conflict hotlines that are given to the public for swift communication of conflict cases. These numbers include 0718-672850, 0732340036 and 0723332090.

Lastly, under the current Wildlife Conservation and Management Act, Cap.376, there is no compensation for livestock, crops and property damaged or destroyed by wildlife. However, my Ministry initiated the review of the Wildlife Conservation and Management Act, Cap.376 of 1989 with a view to explore sustainable options for compensation. The draft Wildlife Policy and Bill are awaiting discussion by the relevant Cabinet sub-committee and subsequent approval by this House.

As the law stands now, the only compensation is for human injury or death caused by wildlife. Currently, compensation for injury by wildlife is up to Kshs50,000 while for death as a result of wildlife attack is up to Kshs200,000.

Mr. Mwadeghu: Madam Temporary Deputy Speaker, as you can see from the answer given by the Assistant Minister, the Legal Notice was issued in 1953 before most of these hon. Members in this House were born. The title deed was given in 2000. It is a pity that the Taitas were not involved, but the Ministry ended up taking their reserve land up to Tsavo River. Therefore, Taitas in Kishushe refused to have the electric fence on that boundary. The point I am trying to make is that the Government unilaterally carved out part of Taita land and gave it to the KWS without the consent of Taitas. Could he confirm that the Taita reserve land was annexed to Tsavo West National Park?

Mr. Nanok: Madam Temporary Deputy Speaker, this national park was gazetted, as the hon. Member said, in 1948. In 1953 a Legal Notice was issued. Neither were we also there at that time. Right now, the biggest problem that we are experiencing in this country is encroachment of humans onto wildlife migratory corridors. This is increasing human/wildlife conflict. So, it is upon us to discuss with the community to convince them why the park boundaries have been mapped as they are. This is done for their own benefit.

Dr. Otichilo: Madam Temporary Deputy Speaker, I wish to thank the Assistant Minister for the answer he has given. However, I would like to know from him whether

the local community was involved in the formulation and implementation of the programmes that he has enumerated which aim to reduce human/wildlife conflicts in the region.

Mr. Nanok: Madam Temporary Deputy Speaker, that is definite because most of all these requests for putting up electric fences and mapping out the boundaries of national parks are done in consultation with local communities.

Mr. Ruteere: Madam Temporary Deputy Speaker, the Assistant Minister has told us that compensation for injuries is Kshs50,000 and for death is Kshs200,000. In view of the current economic situation where even Kshs50,000 cannot meet medical expenses for very minor injuries, are they considering reviewing the Act, so that this compensation can be raised to meet adequately the compensation that is supposed to be paid?

Mr. Nanok: Madam Temporary Deputy Speaker, in the new Bill that we have reviewed with stakeholders, one of the issues that is being addressed is the compensation issue to a point where the compensation amount has been increased to Kshs1 million. However, this Bill has not yet been approved by Cabinet. Once it is approved, we hope to table it in this House and hon. Members will make constructive comments to it, so that we have a new compensation package. I concur with the hon. Member that what is in the current law is very low. That is why we were reviewing the Act, so that we can increase injuries compensation and also compensate for loss of crops and damage of property.

Dr. Khalwale: Madam Temporary Deputy Speaker, the reason for this human/wildlife conflict is because of competition for the resources. When this decision was made in 1953, the population of Taita was around 100,000 people. At the moment, they are over 500,000 people. What percentage of the resources of the proceeds of tourism do they inject directly into the local economy to help those people to sustain themselves?

Mr. Nanok: Madam Temporary Deputy Speaker, you have to realize that the Ministry through the KWS does so many community social responsibility programmes in the forms of schools, water and many others. But a lot of the tourism money that is generated from these parks gets back to the Treasury. I believe that all of us draw from that package in the form of the money that is allocated to our different constituencies.

Mr. ole Lankas: Madam Temporary Deputy Speaker, arising from the answer given by the Assistant Minister, he says the park is there for the benefit of the local community. Instead of him being general, could he specify or cite certain programmes that the local community has directly benefited from that park?

Mr. Nanok: Madam Temporary Deputy Speaker, if I was to give that answer, we would be here the whole day because we have done a lot for the local community. Through the KWS, we have initiated schools, health centres, roads and many other projects. But if the hon. Member wants me to enumerate all of them, I can give him the list---

Mr. K. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to generalize in this answer yet the hon. Member was very specific that he names the schools or the health centres they have initiated for the benefit of the local community? If he does not have the answer, he should say so.

The Temporary Deputy Speaker (Prof. Kamar): Mr. K. Kilonzo, he mentioned the word "list" when you stood up on a point of order. So, I think he was, probably going to be specific, Let us hear him before we say he is not specific.

Mr. Nanok: Madam Temporary Deputy Speaker, as I said, if he wants me to give the details we will be here a whole day answering one Question because the details are so many. I can give him the details much later if he wants them, because in every area where we have a national park and game reserve, we have community social responsibility programmes that have been undertaken by the Kenya Wildlife Service.

Mr. Mwadeghu: Madam Temporary Deputy Speaker, now that the Assistant Minister has promised he can give that list, I would like to see that list specifically for Kishushe area, which borders Tsavo West, because, to the best of my knowledge, there is none.

Nonetheless, the aircraft which has been said to be hovering around the place to minimize human/wildlife conflict does not exist. For all the time I have been in Kishushe, we have never seen any aircraft flying over Kishushe and looking after these animals. Could the Assistant Minister be specific and tell us when this aircraft takes off from Tsavo West?

Mr. Nanok: Madam Temporary Deputy Speaker, there are two questions. Regarding the first one, I will give the hon. Member the details much later on community social responsibility projects, of what we have done around the park. The second one is that I can assure him that every national park conservation area has an aircraft stationed there, and they are doing surveillance every week. Sometimes every three months they do headcounts of the wild animals within the national parks.

Question No.192

NON-COMPLETION OF MWITASYANO BRIDGE

Mr. Nyamai asked the Minister for Roads:-

- (a) if he is aware that Mwitasyano Bridge is still incomplete, yet construction began three years ago; and,
- (b) what he is doing to ensure that the bridge is completed without further delay.

The Minister for Roads (Mr. Bett): Madam Temporary Deputy Speaker, I want to apologise to the hon. Member as he has not received the written reply that we submitted to the Speaker's office.

Madam Temporary Deputy Speaker, I beg to reply.

- (a) I am aware that there are a few outstanding works on Mwitasyano Bridge. These works could not be completed due to the exhaustion of funds.
- (b) I have instructed the Kenya Rural Roads Authority to finance the outstanding works during the next Financial Year, 2010/11.
- (c) As stated above, my Ministry has forwarded the cost estimate needed to do the repairs to the respective committee. The works will be executed once the funding is received.

In addition, the Ministry, through the Kenya National Highways Authority has made a budgetary allocation of Kshs34 million in the 2010/11 proposed budget for the maintenance of the mentioned road, that is the approach road to the bridge.

Mr. Nyamai: Madam Temporary Deputy Speaker, Sir, I want to thank the Minister for his answer. However, this bridge has actually taken 17 years since it was started, and every year we have been getting assurance that something would be done. I just want to imagine that his commitment is firm. However, last year this Ministry

promised us that it would do two bridges in my area, one in Kakusu which was under emergency and another in Syomakanda, which connects my constituency to Mbooni and none of those have been done. If none of those have been done and you had promised, how sure are we that he will do even this one?

Mr. Bett: Madam Temporary Deputy Speaker, I want to assure the hon. Member that we are committed to doing these bridges and completing them. It is true that this bridge was commenced on 2nd June, 2006 at a tender sum of Kshs58,301,653. The completion date was expected to be 2nd April, 2007, with a defect liability period of 24 months. Due to inadequacy of funds the project was not completed. We inspected that bridge on the 23rd of March this year to make sure that we were able to estimate the cost of the remaining works.

I am also aware that there are 58 bridges across the country that were commenced and were not completed. I am also aware that there are many other bridges which were destroyed due to the recent rains. I have instructed my office that no new bridges shall be started until the bridges which were started long ago are completed, and until the bridges which were destroyed recently are also done or repaired, so that we are able to make sure that we complete what we have started as opposed to starting new ones on top of old ones whose work has not commenced. So, I assure the hon. Member that we are committed to completing all these bridges which were started across the country, including the bridge in question.

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, I want to thank the good Minister, because he is very hardworking. He has given assurance on Mwitasyano just the way he came to see Ngai Ndethya in Mutito. He personally visited it gave a commitment that money would be allocated to complete it. Could he now confirm that he has also allocated money for Ngai Ndethya Bridge in Mutito Constituency?

Mr. Bett: I know that is another Question but it is within the purview of my Ministry. Yes, it is true I visited that bridge and I understand the meaning of the words “Ngai Ndethya”; it means God with us when you are crossing the bridge. I assured the hon. Member that we would do it, and my assurance stands. I keep my word and I would want to do that all the time.

Mr. Chanzu: Madam Temporary Deputy Speaker, one of the reasons why it takes a long time to complete these kind of projects is the cost. It is because of using standardized drawings from the Ministry headquarters. Could the Minister consider that when he is to construct such bridges, he uses the local technology, materials and innovation within the area where the bridges are being constructed so that the cost can be reduced?

Mr. Bett: It is quite impressive that there is local technology for making bridges. I would really want to benefit from that technology, because it is much easier to use it. We design bridges because we want them to last. We design them because we want them to be safe for our people to cross. We also use materials within the neighbourhoods. So, I believe that is the local technology the hon. Member is talking about. We use local materials and local labour for such works. I will be talking to the hon. Member later to be given the details on local technology. I would want to benefit, so that we are able to give our people bridges as quickly as we can.

Mr. Abdirahman: Madam Temporary Deputy Speaker, I would want to thank the Minister for the very good response. I have no doubt that he is really committed. But

as much we, as Members of Parliament, are able to participate in the development of rural roads in this country, we are not able to get in any way the participation of the development of larger roads like the trunk roads in our country.

The Minister as much as he maybe be committed, I have a feeling will not be able to handle our issues unless there is a change in terms of sharing the national resources with regard to the development of the larger roads. What is he planning to do to develop those roads, including the trunk roads that connect Wajir-Mandera-Garissa? At the moment, the funds are held at the national level here. Could he tell us how best he would involve us?

Mr. Bett: Madam Temporary Deputy Speaker, I want to thank the Member for that question. I am sorry because he may not have been here yesterday when we gave a reply on Garissa-Nuno-Wajir-Mandera Road. That is on our table. We are committed to do it the same way we are committed to Voi-Taveta Road and Eldoret-Kitale-Lodwar Road into Nedapal. Those are very good connectivity roads that will give us the benefit of trading with our neighbours and they are also good for security reasons.

The length of our classified roads is 160,000 kilometres. Those are the roads which measure nine metres in width. The roads that measure six in metres width and the smaller ones stretch 200,000 kilometres. Put together, we are talking of 360,000 kilometres. All those roads are to be done using the funds allocated to the Ministry. You can see how much we are supposed to do as Ministry. But we will do as much as we can to prioritize the roads. As I have told the House, we are giving due attention to those roads I have already mentioned.

At this juncture, I wish to thank the Members of Parliament. The report I have is that the funds allocated to Constituency Roads Committees are currently being utilized to repair our roads. I have no adverse reports from the constituencies. So, I am grateful to my colleagues, Members of Parliament because they are utilizing the funds well.

Mr. Kigen: Madam Temporary Deputy Speaker, I would like to ask the Minister to tell the House what he is doing about the bridges that were swept away by floods at the beginning of this year.

In my constituency, for example, four bridges were swept away and we thought they fell within the emergency bridges that required immediate intervention. Up to now, there is nothing that is forthcoming and people cannot cross. We thought we would get help because there was some intervention which we were told was forthcoming. What became of that money?

Mr. Bett: Madam Temporary Deputy Speaker, I have no complaints against the Member because I know he has arrived late because of traffic jams. We are doing everything possible between me and the Ministry of Transport to ease congestion in the City of Nairobi.

Otherwise, I had indicated as asked by hon. Nyamai that 58 bridges across the country, together with the bridges that were destroyed following the recent rains will be looked into no new bridges shall be considered until those bridges which were commenced earlier or the bridges that were destroyed recently by rains are fixed. So, we are giving due attention at the moment.

Mr. Imanyara: Madam Temporary Deputy Speaker, I thank the Minister for the reassurance. He actually knows that there are 58 bridges that must be reconstructed before any other new bridge can be put up.

In order for us to be satisfied that the bridges in our various constituencies are among those 58, could he table that list and tell us how much money he has requested from his colleague on his left to ensure that these bridges are, indeed, constructed so that we do not have to wait for another 17 years, as my friend hon. Nyamai had to wait? Could he give us the list and assure us how much money he requested from his colleague to ensure that these bridges are done?

Mr. Bett: Madam Temporary Deputy Speaker, subject to the pleasure of the Chair, I would wish to request that we table the list next week.

The Temporary Deputy Speaker (Prof. Kamar): Thank you. Next week.

Last question, hon. Nyamai.

Mr. Nyamai: Madam Temporary Deputy Speaker, I am happy with the Minister, he has promised to do that bridge as soon as possible..

The Temporary Deputy Speaker (Prof. Kamar): Back to round two of Questions. There is a special request from the Minister for Education who is travelling that the Question by Mbadi be given the first priority.

