

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 26th October, 2010

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

CDF Allocations per Constituency for the Financial Year 2010/2011

(By the Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth) on behalf of the Minister of State for Planning, National Development and Vision 2030)

Kenya Gazette Supplement No.79

The International Crimes Procedures for Obtaining Evidence Rules, 2010

The International Crimes Act, No.16 of 2008

(By the Minister of State for Provincial Administration and Internal Security (Prof. Saitoti) on behalf of the Minister for Justice, National Cohesion and Constitutional Affairs)

QUESTIONS BY PRIVATE NOTICE

APPOINTMENT OF KBC BOARD

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Information and Communications the following Question by Private Notice.

Why, in appointing the Kenya Broadcasting Corporation's Board, did the Minister fail to comply with the provisions of Section 4 (1) of the KBC Act (Cap. 221) of the laws of Kenya?

The Minister for Information and Communications (Mr. Poghiso): Mr. Temporary Deputy Speaker, Sir, I believe that this Question was answered last week, save for extra information which was required by the hon. Members on that day. I seek your guidance whether I should go through the answer or not. This is because the answer was read out last week.

The Temporary Deputy Speaker (Mr. Imanyara): What was the reason for asking the Question again? Just refer to the issues that the Chair wanted addressed.

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir, then I will read out the answer.

The Temporary Deputy Speaker (Mr. Imanyara): Just give the information that you were required to give. You do not have to read the whole answer afresh.

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir, what was required were the Curriculum Vitae (CVs) of the members of the Board of the KBC to which the Assistant Minister who answered the Question accepted. Up to this afternoon we were only able to get four CVs out of six. The others are being sought because the members have travelled out of the country. So, the current CVs are not available as of now. I have only four of them.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, did you say that the persons are out of the country or out of town?

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir, the information I have is that one of them is out of the country and the other one out of town. The officers are working round the clock to get their current CVs so that we can submit them to the House.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. C. Kilonzo, before I get to Mr. Mbadi, what do you have to say to that?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I think this matter is getting more serious than we anticipated. I am curious. If they are now waiting for the members of the Board to prepare their CVs, how were they appointed in the first place without the CVs?

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir, to answer that question, there are no members who can be appointed to the Board without presenting their CVs. However, as you know, we are from a weekend and people are now trying to get the CVs. We have already obtained four of them. We are looking for their current CVs. Some of these people were appointed many years ago.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, are you asking for more time or are you saying that you are unable to supply the information required of you?

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir, I just wanted to inform the hon. Member and the House that out of the six CVs I can only lay on the Table four of them. So, if we are given---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Minister! Is it time you require?

The Minister for Information and Communications (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir, I need, maybe two days to get the CVs. However, we are complying with what the House says.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. C. Kilonzo, the Minister is asking for an extra two days. What do you have to say about that?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I do not know any institution which employs people without CVs. It is after we asked for the CVs that the

Board members were told to prepare their CVs. I have no problem. I will wait until Tuesday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, is until Tuesday, next week sufficient time for you to bring all the information that is required of you?

The Minister for Information and Communications (Mr. Poghio): Mr. Temporary Deputy Speaker, Sir, until Tuesday, next week is enough time.

The Temporary Deputy Speaker (Mr. Imanyara): That is granted.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Last time when the Minister answered this Question, he categorically stated that the Board members who were appointed were qualified. Is it in order---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mbadi that is a supplementary question!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, is it that the Minister misled this House when---

The Temporary Deputy Speaker (Mr. Imanyara): You are out of order because the Minister has sought permission to extend time within which to get information and the Questioner has no problem with that. He has given him that indulgence. You will have to wait until Tuesday so that you can raise your supplementary questions.

Let us move on to the next Question!

LACK OF RADIOTHERAPY MACHINES AT KNH

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

- (a) Why does the Kenyatta National Hospital's Radiotherapy Department have only one functioning machine which is supposed to cater for patients from all over the country and why does it take more than five months to secure treatment at the hospital?
- (b) Why is it that only 140 patients are treated daily while more than 500 others are kept in the waiting list and emergency cases are not attended to and are kept for more than 30 days?
- (c) What measures is the Ministry putting in place to urgently equip the hospital with functional radiotherapy machines?

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

- (a) The Kenyatta National Hospital's Radiotherapy Department has two radiotherapy machines. Unfortunately, one is currently broken down and is irreparable. The Hospital is in the process of procuring another machine at the cost of Kshs110 million. The space in the department and the staffing levels can support operations of two radiotherapy machines.

Patients take long to secure radiotherapy at the hospital due to two main reasons. First, radiation treatment is a process which can only be commenced after thorough review by clinicians who are very few at Kenyatta National Hospital (KNH). Presently, there are only four cancer specialists at the KNH and in the Ministry of Medical Services as a whole. These four specialists are Dr. Opiyo, Dr. Njuguna, Dr. Catherine Nyongesa and Dr. Bwao.

- (b) Kenyatta National Hospital is the only public facility with cancer treatment facilities and the number of patients is extremely high. Since patients come from all over the country and the neighbouring countries and the available machine can only treat 140 patients per day it is not possible to avoid delays in the provision of services to patients. Presently, cancer is the third highest cause of death after infectious and cardiovascular diseases.
- (c) The available Radiotherapy machine has the capacity to treat about 70 patients during normal working hours. It is able to treat 140 patients only because the hospital has upscaled the number of working hours from eight to 17 hours a day; that is from 7.00 a.m up to midnight.
- It is worth noting that most cancer patients treated in the unit present themselves as emergency cases. The department sorts them out and gives them priority treatment within its capacity limitations. The waiting period, unfortunately, is usually not less than 30 days.
- (d) In the short-term, the KNH is in the process of acquiring a Cobalt Unit for cancer treatment at a cost of US\$1.35 million which will be commissioned in February, 2011. In the long-term, the Ministry plans to aggressively pursue cancer prevention campaigns and decentralization of cancer treatment to the provincial hospitals. For that matter, we have already opened outlet facilities at the Coast General Hospital and the New Nyanza General Hospital.

In this regard, a national task force to study and recommend improvement in cancer management was commissioned by me early this year. We are currently working to have a much more comprehensive cancer policy and cancer treatment in the country.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Minister for owning up that cancer patients in this country are in a problem because the only public hospital that is supposed to provide radiotherapy services is not able to cope with the large number of patients. How long has the machine been broken down and what arrangements has the Government put in place to ensure that cancer patients are attended to in time, considering that cancer is a killer and terminal sickness? We know that the patients suffer for a long time as they wait to be attended to by the Government.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I thank the hon. Member and the Chairman of the Departmental Committee on Health for the very genuine concern he has shown on this issue. I share his concern that we should act urgently to provide treatment for cancer patients.

It is really sad that somebody suffering from cancer should wait for 30 days to receive attention from Government hospitals. One of the things we were hoping was for the National Social Health Insurance proposal we have made to be put in place so that those who are insured can get treatment from facilities available, for example, at the MP Shah Hospital. This hospital has a modern cancer facility, but the treatment of cancer is so expensive that individual Kenyans cannot afford it. However, if they are insured, they can get access to treatment in a hospital like MP Shah.

Dr. Monda: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the Minister talk about the National Social Health Insurance Scheme. The Minister should address the immediate concerns of Kenyans. Is he in order to talk about what the Government has not provided in the National Social Health Insurance? What is the

immediate mechanism the Government has put in place to address the suffering of the cancer patients? He is not answering the question.

The Temporary Deputy Speaker (Mr. Manyara): Dr. Monda, you know that is a question and not a point of order. Is there anybody else who wants to take on the Minister?

Mr. Outa: Thank you, Mr. Temporary Deputy Speaker. You have heard the Minister say that they are doing procurement. I wish he could have gone to the KNH and seen the desperate Kenyans who are waiting for over 30 days to be attended to. The Minister knows for sure that they have money to get the radiotherapy machine as soon as they could but they have decided to pro-long the procurement procedures so that many Kenyans die. Could the Minister tell this House when he will do the procurement so that Kenyans can access this needful treatment?

Prof. Anyang-Nyong'o: Mr. Temporary Deputy Speaker, Sir, we are really doing our best to make sure that we have this facility at the KNH operating by February, next year. Secondly, in order to have the Cobalt machine, you need the concurrence and corroboration with the International Atomic Energy Agency. We are in communication with this Agency. A team went to Austria in September, this year. The team was lead by the Permanent Secretary. I met our Ambassador to Vienna in New York last week and discussed the same thing. So, we are moving with all speed to ensure that these facilities are operational. I have said that we only have four cancer specialists in Kenya at the moment. At the moment, we are training eight medical doctors from provincial hospitals at the KNH for radiation specialization so that they can have some knowledge of oncology and radiation oncology. They are currently training to provide cancer treatment in the two satellite stations we have opened at Mombasa and Kisumu so that the KNH does not have the only facility for cancer treatment. Plans are underway to train other technical staff in the field, namely medical, physical and therapy technologists that can handle this matter. A cancer treatment is something that cannot be done overnight. People must be trained and equipment must be bought. Since I came into the Ministry, the equipment available was broken down but we have rehabilitated the one in Kisumu and are training people from Kisumu to go and use it. The four specialists who are here travel to Kisumu occasionally to offer treatment there. So, within the short period we had, we have rehabilitated and put in place a plan to offer better cancer treatment. However, I would not like the hon. Member to take lightly the issue of insurance. This is because if our people are insured, they can immediately get treatment at the MP Shah Hospital. In order to get treatment at that hospital, you have to pay for it because it is a private facility. You cannot afford that treatment if you are not insured. Very soon I will come to this House with a comprehensive Statement on the cancer issue.

Mr. Outa: On a point of order, Mr. Speaker, Sir. Is the Minister in order to avoid answering the question? We are not talking about the National Hospital Insurance Fund (NHIF) as it is today. We are asking him when he will start providing radiotherapy services at Kenyatta. Why should he avoid answering the question?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I did not avoid to answer the question. I hope hon. Outa was listening. I specifically talked about the steps we are taking to provide treatment now. I also said that, apart from that, we have other facilities in Nairobi which can offer cancer treatment to Kenyans, if they can access the

facilities. The only way they can have access to those facilities is if they pay cash from their pockets.

Cancer treatment is a very expensive affair. We know that Kenyans cannot afford it. That is why we are saying that, if we give them insurance through NHIF, they will have access to the treatment that they need. At the moment, many Kenyans are going abroad to seek cancer treatment. When you go to abroad, you will find that you need insurance before you are treated. It is a painful matter when somebody cannot be treated because he or she does not have insurance. As a Minister, if I know that there is a facility in Nairobi available to Kenyans but the only thing they require is insurance, it is my responsibility to make sure that Kenyans have that insurance so that they can access that treatment.

Mr. Njuguna: Thank you Mr. Temporary Deputy Speaker, Sir. We laud the Minister for that clear answer. I would like to ask him to indicate the corrective measures he is taking to repair the broken machine so that Kenyans who are suffering do not continue undergoing that serious predicament as he awaits to get additional funds to acquire another machine.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, the broken machine at Kenyatta National Hospital is irreparable. It is irreparable because of two main reasons. One, it is out of date and if we repaired it, we would be doing zero work. Secondly, it is cheaper to buy a new machine than to repair that one. If people cared to listen, we are procuring another machine at a cost of Kshs110 million. Apart from that, we are also procuring another machine - a cobalt unit for cancer treatment at a cost of Kshs1.35 million with the aid and help of the International Atomic Energy Agency.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, how long has that machine been out of order? What is the Minister doing currently to alleviate the immediate suffering of Kenyans who cannot afford to buy insurance and who cannot afford to go abroad? That is the question we are asking and yet, the Minister is avoiding it. Could he answer it?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I suppose people listen when others speak. In the answer that I read in the House, I said that currently---

Dr. Monda: On a point of order, Mr. Temporary Deputy Speaker, Sir. I hope you have heard what the Minister has said. He has said that Members are not listening and yet, I have been listening all this time. He is avoiding to answer the question. Is he in order to say that Members are not listening, when we have been waiting for his answer and it is not forthcoming?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, let me read my answer again because---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, you do not have to read the answer again.

Prof. Anyang'-Nyong'o: Okay. Then I can speak orally. I am doing the following:-

One, there are four oncologists in the Republic of Kenya. It takes years to train an oncologist. I am using those oncologists to provide the services at Kenyatta National Hospital and two satellite stations that we have opened. One is at Mombasa and the other one is in Kisumu. Those ones did not exist before.

Two, I have repaired the machine in Kisumu so that it can be used. One of the four oncologists travels there every now and then to give treatment. Three, we have brought eight doctors to Kenyatta National Hospital to be trained in cancer treatment. This is a rapid results measure. Those eight doctors will work in Mombasa and Kisumu.

Four, we are training nurses and technologists at KNH to deal with cancer treatment in Mombasa and Kisumu. That is what we are doing at the moment. Apart from that, I said that we are buying a new machine which will be commissioned in February. That is a few months from now and it will help. However, we will go further and establish a cobalt unit. That is a long process but, at the moment, those are the things that I am doing at the moment. Those things will help to increase the number of patients treated and also shorten the waiting time.

USE OF SUBSTANDARD MATERIALS IN CONSTRUCTION OF KABIEMIT HEALTH CENTRE

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Public Health and Sanitation the following Question by Private Notice.

(a) Why is the contractor who was awarded the tender to construct Kabiemit Health Centre through the Economic Stimulus Programme using sub-standard building materials such as blocks?

(b) What steps has the Ministry put in place to ensure that the contractor follows the contract specifications and ensure value for money?

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

(a) The Public Works Officer who leads the technical team in the project implementation has analyzed and tested the building materials being used and reported that the materials meet the minimum standard requirements as per the contract specifications. At the moment, there has been scarcity of quarry stones in the area due to high intensity of construction works. Hence, the project manager issued relevant site instructions to the contractor for use of concrete blocks instead of quarry stones due to scarcity. The concrete blocks underwent crushing tests before the instructions were issued.

(a) The steps my Ministry has put in place are as follows. The District Health Management Team (DHMT) which represents my Ministry at the district level has undertaken to make regular supervision visits to the site and advise on the technical matters that relate to the Ministry requirements.

In addition, the combined teams of the Stimulus Project Management Committee (SPMC) also conduct regular site visits and meetings to advice on all issues pertaining to the implementation of that project.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, the Stimulus Project Management Committee, as indicated by the Assistant Minister, is supposed to be providing advice. They advised the contractor. The DHMT also instructed the contractor to use stones. In the neighbouring districts, the construction is being done using stones. Why is there scarcity of quarry stones in my constituency and not in the other constituencies? Is he really convinced that there is scarcity of quarry stones?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, the answer I have states that there is a general lack of quarry stones in the area. The Provincial Public Works Officer has indicated to me – and I will lay a document on the Table - that the crushing tests that have been done measures up to the standard of the quarry stones. I would also like to add that concrete blocks are much stronger than stones.

(Dr. Gesami laid the document on the Table)

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister explain why the structural drawings that have been used all over the place, and especially in my constituency, have no columns and yet, we have black cotton soil? When we question the issue of the drawings not having columns, the contractors and the District Works Officer do not give us an answer. Could he tell us why money has not been released for the first and second phase?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, you will realise that the issue of columns is not in my area and I believe that the Provincial Works Officer is convinced that without columns the buildings cannot be strong. So, the provincial engineer has agreed with the Ministry of Public Health and Sanitation that the structures should be strong enough in order for us to carry out our functions.

With regards to money, I think the second tranche has been sent to most constituencies now. I know that in my constituency we have received our second tranche. I undertake to find out whether the Treasury has released the money to the Ministry of Public Health which will transmit it directly to various constituencies.

The Temporary Deputy Speaker (Mr. Imanyara): When can you find that out so that you can inform the House?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I can find that out as early as tomorrow and report to this House.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Minister has said that there is a shortage of these materials in the neighbouring constituencies. I am aware that people use better materials to build their homesteads. Where do they get those materials to build their own homesteads if there is shortage of the materials?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I did not get the question by the hon. Member but let me say that once we construct Government buildings, the Ministry of Public Works offers technical services. Usually, materials would vary from one area to another. Therefore, we utilise the officers from that Ministry to give us the specifications that we need. In my constituency we use bricks and in other places they use stones but we make sure that the Ministry of Public Works officers give us proper advice as to what to do and how to construct structures in various hospitals.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister should confirm to this House which of his two arguments we should buy. Is it because there is inadequacy of stones in those constituencies that mandated them to use bricks or is he affirming to this House that bricks are a better quality than stones? He is mixing up issues.

The Temporary Deputy Speaker (Mr. Imanyara): I think he has made it clear that the Ministry of Public Works certifies the materials. Mr. Assistant Minister, is there anything you want to add?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I said that the Ministry of Public Works officers are the experts. There are different areas with different types of building stones and we use those engineers to tell us whether those stones, bricks or concrete blocks can be used to construct our health facilities. We go by their words because they are the experts in that area.

Mr. Shakeel: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to say that the officers from the Ministry of Public Works are experts when we all know that they are the biggest crooks in the business?

The Temporary Deputy Speaker (Mr. Imanyara): That is not a point of order!

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us what he will do to ensure that his officers, particularly the ones in my constituency who are in charge of the construction of the health facility pay the money they have refused to pay to the contractor? This has led to the stalling of the construction of the structures without any explanations at all. This is the case and yet the Public Works Officer has already issued the certificate.

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I have already answered that question. I will find out which constituencies have not had their money released and I will report to this House as soon as possible.

The Temporary Deputy Speaker (Mr. Imanyara): Since the Assistant Minister will come tomorrow to confirm whether other constituencies have received the money, I will defer the final question until tomorrow when he will give the required information.

IMMINENT EVICTION OF TENANTS FROM KIAMBU MUNICIPAL COUNCIL HOUSES

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that some of the tenants of Kiambu Municipal Council residential houses face eviction by the Council?

(b) What is the Ministry's policy with regard to long standing tenants of local authorities when such local authorities are disposing of residential properties?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that some of the tenants of the Municipal Council of Kiambu residential houses face eviction by the council after the council gave notice of 30 days as per the tenancy agreement.

(b) I would like to make a slight correction that the Ministry, indeed, does have a policy with regard to long-term standing tenancy of authorities when the local authorities are disposing of residential properties. However, in this particular case, I wish to state that these residential properties are not being disposed of.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, you will notice that the Deputy Prime Minister and Minister for Local Government is very economical with information which is contrary to the new Constitution. Could he tell the House for what reasons the council has given these tenants notice and whether the policy that he says the Ministry has, takes into consideration that one of the duties of the local authority is to provide housing for its residents?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, for the general information of the House, I would like to state that in August this year, the council, as per the tenancy agreement, issued a 30 days' notice to its tenants to vacate the houses for use by the council officers. The tenants went to their lawyers, J.N. Wanjohi and Company Advocates, because they assumed that the notice they got for eviction was because the houses were being sold. I want to state very categorically that the Houses are not being sold and that the council was seeking vacation so that it can house its council officers.

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, I have a lot of respect for the Deputy Prime Minister and Minister for Local Government because he has injected new thinking in local authorities in Kenya. However, I am surprised by part "b" of this answer when he says that the Ministry does not have a policy with regard to long standing tenants. This amounts to management by carelessness. The lack of policy is what has now turned all councils---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Olago! The Deputy Prime Minister and Minister for Local Government has indicated that there was an error there and he corrected it.

Mr. Olago: Thank you, Mr. Temporary Deputy Speaker, Sir, for your correction. Under those circumstances, how come in all the municipalities in Kenya, councillors are now asking Town Clerks to give eviction notices to tenants without regard to how long they have lived there? This is because the councilors want to put their relatives and friends in those council houses. What is the policy of the Ministry on this?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, I think it will be important that we have a specific case that comes up, for example, the case of Kiambu that we have been dealing with. I wish to state that at no time has the Municipal Council of Kiambu come forward to say that it wants to dispose of its houses. If it did that, there is a procedure that would have to be followed. An approval would be granted by the Office of the Deputy Prime Minister and Ministry of Local Government. However, no such request has come forward and no resolution has been passed by the Municipal Council of Kiambu. The point that Mr. Olago has raised is, indeed, valid but we would like to have a specific area. If there are some councilors who are unfairly evicting tenants, that shall not be permitted. I am ready to stop any eviction for purposes of installing a relative in any of those houses.

Mr. James Maina Kamau: Thank you, Mr. Temporary Deputy Speaker, Sir. What is the Ministry doing to make sure that the children of the long serving tenants are not thrown out once the parents die? We have seen, especially in Nairobi, when a long serving tenant of a City Council house dies, the children are immediately thrown out of that house.

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, I think there is a notion that needs to be corrected here because, with time, a mistake has resulted into something that has now been deemed to be a right. But, ordinarily, when a tenant enters into an agreement, it is either Musalia, hon. Olago or anybody with that particular council. There is no law that says that once that tenant passes away, automatically the house should be inherited by the family members, because this house belongs to the council and there would have to be a separate agreement with the family members. I know that out of compassion, many councils have allowed members of a deceased person to continue

occupying the houses. What is critical in these circumstances is that the rent must be paid.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Ms. Karua!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I did not hear the Minister accept that one of the cardinal responsibilities of a local authority is to provide basic services, one of them being housing. I want to let the Minister know that in advanced countries like the UK and elsewhere, if one has been a tenant of a council for a number of years, say 10 to 15 years, you are given an option to buy. In this case, these tenants have been in these houses for between eight and 10 years, they are nice tenants whereas the council wants to put its employees in those houses. Noting that it is the duty of the council, among other things, to provide housing for its residents would the Minister consider directing the council to repeal the eviction notices and to, instead, rent houses for its staff while waiting to expand these houses? Otherwise, failure to do that, Mr. Minister, you will agree with me that you have poverty of policy and leadership in the councils.

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, indeed councils are supposed to provide housing as one of their responsibilities. Nobody is running away from that particular aspect. But it is also common knowledge that all the time, these councils have been cash-strapped. Virtually all local authorities in Kenya have been cash-strapped and have not been investing in housing for a very, very long period of time. In this particular case---

Mr. Olago: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the honorable Minister to say that tenants can be removed so that employees can be housed, when employees are entitled to house allowance?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, sometimes in lieu of house allowance, officers can be housed and it also depends on the nature of the staff that are going to occupy certain premises. So, whereas the Kiambu case is a case that is difficult, but I think it is also important for me to put it on record that the council also has got to provide sufficient accommodation for its workers.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question by the honorable Member for Migori, Mr. John Pesa!

ORAL ANSWERS TO QUESTIONS

Question No. 496

BOREHOLES/DAMS REHABILITATED BY WATER MINISTRY

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

(a) to provide details of the successfully drilled water boreholes and dams rehabilitated by the Ministry in Migori constituency since January 2008; and,

(b) whether she could explain why Godkweru, Giribe, Mubachi dams; Mosara Secondary School and Godjajuok boreholes have not been constructed despite Government's commitment to construct them.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Order! Please, lower your levels of consultation so that the Minister can answer the Question!

Proceed, Madam Minister!

The Minister for Water and Irrigation (Mrs. Ngilu): Thank you, Mr. Temporary Deputy Speaker, Sir.

I beg to reply.

(a) I have provided details – and he has the details – of successfully drilled water boreholes and dams rehabilitated by the Ministry in Migori constituency and he can see that in his paper; and,

(b) Giribe and Mubachi dams have been constructed and are currently operational while the design for Godkweru Dam has been completed and the dam will be constructed in the 2010/2011 Financial Year. Mosara Secondary School borehole has not been drilled due to lack of good ground water prospects. My Ministry is identifying a better site for drilling of a replacement borehole. Drilling and equipping for Godjajuok borehole has commenced and will be completed during this financial year.

Thank you.

Mr. Pesa: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank the Minister for the answer she has given to the House this afternoon. But coming from Migori, I want to question the source of the information the Minister is giving to this House because most of these water projects mentioned here are coming from the lower part of Migori where there are always a lot of problems during drought. Some ladies or women, for that matter, have to travel seven kilometers for them to get water for their domestic use.

This Godkweru Dam, which the Minister says is under construction, is not the case because I come from that area. Actually, the Minister had sent the engineers from that area to go and do the survey work there and nothing was done up to now. So, I am wondering what is going to happen, especially after November, when we have the next drought in that area. I want to confirm to this House that the work which is purported to have been done in this area has not been done. Could the Minister confirm to this House that the source of this information is realistic, because I happen to come from that area?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I can confirm that. Honestly, the hon. Member is aware that I was in his constituency and we toured these areas where sometimes it is even very difficult to find underground water. We have mobilized those who are going to drill boreholes in that area and it will be done. So, it is already in progress.

Mr. Pesa: On a point of order, Mr. Temporary Deputy Speaker, Sir. When you talk about dams, I do not think the idea was getting the source of the water. You are supposed to dig dams and capture water during the rainy season, and this is the case with Godkweru that I am talking about.

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

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, is the Minister in order to mislead the House that she cannot come and construct the dams in this constituency, where people are suffering at the moment?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I am not saying that I cannot construct dams. I am saying that we are going to construct dams and we are mobilizing the teams that are going to do so. It is only that sometimes it rains before we put all the equipment in place. When that happens, we stop and wait until the rain has passed, then we start again. So, I am actually informing the House the correct way of doing things.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, the problem of sewerage is not unique to North Imenti. A good example is Ruiru Town, just 18 kilometres from Nairobi. If you were to get a cup of water from Ruiru River, a quarter of it would be sewerage. When is the Minister going to make sure that Kenya has sewers, instead of having women and children drinking sewage from rivers?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member is lost. We are not yet on that Question. Could he check for the right Question, so that he becomes relevant in the House?

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Mr. Pesa!

Mr. Pesa: Mr. Temporary Deputy Speaker, Sir, you have heard the Minister say that he came to my constituency after our indication, which I quite appreciated. Could I ask her to send her personnel to Migori, as soon as possible, so that the sinking of the boreholes and the construction of the three dams that were promised by the Minister are undertaken before the local residents get into problems during the next drought?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I want to give that undertaking because; having gone to Migori, I realised that it is one of the most deserving and difficult areas in this country. Even though Migori is in Nyanza area, some of the people there suffer as much as some of the residents of ASAL areas. So, I undertake that the sinking of the boreholes and the construction of the dams is going to be done.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question, Dr. Nuh!

Question No.397

LIST OF LARGE-SCALE SEED PRODUCTION
COMPANIES IN KENYA

Dr. Nuh asked the Minister for Agriculture:-

(a) to provide a list of large-scale seed production companies in the country;

(b) to state how many tonnes of maize these companies are currently holding in reserve; and,

(c) what plans the Ministry has to ensure that the country does not face shortage of maize seed and other seeds for planting.

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

(a) I hereby table a comprehensive list of registered seed companies which undertake large-scale seed production.

(Mr. Ndambuki laid the list on the Table)

(b) These companies are holding an estimated 1.7 million kilogrammes of already harvested maize seed in their reserves, which will be processed to meet the short and long rains requirements.

(c) The Ministry is currently taking the following measures to ensure that the country does not face shortage of maize seed, and other seeds, for planting:-

(i) overseeing the timely processing and the subsequent release of maize seed totalling 1.7 million kilogrammes held by seed companies for the short rains season for planting;

(ii) processing the importation of 1.2 million kilogrammes to supplement the seed held in reserve by seed companies;

(iii) undertaking the certification of 10,947 hectares under seed with an expected output of 19.7 million kilogrammes; and,

(iv) finalising the certification of 8,906 hectares, which will produce an additional 35,635,200 kilogrammes of maize seed for planting during the 2011 long rains season.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Loud consultations)

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Kenya Seed Company is the Government agency, which would ordinarily be a regulator of the market in terms of what it stores and what it imports. The Assistant Minister has talked about 1.7 million kilogrammes in reserve. How many kilogrammes of these reserves are held by Kenyan Seed Company Limited?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, could the hon. Member repeat the question?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Members! Could you, please, consult in lower tones to enable hon. Members' questions to be heard by Ministers? Could you repeat the question for the benefit of the Assistant Minister, Dr. Nuh?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Kenya Seed Company Limited is a Government agency under the Ministry of Agriculture, and it should ordinarily be the one regulating what it stores and what it imports. How many of the 1.7 million kilogrammes of reserve of maize seed is the Kenya Seed Company Limited holding at the moment?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, the Kenya Seed Company Limited is the one holding the 1.7 million kilogrammes of maize seed. However, there are other companies which deal in seed. Their names are on the list I have just tabled. So, the hon. Member can have a look at them.