Mr. Mbadi: Madam Temporary Deputy Speaker, first of all, let me apologise for coming in late. I was actually not very far from the Chamber, but I thought there were four Questions before mine. I hope you will accept my apology.

The Temporary Deputy Speaker (Prof. Kamar): Very well. Go ahead and ask your Question.

Question No. 107

GOVERNMENT'S DECISION TO HIRE INTERN TEACHERS

Mr. Mbadi asked the Minister for Education:-

(a) what informed the Ministry's decision to employ intern teachers instead of hiring teachers on permanent basis; and,

(b) whether he could use the 2009/2010 allocation, which was meant to hire intern teachers, to recruit teachers on permanent basis to meet the shortfall in understaffed regions.

The Minister for Education (Prof. Ongeri): Madam Temporary Deputy Speaker, I beg to reply.

(a) During the 2009/2010, Budget Speech, the Deputy Prime Minister and Minister for Finance initiated the Economic Stimulus Programme (EST) aimed at jump starting the economy towards long term growth and development, securing the livelihood of Kenyans and addressing the challenges of regional and inter-generational inequity.

Accordingly, the Ministry of Education was mandated to hire intern teachers in both primary and secondary schools. This strategy was to relieve parents the burden of paying teachers in this period of economic hardships. Nevertheless, this does not constitute a change of policy in the recruitment of teachers on permanent and pensionable terms of employment. Recruitment of teachers by the TSC would remain for all approved 245,000 positions.

(b) The Ministry failed to implement the EST and cannot proceed with the recruitment of teachers within the 2009/2010 Financial Year due to a case which is still pending in courts. The Ministry is still waiting for the judgement. This follows two court

applications by the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post Primary Education Teachers (KUPPET) challenging the exercise.

Mr. Mbadi: Madam Temporary Deputy Speaker, when it comes to education of our children, I think a lot of care needs to be taken by the Government when they are making any decision.

Madam Temporary Deputy Speaker, it is a fact that there is teachers shortage in this country. Given that the decision by the Government to employ intern teachers has not taken off because of the reasons that the Minister has enumerated--- Given that the Government has agreed that if the KNUT withdraws from the court then they will go ahead and employ teachers on permanent terms, what is stopping the Government from just making a decision to spend this money to employ teachers on permanent basis regardless of the case in court?

Prof. Ongeri: Madam Temporary Deputy Speaker, I am really amenable to either way. At the moment, the policy which has been informed by this very same House and Budgetary Estimates passed in this very same House through the Budget Speech indicate that the last financial year ending 30th of June, this year the funds were being channelled through EST in order to alleviate, not only the Ministry of Education in the way of employment of teachers, but also in the other social sectors that are very much disturbed by the low calibre of teachers.

I am very distressed because the shortage of teachers in both our primary and secondary schools is acute unless we take a definitive and active part in employing some of these teachers through the EST. It would be very difficult to bridge the gap.

As I talk to you now, we have a gap of 66,000 teachers representing 43,000 teachers in the primary sector and 23,000 teachers in the secondary sector.

Mr. Imanyara: Thank you, Madam Temporary Deputy Speaker. Could the Minister agree with me that the Board of Governors (BoGs) have played a very crucial role to assist the Government to fill up the shortage of teachers that exists in the country? If he agrees with me, would he also consider allocating the money that he has not spent to the BoGs in the various schools through the constituency so that they can continue to perform the task of helping him where he has miserably failed to employ teachers? They are doing a very good job.

Prof. Ongeri: Madam Temporary Deputy Speaker, I have not miserably failed. I think the hon. Member will understand the circumstances surrounding these events. Being a seasoned lawyer, I think he will fully appreciate that there are certain confines that we cannot go beyond.

Having said that, both the School Management Committees (SMCs) and the BoGs have done a sterling job in employing extra teachers in order to fill the gap that the Government has not been able to fill through the normal provisions of employment on permanent and pensionable terms.

If you look at the remuneration package for those who are being employed by the BoGs and the SMCs, you will realise that it is between Kshs2,300 and Kshs5,000 in most of the schools. The Economic Stimulus Package (ESP) took into consideration that low package. We had already increased the teachers' salaries to a reasonable level and, therefore, we pegged the employment of teachers at the primary level at Kshs10,500 and the secondary level at Kshs14,000. If you look at the new scales for teachers, you will

find that, that that package is not very far from the one offered by the Teachers Service Commission (TSC).

If Parliament agrees that that is the way to go, I will take either route. The most efficient way is that the BoGs and the SMCs should be empowered so that they can be able to employ these teachers and alleviate the problem at the local level and not the national level.

Mr. Chanzu: Madam Temporary Deputy Speaker, is the Minister aware that some of the schools have not had access to the ESP funds for recruitment? If so, what has he done to ensure that these schools, for example, Vihiga get access to the money?

Prof. Ongeri: Madam Temporary Deputy Speaker, not a single cent was disbursed. I think the hon. Member should appreciate that this money was reallocated during the Supplementary Estimates passed in this House.

Ms. Karua: Madam Temporary Deputy Speaker, could the Minister consider sitting down with the KNUT so that they can find a way of ending this stalemate? This is because the money not being spent is an indication of inefficiency by the Ministry.

Prof. Ongeri: There is no inefficiency at the Ministry. We have had several meetings with the KNUT and the KUPPET. They chose the route of the court instead of settling the matter with us. I am available 24 hours a day in order to reach an agreement. If they can withdraw the matter without pegging it on--- Moreover, these teachers who are under the ESP have not entered the membership of the KNUT. Therefore, since the matter was taken to court for arbitration, it is only fair that the hearing should be given. However, as I said earlier on, I am quite prepared. I have told them to come so that we sit down and agree because the position they have taken is neither beneficial to their membership nor to the society. I am willing to take any course that will be necessary, but does not constitute any inefficiency on any part other than just following the machinery that is before court.

Mr. Koech: Madam Temporary Deputy Speaker, I sympathise with the Kenyan child who is in a public primary school or public secondary school today. We have tried all efforts to ensure that these children are taken care of. Putting aside the ESP or the issues of the KNUT, for two years running, we have not seen in the Budget a provision to employ teachers in this country. What has the Minister done to ensure that teachers are employed? What assurance does he give to a child of a Kenyan who now watches helplessly the freeze in the employment of teachers in this country?

Prof. Ongeri: Madam Temporary Deputy Speaker, I adequately addressed the issue of the employment of teachers before the Budget formulation. We had sectoral meetings and others on a bilateral basis between my Ministry and the Treasury on employment of teachers on a permanent and pensionable basis. I have correspondences indicating the need to address this issue squarely because if we do not, come next year, the shortage will not be 66,000 teachers, but almost 77,000 teachers. That will constitute one-third of the total employed teachers that stand at 245,000 teachers.

I have engaged the Treasury not only in terms of meetings, but also in writing. I have taken a further step by taking this matter to the Cabinet. As you will realise this is not a decision I can make alone. Members of Parliament will agree that there has been a general freeze of permanent employment in all sectoral Ministries. Until that matter is resolved and the policy changed, my hands are tied. There is nothing I can do other than make use of the ESP. I am ready to explore all avenues to reach that child.

Mr. Koech: On a point of order, Madam Temporary Deputy Speaker. The Minister has confirmed here that there is a complete freeze in the employment of people in Kenya in all sectors. We have seen in the newspapers people being employed in several Ministries, for example, the Ministry of State for Planning, National Development and Vision 2030. Is he in order to mislead the House that the Government has frozen employment of people?

Prof. Ogeri: I think hon. Koech should revise his information because currently there is a total freeze. The employment that occurred in the Financial Year 2008/2009 was on a permanent and pensionable basis. We also employed Quality Assurance and Standards Officers. We only had 112 of them but we were allowed to employ 350 officers. However, that is the current position.

Mr. Ruteere: Madam Temporary Deputy Speaker, we are discussing a very serious issue. We say that there is Free Primary Education (FPE) but, indeed, we are sending children to school to sit in classrooms without teachers. The parents know that the Government is supposed to provide teachers. When head teachers ask for money to employ teachers none of the parents respond. The policy makers are in the Cabinet which has not come up with a solution. Is it because the children of the rich are in private academies while those of the poor are in the public schools? Is that the reason they are not employing teachers in public schools?

Prof. Ogeri: Madam Temporary Deputy Speaker, I think that is an unfortunate speech because all children are Kenyan children and they are all being catered for under a very robust programme of the FPE and Free Day Tuition Secondary Education. There is adequate provision in the Budget for that. If you look at the current Budget which will be shortly debated in this House, you will find that there is an ample provision to ensure that the poor child is reached.

Indeed, the essence of the ESP is to target the vulnerable and poor children by providing a slightly better or improved pay to a teacher who would otherwise be waiting to be employed at a paltry pay of between Kshs3,000 and Kshs5,000. That amount is now being given under the ESP. We should take the example of the Ministry of Public Health where nurses have accepted to be employed under the ESP. As a result many nurses are being employed. Our teachers should accept that position so that we can move forward.

Mr. Ruteere: On a point of order, Madam Temporary Deputy Speaker. Teachers are employed on the same terms as nurses who are in regular hospitals. Their terms have not been changed but they want to change the terms for teachers. Why is this so?

Prof. Ogeri: Madam Temporary Deputy Speaker, again, I think hon. Ruteere should check his facts. They are under the same Stimulus Package and Budget that was presented before this House, just like the teachers. There is absolutely no difference. I think I can claim to be more informed on that sector.

Mr. Abdirahman: Madam Temporary Deputy Speaker, we have not found a solution yet for the shortage of teachers, from the response of the Minister. It would be very important if the Minister could actually give a very firm undertaking to the House on how he intends to alleviate the shortage of teachers. I do not think the Kenya National Union of Teachers (KNUT) and the Ministry will be able to come up with a solution even under the Economic Stimulus Programme (ESP). It is because of the Ministry's bad policy.

The Temporary Deputy Speaker (Prof. Kamar): Your point is made!

Mr. Abdirahman: Madam Temporary Deputy Speaker, could the Minister abandon this responsibility which is not his and hand over the Boards of Governors (BoGs) and Parents/Teachers Associations (PTAs), so that they can employ the teachers themselves directly?

The Temporary Deputy Speaker (Prof. Kamar): Those are two questions.

Prof. Onger: Madam Temporary Deputy Speaker, first and foremost, the employment of teachers under the ESP is not a function of the Ministry of Education. We are just a conduit. Once that policy is agreed upon and the money is directly channeled to the BoGs and School Management Committees, just like the capitation funds are being channeled to the accounts of the respective schools depending on the shortage in that school, it will be able to benefit directly by employing teachers through the BoGs in the case of secondary schools and District Education Boards (DEBs) in the case of primary schools. Under this programme, it was expected that 50 primary teachers and ten secondary school teachers will be employed at the constituency level, making a total of 60 teachers.

In response to addressing the acute shortage, if we had taken that path and employed in the last financial year ending 30th June, we would have employed 12,500 teachers. If that had taken place, in this new financial year, we would also have employed another 12,500, making a total of 25,000. If you reduce that 25,000 from the current shortage of 66,000 teachers, it would have been down to above 30,000. In the next three years, through the Medium Term Expenditure programme, we should be able to clear the backlog and come up level. If the policy was quite clear, we would have been able to reduce the shortage of teachers within the next three years. The economy will be able to absorb it and we should be able to move forward without any difficulty.

As I said earlier, I am open, willing and ready to discuss within 24 hours with the teachers. I am also at the same time pursuing this through the Government line and the Cabinet. Again through this august House when the Budget of the Ministry will be discussed, you will have the opportunity to address yourselves to this issue. It is a concern to everybody; my Ministry and Members of Parliament of this House.

The Temporary Deputy Speaker (Prof. Kamar): Last question, Mr. Mbadi!

Mr. Mbadi: Madam Temporary Deputy Speaker, you will realize that the Minister could not answer my Question well, because he was giving a long and winding speech that you get confused along the way. I thought Prof. Onger was a Medical Doctor and could summarize.

Madam Temporary Deputy Speaker, having said that, when two bulls fight, it is the grass that suffers. From the Minister's answer, I realized that the Ministry has no immediate intention of employing teachers on permanent terms. The Government has been giving us very nice figures of how students/pupil population is increasing in our schools. Could the Minister confirm that this free primary education has failed? It is collapsing because education is not just books, it is instruction. There are no instructors in schools to give instructions to our children.

Prof. Onger: Madam Temporary Deputy Speaker, the free primary education has not failed. It is succeeding but we have a challenge in terms of provision of teachers. I think that is where the issue is. We are all agreed that this is an area that we shall pursue vigorously until a solution is found; I am hoping sooner than later.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, I took time on that Question because it generated a lot of interest. We will go to the last call for the Questions.

I am back to Question No.156 by hon. Ochieng!

Mr. Ochieng: Madam Temporary Deputy Speaker, Sir, I am sorry for coming late. I was held up in a jam due to an accident that had taken place ahead of me.

Question No.156

NON-PAYMENT OF IMPORT DECLARATION FEES
BY MOMBASA MAIZE MILLERS

Mr. Ochieng asked the Deputy Prime Minister and Minister for Finance:-

(a) if he is aware that in January 2010, Mombasa Maize Millers undervalued imported cargo (maize) in order to evade paying 2.25 percent Import Declaration Fees (IDF) on a 10,000 metric-tonne cargo;

(b) whether he could explain the circumstances under which the Kenya Revenue Authority issued two letters to Grain Bulk Handlers on 22/1/2010 and 27/1/2010, one asking them to withhold, and the other to release the consignment of maize to Mombasa Maize Millers; and,

(c) whether he could further state how much the Government lost as duty, how the Ministry intends to recover the lost revenue and what steps he will take against Mombasa Maize Millers and the officer who authorized the release?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Speaker, I beg to reply.

- (a) I am not aware that Mombasa Maize Millers undervalued import cargo of maize in order to evade paying 2.25 percent Import Declaration Fees on a 10,000 metric-tonne cargo.
- (b) The second letter was issued by the importer after the importer availed commercial transaction documents to support the declared customs value, which upon verification, was found to be acceptable.
- (c) The Government did not lose any revenue for the subject importation. In this regard, I do not contemplate taking any action against the officer who authorized the release and, indeed, Mombasa Maize Millers.

Madam Temporary Deputy Speaker, I want to apologize to the Questioner because this Question was to be answered by hon. (Dr.) Oburu who is temporarily unavailable. Hence, we have not even had a chance to give him a copy of this response.

Mr. Ochieng: Madam Temporary Deputy Speaker, as it is, I am not even able to raise a supplementary question because I have not even been given a written answer by the Minister so far. I do not know whether at this stage we can proceed with the Question.

The Temporary Deputy Speaker (Prof. Kamar): I had been given the information that Dr. Oburu, who was supposed to answer the Question, has a problem. So, could we defer the Question to next week on Tuesday?

Mr. Ochieng: Yes, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): The Question is deferred to Tuesday next week.

(Question deferred)

Question No.137

FUNDING OF ARROR-CHEPKUM DAM BY JAPAN

Mr. Kaino asked the Deputy Prime Minister and Minister for Finance:-

- (a) whether Arror-Chepkum Dam in Arror Location of Marakwet was to receive Kshs.400,000 from Japan as indicated on Development Estimates budget 1997/98; and,
- (b) whether he could clarify whether the project indeed received the money as intended.

Madam Temporary Deputy Speaker, I am sorry for coming late.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Speaker, the answer to this Question is not ready. I request that we defer it to Tuesday next week.

The Temporary Deputy Speaker (Prof. Kamar): We heard that there was a written request to the Clerk to defer this Question. So, it stands deferred until Tuesday next week.

(Question deferred)

Question No.172

SQUATTER PROBLEM IN TRANS NZOIA

Mr. Wamalwa asked the Minister for Lands:

- (a) what the Government is doing to address squatter problem in Trans Nzoia District; and,
- (b) what progress the Government has made in addressing Agenda 4 on Land Reforms in compliance with the National Land Policy passed by the House in 2009.

(Dr. Shaban stood in her place)

The Temporary Deputy Speaker (Prof. Kamar): Are you undertaking for the Minister for Lands?

The Minister of State for Special Programmes (Dr. Shaban): Naibu Spika wa Muda, nilikuwa nikitaka kuwaeleza kwamba Naibu wa Waziri hakuwa na jibu. Ametoka nje kupiga simu kuuliza kama kuna jibu ambalo limeletwa upande huu. Kwa hivyo, naomba tu umpatie muda kidogo.

The Temporary Deputy Speaker (Prof. Kamar): Since others benefited from a second call, this will also be applied to this Question.

Let me give you a clarification on Question No.046 by the Member for Emuhaya. We have already received a written request to defer the Question. So, it stands deferred until Tuesday next week. Is that okay Dr. Otichillo?

Dr. Otichillo: Yes!

Question No.046

NON-PAYMENT OF SHARE CONTRIBUTIONS TO
RAILWAY SACCO MEMBERS

(Question deferred)

Question No.132

NON-UTILIZATION OF FUNDS FOR NEWLY
CREATED NZAMBANI DISTRICT

Mr. K. Kilonzo asked the Minister of State for Provincial Administration and Internal Security:

- (a) why the funds allocated for construction of offices for the newly created Nzambani District were released and then returned to the Treasury; and,
- (b) what action he is taking to ensure that the funds are released and by when.

Madam Temporary Deputy Speaker, I apologize for coming in late.

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

- (a) No funds were released to the project and hence, no funds were returned.
- (b) Of the 70 districts earmarked in the Economic Stimulus Programme (ESP), Nzambani District was one of those identified. However, the Treasury reduced the number from 70 to 36.

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, that is a very contemptuous answer because part “b” of the Question was: “What action the Minister is taking to ensure that these funds are released and by when?” The Assistant Minister has disregarded answering that part of the Question. So, I request for your directive so that the Assistant Minister can bring a substantive answer to this House. This is quite contemptuous to the House.

Mr Lesrima: Madam Temporary Deputy Speaker, the allocations under the ESP are done by the Treasury. Through austerity measures, the Treasury issued a circular to reduce the number of districts to benefit from ESP from 70 to 36. So, the right Ministry to answer this Question is the Office of the Deputy Prime Minister and Ministry of Finance. However, we are still negotiating with them to reinstate the 36 districts in this financial year.

Mr. K. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister is affirming that he really does not have an answer to this Question. We have heard him say that the right Ministry to answer the Question is the Office of the Deputy Prime Minister and Ministry of Finance and yet administration of districts falls squarely under his docket. Would I be in order to ask that the House directs the Assistant Minister to go and get that answer from the Office of the Deputy Prime Minister and Ministry of Finance and bring it to the House because that is not the mandate of the hon. Member to do it? It is the mandate of his Ministry, since that docket falls under him.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Assistant Minister, if the answer was not coming from your docket, we would have expected you to redirect the

Question before it came back, even if it is through the Clerk's Office. What do you say to that?

Mr. Lesrima: Madam Temporary Deputy Speaker, the reduction in the Budget was approved by this House during the Supplementary Estimates. However, the reasons for a reduction in the Budget can only be answered by the Office of the Deputy Prime Minister and Ministry of Finance and not the Ministry of State for Provincial Administration and Internal Security. We would have liked to be fully funded so that we see the projects benefit people.

Mr. Kigen: Thank you Madam Temporary Deputy Speaker. The creation of districts was a Government assignment. When they decided to increase districts, they must have made sure that necessary facilities had been made available. Such facilities included provision of offices. When they decided to give money to construct offices for the officers--- When they rescinded that, the Ministry should have taken responsibility to ensure that the money was given out equally or withdraw all the amount. What criteria was used to give out money to certain districts and deny others?

Mr. Lesrima: Madam Temporary Deputy Speaker, there are two projects here. There are the ongoing projects to construct district headquarters. Their budgets range between Kshs5 million to Kshs10 million. Those are ongoing projects. Currently, we have 37 ongoing projects.

The second one that hon. K. Kilonzo is asking about is with regard to the ESP under the Office of the Deputy Prime Minister and Ministry of Finance where 70 districts were to benefit. Each was to be constructed at a cost of Kshs30 million. Those are the two projects. With regard to the criteria used, we requested the Provincial Commissioners to prioritize the ones we picked, taking into account regional equity, availability of land and to ensure that there are not contentious issues with regard to allocation of the district headquarters. They were also supposed to ensure that there were no ongoing uncompleted projects. They were also to consider remoteness and accessibility of the proposed district headquarters. That was generally the criteria used in selecting the 70 districts.

Mr. Mbadi: Madam Temporary Deputy Speaker, it is not the responsibility of the Office of the Deputy Prime Minister and Ministry of Finance to decide which district headquarters should be developed. The Assistant Minister has told us some of the criteria they used in deciding what district headquarters were to be developed. Could he specifically tell us why Nzambani District headquarter was not developed based on his criteria? What were the specific reasons?

Mr. Lesrima: Madam Temporary Deputy Speaker, 36 districts were dropped, basically on a prorata basis, considering province by province. We should not zero in on Nzambani. We should talk about the 36 districts. We are making all the efforts to ensure that they are reinstated. I request the House to support us in getting the resources.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Assistant Minister, you are being asked a very simple question. You have given a criteria. What part of criteria fell on Nzambani District if there were any criteria used? If there was a different criteria used, could you give that information to the hon. Members? It is that simple!

Mr. Lesrima: Madam Temporary Deputy Speaker, province by province, we reduce by 50 percent. All those districts, 70 of them, deserve to be developed on the criteria that I mentioned. However, even in spite of the criteria, the Treasury reduced the amount of money by 50 percent.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker, the Assistant Minister seems to be evading the Question, which is very specific. Could he tell us why Nzambani is not part of the 37 districts that are being developed? Is there a reason or it was arbitrary?

Mr. Lesrima: Madam Temporary Deputy Speaker, it was arbitrary.

Mr. Imanyara: Madam Temporary Deputy Speaker, at least, the Assistant Minister is finally becoming honest. May we know the original 70 districts and those that are left after leaving out the 36 districts, so that we can satisfy ourselves that those responsible for this decision were not doing it in a discriminatory manner? Could he table a list showing the 70 districts and the 36 districts that remained and the provinces?

Mr. Lesrima: Madam Temporary Deputy Speaker, yes, I can table that information.

(Mr. Lesrima Laid the Document on the Table)

The Temporary Deputy Speaker (Prof. Kamar): That rests the Question!

Mr. K. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. Clearly, the answer is unsatisfactory. The Assistant Minister has just tabled the document. Would I be in order to ask that this Question be deferred until we scrutinize that document? We want to know which districts have been left out. Is it because we have been critical to this Government and that is why we have been left out? Would I be in order to ask that the Question be deferred, so that we can have time to scrutinize the document?

The Temporary Deputy Speaker (Prof. Kamar): Which part of the Question do you want to be deferred?

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, the whole Question should be deferred because, first, the Assistant Minister has shifted the blame to the Deputy Prime Minister and Minister for Finance. He has said that part of the Question should be answered by the Deputy Prime Minister and Minister for Finance. Then with regard to the criteria, he has tabled the document. That is why I am saying that the Question should be deferred, so that we can have time to scrutinize the document as he goes back to the Deputy Prime Minister and Minister for Finance to get the other part of the answer which he does not have.

The Temporary Deputy Speaker (Prof. Kamar): Assistant Minister, do you have the list here or you would like to come back later?

Mr. Lesrima: Madam Temporary Deputy Speaker, I would like to come back with the proper list.

The Temporary Deputy Speaker: In that case, therefore, I rule that the Assistant Minister goes to consult widely with the other Ministry, so that we can get a comprehensive answer. Let us have that list on Tuesday, next week.

Mr. Imanyara: On a point of order, Madam Temporary Deputy Speaker. As he does that, could he apologize to the Chair and the House for misleading the House that he has the list here and he can table it now, when he knew that he was not in a position to do so?

Madam Temporary Deputy Speaker (Prof. Kamar): Well, he said so, before I had made a ruling.

(Question deferred)

Question No.172

SQUATTER PROBLEM IN TRANS NZOIA DISTRICT

Mr. Wamalwa asked the Minister for Lands:-

(a) what the Government is doing to address the squatter problem in Trans Nzoia District; and,

(b) what progress the Government has made in addressing “Agenda 4” on Land Reforms in compliance with the National Land Policy passed by the House in 2009.

The Assistant Minister for Lands (Mr. Rai): Madam Temporary Deputy Speaker, I beg to seek the indulgence of the House to answer this Question tomorrow. I want to interrogate the answer which has just been submitted to me now. I want at least to give a satisfactory answer to the Question.

Madam Temporary Deputy Speaker (Prof. Kamar): That is allowed. That is a very honest concern. So, I will defer the Question to Tuesday, next week.

Mr. Wamalwa: Madam Temporary Deputy Speaker, I have no objection.

The Assistant Minister for Lands (Mr. Rai): Much obliged, Madam Temporary Deputy Speaker.

(Question deferred)

MINISTERIAL STATEMENT

THE WIDENING RIFT BETWEEN “YES” AND “NO” GROUPS
AND THE EXPLOSION AT UHURU PARK

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Thank you very much, Madam Temporary Deputy Speaker. It is, indeed, true that I was requested to make a Statement regarding the incident that took place on Sunday.

On Tuesday, 15th June, 2010, hon. Khalwale stood on a point of order asking for a Ministerial Statement on the incident that occurred on Sunday, 13th June, 2010, at Uhuru Park which claimed the lives of six innocent Kenyans and left several others injured. The Member sought an explanation on what the Government is doing to restore sobriety over our nation and weighing in on perpetrators of the hate speeches and ethnic incitement. The Member also wanted to know what the Government is doing to ensure that the authors of the crime are apprehended before they spread their cowardly activities to other parts of the country and exclude the involvement of foreign involvement.

On 13th June, 2010, a Christian Evangelical Rally was convened by Apostle James Ng’ang’a of Neno Evangelism Church with other churches at Uhuru Park Nairobi. The conveners had notified the police of the rally in accordance with the law and had paid the requisite fee to the Nairobi City Council for the use of the facility. The rally was attended by several leaders, among them politicians. Among the politicians were hon.

William Ruto, the Minister for Higher Education, Science and Technology; hon. Bishop Margaret Wanjiru, the Assistant Minister for Housing; hon. K. Kilonzo; hon. Julius Kones and hon. Peter Munyaka. It was also attended by church leaders. The Members of Parliament present attended the meeting between 3.00 p.m. and 5.00 p.m. The crusade progressed well, but as it was ending, three explosions occurred. The first explosion occurred at 6.45 p.m. and two other subsequent explosions occurred a few minutes afterwards in short intervals.