Dr. Munyaka: Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister has confirmed that farmers have enough seeds, could the Government give us the programme of how it is going to assist farmers who cannot afford to buy seeds, so that they can plant, especially in the lower Eastern region, where we have many poor farmers?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, we do not have a programme of giving seeds to every needy farmer in this season. However, we are giving

the traditional seeds to 52 districts in Central Province and some parts of Eastern Province, where rain is now expected. That will cost the Government Kshs116 million.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I am afraid that Question Time is running out.

Last question, Dr. Nuh!

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the essence of this Question is that companies are paid very low prices for seeds when they contract local farmers, so as to create a vacuum for them to import seeds at a higher price and sell the same to the farmer at a higher price. What is the Assistant Minister doing to ensure that this does not happen, and that farmers are paid a good price for the seeds they are contracted to produce?

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, currently, we are contracting farmers from all over the country, so that they can do seed multiplication. I can make reference to some areas where we have paid a lot of one. I remember that in one location last year we paid over Kshs20 million. The Government is doing all this to reduce the amount of seed being imported into this country. So, the Government is taking action in that regard.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question, Member of Parliament for Konoin!

Question No.478

UNPAID SALARY ARREARS OF FORMER
TEA FACTORIES EMPLOYEES

Is Dr. Kones not here? We will come back to the Question.
Next Question by the Member of Parliament for Ndaragwa!

Question No.485

VEHICLES OF RETURNING RESIDENTS
EXEMPTED FROM 8-YEAR RULE

Mr. Kioni asked the Minister for Industrialization:-

(a) to table a list detailing the number of vehicles belonging to returning residents of Kenya which have been exempted from the eight-year rule for the last 5 years, indicating each vehicle's year of manufacture, year and month of importation, name and passport numbers of the beneficiaries; and,

(b) whether he could also provide details of the names, passport numbers, dates of departure from Kenya, respective return dates and the organization each returning resident was working for.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, before the Minister replies, I would like to inform you that I have not received a written answer.

The Temporary Deputy Speaker (Mr. Imanyara): Would you like to have a written answer?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I would have preferred to receive a written answer way before now.

The Temporary Deputy Speaker (Mr. Imanyara): You are entitled to a written answer. So, I will defer the Question to tomorrow, so that the Minister can provide a written answer to the Questioner.

The Minister for Industrialization (Mr. Kosgey): On a point of order, Mr. Temporary Deputy Speaker, Sir. I was, in fact, going to request for more time because, if you look at part (b) of the Question---

The Temporary Deputy Speaker (Mr. Imanyara): How much time are you requesting for?

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I am asking for up to Thursday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kioni, is next Thursday okay with you?

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, this Question has been on the Order Paper for quite a while now. So, I will be happy if he answers it this week.

The Temporary Deputy Speaker (Mr. Imanyara): The Minister has said that he needs time up to Thursday next week. He said that he does not have certain information.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, let him answer it on Tuesday, next week then.

The Temporary Deputy Speaker (Mr. Imanyara): Minister, what about Tuesday, next week? Can you answer the Question then?

The Minister for Industrialization (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I will try.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, it is not that you will try! You will answer the Question on Tuesday, next week.

(Question deferred)

Next Question, Member of Parliament for Eldama Ravine!

Question No.486

BAN ON GRAZING WITHIN GOVERNMENT FORESTS

Mr. Lessonet asked the Minister for Forestry and Wildlife:—

(a) what informed the decision to ban grazing of animals within Government forests; and,

b) what urgent action he will take to mitigate the impact of the decision on livestock farmers, specifically in Koibatek District.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The decision to ban grazing in Government forests was arrived at after it became apparent that grazing in forest reserves was causing extensive damage to planted

young seedlings and interfering with natural re-generation, thus leading to forest destruction and environmental degradation.

(b) As an urgent measure to mitigate the impact of the decision on livestock farmers, my Ministry is encouraging livestock farmers, who were formerly grazing in the forests, to adopt the system of cut-and-carry, whereby instead of driving animals to graze in the forest, the farmers are allowed to cut and carry grass from the forests to feed their animals outside the forests. This system is being encouraged throughout the country including Koibatek District where the Member comes from.

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, the answer by the Minister is definitely not acceptable. I want to know how the Minister will find it possible to cut and carry grass for, say, 100 animals. That is the average herd we keep and I wonder how you cut and carry grass for 100 animals?

Dr. Wekesa: My Ministry does not undertake to accommodate all the animals belonging to a Mr. X or Y. We expect that farmers who live near the forest will practice good animal husbandry and keep enough animals to feed on their farms and the balance can be obtained from our forests. We do not expect all the animals to come into the forest.

Mr. Chepkitony: Thank you, Mr. Temporary Deputy Speaker, Sir. I find it very odd for the Ministry to ban grazing in the forest and yet the Forest Act of 2005 allows the communities living around the forests to graze their livestock there as one of the benefits of living around the forest. The law allows them to utilize forest grazing and also pay for it. Why has the Ministry decided to ban grazing in the forest and yet it is allowed?

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, indeed, it is true that those who live near the forest have an opportunity to benefit from the forest. There are many benefits and it is not only grazing. There is the issue of firewood, medicinal plants and cultural practices. So grazing is just part and parcel of many advantages that those who live near the forest can get. But having said so, I want to encourage every Kenyan that lives near the forest to join the forest associations that have been formed.

These forest associations are very useful because they can address these issues of people coming from very far away; people who are not neighbours of the forest but who come and graze in the forest. If a Kenyan is a member of the Community Forest Association, this issue can be discussed at that local level. Indeed, the members of this association can regulate how many animals from each member can be allowed into the forest. What we have experienced is that a lot of animals are coming into the forests. Hon. Members, you are aware that our forest cover is below 2 percent and the effort of the Government through my Ministry is to ensure that as we move towards 2030, we must attain 10 percent of forest cover. If we allow too many animals in the forest, they trample on the seedling and make it difficult for us to attain this 10 percent.

Mr. Kizito: I would like, first of all, to thank the Minister for the answer he has given but then I want to make a few clarifications because, one, I am the most affected here because I live in Shinyalu Constituency, Kakamega District, that has the biggest and the largest natural forest and also Malaba which is my neighbour and hon. Shitanda can attest to that.

In the first place, the Forest Act of 2005 allows cows to graze in the forest. Was there any amendment towards that or it was just a unilateral decision by the Ministry to stop animals from grazing in the forest? Secondly I would also like the Minister to know

that banning animals from grazing in the forest has caused a big problem to the people who live around the forest. This was a source of livelihood for my people of Shinyalu. Actually as we speak now, my people are suffering. Is it possible for you to reverse this to help our people? Is the Minister aware that the forest officers are selling grass at a very expensive price causing a problem to the people of Shinyalu? So could he consider reversing that? Is it possible for you to bring those issues here so that we can discuss together as a family to see the way forward?

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, I agree that the Forest Act 2005 allows for grazing in the forests. What we have experienced particularly during the last drought is that very many animals came into the forest and they caused a lot of destruction. This is a temporary measure. We want community forests associations to partner with us and educate all those who live close to the forest of the need to have a minimal number of livestock. Obviously, as a farmer, you know how much land you have got and you know how many animals you should have on your land. Similarly with the forest we cannot allow all these animals to come into the forests because it defeats the very purpose that this Act is aiming at.

So I agree that this is going to be a temporary measure. My Ministry is going to work very hard in consultation with the Ministry of Environment to make sure that all those who live next to the forest have joined community forest associations and we are going to use these associations to monitor the number of animals. But may I also say that grazing in the forest is something that has been going on for a long time. There are areas in the forests which are grazed and these areas can be grazed but when we have too many animals there, then there is not even enough grass for all these animals. I have been in Shinyalu and I have actually seen that the practice of cutting and carrying grass is being practiced in Shinyalu. I have been there physically and I have seen farmers coming and carrying grass away going to feed their animals.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, the Minister should be responsible for the facts of the Statement he has issued. In my constituency, we have Ndaragwa Forest and within it, there is not a single seedling that has been planted by the Kenya Forests Services (KFS) and yet, that ban affected us. The Minister has given the justification for the ban on the basis that the seedlings that have been planted are being destroyed by animals. I think it is important for the Minister to come out clearly on this because those in Ndaragwa have also been affected by that ban and yet, no seedlings have been planted in the forest. Secondly, farmers themselves have planted more tree seedlings within their land than the KFS. There is no justification for that ban!

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, we took that decision to affect all Government forests in the country. As I have said, this is a temporary measure. In future, we are going to allow because the Act is still there. We will make sure that the programme is well co-ordinated between ourselves and community forest associations.

Mr. Lesonnet: Mr. Temporary Deputy Speaker, Sir, you have seen the interest that this Question has generated among hon. Members. This tells you that, at the end of the day, this is a very punitive measure against Kenyans. I just wish the Minister could have the same mercy on the farmers just like he has for wild animals like buffaloes and zebras, which are now dominating the forests in Koibatek. I do not know which method he used to leave zebras, buffaloes and elephants to continue grazing in the forest, while he is frog-matching away his own brothers and sisters. That is the question I want the

Minister to respond to. He has just indicated that, that is a temporary measure. Is that temporary measure supposed to last for one week, two weeks or one month? Just give us the guideline so that we can know what to do!

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, zebras, elephants and all the grazing wild animals are very useful to this country. Those zebras bring many visitors to our country and---

Mr. Lesonnet: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is definitely wrong when he says that zebras and elephants bring in more money than the cows.

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, I was not going to say that they bring more money. I was just going to say that all those wild animals are very useful to Kenya and we must also accommodate them. But let me impress upon my colleague. I have been to his constituency and I know it very well. That is a temporary measure and I think that within three months, we should come up---

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Wekesa, he wants to know the period. How temporary is temporary? Is it one week, three weeks or one year?

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, within three months, we should come up with a proper organization.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, in view of a Ministerial Statement that is coming and the business listed on the Order Paper, the three Questions that have not been asked; that is Question Nos.276 by Mr. Ruteere, Question No. 487 by the Member for Igembe North and Question No. 499 by Mr. Mwangi will---

(Loud consultations)

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, we cannot hear you!

The Temporary Deputy Speaker (Mr. Imanyara): Order hon. Members! I have said that in view of time limitations, the three Questions that have not been asked will be listed on the Order Paper for next week on Tuesday, Wednesday and Thursday in that order. But if you wish, for some reason, to have those dates changed, please approach the Clerks at the Table. They will re-list the Questions for you. As for Ministerial Statements, I have indications from Mr. Kabando wa Kabando. Are there any others? I will take Mr. Kabando wa Kabando, then the Ministry of State for Defence and then the Office of the President. Those are the three Ministerial Statements!

Mr. M'Mithiaru: On a point of order, Mr. Temporary Deputy Speaker, Sir. I had raised a Question by Private Notice last week. It is on the army recruitment and the people reported yesterday. I have a case that has been proven; two people who were recruited in my district did not come from there.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I appreciate what you are saying. We can change the orders so that your Question can come first, tomorrow if the Minister is ready, in view of that urgency. He is ready and so your Question will be on the Order Paper tomorrow afternoon.

Question No.276

EXPANSION OF MERU SEWERAGE SYSTEM

(Question deferred)

Question No.487

NUMBER OF OFFICERS RECRUITED INTO ARMED FORCES

(Question deferred)

Question No.499

CONSTRUCTION OF KARWINU-MARAGUA
RIVER –GACHARAGE ROAD

(Question deferred)

MINISTERIAL STATEMENT

RESTORATION OF SOCCER GLORY IN KENYA

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, on Tuesday, 28th September, 2010, the Member for Rarieda, Eng. Gumbo, rose on a point of order and sought a Ministerial Statement from the Ministry of Youth Affairs and Sports on the measures that the Ministry is taking to bring back soccer glory in Kenya.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Allow the Assistant Minister to make his Statement!

The Assistant Minister for Youth and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, the hon. Member wanted the Ministry to clarify what we are doing about the demonstrated inability of Football Kenya to manage football in this country and why the officials of Football Kenya should remain in office. Secondly, he sought to know what the Ministry is doing about Football Kenya's perennial inability to appoint a coach who can create a winning team from the millions of Kenyan youth who play and love soccer. He asked how the Ministry intends to tackle the reported disharmony between some players in the Harambee Stars team and what steps the Ministry is taking to develop soccer in this country with particular relevance to motivation of players and their welfare.

(Loud Consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! I know you are keen to go to the next Order. But we cannot reach there before you allow Ministers to give their Ministerial Statements. Please give them a hearing!

The Assistant Minister for Youth and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, I beg to state the following:-

It is true that football standards in Kenya have sunk to an all time low given the current FIFA rankings, where Kenya is placed at No.114. Football Kenya is currently managing soccer in Kenya as a private company, limited by shares. Unfortunately, that is the body that is recognized by FIFA. In the recent past, there have been complaints about Football Kenya's inability to manage soccer in this country. Several stakeholders have continuously complained of being left out in the management of sports, like soccer, hence the persistent wrangles in the sector. That is further aggravated by the fact that FKL has not established proper structures to run the sport up to the grassroots level and FKL's elections, which are long overdue, have not been held. They are set for November 2010 without any guidelines and, therefore, cannot be inclusive.

The Ministry has put in place measures to ensure that the wrangles will come to an end in the shortest time possible. Those measures include the re-launching of the sports policy which was passed in this House in 2005 to ensure the smooth running of all the sports bodies. There will be submission to this House of the Sports Bill to address the most concrete and deep seated problems in soccer which include wrangles, mismanagement of finances, illegitimacy of all office holders and lack of credibility of the same. In addition, the Ministry is actively engaging FIFA to press for an inclusive election that will herald a new office, elected fairly and democratically and which is representative, from the grassroots. That office, I hope, will bring sanity to soccer in this country. To this end, my Ministry, in consultation with stakeholders, is compiling a list of all active football clubs in Kenya to maintain an up to date register.

Mr. Temporary Deputy Speaker, Sir, hon. Members may wish to know that the decision for FKL officials to remain in office has been informed by the knowledge that any action against FKL by the Government may make FIFA to ban soccer in Kenya. It is important to note that FIFA's ban can jeopardize our African Cup of Nations Campaign and the Under 20 qualifiers, which are both ongoing. If this happens, a lot of players may miss opportunities to further their professional career outside the country. At the same time, FIFA has directly expressed to me the desire to see an all inclusive election in Kenya within the next three months.

On the appointment of the coach, it is a well known fact that the FKL leadership has had wrangles regarding the appointment of the national coach and mishandled this matter. They are unable to put in place proper mechanisms of appointing coaches for our national team. It may be worth noting that the current poor performance by the national teams, that is Harambee Stars, the Under 20 and the Under 17 is not entirely as a result of poor selection of coaches, but rather the overall mismanagement of soccer in Kenya.