After the explosion, 131 people were injured and were rushed to hospital by the police and well wishers. Out of these, 104 were treated and discharged at the Kenyatta National Hospital while five were treated and discharged at Nairobi Hospital. At the moment, 22 people are still admitted in hospital, 21 at the Kenyatta National Hospital and one at the Nairobi Hospital. Unfortunately, five people died in hospital and one was later found dead at the scene in his vehicle, registration No.KAU 098H. The following are the names of the people who died:-

1. Stephen Maina Kiiru
2. David Mwangangi Ileri
3. Bravo Indasi, an eight year old boy
4. Faith Wanjiru
5. Peter Githaiga
6. Stephen Kamau Waruinge

On receiving the sad news, the Right hon. Prime Minister and myself visited the injured at the Kenyatta National Hospital and also at the Nairobi Hospital on Sunday, 13th June, 2010, in order to console, especially those who had lost their beloved ones and also to give hope to those who had been treated.

We were both very impressed by the manner and dedication in which the hospitals carried out their work diligently in treating the injured. In addition, the following day, His Excellency the President chaired a meeting of the National Security Committee to review the situation and, thereafter, instructed the police to undertake quick, comprehensive and thorough investigations.

Madam Temporary Deputy Speaker, preliminary investigations indicate that the cause of the blasts was the detonations of three grenades. The devices were detonated on the gallery, where people sat. The Government has constituted a team of police officers from the Bomb Disposal Unit, forensic experts, Anti-Terrorism Police Unit, and the Criminal Intelligence Unit to execute the task. Investigations are currently focussing on identifying the nature of the explosive devices used, the persons responsible for this heinous crime and the motive behind it.

To assist in the speedy investigation of this matter, we have set up reporting centres at the Criminal Investigations Department (CID) Headquarters on Kiambu Road, the Anti-Terrorism Police Unit in Kilimani, next to Nairobi Area Traffic Headquarters, the District Criminal Investigations Officer (DCIO), Kilimani Police Division and the DCIO, Central Police Division situated opposite Nairobi University.

Madam Temporary Deputy Speaker, Sir, we have also advised that any person with information regarding the incident should report to the nearest police station or Administration Police office. A reward of Kshs500,000 will be given for information leading to the arrest of the author of this crime. However, our officers on the ground are pursuing several leads, and the public will be informed of the outcome once the

investigations are completed. As we undertake the investigations, I would like to request everyone, including politicians, the clergy and the media, to avoid any speculation until the matter is concluded.

In the meantime, I wish to appeal for calm amongst Kenyans. It is important that the political establishment and Kenyans in general, desist from rumour mongering and issuing statements that can cause tension amongst our citizens. The Government will thoroughly investigate this incident and apprehend the perpetrators of this heinous crime.

Madam Temporary Deputy Speaker, it has been observed that following the ongoing debate on the constitution-making process, some people among those on the pro and against camps, have been propagating hate speeches against their opponents. The police have been firmly instructed to take stern action against those inciting the public by peddling falsehoods and hate speeches as provided for in the National Cohesion and Integration Act, 2008.

In this connection, CID officers yesterday morning arrested two Members of Parliament and an Assistant Minister on allegation of making hate speeches. It is important to state here that anyone found engaging in hate speeches will face the full force of the law. In addition, the Government will intensify security surveillance and checks during public meetings as a preventative measure against occurrences of similar incidents. The National Security Intelligence Service (NSIS) will also enhance intelligence gathering to pre-empt any future attacks on innocent Kenyans.

Madam Temporary Deputy Speaker, investigations are not yet complete and, therefore, we cannot assign the responsibility, at this early stage, to either local or foreign element. However, the Government is treating this heinous act as a criminal act. Investigations are being carried out on a broad spectrum of groups and individuals. I would like to confirm that we shall not allow criminals bent on destructing the peace and stability prevailing in this country to succeed.

Thank you.

Dr. Khalwale: Madam Temporary Deputy Speaker, I would like to thank the Minister for that good answer. However, I would like to point to the Government that in Rwanda, the government allowed the Church to become politically very active, and the consequences were the genocide that we all know about in history.

Having said so, I would like the Minister to tell us what action he intends to take against members of the clergy who apply for licences for evangelical crusade and lure unsuspecting members of the public, including children, to a rally that eventually ends up becoming a hot campaign function. Could the Government consider banning all “Yes” and “No” campaign rallies and all religious functions?

Madam Temporary Deputy Speaker, secondly, there is the issue of the security organs in this country having been suspected to have been involved in the insertion of a clause into the Proposed Constitution in an attempt to sabotage the constitutional review process. Since the State was represented on the Bench that made the ruling on the legality of the Kadhis Courts, which almost threw the constitutional review process into confusion, and given that two of the grenades that were detonated at Uhuru Park on Sunday can only be found in the hands of the security organs, is the Minister convinced that the security organs were not involved in perpetuating that act?

If the Minister is convinced that there is such possibility, is he satisfied that the State is able to investigate itself in establishing the truth on what took place at Uhuru Park?

The Temporary Deputy Speaker (Prof. Kamar): Mr. Minister, I will take four clarifications and then come back to you. I will take Mr. K. Kilonzo, Ms. Karua and Messrs. Imanyara and Mungatana, in that order.

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, I want to thank the Minister for that comprehensive Ministerial Statement.

First, the innocent worshipers who were affected are in hospital. There are hospital bills accruing there. There are also funeral bills. Could the Government undertake to foot those bills for those innocent Kenyans?

Secondly, I want to correct the Minister by clarifying that we arrived at the venue of the crusade at 3.30 p.m. and left after 6.00 p.m., and not the time he gave.

Lastly, two issues are emerging. The first one is that the Government is intimidating those who are in the “No” campaign. We have heard proponents of the Proposed Constitution make very inciting statements as late as yesterday.

(Several hon. Members stood up in their places)

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, I need your protection.

Mr. Sirma: On a point of order, Madam Temporary Deputy Speaker. Is the Member of Parliament for Mutito in order to give misleading information, in addition to the continuous misreading of the Proposed Constitution, without giving substantive reasons?

The Temporary Deputy Speaker (Prof. Kamar): Mr. K. Kilonzo, we are asking the Minister to give clarifications.

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, that is what I am doing.

The Temporary Deputy Speaker (Prof. Kamar): Please, avoid making unsubstantiated allegations.

Mr. K. Kilonzo: That is okay, Madam Temporary Deputy Speaker.

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kamar): Order! Order, hon. Members!

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kamar): Order, hon. Members! Hon. Members, I have not asked for assistance. I am asking Mr. K. Kilonzo to be careful and not to drag in hon. Members without evidence. Move on and seek your clarifications but be very specific.

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, I still maintain that the Government must take firm action against the people who are in the “YES” camp who are also involved in hate campaign. The church should be allowed to air their views. We have seen in public functions like in Uhuru Park---

The Temporary Deputy Speaker (Prof. Kamar): Order, Mr. K. Kilonzo!

Mr. K. Kilonzo: No! No, Madam Temporary Deputy Speaker!

The Temporary Deputy Speaker (Prof. Kamar): I am on my feet! Mr. K. Kilonzo, you are not the Minister and you are not answering. So, can you stop volunteering answers to the Minister who has not asked you for support? When he will respond, he will make clarifications. Could you seek your clarifications? Every hon. Member will take only a minute.

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, I just wanted the Minister to give an undertaking that when we have public holidays like Madaraka Day, the Government will not go there and start campaigning for “YES” like it did during the last Madaraka Day held at Nyayo Stadium.

Lastly, I would like to talk about radio stations. Could the Government reign in on radio stations and newspapers which are campaigning for “YES” and portraying the hon. Members who are against the constitution in the negative light?

The Temporary Deputy Speaker (Prof. Kamar): Order! Hon. Members should seek clarifications soberly. Do not look like you are answering one another. The Minister is here to answer your questions.

Mr. Imanyara: Madam Temporary Deputy Speaker, I join those who have condemned this criminal terrorist act on the people of Kenya. I condemn the perpetrators in the strongest terms possible. Having said that, it is gratifying to note from the Minister that Apostle Ng’ang’a had requested and given notification to the police for this rally. We, who have been holding similar rallies know that every licence or notification when it is allowed is conditioned. Those organizing these meetings are obliged under the law to take certain measures to ensure that there is peace during the entire session in addition to the police also taking responsibility for maintaining law and order. One of the cardinal conditions is that these rallies should end by 6.00 p.m. We are aware that the events that resulted in the explosions occurred after 6.30 p.m. when it was dark. Why was the convener of this rally allowed to continue until 6.30 p.m. when it was dark in order to facilitate this criminal act? Does that not point out to the fact that those who organized this meeting may have a role to play in them? If so, what action has been taken against the organizer, Apostle Ng’ang’a and the others responsible for organizing this rally.

The Temporary Deputy Speaker (Prof. Kamar): Please, let us avoid debating or suggesting. Ask for clarifications!

Mr. Imanyara: Madam Temporary Deputy Speaker, the clarification is: Why did the police not ensure that the conditions attached to the licence were fulfilled and ensure that the meetings ended by 6.00 p.m. so that the innocent Kenyans did not have to wait until dark when criminals had the opportunity to do what they did? What action has the Minister taken against the officers who were on duty that day in investigating this matter? What action has he taken to assure himself that they did not participate together with the criminals in organizing this criminal act?

Ms. Karua: Madam Temporary Deputy Speaker, first, when we amended the Public Order Act during the Inter-Party Parliamentary Group (IPPG) and reduced the conditions for having meetings just to mere notifications, it was so that the police prepare themselves adequately. Security does not just mean police being in a meeting but it also means gathering intelligence. What has happened to the intelligence branch of the Government? Has it gone to sleep and yet we vote a lot of money to them?

Madam Temporary Deputy Speaker, secondly, explosives are not bought in shops by members of the public because they are not readily available in shops. We would like to know, and we want transparency--- We want briefs in these investigations; what type of explosives were used and where they are available so that if it is within the security forces, we then know what action is being taken against those who store them. They should also trace the movement and know where they were obtained.

Madam Temporary Deputy Speaker, it is something one would suspect that there would be a connection with the failure to uphold rule of law and the blast that happened at Uhuru Park, when the State failed to prosecute those who inserted words in some copies of the Draft Constitution. We now have people trying to employ murder and mayhem to ensure that this Constitution does not go through or it is stopped. We have even heard people calling for its stoppage. We want the Minister to tell us what happened to the investigations relating to the Government Press.

Finally, I connect this with the failure by the Government to accelerate police reforms. If we want security in this country, police reforms have to be accelerated. It is not only weeding bad elements from the police, but it is also giving them the necessary equipment and ensuring that they are well-organized, trained and equipped to handle these issues. What is the Minister doing about police reforms to ensure that we have calm and quiet?

In conclusion, I am disappointed that the Minister is happy to report to us of only three arrests. We have been behaving exactly the way we behaved after the 2005 Referendum. We have been observing hate speech by many people among them the Clergy and politicians. It does not matter from what side of the divide it is coming from. What has the Government done to ensure that everybody, whoever they are, who have uttered words that amount to hate speech appears before a court of law? Why are some being handled with kid gloves while others are sleeping in cells?

Mr. Mungatana: Madam Temporary Deputy Speaker, I wanted to ask what the Minister has in store for future rallies. We have been informed by the Minister that, indeed, the President chaired a security meeting and I am sure he attended it. What are the future plans, for example, the ratio of police officers to those gathered, the enforcement of timings, the schedules of these meetings and the whole cordon of security that will be assured for both those who will be campaigning for “YES” and “NO”? What are the clear conditions that he will make public even for the other people who will be attending rallies in terms of what they should expect in future rallies? We would like to see nothing of this sort being repeated. These are the clarifications we would like to seek on behalf of ourselves in future.

Hon. Members, I know this is a question of national interest, I will allow three rounds. So, be patient because the Minister might clarify a number of issues and reduce the questions. Let us allow the Minister to handle the five questions. I will go for another round of five and we could allow another round if need be.

The Minister for Provincial Administration and National Security (Prof. George Saitoti): Thank you very much, Madam Temporary Deputy Speaker. Let me, first of all, begin by the clarification sought by hon. Dr. Khalwale. He wanted to know whether the Government will take action against the members of the clergy who issue irresponsible statements which would border on insecurity. I would like to state here like I stated earlier in the statement I read, namely that nobody is going to be treated as being

above the law on this matter whether it is the clergy, whether it is the Members of Parliament, whether it is the Minister and any individual who makes threatening speeches to incite the people in order to derail the peace and stability of this country, action will be taken against them. I think it is important to say that it is not only those hon. Members of Parliament who have actually been taken by the CID. Some of them may very well go to court today, but there are also others. This is a stern warning to anybody who wants to cause problems in this country.

The other thing that again the hon. Member also sought clarification on is whether we should actually ban the clergy and others from allowing the introduction of references to the Yes and the No campaign. We are a democratic country; we have agreed to embrace democracy and we know very well that the issues that are now being debated are some of the issues that the clergy feel strongly about. So, I do not think we want to get to a situation where we will be saying that the Government is muzzling the people from expressing their views and especially when it takes into account that the constitution is about, firstly, the person. As an individual, what do you think about your family, the community and the country? So, we cannot muzzle people from expressing their views but they must do so in a responsible manner. I think that is the only caveat I would want to that one. Again, the same hon. Member also wanted me to talk about the ruling on the Kadhis' Court. I think I find myself deficient as far as commenting on that particular matter is concerned because this was a ruling of the court. I think it is offensive to some members of our society but there is always recourse and the recourse again is to the court. So I do not want to be drawn into that one. The hon. Member also made an aspersion on the fact that the security personnel may have been involved in the explosion, if I heard him right. However, if I did not get the hon. Member, he can always correct me. I think in my earlier statement, I was very clear to say that at this stage, our investigation is focused on a broad spectrum of all groups and individuals. I do not think we should speculate at this particular time. We want to carry out thorough investigations and once we zero in on anybody irrespective of his or her status, action will have to be taken.