Currently, the appointment of national football coaches is the responsibility of the FKL. The Government, however, is working hard to ensure all inclusive elections are held, as already stated, and that proper management structures are introduced in the association; this will herald a proper mechanism of hiring the national coach.

On the question of disharmony between players, reports of disharmony among the team players have been attributed to delegation---

(Loud Consultations)

Mr. Ruto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Although what the Assistant Minister is trying to tell us is not even inspiring, we still cannot hear him because hon. Members are consulting too loudly. Could we request the House to be in order? Could we also ask the Assistant Minister to be more inspiring in his presentation?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Please give the Assistant Minister a hearing.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Temporary Deputy Speaker, Sir, I may not help Mr. Ruto, who has little or scant knowledge of football.

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

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, reports of disharmony amongst some of our players have been attributed to the head of delegation during the team's last outing to Guinea Bissau. The team's coach and the players have indicated that there does not exist any disharmony, and the two players who were mentioned as having disharmony actually enjoy very close relationship on the pitch and off the pitch.

On measures that we are taking, I have mentioned that we are putting in place a very structured formula to ensure that we bring soccer to a stable, concrete and enduring structure that will enable management to be proper, including finances and leadership.

Mr. Speaker: Hon. Members, we will allow three requests for clarification beginning with Eng. Gumbo.

Eng. Gumbo: Mr. Speaker, Sir, while I thank the Assistant Minister for the statement, you realize that the he has done nothing, other than to tell us the things we hear about all the time. Soccer, as it is today, is not just a sport. Soccer is a passion. In fact, there are countries in this world where soccer is equated almost to a religion and Kenya is no different. The Assistant Minister knows that every time Harambee Stars loses, hundreds of thousands of Kenyans suffer heartbreaks of hefty proportions. What the country is asking of you is fearless action and resoluteness. Please, it is not time for mere words. It is disheartening to hear the Assistant Minister come here and all he is doing is lamenting about the possible actions FIFA can take.

Mr. Speaker, Sir, we know that the problem in football in Kenya actually starts with FIFA itself. FIFA, as it is known the world over, likes to deal with spineless organizations like the FKL, because they are useful as voting machines every time the officials of FIFA want to extend their stay in office.

It is time that, as a country we called FIFA's bluff. Other countries have done it. The Assistant Minister knows that when Uganda was facing the same problems, they survived only by kicking out the officials. FIFA gave them a two-year ban but they came

back a much stronger football nation. Today, as we speak, Uganda is the best placed soccer nation in East and Central Africa.

The first clarification from the Assistant Minister is this: When will he call FIFAs' bluff by disbanding both the KFF and the Football Kenya Limited, which have done nothing but cause Kenyans endless heartache?

Secondly, you heard the Assistant Minister confirm that the FKL is a private company. Could he clarify to the nation on what basis then is the Government giving public funds to the FKL, a private company, to manage soccer on behalf of the Kenyan public?

My last clarification is this: Although the Assistant Minister says that the appointment of coaches is not part of the problem of Harambee Stars, I want to submit that in the last 10 years the appointment of coaches in Kenya has been an absolute circus. In the last 10 years, this country has had 16 football coaches starting with James Siang'a, Reinhardt Fabisch, Kadenge, Mulei, Twahir Muhidin, Mohammed Kheri, Mulei, Mulama, Mulei, Olaba, Mulei, Francis Kimanzi, Ogola, Hey, Muhidin and finally Mulei.

This amounts to an average of a coach every eight months. How can you keep changing coaches at such a rate and expect to achieve anything in football? It is not possible! The Assistant Minister knows that one of the demoralizing factors is the relatively low wages we pay local coaches compared to foreign coaches. Jacob "Ghost" Mulei was the predecessor and successor of Bernard Lama. Could the Assistant Minister explain to the country, using those two examples, the disparity in payment of local and foreign coaches, and tell the nation if it is not a factor for the low standards of football?

Mr. Shakeel: Mr. Speaker, Sir, I would like a clarification from the Assistant Minister as to why this country is held to ransom by FIFA, and as to why Mr. Mohammed Hatimy and Mr. Nyamweya should not be charged with treason because they have jeopardized the future and the image of this country.

Mr. Nyamweya: On a point of order, Mr. Speaker, Sir. Perhaps a clarification might be made as to which Nyamweya he is referring to. I trust he is not alluding to me.

(Laughter)

Mr. Speaker: Member for Kisumu Town East, that is legitimate. Which Nyamweya are you referring to?

Mr. Shakeel: I am not referring to my brother, Mr. George Nyamweya. I am referring to Mr. Sam Nyamweya and Mr. Mohammed Hatimy. They have actually committed acts that have jeopardized the future and image of this country. They have caused us great harm. They have made our football to be banned by FIFA. Why has the National Security Intelligence Service (NSIS) and other departments not investigated these gentlemen and charged them with treason?

Mr. Speaker: Order! The Member for Kisumu Town East, you know that our Standing Orders provide that we do not just make generalized aspersions against either Members or citizens of this country without substantiating. Why are you saying that Mr. Sam Nyamweya should be charged for treason? What wrong act has he done that he can be suspected for treason?

Mr. Shakeel: Mr. Speaker, Sir, both gentlemen; Mr. Mohamed Hatimy and Mr. Sam Nyamweya have been the direct cause of the problems that we have been having with the FIFA over the past ten years.

Mr. Speaker: Order, hon. Members! Hon. Shakeel, do you know the ingredients that go into the offence of treason? Are you able to define treason?

Mr. Shakeel: Mr. Speaker, Sir, it is those acts that will put the country into jeopardy.

The Assistant Minister For Foreign Affairs (Mr. Onyonka): On a point of order, Mr. Speaker, Sir. I think it is absolutely unacceptable in this House that the Member for Kisumu Town East can actually pick an individual, who has not broken any law, and impute improper motive on him in this House. He must withdraw!

Mr. Speaker: Order! It is not for you to decide whether or not a Member withdraws. In fact, that is why I was putting the Member to account as to why he is making that suggestion.

The Member for Kisumu Town East, I am afraid I am not satisfied that you have made ground to make that very strong statement that Mr. Sam Nyamweya and Mr. Hatimy should be charged for treason. So, you must withdraw. I do not see that you have either basis for it.

Mr. Shakeel: Mr. Speaker, Sir, I withdraw and suggest that we curse them for the actions that they have made.

Mr. Speaker: Very well! That is acceptable!

The Minister for Education (Prof. Onger): On a point of order, Mr. Speaker, Sir. With all humility, is the Member for Kisumu Town East in order to impute improper motives to a non-Member of Parliament without a substantive Motion in this House and, therefore, making judgmental decisions on behalf of this House? Could he withdraw and apologize?

Mr. Speaker: Order, hon. Members! I have already held the Member for Kisumu Town East to account for any reckless statements made. I think that reprimand and subsequent withdrawal by the Member for Kisumu Town East is sufficient and caters for our purposes as provided for by the Standing Orders.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): On a point of order, Mr. Speaker, Sir. If you heard the Member for Kisumu Town East, he also said "let us curse them." Is this a House for cursing people or making laws? I think that is a grave statement.

Mr. Speaker: Order, hon. Assistant Minister! I think that is stretching it too far. I do not see that it is the intention of the Member for Kisumu Town East to get the House to curse Mr. Sam Nyamweya or Mr. Hatimy for that matter. The Member for Kisumu Town East knows very well that the House does not take any actions unless there is a resolution of the House. So, we will treat that, I think with the contempt that it deserves. Let it rest where it is. The House is not resolving to curse any citizen of this country. If the Member for Kisumu Town East wishes the House to do so, then he is at liberty to bring a substantive Motion for the House to resolve accordingly.

Mr. Ruto: Mr. Speaker, Sir, I would like the Assistant Minister for Youth Affairs and Sports to clarify the following. First of all, he has admitted that the performance in soccer at the moment is at its worst. Could he clarify also whether the disharmony in the leadership of the Ministry where his fellow Assistant Minister and himself are completely

at variance with the Minister, has also contributed to the disaster in football? Has the leadership at the Ministry level also contributed to the lack of safety measures in our stadia to the extent that we have recently lost a number of fans?

Mr. Njuguna: Mr. Speaker, Sir, could the Assistant Minister indicate to this House what mechanisms or plans the Ministry has put in place to reclaim the soccer glory in this country of the 1970s and 1980s when we had versatile players like Allan “Zico” and others?

Mr. Sambu: Mr. Speaker, Sir, to qualify to run international football in the country, a company or an association has to apply to both the Confederation of African Football (CAF) and FIFA for recognition. I would like the Assistant Minister to clarify whether or not FKL applied for membership of CAF and FIFA and that both organizations have accepted and recognized FKL.

Secondly, given that both FIFA and CAF can only recognize one association at a time, what about the Kenya Football Federation (KFF)? Could the Assistant Minister table the evidence to that effect?

Dr. Nuh: Mr. Speaker, Sir, we realize that we are part of the international community even when it comes to football. It is not lost on us that this country has the potential for football. But I would want the Assistant Minister to clarify who calls the shots when it comes to the management of football; is it FIFA or this country? Secondly, could he also clarify whether the Ministry has initiated any legislation to fast-track the management and issues that have been dogging FIFA for a very long time and what the Ministry intends to do about the poor state and dilapidation of the stadia that is causing discouragement for our football players?

Mr. Speaker: Hon. Members, before the Minister responds, you will notice that we have accommodated Members other than the sponsor of the Statement to seek more than one clarification. For the future, Members should be guided that only the sponsor of the Statement is allowed more than one request for clarification. Other Members would normally be allowed just one request. Note and, please, comply in future so that we can expedite the business of the House.

Mr. Assistant Minister, you may respond!

The Assistant Minister for Youth Affairs and Sports (Kabando wa Kabando): Mr. Speaker, Sir, regarding Eng. Gumbo’s questions, we have already submitted to the Cabinet a refined Sports Bill. Relevant efforts are being made for this Bill, which is very comprehensive and going to renew the way sports is managed in this country, to be enacted. It includes the leadership, financing and marketing of sports. We are looking forward to Members of Parliament supporting this Bill, which will be introduced, so that we can all collectively make a difference.

Mr. Speaker, Sir, secondly, the Member asked whether we are in contact with FIFA. We have been in contact with FIFA in the last one month. We have spoken to them directly. We have corresponded with them. They have indicated willingness to support the Ministry’s efforts in the next three months to carry out democratic elections with grassroots participation, so that there is a legitimacy and ownership of sports in this country.

Mr. Speaker, Sir, as I have already indicated in the Statement, in terms of the coaches, we have initiated a process in every constituency by appointment of sport officers for all the constituencies. A few that are remaining will be rolled out in this

financial year, so that at the district level and constituency level, we have somebody accountable for training. In that regard, we are also initiating three youth empowerment centres in every constituency linked to ploytechniques, and their mandate will include training of coaches at the grassroots level.

Eng. Gumbo: On a point of order, Mr. Speaker, Sir. I asked for a very specific clarification.

The Assistant Minister, in his statement, stated very clearly that FKL is a private company. I asked specifically, on what basis, therefore, is taxpayers' money being used to fund a private company? The other clarification I sought is that it is known that this country has achieved greater success under local coaches. One of the reasons people suspect why we do badly in soccer is because we tend to pay foreign coaches much more than local coaches. I asked him to clarify whether this could be the reason for the low standard of soccer in Kenya. He has not clarified any of those issues.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I was to cover that in the next portion. It is true that the FKL is a private company. As indicated, it does not enjoy public goodwill and legitimacy.

We also have another organization, the Kenya Football Federation (KFF). It has some branches in Kenya. Again, these branches are not legitimate. That is why I said we have been in communication with FIFA so that within the next three months, we have democratic, open and transparent elections. Under a new structure and with the passage of the Sports Bill, which we are fast tracking, we will have legitimacy leadership of football in this country.

Mr. Speaker, Sir, secondly, in regard to Eng. Gumbo's concern, we, as a Ministry, have already indicated our discomfort with the coaches that have been hired irregularly in the past. Therefore, it is naturally expected that this is something that will not recur in the new dispensation, the new law and the newly launched sports policy. Therefore, this matter will be revisited and corrected.

Mr. Speaker, Sir, hon. Ruto asked whether disharmony in the Ministry is the cause of the problems. I want to assure this House that with the appointment of Dr. Paul Outoma as the Minister for Youth Affairs and Sports in the last two months, Kenyans have seen a clear effort to communicate positively in all sectors of sports, particularly to firmly indicate what steps we are taking, as I have already reiterated, to correct the past mistakes. Therefore, at the Ministry, we are working as a team; we are united, we are focused and we are going to deliver.

Hon. Njuguna asked the efforts we are making to bring back soccer to its past glory. As I have said, the new sports policy is one such measure. It will include a sport lottery. The Stadia Management Board will improve management of stadia in the country. Last month, they launched a strategic plan which is aimed at upgrading either an existing or establishing of a new stadium in all the 47 Counties. We want to devolve these facilities in the grassroots level as we improve the existing ones.

Mr. Speaker, Sir, as I speak, we are already upgrading Moi Kasarani International Sports Stadium with modern seating arrangements and e-ticketing will be installed there. In other stadia at the Coast, Mombasa Municipal Stadium, Eldoret Kipchoge Keino Stadium, Kisumu Municipal Stadium and in Central, we are looking for the ASK to release a title so that we can establish a stadium in a modern way there.

Mr. Sambu asked how the FKL applied. After the squabbles between the factions in KFF, FKL applied to be recognised by FIFA. In the absence of organization in KFF, that was permitted. Our communication and request to FIFA is that this recognition be withdrawn and both FKL and KFF be disbanded, so that we establish a new outfit which is able to lead and manage soccer in the best interest of our people.

Mr. Speaker, Sir, finally, Dr. Nuh, Member for Bura Constituency asked what legislation we are bringing. I have already mentioned the effort of upgrading of existing stadia and establishing others in all the constituencies. We will also be tabling the Sports Bill which I request the hon. Members to support fully.

Thank you.

Mr. Speaker: Order, hon. Members!

Hon. Members, all other business relating to Order No.9 will now be deferred to later on, this week and early next week because of the nature of the balance of the business that is before the House that needs to be disposed of during this sitting day.

Next order!