Hon. Kiema Kilonzo also wanted to know who will foot the bills of those innocent people who were injured and admitted to hospital. Of course, you know this is an extra burden. I want to state here clearly that the Government itself will meet the bills.

Hon. Members: That is great!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Madam Temporary Deputy Speaker, I do not in anyway accept the allegation by hon. Kiema Kilonzo that the Government is targeting only the No Group. I think all the hon. Members will agree that the people who have made these utterances, or the statements are being dealt with by the law enforcement officers as individuals absolutely because in court, you go by yourself. Therefore, whether you are in the Yes or No and you spread messages of hate to create problems, you will be dealt with. So, there is no discrimination whatsoever.

I know that my good friend, hon. K. Kilonzo, also wanted the Government again to reign in on the media. I think we have come a long way. We have travelled a very long way from the time that there was restriction of the media. I do not think we want to do that. But, of course, I have also made an appeal to the media owners and all the others. Let us also know that they themselves live in this country and they can actually be able to put into place mechanisms for self-control to ensure that what is being reported is not

intended to destroy the country. I do not think on this incident, we should really regress on what you all know you worked very hard to achieve; the freedom of the media.

Hon. Imanyara made a very good observation where he actually wanted to get clarification on the details of the licence. Normally, as hon. Karua has said, when a decision was taken by this Parliament to really basically free the Government from controlling the holding of the rallies, it was agreed that those who would want to convene the rallies of any kind would only need to notify the police. They will be allowed and the intention clearly was to ensure that the police or security will be on guard to ensure things went on very well. On this particular case, the information that I have is that, indeed, the rally went on up to the permitted time. There was no incident. This incident only took place after all the speeches and other things including prayers had been done. It was only at the time of the closing prayers that the explosion took place. Of course, that tells you about a lot of things and we are looking into all that. But having said this, let me put it this way: What are we doing for the future? Since the rallies will continue, I do not think we should be intimidated, that because this thing has happened, then we call off the rallies or worse still anything to do with the constitutional process. We cannot succumb to that blackmail. I have said that we are going to beef up security, the surveillance and intelligence gathering before and during the time when the rallies are being held and thereafter. But I have said that we are going to beef up security, surveillance, intelligence gathering before and during the time when the rally had been held and thereafter. We are going to do that. We will also definitely look at the various conditions that are set up to see whether there may have been an omission of a condition that had we put in, it could have, perhaps, averted this scenario.

Madam Temporary Deputy Speaker, there is that issue about the insertion of some words in the draft Constitution at the time of its printing. I think hon. Members are aware that when such an insertion was discovered, the Attorney-General moved very quickly and ensured that, indeed, the draft which was proper was the one which was released to the people. An investigation from that time was instituted by the Commissioner of Police. That investigation is still on, but we have insisted that a speedy report should be made to us. But it is to be understood that, yes, that one was done in a very awkward way, and that awkwardness, of course, raises some kind of worry about it and we will make sure that we look into it.

Madam Temporary Deputy Speaker, I think I have ordered the plans for the future, and I have said that we will make sure that the thing will be done properly and, indeed, I think that answers what hon. Mungatana has raised. We are going to be much more vigilant on this.

Ms. Karua: What about my issue?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): I could very well have missed a little bit of what Ms. Karua said. Can you just remind me?

Ms. Karua: (Off record)

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Oh, yes; thank you very much indeed.

Madam Temporary Deputy Speaker, I think it is good that I do tell this House that the police reforms are very much on track. I will at one stage or the other, be coming here to give a full picture of what we are doing. Suffice it to say the following. At this

particular time, a draft of a Bill to establish a police oversight body has been completed, and very shortly, after its approval by the Cabinet, I will be tabling it here. This is an extremely important body, because that is the body to which members of the public, when aggrieved by the activities of the police, will complain to. This is an authority, by the way, that will be headed either by a judge or a person qualified to be a judge. We have already finalized that one; it is not only here; once we finalize this one, we will ensure that we liaise with a number of jurisdictions who have got similar institutions. Not too long ago, we had it submitted to stakeholders, who have also validated it. That is a major step.

The second step, Madam Temporary Deputy Speaker, is that we have also now been drafting a new curriculum for the police and the Administration Police training colleges. Our own experts in this country have also been joined by other trainers and specialists on the police curriculum from other countries, especially on the police curriculum. They have finalized it and I want to assure this honorable House that the next recruitment exercise, that will, perhaps, be in July or August, the new recruits will join the training colleges on the basis of the new curriculum. Another thing that is also important is that we will be putting into use a mechanism that we have already worked out; it is a blueprint of that on what we call the suitability exercise. The suitability exercise entails checking all officers, to know where they were, and whether they are really qualified to be there. If they are not qualified, they may very well have to be placed in accordance with their own abilities. Those who will be found to be incorrigible will have to give way. This, we believe, is extremely important and will be taken into account.

Madam Temporary Deputy Speaker, we have only been awaiting the Budget, and we have now examined the level of the Budget given to police reforms; once that one is done, we will move on the carrot and stick rule. I can assure you that a lot will be done.

Thank you, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, if you can avoid repetition, we might take a few more hon. Members in another round. Please, take one minute. I will take Amb. Affey, followed by hon. Olago, hon. Wamalwa, hon. Jamleck Kamau, hon. Munyaka, Dr. Kones and Ms. Odhiambo in this round. We can follow that order and, please, take a minute and then I will come back for others!

Proceed, Amb. Affey!

Amb. Affey: Thank you very much, Madam Temporary Deputy Speaker. Of course, I just want to join those hon. Members who have condemned this act against Kenyans.

But, Madam Temporary Deputy Speaker, I want to ask the Minister, in all these things they are doing, time is a very critical factor; the Minister has not given us a timeline within which these investigations will be done and the country will know who was responsible. I would like to get from the Minister a categorical statement that it will take one week, one month, one year or two years. What is the timeline that the Minister is working on? We need to know these things as soon as possible.

Mr. Olago: Madam Temporary Deputy Speaker, in addition to Dr. Khalwale yesterday, I also sought a statement from the Minister, and I am glad to say that the Minister has addressed most of the issues that I raised yesterday. But there are certain issues that I must bring to his attention. One, under the Police Act, there is the Police Force Standing Orders, Restricted Operations Manual which indicates that when a public

gathering is going to take place and notification is given to the police, the police, using intelligence, will then assess the strength of the force of the security that is supposed to be deployed at the site. The operations manual that is restricted states that if the rank of inspector is going to be in charge of the security force, then he would have at least 36 officers under him. If it is going to be an SP, then he must have at least 90 officers under him. So, in view of these Standing Orders, and in view of the intelligence report that I expect the police had, how many police officers were deployed at Uhuru Park on that day?

Two, Madam Temporary Deputy Speaker, there is a common thread that is developing now. When the unlawful insertion of words at the Government Printer was discovered, immediately, some hon. Members on the “No” side of the campaign came out to the Press and said that because of that insertion, the process of constitution-making should be suspended. On Monday, immediately after the incident at Uhuru Park, hon. Members immediately again said that because of that incident, the process should be suspended. What is the common thread?

The Temporary Deputy Speaker (Prof. Kamar): Are you asking the Minister?

Mr. Olago: Madam Temporary Deputy Speaker, I am asking the Minister to address his mind to this common thread that is developing!

The Temporary Deputy Speaker (Prof. Kamar): Okay. Be very specific on what you are asking the Minister!

Mr. Olago: I am saying that, Madam Temporary Deputy Speaker, because hon. Members who immediately after these incidents came out to say that we should suspend the process, should know that the process cannot be suspended unless the law is amended on the Floor of this House.

Thirdly, Madam Temporary Deputy Speaker, the Minister has said that the detonations at Uhuru Park and the explosives came out within the public. Clearly, there is no evidence so far to indicate that these were timed devices. So, they must have been detonated physically. Is it possible that a member of the public or participants or security forces that were present at Uhuru Park could have noticed who detonated these devices, so that, that angle can also be looked at?

Lastly, there is an important issue which was raised by Mr. Imanyara, which I think the hon. Minister has not addressed. That is the conditions of the license; if the license specifically says that the rally must have ended at 6.00 p.m., the detonations occurred after about 6.30 p.m. or 6.45 p.m., then what action is the police going to take against the organizers of the event who allowed it to go past the time that was allocated?

Madam Temporary Deputy Speaker, in my humble view, they committed a criminal offence for which there is evidence on which they should be charged.

Thank you.

Mr. Wamalwa: Madam Temporary Deputy Speaker, I also seek further clarifications. I wish to send my condolences to the families of the six who lost their loved ones, especially the mother of the young Master Bravo Ingasi who was only eight years old and whom the ugly hand of death took away from the mother. Indeed, violence is an ugly thing that consumes all that is in its way; young and old.

Madam Temporary Deputy Speaker, violence does not just happen. It is organized and executed by individuals or groups of individuals. I want the Minister to direct his mind in answering what the Government would be doing to ensure that this violence does

not occur in other parts of the country, particularly in areas like Trans-Nzoia, where leaflets have already been circulated threatening certain communities with eviction and violence. Normally, this is a precursor to violence, when these leaflets are dropped. What is the Minister doing to ensure that this violence does not spread to these parts because these rallies are still going on?

Mr. Jamleck Kamau: Madam Temporary Deputy Speaker, I have a few clarifications to seek from the Minister. They touch on the application of double standards by the Government.

Madam Temporary Deputy Speaker, the Minister has told us clearly that investigations on this horrific crime that was committed on Sunday are not complete. The Minister has gone further to tell us that we should not speculate and no one should indeed speculate as to who was behind this heinous crime. However, on the same day, a senior Government official issued a statement absolving the Government from blame. Another Minister issued a statement implicating the “No” camp. To me that is speculation. The question I want to ask the Minister is whether Members of the Government are exempted from speculating on the causes of this particular incident that happened on Sunday.

Secondly, I want to touch on the issue of hate speech. No one in their right sense can support hate speech. But hate speech whether by the Members of Government or whoever, from whichever part of the county, is wrong. We are aware, the country is aware, the police are aware that not so long ago, a very senior Member of this Government called the “No” camp land grabbers. Part of hate speech is insult. We all know who this person is; without hiding, it is the Prime Minister of the Republic of Kenya.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker. Is it in order for a Member of Parliament to take advantage of the privilege of the House to impute improper motives on a senior Member of the Government of the Republic of Kenya without a substantive Motion?

The Temporary Deputy Speaker (Prof. Kamar): Jamleck, I think we said we concentrate on clarifications that we want the Minister to give. Let us not go into speculations just as the Minister requested. Investigations are going on but in your contribution, please, avoid bringing in other issues.

Can you finish? Have you finished?

Mr. Jamleck Kamau: Madam Temporary Deputy Speaker, I have not finished. What I am saying is that somebody talked about---

Mr. Ochieng’: On a point of order, Madam Temporary Deputy Speaker. Jamleck has been on his feet for one minute. You had ruled here that we will be taking a minute to seek our clarifications.

The Temporary Deputy Speaker (Prof. Kamar): Yes, Jamleck, can you wind up? You have actually gone into the second minute.

Mr. Jamleck Kamau: Madam Temporary Deputy Speaker, I am being interrupted. How do I do one minute if the interruptions are taking 30 minutes?

The Temporary Deputy Speaker (Prof. Kamar): You took two minutes before the interruptions started.

Mr. Jamleck Kamau: Madam Temporary Deputy Speaker, I want to be very clear on this. This is because even if you try to stop somebody from taking their own action, you cannot just stop it.

Madam Temporary Deputy Speaker, I want a clarification from the Minister as to why some Members of Government, who have been giving hate speech are not being arrested while others in the “No” camp are being arrested.

Dr. Kones: Madam Temporary Deputy Speaker, I also wish to join colleagues and other Kenyans in sending condolences to those who lost their lives and those who were injured.

First of all, I want to thank the Minister for giving very strong assurances that there will be security in all other campaign meetings and that campaigns will continue. I also want to take this chance to clear any doubts by some people or Members who may think that the rally that was at Uhuru Park was not a crusade. It was indeed a very powerful crusade and in the process I got saved.

(Laughter)

I was prayed for and it must have been a very powerful crusade, I can tell you.

Having clarified that, I have two issues; I want to know whether the Integration Commission is under the direction of the Government or it is an independent commission. The way it has conducted itself up to this stage does not appear impartial. Is it a Government wing? Knowing that the “Yes” team is now driven by the Government and it is a Government project, is the Integration Commission responding to the directions from the “Yes” camp?

Secondly, Madam Temporary Deputy Speaker, will the police or investigative agencies give us an impartial report of these investigations? I am saying so because I arrived at the scene an hour after the blast and met only five policemen who were on patrol. These were officers who were just patrolling. This was one hour later and you know how loud these grenades are. It happened just right here at the City centre but it took the police more than an hour to arrive at the scene. Could the Minister tell this House if he is going to table the report of the investigations in this House?