MOTION

ADOPTION OF REPORT ON PROPERTIES BELONGING TO KENYA'S DIPLOMATIC MISSIONS

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Procurement, Disposal and Construction of properties of Kenya's Diplomatic Missions in Egypt, Japan, Nigeria, Belgium and Pakistan laid on the Table of the House on Tuesday 12th October, 2010.

(Mr. Keynan on 21.10.2010)

*(Resumption of Debate interrupted
on 21. 10. 2010)*

CONSIDERED RULLING

MEMBERS SHOULD NOT INTRODUCE EXTRANEIOUS MATTERS DURING DEBATE ON REPORT BY DEFENCE AND FOREIGN RELATIONS COMMITTEE

Mr. Speaker: Before the Secunder of that Motion takes the Floor, I have this communication to make.

Hon. Members, last Thursday, 21st October, 2010, during the debate on the Motion for of the report of the of the Departmental Committee on Defense and Foreign Relations on the Procurement, Disposal and Construction of properties of Kenya's Diplomatic Missions in Egypt, Japan, Nigeria, Belgium and Pakistan laid on the Table of the House on 12th October, 2010, hon. Moses Wetangula, Minister for Foreign Affairs, rising on a point of order, sought the directions of the Chair as to whether hon. Adan Keynan, the Mover of the Motion was in order to make certain remarks.

The gist of the Minister's objection is two-fold. Firstly, the Minister objected to reference by the hon. Keynan to past reports of Committees of this House, which have been appropriately dealt with by the House, acted upon by relevant agencies and put to rest. The Minister additionally objected that the hon. Keynan was making irrelevant and untrue statements in reference to those reports. The Minister urged the Chair to expunge those statements from the record.

The second objection of the Minister was that the hon. Keynan was imputing improper motive on the Minister's personal conduct and personal character without a substantive Motion to that effect, when what is in issue before the House is a report of a Committee of the House relating to the operations of the Ministry of Foreign Affairs, not the Minister for Foreign Affairs, and in respect of which he was prepared to respond at the appropriate time as the responsible Minister.

Hon. Members, the Chair considers that it is important to unequivocally give directions on the two issues raised so as to ensure that the Motion before the House is debated and disposed off according to the rules and procedures of the House. To do so, it is first necessary that I make some observations on the two objections raised. On the first objection relating to certain references made to past reports of committees of this House, it is important to note that such reports are the properties of the House and are freely in the public domain because they are now public records. Accordingly, there is no objection to a Member making reference to the records of the House.

(Applause)

This is, however, subject to some limitations. References made to such reports as, indeed, all statements purporting to be statements of facts made by a Member on the Floor of this House must be correct and accurate. Indeed, Standing Order No.82 makes it clear that a Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may, indeed, be required to substantiate any such facts instantly. Additionally, all contributions to any Motion must, of course, be relevant to matters in issue before the House.

On the second objection raised by the Minister with respect to imputation of improper motive and allegations against his personal conduct and character without a Substantive Motion, the letter and spirit of the Standing Orders need to be put in perspective. The Standing Orders require that every Member be allowed a fair chance to know of any allegations of improper motive proposed to be leveled against him or her and he or she be allowed a fair chance to respond to those allegations. That is why Standing Order No.79 Paragraph 4 provides that no Member shall impute improper motive to any other Member except upon a specific Substantive Motion of which, at least, three days notice has been given, putting in question the conduct of that Member.

It is, however, important to note that the Motion on the Report of the Committee is a Substantive Motion of which the requisite notice has been given. A few significant matters of principle arise which I think are important for hon. Members to observe as we proceed with the disposal of this Motion. The first of these matters is the value of the work done by the Committees and the need to accord respect and dignity to their work. Committees of the House, when they discharge their respective mandate, do so as agents of the House. When they report back, it behooves the House to pay keen attention to their

findings and recommendations, deliberate and make appropriate resolutions on them. It is the role of the House and the Chair to facilitate the work of the Committees of the House and to ensure that they properly discharge their mandate. Neither the Committees nor individual Members should be obstructed in any way in deliberating any work done by the Committees.

The second point is the need for fairness and decorum in the proceedings of this House. Every Member and, indeed, all persons have a proprietary interest in their reputations. It is, therefore, important that careful thought be given to any aspersions intended to be cast on any person's conduct and that the maker of any such statement is prepared to vouch for its veracity. The third and final point concerns the importance of the House being seen to discharge its mandate with diligence and attention without undue resort to extraneous matters. I think that it is useful that when there is a Report of a committee up for discussion by the House, contributions to the debate stay faithful to the matters considered by the Committee, the conclusions reached and the recommendations made. Debate on such Motion is not the occasion for fresh investigation, introduction of new evidence or the making of new recommendations not linked to the work already done by the Committee.

Hon. Members, applying the tests, I have observed the above and I make the following findings:-

First, the reports referred to by hon. Adan Keynan are records of this House and it is not objectionable to make reference to them. However, any such reference must be accurate, fair and relevant. In the present case, I have had the opportunity to look at the Report of the Public Investments Committee and, in particular, the 12th, 13th and 14th Reports, which hon. Keynan referred to. Without going into the minute details of each Report, I find that while some references are made in the Reports to hon. Moses Wetangula, the statements made by hon. Keynan are not accurate. In particular, the statement that one of the reports quoted by hon. Keynan on the Floor of the House had a recommendation that hon. Wetangula should be barred from holding public office is not correct.

Additionally, I uphold the objection of hon. Wetangula that the statements are also not fair on account of those matters having been appropriately dealt with and disposed off. The question of whether the statements made are relevant in this matter become of little consequential on account of the finding that they are inaccurate. In this regard, I, therefore, rule that so far as the references to the reports were concerned, hon. Keynan was out of order, only to the extent that I have found.

On the second objection, I rule that the Motion on the Report is a Substantive Motion for adoption of the Report of the Departmental Committee on Defence and Foreign Relations on the subject of Procurement, Disposal and Construction of Properties of Kenya's diplomatic missions in Egypt, Japan, Nigeria, Belgium and Pakistan. It is a Report of a Committee within the meaning of Standing Order No.181 and, therefore, all contributions to the Motion must stay within the subject matter and contents of the Report as set out in Standing Order No.181, Paragraph 3.

I further rule that subject to the Standing Orders, there is no bar on a Member in contributing to any Motion to refer to any matter contained in the Report. However, I must caution that it is not open for a Member to introduce matters extraneous to the Report and a Member making any allegations against any person must be prepared to

show that those matters have been raised or dealt with by the Report or otherwise. The Member must be prepared to substantiate such allegations.

In conclusion, I order that the Motion proceeds and encourage all Members to abide by these directions.

I thank you. The Member for Yatta, you may proceed.

Mr. C. Kilonzo: Thank you Mr. Speaker, Sir. I beg to second this Motion, that this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Procurement, Disposal and Construction of Properties of Kenya's Diplomatic Missions in Egypt, Japan, Nigeria, Belgium and Pakistan laid on the Table of the House on Tuesday, 12th October, 2010.

I wish to prove to this House - from what the Committee did - ten reasons why, in particular, the Tokyo transaction was unusual, irregular, fraudulent and outright theft. I would also like to bring out issues that were brought up by the Controller and Auditor-General in his 2008/2009 Report. At the same time, I would also like to deal with the issue of the Report done by the Internal Audit Department, Office of the Deputy Prime Minister and Ministry of Finance.

Mr. Speaker, Sir, I also wish to bring out the issues brought up by the Controller and Auditor-General in his report of 2008/2009. At the same time, I would also like to deal with the issue of the report done by the Internal Audit Department, Office of the Deputy Prime Minister and Ministry of Finance. If this is anything to go by, then we as Kenyans, have all course to worry.

When we invited the Minister and his team to appear before us, he asked the following question:-

“Did the public get value for money? The answer is a resounding “Yes”. The decision to purchase the property in the manner that the Ministry did was wise, prudent and long overdue.”

Those were the words of our Minister for Foreign Affairs.

Allow me to refer and let you know what happened in Japan. Our mission in Japan, through a Mr. John Njeru, did request assistance from our good neighbours, the United Republic of Tanzania to give them a reference of a good lawyer. The Tanzanians were kind enough and they referred to one lawyer by the name Yoshito Kijima. You did hear the remarks and opinion of the Minister. Let us now hear the opinion of lawyer Yoshito Kijima. Apparently, this lawyer had dealt with the Kenyan mission before and had successfully handled transactions on behalf of the Republic of Tanzania. In ending his letter, he said:-

“I know that I have stated that the decision of the Government is totally not recommended. Please accept my apologies opposing to the decision. It is because I respect the Government of Kenya and the embassy so that I want to protect the properties in Japan. Since I have dealing with the embassy, I am always thinking of helping the Government and the people of Kenya. I thought I should be frank and honest.”

That is the opinion of the lawyer in a letter he wrote to the mission. Why did the lawyer say that? Our findings were that this transaction was unusual and irregular. There was a very deliberate attempt to disregard professional advice given to the Ministry both within and outside by professionals. It appears that the Ministry was allergic to any professional advice. I want to give facts and not fiction.

Mr. Speaker, Sir, first, the price is wrong. The price of Japanese Yen 1.75 billion is wrong. From the words of this lawyer among the other lawyers that I will refer to later on, he says:-

“The price that was offered and agreed is extremely higher than the true values of the properties. One of our brief research indicates that the reasonable price of the property is Japanese Yen one billion.”

He continued to say that Mr. Kuriama, indeed, knows the true price of the properties. He cautioned us that to deal with such a person, the Government should negotiate with him with certificate of values which is currently issued. In Japan, the government issues certificate of values or alternatively, you can source for a valuer to give you one. That is what the lawyer said.

The embassy overtime has been dealing with an estate agent called “Coral Corporation”. He is not a valuer but an estate agent practicing in Tokyo. That estate agent, as late as October 2010, gave a figure of Japanese Yen 1.09 billion as a true value based on his opinion and experience as an estate agent. There is also another lawyer by the name Yanagawa. This lawyer gives the value as Japanese Yen 1.089 billion. There is an architect in the documents which were submitted by the Minister, who also cautioned the Ministry on the price. We do also have a Ministry official, Mr. Albert A. Musasia who had the following to say two years earlier: “The embassy has been cautioned that the property that is proposed for acquisition may have been over-valued at Japanese Yen 2 billion.” Those were the words of an official from the Ministry. When we asked the former ambassador, when he appeared before us, he made it very clear that the price was wrong. When we met Kenyans in Japan, they gave us evidence, which is contained here, to show that the price was wrong. We never came across any evidence submitted to us by the Ministry to show that any professional gave them the price that they bought the property for.

Mr. Speaker, Sir, the second reason why this transaction is suspect is advance payment. On 1st July, 2009, the Government before transfer and registration of the property in October paid 80 per cent of the purchase price. Do you know what the lawyer had to say about that? These were his words:-

“In Japan, we do not pay 80 per cent of the purchase price upfront. We usually pay 10 to 20 per cent of the purchase price and pay the balance on the day of changing the registration.”

This is what is done even in Kenya. This is historically the common method of transactions. He further warned the mission and the Government that it will not negotiate to change the methods and the way things are commonly done in Japan. When this lawyer asked the Government, and I assume the Ministry officials, why they agreed to that mode of payment, they told him that they trust the owners. That is the excuse that they gave. I want to tell you what one officer said. This is a Mr. Njeru who was with the mission at that time. He cautioned the head office. He said that the legal practitioners that they had already consulted who had been referred by the Tanzanians and other people said that the landlord is not honest in the purchase price. He insisted that they get professionals to assist. That is what was given by the staff within the mission. That advice was rejected. There is a saying that suspicion encourages efficiency. Because of the trust that the Ministry and the officials had on the owner, the Government lost Japanese Yen 1.1 billion.

Mr. Speaker, Sir, thirdly, no lawyer was used to transact the business. Despite the advice given by Mr. E.K Korir and the technical committee which went to Japan, no lawyer was used. The Minister did appear before us and said that the reason behind that was that it was going to be too expensive to engage the services of a lawyer. He said that the lowest quotation they got was Kshs45 million. When we went to Japan, we saw evidence and documents which were in the document of quotations of as low as Kshs3.5 million. The Minister and his team misled the Committee by saying that they did engage the services of a lawyer and that the person they engaged offered the same services as a lawyer. Our findings were very clear that, that was not a lawyer. The so called “Shishoshisho” is not a lawyer. We have a document by a Mr. Njeru to the head office and it reads:-

“Please be advised that the fax sent to you from the mission on 12th June, 2009 had a Japanese version which was translated at the embassy by a local staff who works at the embassy and which does not have the title lawyer. They were referring to him as “Shishoshisho Lawyer.” It should read “Shishoshishi only and not “lawyer” at the end.”

Mr. Speaker, Sir, that is a member of staff cautioning the Ministry that this person they are calling “a lawyer” is not a lawyer. This person is what we call a “registration clerk.” When we went to Japan, we actually interviewed the man on a one-to-one basis and one question that we asked him was: “Are you a lawyer” and he said “No.” What are you? Through a translator, he said that he is a clerk. Basically, the translation was that he is a clerk. Lawyers do know that there are clerks in their offices who assist in registration matters.

Mr. Speaker, Sir, at this stage, lawyer Akijima says: “This transaction is very irregular and no experts will agree to step into the process.” He continued to say: “The Government seems to think – that is the Government of Kenya – that there is no need of annexation but to confirm the details. Negotiations are still in need.” At that stage, both lawyers withdrew.

Reason number four why this transaction is irregular is that, no valuation by a reputable Japanese firm was done to date; not a single valuation! What we have is Ministry officials trying to justify why they paid Japanese Yen 1.7 billion by using computations, which I will come to when I come to the audit report. The only evidence we have is from a practicing estate agent who has clearly stated, even after we bought the property, that the price is 1.09 Japanese Yen or thereabout.

Reason number five, Mr. Speaker, Sir, why this deal is irregular is that, no experts were involved in the negotiations against advice by the two lawyers, the former ambassador, Dennis Awori, Mr. Korir and the technical team which went to Japan. The lawyer says as follows:

“Please, kindly be informed again that the scheme that the Government agreed above is very unusual and we barely could not see such a transaction in Japan.”

I think this lawyer was in shock that these things, indeed, could happen! He continued to say:

“This is not a recommended scheme at all. The lack of basic research is fatal.”

He used the word “fatal”; so you can see the kind of strong words he is using. When you hear that an accident is fatal, you know that somebody has gone to see his God. That is what happened here.

Mr. Speaker, Sir, he continues to say:

“I believe that this could be avoided by involving the experts into the negotiations with the owners.”

That is something that Amb. Awori recommended two years earlier in his letter dated 4th April to the Permanent Secretary. While concluding, he said:

“Meanwhile, it is common practice in Japan to negotiate through an estate agent and we, therefore, also seek your permission to appoint one.”

It is not that you did not know.

The lawyer continues to say:

“It is very difficult for us – the Japanese now – to understand why the Government of Kenya wants to take this kind of risk and why they stepped into the negotiations without basic research required in Japanese deals.”

That is enough of one lawyer. Let us go to another lawyer.

Mr. Speaker, Sir, this lawyer is called Shoshi Yanagawa. He cautioned the Government and said:

“The Government of Kenya needs to make careful decisions on the price and proceed with relevant negotiations with the three persons wisely.”

You can see that professional advice was not the issue; it was there.

Reason number six why this transaction is a fraud and outright theft is because these were deals where payments were made over the counter. On 1st July, they paid 1.4 billion over the counter. I cannot imagine that. You can even not do it here and yet it happened! It should enter into the Guinness Book of Records if, indeed, it happened – and it happened!

Mr. Speaker, Sir, the entire procurement team went to the bank and I am just wondering how that happened. That is reason number seven. Number eight, when the procurement committee asked permission to do direct procurement and they were denied, they advertised – against the law – for three days. Do you know in which newspaper they advertised? They advertised in an English newspaper and not in a Japanese newspaper and they restricted the area.

Number nine, there are two sale agreements. Number 10, somebody by the name Allan Mburu gave himself the power of Attorney, something which does not happen! Then, after all that, they burnt down the building. No investigations have ever been carried out by the Kenya Police to find out why this happened. But it is not us who are questioning what happened. What was amazing was a report from the Ministry of Finance by what is called the Internal Audit Department. This department saw nothing wrong. One, they converted themselves to valuers and valued the property for 1.5 Japanese Yen. The Valuers Act does not allow somebody who is not a valuer to practice.

Mr. Speaker, Sir, they gave the value of the buildings at a price of Kshs250 million. In the document, you will see a letter by a lawyer who says that the highest you can give these buildings is between 20 million Japanese Yen and 30 million Japanese Yen. They went on to say that they saw nothing wrong with advertising for three days; they saw nothing wrong with a cash payment of 1.47 billion Japanese Yen and these are the auditors we are relying on in this country to ensure that taxpayers’ money is not lost.

We are done!

Mr. Speaker, Sir, the Controller and Auditor-General in his Report of 2008/2009 had the following to say about Abuja, and this was the source of the money. He said that when he looks at all the monies, there is a difference of Kshs65.6 million which is not accounted for between the two sets of records. He says:

“This difference has not been reconciled or explained.”

He further says:

“The sale agreement and other related records including the bids for the property were not made available for audit review and with the result that the terms and conditions of the sale could not be established.”

In all fairness, we did give the Minister and his people time but they misled the Committee and that is why this Committee, in its recommendations stated as follows---

Mr. Speaker, Sir, before I get there, the Minister did write on 1st of October to the Kenya Anti-Corruption Commission (KACC). What was most perplexing is that, in fact, KACC wrote to him in May – five months earlier – telling him that they were investigating and that they needed the following details – number one to 11 – and the Minister all that time was busy defending the Ministry and the staff. When things got very complicated, the Minister writes to KACC. I am sure when the letter got to KACC, they were wondering who should be doing the letters.

The Committee has recommended the following on the Minister. That, hon. Moses Wetangula, the Minister for Foreign Affairs should take political responsibility and step aside to pave way for investigations by the KACC and other investigative arms of the Government.

(Applause)

Mr. Speaker, Sir, there are men of experience here. I do not see my good friend, Amos Kimunya here but he went through that and finally he is back in office. This is a good recommendation!

Mr. Speaker, Sir, the Minister continued to mislead this Committee. Therefore, the Committee further recommends that the appointing authority be advised that the conduct of Hon. Moses Wetangula is not compatible with that of a Minister. We say so because the Minister submitted documents and contradicted himself. He misled the Committee in very many occasions.

With those remarks, I beg to second.

(Question proposed)

Mr. Speaker: Yes, Minister!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, it is always the desire of every politician to be in the limelight and to enjoy publicity. I have had more than my fair share over the last two weeks. It has not been easy. It has been very painful to me, to my family and friends.

Mr. Speaker, Sir, I stand here to make an honest response to all the issues that are before this House. Because of limitation of time, I will quickly go through the stations

that were investigated by the Committee and then settle on Tokyo, which appears to be the anchor point of the investigations.

On Thursday, we listened to the Chairman of the Committee. In sequence, he started with Cairo. I wish to tell the House that, yes a property owned by the Government of Kenya was disposed of in Cairo in 2007. Hon. Moses Wetangula was not the Minister for Foreign Affairs at that time.

In a nutshell, the Chairman of the Committee said that property was disposed of, and the intention was to buy a residence for the Mission, but money was sent to Kenya and 10 per cent of it disappeared. I hereby show this honourable House that one, the disposal of the property was approved by the Treasury, and on very clear terms that the sale of the property---

Mr. Oyongo Nyamweya: On a point of order, Mr. Speaker, Sir. As per the Procurement and Disposal Act, it is mandatory that all Government Ministries and parastatals use this law. I would like to ask the Minister whether the sale of the property in Lagos complied with this Act.

Mr. Speaker: Order! Order! Minister, you need not respond to that one. Member of Parliament for Mugirango South, that is frivolous. Actually, it amounts to a false point of order; it does not actually amount to a point of order at all. If you are not careful, if you repeat that kind of conduct, I am afraid, I will have to subject you to the provisions of the Standing Orders and impose immediate sanctions on you. You are only forgiven because you are relatively new in the House.

Proceed, Minister!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I was telling the House that the property in Cairo was disposed off on the sanction of the Ministry of Finance, and they directed as follows:-

“The sale be delinked from the purchase/construction. The sums that will be received should be forwarded to the Treasury.”

Mr. Speaker, Sir, after the property was disposed off, the funds were sent to the Treasury in the following manner: The first 10 per cent was forwarded on 13th June, 2007, and the last 90 per cent, on 17th December, 2007.

The Central Bank of Kenya, where the account is held, sent a receipt to the Ministry of Foreign Affairs, dated 11th February, 2008, acknowledging the receipt of the total sale of Kshs47,250,381.05. There is no 10 per cent which disappeared. Not even a cent disappeared. All the money went back to the Government. That rests the issue of Egypt.

Mr. Speaker, Sir, next, the Chairman of the Committee went to Islamabad. The gist of his argument was that in Islamabad, the Government is constructing a chancery and a residence but the construction has been delayed, that the delay has occasioned additional expenses, and that there is a process of asking for a new variation to the contract, so that more money can be spent. Most importantly, he said that the construction was only 40 per cent complete. The HANSARD can bear me out.

In Islamabad, a contract was awarded in 2007 for the construction of a chancery and a residence. Hon. Moses Wetangula was not the Minister then. After the award, the construction started, billed at Kshs385,821,826 and supervised by the Ministry of Public Works as is required by law and practice.

Mr. Speaker, Sir, the construction has been varied twice, resulting in an additional sum of, first, Kshs53,040,163. This is normally done by the Ministry of Public Works, because they are responsible for construction. The second variation was for additional Kshs11,549,351. The construction has delayed for what every Member of Parliament here knows is going on in Pakistan: Terrible insecurity and terrible upheavals in next door Afghanistan, thus undermining the process of even simple delivery of materials.

When the Chairman said that the construction is only 40 per cent complete, I have no doubt that this report on the project from the Ministry of Public Works was in his possession. If it was not, then he can look at it. It shows the current status and completion timelines as follows: High Commission Building, 90 per cent complete; Official Residence, 80 per cent complete; External Development, 80 per cent complete.

Mr. Speaker, Sir, in fact, the chancery is already in use. On the residence, according to the High Commissioner, she is moving in any time. What is left is the external finishing. I am not aware of any variations in the offing on the property in Islamabad.

Next was Brussels, where the Government rented a property in 1996. It has occupied it up to today. It is a property which stands on Winston Churchill Street, next to Avenue Luis, which is like Kenyatta Avenue of Nairobi. The conception to purchase this property started way back in 1988. The process went on, and negotiations in details started in late 2007. Again, I was not the Minister. Those negotiations went on, and were concluded in March, 2008.

These negotiations went on and they were concluded in March 2008. Yes, I was then the Minister but the whole country knows that both myself and my learned seniors, Mr. Orenge, Ms. Karua, Mr. Mutula Kilonzo and others, we were at Serena Hotel in 2008 trying to help this country.

Mr. Speaker, Sir, the sale proceeds were agreed at Euros 3,850,000. I have four different valuations on this property; one, for Euros 3 million, another for 3.2 or 3 million Euros, another for 4.2 million Euros and a fourth one for 4.8 million Euros.

A team comprising the Ministry of Foreign Affairs, the Ministry of Public Works, then Roads and Public Works and the Treasury negotiated the transaction and they agreed that they were buying the property, a house built in 1920 which in Europe, in fact, puts more value on it because buildings of that age are actually seen as very, very important.

*(Mr. Wetangula displayed a photograph
of the building to hon. Members)*

Mr. Speaker, Sir, this is the property in Brussels, and anybody can see and those who have been there know. It is an extremely ecstatic building.

After negotiations, it was agreed and an agreement to this effect; that the purchase price will include renovations to be carried out by the landlord which were done and there is a certificate from the Ministry of Public Works to show that they were satisfied with the renovations.

Number two, the price included furnishing which was the furniture in use installed by the landlord, fittings and any other addition. The negotiations were done, procurement was done and a price of 3,850,000 Euros was agreed. The process of payment was done in the normal manner.

You heard the Chairman say on this transaction, Kshs84 million was lost. Mr. Speaker, Sir, if you look at these documents that I tabled here including the sale agreement and all the issues involved, I find it very difficult to understand the computation of Kshs84 million because all was in the agreement, Ministerial teams were involved from more than one Ministry and the transaction was completed.

Mr. Speaker, Sir, quickly, I move to Lagos. In Lagos, Kenya opened a Mission in Nigeria in the early 1960s like all other African countries were doing to each other. We occupied the property in one of the lagoons in Lagos. In 1991 or thereabouts, Nigeria moved its capital to Abuja and asked all the countries to move their diplomatic missions to Abuja for ease of running of Government. All the Governments that had embassies there moved their missions. Countries like India sold their Missions and moved.

The only countries and they are very few that retained consulates, not embassies in Lagos, were countries that have interest in the oil sector; the Dutch, the British, the Americans and others. The rest moved out.

Mr. Speaker, Sir, records are there to show that our property is situated in a good location. I have not found anywhere apart from what the Chairman said that they were the choicest. And I took time to find out from Nigeria whether indeed, retired President Babangida is our neighbour. In fact, he is not. This I have been firmly assured by not just our embassy but my counterpart.

Mr. Speaker, Sir, sometime in 2007, a process of disposal of this property started. The need to dispose of this property was to, first, get rid of the property whose maintenance would be costly for no reason and then get the money to use for other purposes. The Government has many uses of money. The plots are three but on one single area. There is a letter from the Treasury allowing the Ministry to dispose of all the three properties dated 8th August, 2008; property No. 51, 52, 53. Then the Mission was advised to go through the normal procedures of procurement like my good friend here was rising on a point of order.

Mr. Speaker, Sir, the Mission went through this, they advertised but before that evaluation was done; two valuations--- The first valuation on this property was done by a Kenyan valuer from the Ministry of Land, a Mrs. Kimondio. She returned a value on this property of 391,430,000 Euros. The Mission wanted another valuation. They contracted a local valuer who gave it a value of 428,996,252 Euros. The Treasury then advised and rightly so, that; do not sell the property by private treaty, go to competitive bidding; advertise and let us see what we get.

It was advertised in the local media but before that, another idea had come up in the Government; that since Kenya Airways is closely associated with the Government but not a government body, let us offer them this property to buy and use it in Nigeria. A letter of offer was given to Kenya Airways; they engaged in discussions. Eventually, Kenya Airways wrote a letter to the Government saying; ‘‘we have shelved this project because we have other priorities.’’

Mr. Speaker, Sir, after that, the Government then directed the Embassy to advertise the property. Contrary to what we had in the value of 391million Euros and 428 million Euros, we got a bid for a whopping 994, 205,064 Euros. This process gave in this money and you have heard in the submissions from my friends from the Committee that the movement of this money is unclear.

Mr. Speaker, Sir, I want to submit to this House that after the sale of the properties, the money realized was remitted to the Government, to the Treasury where the Ministries hold accounts. These accounts are held at the Central Bank.

Mr. Speaker, Sir, yes, the first remittance remained behind and the Committee asked me when I appeared before them and I told them information available to me from my officer because as Minister, I have no access to day to day running of issues in the Ministry other than what I ask for and what I am shown.

I was informed that when the money was remitted to the Treasury, 70,000 pounds was retained to pay rent for a consulate office in Lagos. Why the consulate office? Because the consumers of visas emanate from Lagos because that is where Kenya Airways goes, although now we have negotiated, they will go to Abuja. We negotiated with Kenya Airways and agreed that instead of having the Government renting property to keep an immigration attaché, Kenya Airways would accommodate this immigration attaché in their offices which they do up to today because they serve the same Government.

These are the documents for that rent. I have evidence to show that since then, the retained 70,000 Pounds has been remitted to the bank and there is no money outstanding on the sale in Nigeria. The document is here.

Mr. Speaker, Sir, equally, I want to point out, as I move to Japan where it appears the center of interest is, that, in 2008/2009, this august House passed the Budget. In the Budget, it approved the purchase of buildings in Tokyo, Japan. There was no budget for the purchase of a plot. In the same Budget, there was a budget line for the construction of buildings in Nigeria. So, it is not true that the money from Nigeria was exclusively taken elsewhere. That is because when money goes into the same basket, it is difficult to say what came from Nigeria or what came from elsewhere. In the same year, there was an allocation to Nigeria of Kshs200 million and an allocation of Kshs1.2 billion to Japan. Then, what happened in Japan? I want to make it very clear. I cannot and I will not, under what circumstances, condone any malpractice or corruption. I will be the first to fire the first shot. As a Minister - and my colleagues in the Cabinet know that - when you appear before a Committee of Parliament, you carry documents given to you by your technocrats; you do not manufacture them. You have questions. You say: Get me the following details. You go and you give the information. When does it amount to a lie or an untruth, if you knowingly or intentionally convolute the truth and tell the Committee things that are not right? If you go before a Committee and honestly and sincerely tell them what is in your possession, how does it amount to a lie? I do not understand this! That is because when I appeared before the Committee, I even asked my colleagues:

“There are more witnesses coming. If there are any issues that are outside what I have told the Committee, please give me an opportunity to come back and talk to you. That is because I am also interested in knowing what is happening to the taxpayers’ money. I also pay taxes! My people pay taxes.”