The Temporary Deputy Speaker (Prof. Kamar): Let us hear from Ms. Odhiambo and finally Mr. Munyaka!

Mr. Imanyara: On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Member, do you want to be informed?

Dr. Kones: No, Madam Temporary Deputy Speaker, I do not want to be informed.

Ms. Odhiambo: Madam Temporary Deputy Speaker, the National Integration Commission has already summoned the Prime Minister in the past, so there is no bias. However, I want to take this opportunity to send condolence messages to the families that were affected, especially that of Master Bravo who lost his life through this senseless act.

I want to say that this is coming at a very opportune time today which is the 16th day of June which is The Day of the African Child that commemorates a day when 600 African children were killed at the hands of governments through senseless killings like the way we are seeing. For that matter, I would want to add my voice to the rest that serious investigative actions be taken, including targeting security personnel. All of us who are speaking here are targeting our questions mainly on a stick approach which is punitive and which I agree with. What carrot approach are we extending, especially to the

clergy? I am happy to note that Brother Dr. Kones, among several others, are now born again. What I am requesting the Minister to do, I hope, will also include taking action against our hallelujah brothers who incite others. What is he doing to discourage our clergy from issuing curses against us, our children, our great grandchildren, including me, sister Milly Odhiambo, whose only mistake is to support the Constitution of Kenya although I still believe in the Lord Jesus Christ? What are we doing to stop them from cursing us and also from dividing the nation? What are we doing to encourage them to preach peace and unity?

Mr. Washiali: Madam Temporary Deputy Speaker, this country has laws and regulations governing elections, campaigns and debates, for that matter. In this case, the Constitution campaign is being managed by the Interim Independent Electoral Commission (IIEC). They have spelt out the periods under which the campaigns must start and when the elections are going to be carried out. What has he done as the Minister in charge of security because these campaigns elicit insecurity? What has he done to make sure that these regulations have been adhered to? As we know, he has allowed both sides of the divide to go ahead and campaign. I am sure that is why whatever is happening is happening in this country. What has he done to make sure that the periods allowed by the IIEC are adhered to?

Mr. James Maina Kamau: Madam Temporary Deputy Speaker, I would like to join everybody else in condemning this heinous act and, at the same time, send my condolences to all those who were affected by the loss of lives of the people at Uhuru Park.

I would like a clarification from the Minister because the issue of security in any country is of paramount importance. However, it looks like our police force has failed in its job. You remember that we had issues at Narok where we had ammunition and we have not been told exactly what happened. We had issues of bombs at Uhuru Park and a serial killer who has been going round killing people in Kenya. I would like the Minister to tell us what they have done as far as these issues are concerned because I believe the police are sleeping on their job. Why can they not be arrested? We know they have failed in their job and they are there. We have been passing Budgets here, giving them a lot of money and the intelligence of this country is not doing its job? I would recommend that this House passes a Motion where those who make these mistakes are arrested and taken to court.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Prof. Kamar): Just take a half a minute, so that other hon. Members can seek more clarifications!

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Madam Temporary Deputy Speaker, allow me first to answer some of these questions.

The Temporary Deputy Speaker (Prof. Kamar): That is okay! And then I will give hon. Members only half a minute for anything that is new.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Madam Temporary Deputy Speaker, it is true there are very many questions and I am likely to forget some of them. The last speaker wants to know what

we are doing as far as certain incidents which have occurred recently are concerned. One of them refers to the case of one businessman who was found in Narok with an assortment of ammunition and firearms. It is well known that he has been taken to court. That matter is in court. As far as investigations by the police are concerned, those were done, finished and the case has been handed over to the court. It is right there. We cannot point a finger at the police on that matter.

It is also true that we have had a serial killer. While it has been stated that the police have been sleeping on that matter, it is not true. The police were able to follow leads which they followed. They were thus able to arrest the person in question who yesterday was taken to court. We all know that within any society, we have people with very strange minds and who, at one time or the other, commit very strange actions. It is important that we must always be vigilant on that. I say this because many of you will remember that even in America, we had a serial killer before he was arrested. He had killed a number of people before he was arrested. Much more recently, a person who is a PhD student in one of the universities in the United Kingdom has also been arrested for having killed a number of people. That is a very current case! This particular person was arrested through the use of the CCTV cameras because he took a lady into a flat, then took her out and killed her on the corridor which had CCTV cameras. It is for that reason that we have sought funding in this financial year for the implementation of police reforms to ensure that we purchase the CCTV cameras and make sure that they are placed in various strategic places in the City of Nairobi and other places. I believe we could have arrested many of those people. So, we are doing the best we can and I do want to go back about the police. We decided on the police reform because there was no doubt that we need a police of the current era. We are going to do that!

Madam Temporary Deputy Speaker, Ms. Odhiambo has made a very important observation that there may be some clergymen who are issuing curses. They are cursing those of their followers who are in the “yes” camp. We will remind everybody that we are in a democratic country and people are entitled to their own views. However, that in itself does not mean democratic freedom should be misused to intimidate others. We will hold dialogue with the church bodies. I can assure you that we will do so and remind them that if there is a number of them who also make incitement and hate speeches, they will be treated as individuals and not as the clergy.

I think that the question by Dr. Kones has already been answered by Ms. Odhiambo, mainly that the cohesion and integration Commission is actually an independent commission. It goes round, gathers information and brings it to the police, who act on the basis of the information. It is totally impartial. That is a fact. I think she made a very important point, namely that even the right hon. Prime Minister has actually been summoned to appear---

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

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): No, I have not yet finished. I am on a point of order.

The Temporary Deputy Speaker (Prof. Kamar): Could we get the answers?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Dr. Kones also wanted to ensure that the report that will be put out by the police will be impartial. I think we have no way out. Any investigation on this matter,

which is not impartial, cannot serve the interests of this country. When it comes, we will ensure that.

There is also another point that I want to say here. I want to go back to Mr. Affey's question as to whether this investigation will be going on for a very long time, I want to assure this House that this investigation will not be a business as usual. I do not want to tell you that it will take one or two days, but the directives are very clear. This is an urgent matter. The investigation must be carried out very quickly and we get the report. That is the position.

Mr. Affey: On a point of order, Madam Temporary Deputy Speaker. It is very clear the Minister is evading the question; we want to deal with rumors. The only way you deal with rumors is to give a timeline. We want to know whether, as a Government we have the capacity to do this within a week, two weeks or even a year. Let us get the timeline. I am sure he can predict the timeline. Could he tell us the timeline so that we can work on some timing?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): I just want to tell the hon. Member that I am a trained mathematician. To me, once a figure is put there, it has got a meaning in the sense that you do not change it. That is why the precision which comes with a timeline is what I do not want to give the House.

This is a matter which must be dealt with urgently, and that is the way we are doing it. Incidentally, we have put together a very strong team, consisting of the experts from the police, the intelligence agency and the army. That is why I say that this is not business as usual. I think I would be making a very big mistake to come here and say tomorrow I will give you a report. I think I would be a totally irresponsible person to do that, and you will have every right to deal with me.

Madam Temporary Deputy Speaker the other point is from Mr. Olago. I do agree with him that when a rally is held as per the Force Standing Orders, the police normally would need to assess the level of security required. This was done. What he does require is that I give him the number of the police officers who were actually assigned to do that rally. That I will give much later; I will table it here fairly shortly.

(Prof. Saitoti laid a document on the Table)

I want to go to another point. The conditions of the licence are clear and we will look into it. The time was given. We want to know whether the organizers exceeded the time. As I said earlier this rally had ended almost on time. What was happening was that the last prayers were being said. By that time the people were actually in the process of leaving. They were going home and that was when the detonation was done. We have no doubt about that one.

We are aware that in Trans Nzoia there are hate leaflets, which have been spread out. We have directed our administration officers not only in Trans Nzoia but all over to talk to the people publicly, and tell them that anybody found spreading those hate leaflets will be dealt with. We are also moving to carry out surveillance to ensure that these leaflets are not spread out, and that violence will not take place.

I think we have to accept affirmatively that the violence that took place after the 2007 General Election will not occur again. We are firm on that one. I also want to urge

hon. Members, wherever you come from, as you talk to the people preach peace. Tell the people, to avoid being lured into violence. I think we have got to be very firm on that one. I want to assure you that we have the necessary security network now in place to ensure that the violence which occurred in 2007 will not be repeated. Anybody who thinks he or she will be able to reincarnate that is making the biggest mistake.

Mr. Washiali: On a point of order, Madam Temporary Deputy Speaker. I do not know why the Minister is trying to avoid answering some of the questions that Members of Parliament are raising. I raised a pertinent question: Why is the Minister allowing the “Yes” and “No” campaigns to go on when the IIEC which is regulating this constitution-making process has specific dates that they have given on when the campaigns should start and when the referendum will take place?

Mr. Jamleck Kamau: Madam Temporary Deputy Speaker, the issues on speculation and hate speech were absolutely not answered.

The Temporary Deputy Speaker (Prof. Kamar): That is why I was saying that you are asking the Minister too many questions and you are not allowing him to answer.

Dr. Kones: Madam Temporary Deputy Speaker, mine was whether the investigation report will be tabled in the House.

The Temporary Deputy Speaker (Prof. Kamar): I think he has answered that. He said: Give me time”. What he did not want to give you was a specific time when it will be ready.

Dr. Kones: I am not talking about the time frame; I am talking about whether he will table it.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Minister, before you answer, we only have five minutes to wind up this. There are three people who have been trying to catch the Chair’s eye. Those are Mr. Langat, Mr. Mbugua and Mr. Ochieng. I will give them a chance to contribute. Hon. Members, we must finish this. Those three are the only ones who have been given a chance to contribute.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker. From the response that the Minister has given today to the House, I am convinced that we need---

The Temporary Deputy Speaker (Prof. Kamar): What is out of order in the answers?

Mr. Mbadi: Madam Temporary Deputy Speaker, let me just build my point of order. Since this matter is weighty, I would request the Minister to bring this Statement to the House next week with definite results of the investigation, otherwise, the answers we will receive here are academic.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Mbadi, you are out of order. People are receiving the answers to their questions.

Mr. Langat: Madam Temporary Deputy Speaker, during the prayer service at Uhuru Park on Sunday, there was no policeman on sight. The day before yesterday, when they wanted to arrest an hon. Member, 300 policemen surrounded Parliament buildings.

The Temporary Deputy Speaker (Prof. Kamar): What is your question?

Mr. Langat: I just want to ask the Minister why the Government cannot take the security of more than a million people in Uhuru Park seriously and can send 300 policemen to just arrest somebody who could have gone to the police station by invitation.

Mr. Mbugua: Madam Temporary Speaker, I would like the Minister to tell this House whether the National Security Intelligence Service (NSIS) exists in this country. I am asking this because the NSIS was not aware that some people were planning to do bad things at Uhuru Park. Where were they?

Madam Temporary Deputy Speaker, are we going to be safe in future if we attend rallies in different parts of this country? Next time, those grenades might be hurled at the podium where the leaders will be. So, we need him to assure this House that in future, all the meetings will be given enough security.

Mr. Waititu: On a point of order, Madam Temporary Deputy Speaker. You are only concentrating on that side while we are on this side.

The Temporary Deputy Speaker (Prof. Kamar): Order! You will be the last one. Could we finish?

Mr. Ochieng: Madam Temporary Deputy Speaker, the clarification I want to seek is about surveillance cameras. The issue of surveillance cameras has been talked about in this House several times. Could the Minister this time round give us a definite period when he will acquire these cameras which could be installed at various places in the City to avoid this kind of calamity happening again?

Could he also tell us whether the Ministry has bomb detectors? If it has, when are they supposed to be deployed? Why were they not deployed on that particular Sunday?

Thirdly, could he consider banning children from attending all the rallies in this country?

Mr. Waititu: Madam Temporary Deputy Speaker, I wish to offer my condolences to the family of the victims. I also wish to offer my sympathese to those who are injured, who are nursing wounds at the Kenya National Hospital (KNH) and other hospitals.

Madam Temporary Deputy Speaker, I have heard the Minister giving a firm commitment that there will be security in meetings in future. I also wish to suggest that the times for closing the meetings should be seriously observed, so that everything can be done during the day and not under the cover of darkness. We had a similar problem sometimes ago when the United States of America's Embassy was bombed. There was a disaster committee that was handling that matter after the bombing.

I would like him to give a firm commitment that this matter is being handled by the Government and that the victims will be compensated. Most of the victims are poor innocent Kenyans and need Government support.

Mr. Pesa: Madam Temporary Deputy Speaker, I want to send my condolences to the family of the six who were murdered during this barbaric incident on the 13th of this month.

Madam Temporary Deputy Speaker, while we are talking about people who are fond of making hate speech, we should also think of the people who have been affected by the hate speech throughout the country. You will remember that my constituency and Uriri are really affected. People are wondering what the Government will do to heal the people who are affected because of the hate speech that was given sometimes back.

Could the Minister tell us what the Government will do to make sure that there is healing among those people who have been affected by hate speech like the people of Migori, Uriri and part of Awendo?

Mr. Koech: On a point of order, Madam Temporary Deputy Speaker. With due respect to the Chair, I have been standing throughout as we started this matter. I think I am the only one who is remaining.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Koech, I took the ones who stood. The one who stood up more than you was hon. Langat who is in front of you.

Mr. Koech: Madam Temporary Deputy Speaker, Sir, I stood up ten times, I can count.