The letters asking for me to be allowed to go back are available and I will put them on the table. Instead, I was never given an opportunity to go back and clear some issues.

(Mr. Wetangula laid the document on the Table)

Perhaps, if I was given that opportunity, the course and direction of events would have been different. If I was given that opportunity, I, perhaps, would have realized that some things may not have happened correctly. If I was given that opportunity, I would have---

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. The Minister, indeed, is referring to a letter he wrote to the Office of the Clerk which was very clear. He wanted to come to the Committee to respond. According to the letter, he wanted to respond to issues that were raised by the media. The ruling of the Chair has been the following: We do not respond to issues raised in the media, either in the Committees or on the Floor of the House. So, is the Minister in order to say that he was denied the opportunity by the Committee?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, it is much more than that. I have the HANSARD which I will refer to, and where I asked the Committee very dutifully:

“This matter is not over. Please allow me to come back.”

In the words of the Chair of the Committee, he said:

“We gave you time. You appeared. Your matter is final. We will not listen to you again!”

Mr. Jeremiah Kioni, who is a Member of the Committee, even protested at that ruling. The HANSARD will bear me out when it is given to me by my able Assistant. So, it is not just the letter I wrote. There are also proceedings of the HANSARD. I submit to this House that given that opportunity, I could have been able to answer some of the things. I referred to some things which I think need investigations. I have also written to Kenya Anti-Corruption Commission (KACC) to ask them to investigate these issues. Let me now turn to Tokyo, and I will humbly request you, Mr. Speaker, Sir, to---

Mr. Keynan: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister-- I know I will get an opportunity to reply to all the other issues. I want to read a letter addressed to the Clerk of the National Assembly dated 14th September, 2010. This is the content:-

“I refer to my letter Ref. Ministry of Foreign Affairs dated 24th June, 2010. In that letter, we requested to revisit the purchase of property of the Kenya Mission in Tokyo with the Committee on Defence and Foreign Relations. This request was made pursuant to a meeting between the Committee on Defence and Foreign Relations and Amb. Awori. Amb. Awori was the Ambassador in Tokyo during part of the process leading to the transaction. During the meeting, it will appear that some of the reports were inaccurate and was provided to the Committee. It is on this score that we request---“

On this, the Clerk wrote to the Ministry and requested them to furnish all the information that they had. The only thing they wrote was to insult Senator Yano who is the President of Upper House of Japan and Amb. Awori, and the issue rested there. So, is it in order for the Minister to mislead the House?

Mr. Speaker, Sir, on the second point, he has referred to the letter to KACC. I want to produce two letters here. KACC wrote to the Ministry - and it is good to be factual and I will table these documents - on 5th May, 2010. The letter is addressed to the Permanent Secretary. This is what it says:-

“Investigation and valuation of Embassy of Kenya in Tokyo, Japan, information and documents. This Commission is carrying out investigations into the allegations touching on the acquisition of the Kenya Mission in Japan. To facilitate investigations, kindly furnish us with the following documents: Sale agreements and all related documents, title of the property, search details of public registry books, Proper Tax Notices, registry building drawings, all correspondences exchanged in the course of acquisition of the property, minutes of all meetings regarding letting, negotiations for purpose and purchase of the property, tenants records including rent paid, lease documents, rent deposits, rent payments, valuation reports, documents of all payments done in respect of the property and any other relevant reports. Our officers, Mr. Kipsang Sambal and Pius Maitha are available to collect the documents. Yours faithfully, Dr. J.B. Mutonyi, EBS, Acting Director.”

The Minister’s letter again is dated 1st October, 2010. How do we believe it? We have an official letter from the Ministry dated 5th May. We have another letter dated 1st October; both of them purporting to address the same issues. In one letter, it is the Ministry inviting. On the other letter, KACC has invited itself to investigate the matter. So, certainly, is it in order for the Minister to mislead the House that he is the one who invited the KACC to investigate? If anything, what he did was an attempt to make sure that KACC does not get information from him but from the civil servants. I need to table these documents. Is he in order?

(Mr. Keynan laid the documents on the Table)

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I was going to table the same documents, anyway.

Here is the HANSARD. After my request that I go back to the Committee after several witnesses had appeared, this is the response of the Chairman:-

“On Tokyo, we gave you an opportunity which you had sought; you forced us to listen to you people; you have made your submission and I think that is final.”

That is from the Chairman! This is the HANSARD of this House! The Chairman went on to say:

“Then write to us if you wish!”

We said:

“We have already done that!”

Mr. Kioni then interjects:

“Mr. Chairman, Sir, as they go through their documents, in the event that they have information that they think will be beneficial to this Committee, it is important that they share it with us. This is because we have to have an informed position. That should apply to cases like that one of Tokyo. It is important that we still leave the window open. *Hiyo ni ya maana sana!* If they have written, I will be happy to have a sitting with them.”

The matter ended there!

As it turned out, no opportunity was granted to us to appear before the committee again.

Mr. Speaker, Sir, be that as it may---

Mr. Gunda: On a point of order, Mr. Speaker, Sir. I do not know what date that HANSARD refers to, but the Minister appeared before the Committee on 3rd June, 2010. He again appeared before the Committee on 12th August, 2010. If he had anything which he wanted to share with the Committee, he had the opportunity on the second appearance on 12th August, 2010 to say it.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, the HANSARD is dated 12th August, 2010. When you are investigating a matter as weighty as this, it is good to hear everybody and everything. It only helps to make a decision that we can all live with.

Mr. Speaker, Sir, I am now going to Tokyo. Kenya opened a mission in Tokyo in 1979. In 1989, we moved to the premises that are the subject matter of this debate. The first ambassador to Tokyo, Mr. ole Leken, as soon as he settled into this property, wrote a letter to the Government of Kenya asking the Government to allow him to discuss with the owner of this property to buy it, because it was stated that this property was built to our specifications. Because of budgetary constraints, it never came to fruition.

Mr. Speaker, Sir, in 2003, Amb. Awori was appointed Kenya's ambassador to Japan. In 2004, one year in office, he wrote a letter again to the Government saying they wanted to buy the property that they occupied for reasons that; one, it was built to Kenyan specifications. Two, it is in a prime residential/commercial area. Three, it is surrounded by other embassies. Four, it is 35 minutes travel from the town centre. Five, it is close to international schools. Six, it is renovated, is in good condition and does not require any further renovation for the next five years. Seven, the premises are in good condition and may last for another fifty years.

Mr. Speaker, Sir, the letters are here and I table them.

(Mr. Wetangula laid the letters on the Table)

Mr. Speaker, Sir, after that, there was a to and from movement on whether to buy this property or not. Negotiations went on between the embassy, the Government and other Ministries. In the process, several issues arose and have come to this Floor.

In relation to Tokyo, I have framed in my mind three questions that I want to bring to the House and then address them. The first question is: Is the area in which the Kenyan mission is located in Tokyo a slum? Is it a Ruai as the Chairman put it? I apologize to the people of Ruai for that kind of remark. The second one is: Did the country lose Kshs1.1 billion in the transaction to purchase the embassy? Three, did the Ministry of Foreign Affairs reject---

Mr. Keynan: On a point of order, Mr. Speaker, Sir. Nowhere in my presentation did I say that Ruai is a slum. I only made a comparison between the city centre and Ruai. Is it in order for the Minister to again continuously mislead the Kenyan public and the 10th Parliament? He should show where I said Ruai is a slum.

Mr. Speaker: Your time is up, but because of the interruptions--- You had three points of order when the clock did not stop running. So, you will make up for that time and at most, it is five minutes.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, may I plead with you to exercise your discretion and give me extra time?

Mr. Speaker: Try and deal with it within five minutes.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, where the mission is located is not a Ruai. There is a google message here that states: We are located in Meguro Ward of Tokyo, described as hosting 15 missions and one of Tokyo's most exclusive residential neighbourhoods is located in this area.

Mr. Speaker, Sir, we inquired from the Japanese Government and they wrote to us and said the following--- You remember the Chairman saying that the embassy is located in an area where only Rwanda is another embassy. They say this area hosts 15 embassies of the following countries: Algeria, Azhabaijan, Bangladesh, Djibouti, Egypt, Gabon, Kazakhstan, Kenya, Cyprus, Nepal, Poland, Senegal, Sudan, Uzbekhstan and Papua New Guinea. It is certainly not a Ruai.

On the transaction and value, there is a valuation on this property from the Government valuer, a Mrs. Kimondiu. She gives the value of the property as Kshs1,241,045,231,000. Then she says the value of the buildings on it is Kshs129,906,834. Value and price are not necessarily the same, as you have seen in the case of Nigeria.

Negotiations were done and the property was eventually bought at a price of Kshs1,431,000,000, which represented a valuation. But the process of procuring, if it has questions, I agree with this hon. House that it must be investigated. There are issues that have been raised. One is the presence of two sale agreements. Even if we justify and explain, people will want to know a lot more about that. I have invited KACC to investigate. I will welcome the outcome.

Two, although I have received from the Government of Japan explanations about payments and cash payments, there is a letter from the bank where the money was paid; that, although the cheque was cashed, the money went into the vendor's account. I would be interested to know like Kenyans are asking, how can you draw a cheque of Kshs1 billion cash? I am also interested in knowing this.

Kenyans have also asked: How did our officers go to the bank? I also want to know. They have told me why they went to the bank but it does not end with me. I also want to know why officers of our embassy were seen in the bank with the owner of the property when they were paying. These are issues that are not limited to me. They are matters of public interest. I think this House will be doing this country a very great favour to ensure that these questions are answered.

Mr. Speaker, Sir, the chairman of the Committee did say that he met in Japan the owner of the property who sold it to Kenya and in a discussion, he said this property would be worth only Kshs600 million. The man googled our website and on reading what the Chairman has filed in his report, voluntarily wrote a letter saying that at no time did he ever tell the Chairman of the Committee that his property was worth only Kshs600 million.

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir. This is, indeed, a very weighty matter. I do not think it would be in order for the Minister to say that the Chairman met with the vendor. The Committee of Parliament was sent from here and I was a Member of that Committee. If he wishes to allude to it, let him say; "the Committee met with So-and-So." Let us not try and personalize between the Minister and the Chairman.

Mr. Speaker, Sir, secondly, the Committee did meet with the person who has declared himself as the owner. Indeed, we were even shown the photographs of that person signing the sale agreement. In fact, he signed two; one with Mr. Allan Mburu and the other with the Permanent Secretary. I think it is important, and we can help this country, if we move this thing in a sober and factual manner.

Mr. Speaker: Order! The first part of your point of order is genuine; that the Minister may be misleading the House if he says the Chairman met with the vendor rather than the Committee. The second part is a matter of argument and opinion which you may very well incorporate in your contribution.

Mr. Minister, respond to the first part only.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, indeed, I did not intend to say that the Chairman met the seller as a person. The information, in fact, he gave to the House is that they met as a Committee. The seller has written to the Embassy in Tokyo. He says:

“I have seen a report released by the Departmental Committee on Defence and Foreign Relations in which, under Section 3615 of the Report, I am reported to have informed the Committee that if I were to sell the property to Japanese, it can fetch only 600 million Yen. The statement is untrue as the property I sold to the Government of Kenya was 1.75 billion Yen and in my opinion, it is the best I would have offered due to the long standing relations with the Embassy of Kenya in Tokyo. Had the Embassy declined to take the offer---”

Mr. Speaker: Mr. Minister, you must now move to conclude and please, do so in two minutes as a good lawyer.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, with all these that I have placed before the House, this is what the Committee in their findings say of the Minister; that the Minister misled the Committee. Let me once again plead with you that there are two very weighty issues, that if this House has to be assisted, I need a moment to address.

Mr. Speaker: Address them in two minutes, Mr. Minister!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, regarding the issue of lawyer Kajima whom the Committee has used as the backbone of their Report, the Mission invited lawyers to bid for services. Lawyer Kajima was one of them and Yanagawa was the other. Mr. Kajima was not prequalified; he went off the stage. Mr. Yanagawa was prequalified and gave a detailed brief on the property, including the fact that there was a mortgage on it. He said: “Pay me 500,000 Yen for my opinion,” and he was paid; (it is worth Kshs450,000). He then said: “If I act for you in the transaction, you will pay me 2.8 per cent of the sale price, which translates to Kshs47 million.” In the event, the Embassy consulted with the head office, which then checked with the Embassy of Japan in Kenya and said:

“We have judicial scriveners, who in our jurisdiction are called Articled Clerks. They do legal work. You can go and they will do the work for you at much less.”

Mr. Speaker, Sir, the scrivener acted for the Government in this transaction. How much money was paid to the scrivener? It was Kshs389,000 for the entire transaction that yielded a title deed that is here in its original form. I have said this and I want to repeat it. If the process was convoluted, we must investigate it. But the Government bought a

property and we have a title deed which is right here. Parties could even transact matters without lawyers. Many people who transact do that, but we were careful enough to engage a lawyer and again, go to the scrivener and save money for the country. In this regard, it is not true that services of professionals were disregarded. It is also not true that there was no valuation. The Mr. Olang'o that the Chairman referred to as a very qualified Architect returned a value of this property of Kshs2.9 billion. The document is here and I will lay it on the Table.

Mr. Speaker, Sir, the long and short of it is that Ministers do not participate in transactions. We deal with what we are given. Ministers deal with policy. If there is any wrong doing on this matter that occasioned the loss of money, the Committee of Parliament is right in recommending investigations of those responsible. Certainly, the Minister does not procure, sign cheques or vouchers or chair any Committee meetings. The Minister does not also budget or do all the things that go through procurement.

Mr. Speaker: Order, Minister! I will now stop you! Table any documents that you want to.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I beg the House to hear me on this.

Mr. Speaker, Sir, I will table the documents and in the course of the discussions, my Assistant and others who speak after me will be able to fill in.

Mr. Speaker, Sir, with those many remarks, I beg to oppose.