The Temporary Deputy Speaker (Prof. Kamar): You are out of order because we have so many Members who also stood up. I know one Member who has stood up throughout. We cannot go on forever. We must finish this and move on to the next order.

Yes, Minister!

The Minister for State for Provincial Administration and Internal Security (Prof. Saitoti): Thank you very much, Madam Temporary Deputy Speaker. I am going to answer these questions within a broad framework.

There has been reference to the fact that there could have been Members of Parliament or even Ministers who rush to make speculative statements. Those who heard me when I was presenting my written text, I did appeal to all people, including Members of Parliament and other politicians, not to be tempted to make speculative statements. This matter is under investigation. This is not the time to point a finger at anybody or any organization because that could endanger the investigation process.

The other thing which was stated here and I had actually did respond to it was that the Government should ensure the conditions in the license are adhered to. The time when the rally or meeting is supposed to end, it must end there. That we are going to make sure of. The other thing was, indeed, the IIEC has set up a time table and there may very well be a violation of this in the sense that the campaigns have started this early. But in this particular case, I want to say that the license which had been sought was for a religious meeting; a crusade. However, in the process of the prayers and preaching, the issue of the “Yes” and “No” did come out. There is no doubt about it. I want to say that people who have these meetings whether it is we politicians or not, and I believe this issue is extremely important, the Constitution, let us accept one fact, it affects everybody. Therefore, the temptation to want to refer to it is there, and it is going to continue. But the key thing is let us restrain ourselves from making statements which are too inflammatory to bring a problem. I think that is the most important thing.

Hon. Mbugua asked whether the NSIS exists or not, and how safe are we? I think I have answered all that. With due respect to him, I am sure that clarification he is seeking is purely rhetoric. Let me put it this way. The NSIS, you do not see them. You are not supposed to see it. It is supposed to be a body without a face. So, if you do not see it, understand that, that is the way it is supposed to work and that is a good job. I wish to assure this House that from now onwards, there will be security in all the meetings. Some of the security officers you might see them, but others you may not see their faces. That is the way it should be to ensure that we do not have a recurrence of that.

As for the CCTV cameras, we have requested for funding in the coming financial year to ensure that we also get other important tools to assist in detection of all kinds of things. We are assured by the Treasury that the funding is already there.

An hon. Member asked whether we have bomb detectors. I want to say “yes” we have experts. But accidents also do occur. As I said, I wanted to answer all the questions

within a broad framework and each thing I have said is a pillar. I want to thank the hon. Members for the interest they have shown in this very serious matter.

Mr. Jamleck Irungu Kamau: On a point of order, Madam Temporary Deputy Speaker. I have taken it upon myself to go to the Minister, who I also deputise in my party to remind him the question I asked. Is it in order for him to avoid answering the specific question I asked with reference to hate speeches? I can repeat the question.

The Temporary Deputy Speaker (Prof. Kamar): Repeat it!

Mr. Jamleck Irungu Kamau: Thank you, Madam Temporary Deputy Speaker. Does the Minister in charge of Provincial Administration and Internal Security consider someone who calls others “land grabbers” without facts to be engaging in hate speech?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Madam Temporary Deputy Speaker, with due respect to Mr. Jamleck, I said that I will answer those questions within a broad spectrum. I said that anybody who makes a statement intended to incite people or create problems will be dealt with. That is as much as I want to say. Nobody will be exempted.

Mr. Ochieng: On a point of order, Madam Temporary Deputy Speaker. The Minister did not address the issue of banning children from attending future rallies.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Madam Temporary Deputy Speaker, I took that matter into account and we will look into it.

Mr. Waititu: Madam Temporary Deputy Speaker, I would like the Minister to clarify whether the Government will take over the expenses of those victims considering that---

(Loud consultations)

Has he given a guarantee?

Hon. Members: Yes!

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, all those questions have been answered. I do not think there is anything the Minister has not touched except what he will consider. So, we will end there.

Let us move on to the next Order!

BILLS

First Readings

THE WILDLIFE (CONSERVATION AND MANAGEMENT)
(AMENDMENT) BILL THE TEA (AMENDMENT) BILL

THE MALARIA PREVENTION BILL

(Orders for First Readings read – Read the First Time and ordered to be referred to the relevant Departmental Committees)

MOTION

ADOPTION OF REPORT ON APPOINTMENT
OF KAA MANAGING DIRECTOR

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the Recruitment of the Managing Director, Kenya Airports Authority, laid on the Table of the House on Thursday, April 15, 2010.

(Mr. Were on 9.6.2010)

(Resumption of Debate interrupted on 9.6.2010)

Mr. Were: Madam Temporary Deputy Speaker, I had started moving the Motion on the recruitment of the Managing Director for Kenya Airports Authority (KAA). At the point where I stopped, I had laid on the Table three documents. I tabled a list of 152 names of applicants who had applied for the job of the Managing Director, the KAA. I had indicated that the time that had been accorded the applicants was short although within that short time 152 people applied for that position. Within a period of four days, Manpower Services shortlisted 27 candidates. Out of the 27 candidates, eight people were nominated to be interviewed by the Board of KAA.

Madam Temporary Deputy Speaker, the list of the 27 candidates who were shortlisted for interviews by Manpower Services is tabled here. Out of the 27 candidates there are those who did not have the qualifications which were listed in the newspaper advert. Manpower Services did not indicate to us the criteria they used to arrive at the 27 candidates. We had requested for that criteria and the marks the candidates were awarded but that was not availed to us. However, they came up with a list of eight names which they submitted to the Board of the KAA which I have here. The Board was to come up with names of three candidates which would then be forwarded to the Minister for appointment. As I have indicated, we did not get the criterion that was used to arrive at the 27 candidates and how they scored so as to be reduced to eight people.

We realized that out of the 27 candidates, three did not meet the minimum qualifications that had been set up, that is, a Bachelors Degree and a Masters Degree. We wondered how they appeared for the interview. The eight candidates whose names were forwarded to the Board for interviews were interviewed. The scoring that was given by the Board looked skewed because the issue had already been raised in the public domain that the exercise was being conducted so that a particular person would be appointed. If you look at the score sheet, you will find that the person who led was awarded 91 per cent; the second one - 68 per cent; and the third one - 60 per cent.

I want to make it clear that as a Committee, we have no problem with any of the candidates who had applied. Our problem was with the way the interviews were conducted. That is actually what we were pursuing. Were the interviews fair? Were they done correctly? As a Committee, we felt that fairness was not given to all the candidates who applied for the job. We also realized that there were very many qualified candidates who would have been interviewed among the 27 candidates, but were not given a chance

to appear before Manpower Services. We wondered why, in the first place, the interviews were conducted. It was our feeling that they were conducted just to hoodwink Kenyans. There was no need for an interview.

As a matter of fact, the Act allows the Minister to appoint a Managing Director without going through an interview. We were wondering why the Board felt it fit to hold interviews when actually it looked like it had a predetermined name for appointment. Why did they not just go ahead and appoint him? If you look at the way the exercise was conducted, you will find that it appeared like they were hoodwinking Kenyans because many people had applied but they were not given an opportunity to be interviewed and yet they had very good qualifications. Why did the Board use taxpayers' money and hoodwink Kenyans that they were carrying out an interview rather than go ahead and appoint the Managing Director? So, as a Committee, we felt that the exercise was flawed and not necessary. There was no need for the adverts to be carried in the newspapers and the interviews to be conducted when they had a predetermined candidate whom they wanted to appoint.

So, because of that, the Committee recommended that the process be started afresh to accord all Kenyans a fair and equal opportunity to participate as well as satisfy all that there was fairness in the process.

Madam Temporary Deputy Speaker, the Committee also recommended that the recruiting process should be carried out by another agency other than Manpower Limited. It also recommended that the tendering for recruitment should be done in accordance with the Public Procurement and Disposal Act.

Madam Temporary Deputy Speaker, the Committee also recommended that the age limits should be indicated. This is because actually if you looked at the advert, it was open that even the retired President Moi, would have applied and gotten the job.

Madam Temporary Deputy Speaker, we recommended that this process be started afresh just to accord Kenyans a fair chance, so that they could compete fairly and not necessarily because of a particular person.

Madam Temporary Deputy Speaker, I beg to move the Motion and request hon. Langat to second.

Mr. Langat: Madam Temporary Deputy Speaker, I want to second the Motion which has been moved by the Chairman.

As a Committee, we considered the process through which the recruitment of the Managing Director (MD) was done. The Committee, as has been stated, is not concerned about the individual who was recruited, but the process by which he was appointed. It is very important that in this country, we give all Kenyans a fair chance of taking management positions of our parastatals in this country.

Madam Temporary Deputy Speaker, when you look at the number of days in which the advertisement was supposed to have been responded to by the applicants, a serious position like the one of the MD of Kenya Airports Authority (KAA), was only given five days. Kenya is a very big country. We have people from Mombasa, North Eastern and Western Kenya. Before even they read the advertisement, the period for receiving applications had been closed. Therefore, this process should be restarted, so that we give everybody a fair chance to apply and be given opportunity in this country.

Madam Temporary Deputy Speaker, as I conclude, I also want to challenge the Government which talks about the issue of balancing communities in our parastatals. The

Minister should relook at the composition of the Board of KAA, because it comprises eight or ten members from a specific community. We need to balance it because Kenya is a big country with 42 communities which need to be given a fair chance both at the Board and management level of the KAA. Also, the senior management positions at the KAA should be checked, because it reflects the structure of the Board. If we are serious about National Cohesion and Integration, then it has to be seen at the KAA.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I want to oppose the adoption of this Report.

Madam Temporary Deputy Speaker, from the outset, I would like to say that Parliament has a legal mandate under the Standing Orders for its Committee to take an audit of public institutions and the Departmental Committee on Transport, Public Works and Housing is within its own right. But on the issue of the recruitment of the MD of KAA, we need to be very clear and send a direction in this House that Parliamentary Committees will at all times work within the framework of the Standing Orders of this House, the Constitution and other provisions that run the statutory bodies that are under various departments of Government.

Madam Temporary Deputy Speaker, when we were on recess, a number of Parliamentary Committees were under scrutiny. We had the Departmental Committee on Defence and Foreign Relations at war with the Minister for Foreign Affairs. We also had the Departmental Committee on Health at war with the Minister for Medical Services on the recruitment of the Director of the Kenya Medical Training College. Today, we have again another Departmental Committee that is in the public domain, that has the same problem with the Minister for Transport. If it is about equity; that we want boards and the management of parastatals to reflect the face of this country and have a regional balance, then the right Committee to handle that is the Committee on Equal Opportunity. It is not based on the Committee on Transport, Public Works and Housing. That mandate is within---

Mr. Langat: On a point of order, Madam Temporary Deputy Speaker. I think the hon. Member should restrict himself to the substance---

The Temporary Deputy Speaker (Prof. Kamar): What is not in order?

Mr. Langat: Madam Temporary Deputy Speaker, he is engaging the House in irrelevancies because---

The Temporary Deputy Speaker (Prof. Kamar): Hon. Langat, there is nothing called “irrelevancies” in the House. You are out of order! Take your seat.

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, for some of the hon. Members, “irrelevancies” means when you are not in their school of thought.

Madam Temporary Deputy Speaker, having said that, there is a Committee in this House that deals with equity in this country, in terms of how management, boards and Government should have the face of this country. This House must respect the Constitution and the law. The Board of the KAA is a statutory board which has got functions. There is a law that they followed under the same organization; whether it is

five days or two weeks of advertisement --- I want to tell my colleague that even the people of northern Kenya these days read newspapers. They also have access to the internet and can see all these. What we are seeing here is now a particular witchhunt. Parliamentary Committees want to be part and parcel of running of organizations and Government.

Mr. Yinda: Is it in order for the hon. Member to insinuate that Parliamentary Committees have no right to look into the activities of Ministries and yet under Standing Order No.198, Departmental Committees are supposed to investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments?

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I think in my opening remarks---

The Temporary Deputy Speaker (Prof. Kamar): I hope you listened carefully to what the hon. Member read. It is the right of committees to deal with anything pertaining to their relevant Ministry. So, they are not out of order. This only depends on what Departmental Committee discussed the matter. Unless you are not very sure of what you are saying.

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, in my opening remarks, I said categorically, under the Standing Orders, Parliamentary Committees have the mandate to audit, investigate and to be the watchdog of the Kenyan people under this law. However, within that framework, particular committees have their own sector coordination. That is why I raised the issue with the seconder that if this House feels that both the Board and the management of the KAA does not represent the face of this country or lacks regional balance then we have---

Mr. Ochieng: On a point of order Madam Temporary Deputy Speaker. Is the Assistant Minister in order to mislead this House? According to us, we were debating the adoption of this Report. We were not debating on the composition of the Board of the KAA Board. Is he in order?

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I should be given time. This is a debate of a Report of Parliament and an hon. Member can make his case be known from different directions. This is the essence of what I was saying. Committee reports are the property of this House. It is up to the House to debate and vote on them regardless of whichever direction you want us to look at it. My point of contention is that, not only for this Committee, that Parliament is under scrutiny in the eyes of the Kenyan people and which, again, will have an integral impact on the integrity of this House such that when a committee carries out an audit, it must find out within its wisdom if the due process was followed. That is their mandate. In this case, there is no doubt that the selection of the current Managing Director of KAA followed the due process of the law both under the Parastatals Act and under the Public Procurement and Disposal Act. In all their submissions, nobody doubts the qualifications and experience of the current Managing Director. If that one is not in doubt---

(Several hon. Members stood up in their places)

Madam Temporary Deputy Speaker, I want you to protect me because I want to make my case clear that if the integrity and qualification of the current Managing Director is not in question and if the due process followed by KAA is not in question, then the only rational thing that would come to the minds of people is that there are people who feel – and we in Parliament have to uphold the integrity it stands for. Some of us, Members of the Government, who do not sit in those committees, do not want committees to be misused. For example, we have a case in point, the Kenya Medical Training College (KMTC).

Mr. Mututho: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to consistently keep on attacking Committees without knowing the specific provisions of the Standing Order No.198 and their implications? Unless he is feigning lack of misunderstanding of the exact requirement of what a Committee should do, then you should give direction. In your directions, you should ask the Executive to familiarize themselves with the Standing Orders and the provisions therein.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Duale, you need to be very clear. I have been at pains trying to understand what you are actually driving to. The mandate of the Committee is very clear. It is for you to tell us what in the report you are opposing and not on the investigations by the Committee. Otherwise, it could not have been approved. It is within their docket to do so, but you are dwelling so much on the mandate of the Committee and that they did not have a mandate. Please, avoid also implying that the Committee is being misused unless you have evidence.

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, I agree with your suggestion. I have said it very clearly that the mandate of the Committees is not in dispute under the Standing Orders.

The Temporary Deputy Speaker (Prof. Kamar): Can you wind up your contribution?

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, from this particular report and many others - and I think we need to be very frank to this House - we feel that this particular report of the recruitment of the Managing Director, Kenya Airports Authority, is malicious. If the report is not touching on---

Mr. Were: On a point of order, Madam Temporary Deputy Speaker. Is it in order for the Assistant Minister to say that this report is malicious without proving it?

The Temporary Deputy Speaker (Prof. Kamar): Hon. Duale, I have told you again and again---

The Assistant Minister for Livestock Development (Mr. Duale): Madam Temporary Deputy Speaker, they should wait for the proof! I have read the report. If the integrity and the qualification of the said Managing Director is not in question, and if the process of appointing him is within the law, then what is the whole argument about?

With those few remarks, I oppose the report.

Eng. Gumbo: On a point of order, Madam Temporary Deputy Speaker. I rise on a point of order to raise a matter which I think is fundamental. As you know, of late, the integrity of this House has been in question, especially the reports that come from the Committees.

The Temporary Deputy Speaker (Prof. Kamar): What is out of order?

Eng. Gumbo: Madam Temporary Deputy Speaker, can you, please, just allow me to explain? I have with me here a copy of the report which was tabled in this House on 15th April, 2010. In the recommendation page of that report, there are only three recommendations, but when the Chair of the Committee rose to speak, he spoke of four recommendations. Is it in order for a report which has been tabled before the House to be amended as insinuated by the Chair of the Committee?

The Temporary Deputy Speaker (Prof. Kamar): Hon. Gumbo, nobody has talked about the amendments. I wish you can listen to the contributions that are being made before we reach the point of the recommendations. They have only done a presentation. It is up to you to debate the report, but you are trying to scuttle the debate before you even understand. Can I give the chance to hon. Yinda to contribute?

Eng. Gumbo: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): I have said you are out of order because you are telling us what has not been recommended. Nobody has asked for an amendment and you are fighting an amendment that is not before the House. Please read the Standing Orders and understand what a point of order is before you rise on a point of order.

Mr. Yinda: Thank you, Madam Temporary Deputy Speaker. I stand to support the Motion, which is on the Floor of the House for this House, to adopt the report from the Committee on Transport. It is a pity that when Members see a report, they get suspicious, and personally, this report is very harmless.

What the Report refers to is simply the process. We are not talking about the person. We have no problem whatsoever with the person. The Report has been brought to the House. This Committee represents this House. The Committee had a lot of meetings with the Board and the Management of the Kenya Airports Authority (KAA). The Committee worked together with the parastatals and the Ministry. The process was seen to be incorrect, and the Committee recommends that it be repeated.

Madam Temporary Deputy Speaker, repeating the process does not mean locking out anybody. It does not mean that you are going to talk about the character of anybody. It simply means that more time is given to the process for interviews to be conducted. The outcome of the interview might end up being the same, but the process will have been followed correctly.

Last week we adopted the Report of the Joint Committee on Health, which was dealing with a similar case, where the Committee felt that the process of employing the Director of Kenya Medical Training College was not followed correctly. What the Committee suggested was for the process to be regularised. In this particular case, although the Report talks about repeating the process, it does not say that the current Managing Director should step aside. There is nowhere in this Report where the Committee says so. The Report is talking about repeating the process.

Madam Temporary Deputy Speaker, Sir, the process can be done without interfering with the operations of KAA. The moment we stand here and say that this Report is rubbish and, therefore, we should throw it out, all we will be saying is that the Committees have no function, which I do not agree with. The Committees have functions. The Committees are the eyes of this House. Anything that is done by the Committees is done in good faith. It is done to basically ensure that the Executive follows the rules that exist in governance of this country.

So, there are lots of irrelevancies that are coming in here. People are talking about communities and other things, but that is not the issue. We should divorce all those sentiments from this Report, because that is not what the Report is talking about. What we are talking about is: Let us go through the process. Let us have the new Managing Director of the KAA appointed through the correct process. It may still be the same person who is sitting there right now.

With those few remarks, I beg to support.

Eng. Maina: Madam Temporary Deputy Speaker, I stand to oppose the adoption of this Report.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): On a point of order, Madam Temporary Deputy Speaker. Hon. (Eng.) Maina is not a Member of the Front Bench. I do not think he is allowed to contribute from the Dispatch Box.

The Temporary Deputy Speaker (Prof. Kamar): You are right. Eng. Maina, you should know where you belong.

*(Eng. Maina moved to a microphone
away from the Dispatch Box)*

Eng. Maina: Madam Temporary Deputy Speaker, I think this Parliament must remain an honourable House as it is. Any investigation must be based on facts and, more importantly, on the laws that we make. The first statement I heard here is with regard to regional distribution of positions. I agree with the fact that we should give as many Kenyans as possible an opportunity to serve this country. I believe in that and support it. However, we have to bear in mind that this House must play its rightful role. The same case should apply to the Executive and the Judiciary. This should be in accordance with the democratic principles that we underline.

Madam Temporary Deputy Speaker, the law pertaining to this case gives the mandate and power of appointing the Managing Director to the Minister on the recommendations of the board. How the board arrives at that recommendation is left to the Board. The board is qualified. The board is composed of members who are appointed, based on qualifications. If the law gives mandate to the board to conduct business in the manner it deems fit, once it has done that, we cannot come here and question that process and yet we gave that mandate. We must follow the law, as bitter as it is. Let us stick to the law.

I am a Committee Member and I support the Committees of this House because they are doing a good job, but we must be careful so that we remain within our domain. We should not surpass our boundaries and venture into issues that should be left to others in this Government. For example, we have given the board some powers to appoint the Managing Director. Once they do the job, let it be so. There is no use this Parliament questioning minute details which we call operatives in an organization. The issue of who will recruit who in an organization is an issue over which the board has been given guidelines, and people are selected according to them. I wonder how a Committee of this House would say So and So should be excluded as a recruitment agency next time. I do not think we are being fair. We must support, give freedom and even give courage to our people to conduct business without fear.

Madam Temporary Deputy Speaker, with the respect I have for this Committee, and in fact, most of its Members are my personal friends, I find myself being pulled towards speaking for justice as a Member of Parliament by saying that the adoption of this report will not be in order because it will open an avalanche where we think that for every position where we feel that somebody from a certain ethnic community has got a job instead of another person from another community then it would be the basis of conducting investigations. I believe we should desist from all that.

There were 152 Kenyans from all walks of life who applied for that position. Somebody said that since I was in Mt. Kenya herding goats or in Western Kenya, then I should have been given six months to see the advertisement. I would like to say that this is a job for the Managing Director. It calls for effective communication using modern technology like newspapers and internet. So, anybody who was interested must have had enough time to apply. That is why 152 people applied. Therefore, I do not know the basis of that report.

I do not think the basis of this Report actually stands the real justice of this House. We should let the Minister who is mandated by this House to appoint the Managing Director do his job. The talks going on in this House now cannot let the MD do his job as effectively as he should. I confess that the man is my constituent and, therefore, hon. Were, who is my friend, should even have been more sympathetic with me in bringing up this matter without good basis. I know this gentleman and he stands the test of time in every way. Let us leave the MD to carry on his job; let us reject this Report and leave the law to take its own course and give the Minister a chance to conduct his business in this important Ministry.

With those words, I beg to object to this Report.

Eng. Gumbo: Thank you, Madam Temporary Deputy Speaker, for giving me this chance to contribute to this Report. I will try to be brief so that some of my colleagues may also contribute. Allow me to start by commending the Departmental Committee on Transport, Public Works and Housing which is headed by my good friend, the hon. Were, for doing a commendable job. But we are Parliament, and Parliament derives its mandate from the constitution, the law and our own Standing Orders. Anything that violates that law cannot be a good report of Parliament. In its own Report, at the introduction, the Committee says: “The appointment of the Managing Director of Kenya Airports Authority is vested in the Minister of Transport after consultations with the board, as stipulated in the KAA Act, Cap. 395 part 2 (6).”

Madam Temporary Deputy Speaker, those are the fundamentals. Indeed, this interview that we are being told about was not even necessary. What the law says is very simple; the Minister consults the board to appoint the MD of KAA. Was that done or was it not done? When we go into issues, like, for example, the Committee recommending that a recruiting agency should be barred without reasons; are we now saying that it is the duty of Parliament to micro-manage State corporations? The answer is no. I want us, as representatives of our people, to stick to the law. We cannot make laws in this House and violate the same laws. For this Report to have credibility, it should tell us which part of the law has been violated by this recommendation. Without that, we are presenting before Parliament a report that cannot stand the test of scrutiny. The Committee has not told us why it is recommending that the process be started afresh. There are only three recommendations in this Report. What are they basing their recommendation on? What

was done wrong with the process as it went through to the Minister? We cannot come here and compare processes which are not the same. The Minister is mandated by the law to receive a report from the board and appoint the MD. Did he or did he not do that?

Madam Temporary Deputy Speaker, with all due respect to my colleagues in the Committee, this report has no basis to recommend that the process of recruiting the MD of KAA be repeated. The Minister has done his job in accordance with the law, and this House has no other option other than to reject this Report.

With those remarks, I oppose.

Mr. Nyammo: Thank you, Madam Temporary Deputy Speaker. I rise to oppose the adoption of this Report. I want to reflect on the general mandate of House Committees. Our mandate is really not to micro-manage. Our mandate is an oversight mandate. We must remind ourselves that we are lawmakers and not law breakers. An oversight role does not mean interference with the internal management of an organization. It goes back to the whole structure of governance. We, as a Committee, have got our mandate; the Minister has got his own mandate; the board has got its own mandate; we must learn to respect each other's mandate. If, as Committees of this House, we are going to start getting into micro-management of institutions under the Ministry over which we have oversight, we are going to abuse our mandate. We will become, not lawmakers, but law-benders and breakers. That should not be the case.

Madam Temporary Deputy Speaker, where the board of an institution has carried out its own mandate in accordance with the law, this House should respect that and it is for us to support that. We have no other basis of coming to this House to recommend an alternative to that. In that way we, then, shall be law breakers. In this case, nobody is questioning the merits or the qualifications of the candidate who was recommended. If that be the case, let us respect these recommendations and let us allow the Minister to get on with the appointment.

With those few remarks, Madam Temporary Deputy Speaker, I beg to oppose.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Thank you, Madam Temporary Deputy Speaker. I also stand to oppose the adoption of this report.

(Applause)

Madam Temporary Deputy Speaker, I have gone through this report and the Committee has not really given reasons for all their recommendations. They have made three recommendations, as has been said by the hon. Member for Rarieda, and they have not explained why they were questioning the whole process.

Madam Temporary Deputy Speaker, I just want to pick a few in which the Committee has contradicted itself. First, on the minutes of their meeting one of the queries they raised was, why did this board take a decision to carry out an external recruitment despite there being competent general managers at the authority – that is Minute 123/2009-2012, part 2(c). So, the person in question was recruited internally while the Committee was querying why the board had gone that far to invite external applicants.

Madam Temporary Deputy Speaker, again, one of the issues the Committee recommended on is that the recruiting process should be carried out by an agency other

than Manpower Kenya Ltd. Why? But even without elaborating on the reasons why they do not want it to be done by Manpower Kenya Ltd, it is good to bring to the attention of this House that the tendering process for the recruitment agencies was done on 30th October, 2009, and seven agencies applied; they bought tender documents for the recruitment agency's work. These are Tips Management Services Ltd, Manpower Ltd, Forbes Global, Hawkins and Associates Ltd, East African Resources and Training Institute, International Development Partners East Africa, Personnel Resource. A committee of four was formed, chaired by Daniel Kesa to select one of the firms that was going to do the recruitment process, and Manpower Ltd was selected.

Madam Temporary Deputy Speaker, when the Committee said that this should be opened up to many Kenyans--- The 152 applicants who applied from within and outside Kenya is not a small number. It has been done to a wider group and I also want to point out that---

ADNOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Order, hon. Members. Hon. ole Metito, you will have 17 minutes if you will wish to continue in the next sitting.

Hon. Members, it is now time to adjourn the Business of the House until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.