Mr. Speaker: Have you tabled the documents?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I have tabled some documents. I will table others later.

Mr. Speaker: You cannot table after the event.

(Mr. Wetangula laid the documents on the Table)

Mr. Gunda: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute in support of this Motion.

Mr. Speaker, Sir, I want to start with Nigeria. The Minister has just told us that as a Minister, he deals with policy and all other matters are left to officers in the Ministry. On 3rd April, 2008, the Minister was written a letter by the Kenyan High Commissioner to Abuja, Nigeria. It reads in part:

“Following our telephone conversation on Tuesday, 1st April, 2008, in which you requested a written report on the Kenya Government property in Lagos, here below is a summary of the main issues---

Among those issues the Ambassador raised, the pertinent issues which have always arisen with regard to the sale of the land are the following:

1. Sale of part of the property and retention of a portion of plot for consular purposes. A decision has already been taken to sell the entire plot.”

Mr. Speaker, Sir, as a Minister, having received this information, what action did he take? Who authorized the sale of the entire plots?

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Speaker, Sir, I tabled a document, if my good friend was listening; showing that there was authority from the Treasury to sell all the three plots in Nigeria. That is where I

started and I tabled the document. So, the answer is really rhetorical. Is he in order, therefore, to ask a question whose answer he already has?

Mr. Speaker: Order, Mr. Gunda. You realize that you are now on the Floor making your contribution. So much as you pose questions, do not expect that you will receive answers. Mr. Minister, please, do not attempt to answer any question because the Member is supposed to make his contributions to the debate.

Mr. Gunda: Mr. Speaker, Sir, I was not expecting an answer from the Minister from that question. It was being posed for the Members in the House to know what was happening.

Mr. Speaker: Order, Member for Bahari! Make your point.

Mr. Gunda: Mr. Speaker, Sir, the three plots in Lagos disposed of--- However, it was only two of them which were supposed to be disposed of. One was to be retained for consular purposes. At the moment, we are being told that the consular services are being housed in the KQ offices and we are paying rent. Had we retained that one plot, we would not now be paying rent.

Mr. Speaker, Sir, the other point which the Ambassador raised was that the money raised from the sale of the Lagos property was to be reflected in the 2008/2009 budget of the Ministry of Foreign Affairs. The Ambassador says:

“My understanding is that the money will be for constructing the chancery and High Commissioner’s residence as the Ministry does not expect any funding from Treasury on capital projects following the economic and other challenges, which ensued after the December, 2007 elections.”

He goes on to say:

“From what I was informed the sale of the property in Lagos is meant to raise funds to construct the chancery and High Commission in Abuja. There is a deadline of 31st December, 2009 for diplomatic missions to construct their plots or risk forfeiting them”.

Mr. Speaker, Sir, the plots were sold and instead of the money being used for the intended purposes, it was channeled for other purposes.

Mr. Speaker, Sir, the other issue which the Minister did not deal with is the question of the lawyer who handled the transaction of sale of these properties in Lagos. The embassy wrote to the Minister. The Government of Nigeria requested the Government of Kenya through its Embassy in Abuja, to settle the pay of the lawyer who handled this transaction. The amount involved was about Kshs94 million. The letter from the Ministry of Foreign Affairs in Nigeria says in part:

“That an amicable resolution of the matter would not only be in the interest of existing cordial relations between Nigeria and Kenya, but would also prevent any unpleasant irritant.”

Mr. Speaker, Sir, the Minister did not deal with that.

On the Tokyo issue, although the Minister tried to justify the amount he paid for that property, we as a Committee, got figures from the Ministry of Planning in Japan. They told us that since 2006 to 2009, property prices in Japan have fallen drastically. In 2009 to 2010, the prices per square metre fell by 16 per cent. The price per square metre in 2009 was JY488,000.

If it fell by 16 per cent, we are talking of a figure of JY410,000 per square metre. The embassy property we bought is 1,431 square metres. Multiply 410,000 by 1,431 and you get JY586,710,000. We paid JY1.75 billion. Is that value for money?

Mr. Speaker, Sir, I rest my case.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Speaker, Sir, I think it would be in order for me to first and foremost declare my interest.

I am, after all, a Member of Parliament and a representative of the people of Laikipia. Some of the Minister's staff is, in fact, from that constituency. So, I have risen here with consternation at the presentation by the Minister. He says that Ministers are only provided with information; a presentation that suggested that, in fact, he as the Minister would like to know what the staff was doing. I would have thought that the reason we have Ministers is to take that responsibility.

Mr. Speaker, Sir, I would have thought as the responsible, he Minister would have said if there was an issue of wrongdoing, he would take responsibility and whole leadership of the Ministry would have taken responsibility. So, I was very surprised to listen to that presentation that has sought to create the impression that only part of the Ministry staff needs investigation.

Mr. Speaker, Sir, this matter must be debated in a way that is fair. In a way that brings the facts on the table and protect innocence of individuals until facts are adduced. I think as we go into this debate, what we should like to see is not just accusations and counter accusations. The fact that individuals may stand accused is not proof that they are guilty.

Mr. Speaker, Sir, there are Members in this House who have been investigated before, who have appeared before courts of law and acquitted on the merit of their cases. Therefore, we must go into this debate with that background. We must go into this debate seeking to bring out the truth and to have everybody heard fairly.

I think we should be debating the following key questions: Was there any reason to believe that there was wrong-doing and if so, how do we get to the bottom of that? I think it is not fair for us to stand here and accuse those who do not have, in their individual capacity, the opportunity to stand here and refute or present the facts to the contrary. Therefore, I want to plead with my honourable colleagues that let us go into this debate in a sober way. Let us present facts and not pass the buck and say, perhaps, it is the civil servants who--- I think we must engage in the debate and look at the merits and demerits of what is in front of us.

I thank you, Mr. Speaker, Sir.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. The speaker who has just left the Floor did not indicate whether he was for or against the Motion.

Mr. Speaker: Order! Hon. Murithi, what does your contribution amount to?

The Assistant for Industrialization (Mr. Murithi): Mr. Speaker, Sir, I rose and said from the very onset that I wanted to state my interest in the matter. That is because I felt that---

Mr. Speaker: Order! Your task is simple! You may want to say "a" you support the Motion or "b" oppose the Motion or "c" you are indifferent.

Proceed, Mr. Murithi! We do not have the time!

The Assistant Minister for Industrialization (Mr. Murithi): Hold your horses. Mr. Speaker, Sir, in spite of the touts or otherwise by my honourable colleagues, I stand here to say in very clear terms that I oppose.

Dr. Eseli: Thank you, Mr. Speaker, Sir, for giving me this chance. I rise with an intention to move an amendment to the Motion:-

THAT, the Motion be amended by deleting the fullstop at the end and inserting the following words “subject to deletion of paragraphs 76.1.6 on page 124, 76.1.7 on page 124 and the entire Section 76.2 on page 129.

The Motion will then read:-

THAT, this House adapts the Report of the Departmental Committee on Defence and Foreign Relations on the procurement, disposals and construction of properties of Kenya’s diplomatic missions in Egypt, Japan, Nigeria, Belgium and Pakistan laid on the Table of the House on 12th October, 2010 subject to deletion of paragraphs 76.1.6 on page 124, 76.1.7 on page 124 and the entire Section 76.2 on page 129.

Mr. Speaker, Sir, my reasons to move this amendment have become clear as the few Members who have contributed have actually managed to contribute to the Motion. First of all, before I move this amendment, I would like to really pass my congratulations to the Committee because, indeed, if Committees were to work diligently the way this Committee has worked, probably, the work of Parliament and Ministries will become easier. Indeed, it has come to transpire now that if there is co-operation between the Committees and relevant Ministries, the work will be made easier.

Dr. Eseli: Mr. Speaker, Sir, it is obvious that the Committee used Standing Order No.198 while investigating these issues. However, the HANSARD report which was earlier tabled by the Minister does show that somehow, there was a breakdown in the sense that they were unable to communicate at some point. Based on the HANSARD report, there was a lack of communication between the Ministry and the Committee. If you look at the various issues that have been raised, you will realise that there could be a number of accusations which might require further investigation to ascertain who is really in the wrong. One of the people who have been mentioned as an expert is the architect called Olang’o in Japan. If you read this report, it appears as if Mr. Olang’o had been promised that he was going to do the architectural designs and supervise the building of the new embassy. Definitely, he lost business when a vacant plot was not bought. So, in my opinion, that kind of witness might not be very factual to be followed. If you look at various things that the Committee has said and what the Minister has said, to me it looks like that they are not at variance at all. It is just that the recommendations appear to have been a bit harsh and out of context from the findings of the Committee.

As it has been shown in Belgium, what happened there probably, the Minister was not even in charge of that Ministry. You can see that the Committee had a chance to meet Senator Yano. The Japanese land which the Government of Japan offered Kenya to buy and not for free, somehow was not raised by the Committee with Senator Yano and yet he was one of the key people whom the Government had approached to try and source a plot for the Government. It is surprising that the Committee did not interrogate Senator Yano at all on the issue of the land. I think that was very unfortunate because with the zeal with which the Committee executed its mandate, that might have been an oversight. I

do not think it was intentional but an oversight. This makes it very difficult, therefore, to decide what could have happened.

With regard to valuation, there is one thing that I have found in the report. If you look at the valuations, you will find that the valuation done by Coral Corporation was for a smaller piece of land of 1195 metres while the embassy is on 1431 metres. Possibly, that could have made the valuation to be lower than what it should have been.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Perhaps, the hon. Member has missed it. There is a valuation done by Coral Corporation. It is an assessment because they are not valuers. The assessment for the entire piece of land as of October last year--- Maybe, you need that and it is part of the presentation that I made here.

Dr. Eseli: Much obliged, Mr. Speaker, Sir. He is an expert in that area because he is a valuer by profession.

Mr. Speaker: Order, the hon. Member for Kimilili! Will you please speed up your conclusion?

Dr. Eseli: Mr. Speaker, Sir, I am concluding. I also realise that as Committees go, we do have limitations. As a member of one of the investigative committees like the Public Investments Committee (PIC), when we go out there, we actually get the services of auditors accompanying us because we are not all financial experts. I believe that whatever could have happened here, probably, the Committee would have benefitted from the expertise of such people if they could have been available to them. From the report, it appears that this expertise was not available to them.

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

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I wish, first, to thank this Committee for a very good effort. This demonstrates the commitment of Parliament to hold the Executive accountable. However, all these efforts were without adequate expert help. As we deal firmly with corruption and impunity in this country, we must always remember that we have the image of the country to protect. We also have the image of the public service to protect. We also have the image of our leaders and officers in the Government to protect. The newspapers have been awash with all sorts of stories; one saying that we lost Kshs1.1 billion and another headline said that we lost Kshs2.5 billion. This gives an impression that things were so wrong in Tokyo that the whole Government actually is corrupt.

Mr. Speaker, Sir, honestly, I do not subscribe to the proposal that we should, on whatever grounds, ask Ministers and public officers to step aside before there is credible evidence to charge them in court because when they come back, the damage is increased to the Government. The damage now is that there was official cover up. That is why hon. Kimunya came back. That is why hon. Mwiraria came back and that is why my five Permanent Secretaries came back. There is greater damage in the eyes of foreigners when you send them packing on flimsy reasoning and then they come back when KACC has no evidence.

Mr. Speaker, Sir, this Committee consulted a lawyer, Mr. Akijima; a lawyer that actually lost the business where he had expected to get---

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir. Is it in order really for the Minister to purport to speak for the Committee? He is not a hon. Member of that Committee. He does not know and he cannot possibly know whether the Committee met with a lawyer or not. I think the only thing that was done here was the letter or document

presented to the House from the lawyer. I cannot possibly understand how he can say: "The Committee met the lawyer"

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I am really shocked because hon. Nyamweya is an. hon. Member of this Committee and the Report says that they consulted a lawyer and part of the recommendation is quoting the lawyer verbatim. Honestly, please! This Committee consulted a valuer and he quoted---

Mr. Speaker, Sir, let me clarify that this property was in four parcels plus the road. So, in total, it is five parcels. One valuer only considered 1,195 square meters and he arrived at a value of 1 billion. Our own valuer, the Assistant Commissioner of Lands, valued this property; full value for 1,431.3 square meters. So, the valuer that they may have consulted was inadequate. They consulted an architect that had actually drawn the Embassy in the alternative Government of Japan plot. So, he had actually lost business. And then, they consulted Kenyans in the diaspora who told them that, of course, "Ruai is too far; we wish you were near here."

This is a transaction involving foreign exchange rates which we are supposed to compare with construction risks. So, the relevant expert this Committee should have consulted was a foreign exchange risk expert and a construction risk expert in the turbulent Japan as we are talking today.

Mr. Speaker, Sir, this Report also mixes Japanese Yens and Kenya Shillings interchangeably. This Report has been misled by the fact that, as we are talking now, the Japanese Yen is almost equal to the Kenya Shilling.

So, they have quoted the Japanese Yen value and the Kenya Shilling value as if they are the same. If they had consulted a foreign exchange expert, they would have been told that the only way you determine the correct value of this property is that every value figure should be translated to Kenya Shillings at the exchange rate ruling at the date of the transaction. On that basis, I would like hon. Members to note that the Kenya Shilling depreciated from Kshs60.36 to JY100 in November, 2006, when Amb. Awori first proposed the purchase of this property, to Kshs99.74 to JY100 currently.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The Minister is going round in circles. He should tell us specifically why he is supporting the amendment. Mr. Minister, do you want to protect the name of the Government? Can you tell us specifically why the money was being withdrawn in cash? Why are you telling us to protect the name of a Government which is busy wasting public funds? Can you tell us specifically? We are willing to listen to evidence, but you should not go into filibustering and trying to demean the work of the Committee. Your responsibility is to ensure that your Ministry is working; that, your staff are accountable and that you follow the law.

Mr. Speaker, Sir, the Minister is just attempting to spoil the name of the Committee without giving us the specific issues that are at hand. Mr. Minister, what happened in Japan? Can you tell us? Forget about the valuation.

The Minister of State for Public Service (Mr. Otieno): Hon. Ruto, you will always rush ahead, but I am always ahead of you.

Mr. Speaker: Order, Minister! Get back to business!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, during the transaction period, beginning from the time Amb. Awori first mooted the idea of the purchase of this property in November, 2006 the Kenya Shilling depreciated from Kshs60.36 to JY100 to Kshs99.74 to JY100 yesterday. I table 20 copies of the letter from

the Central Bank of Kenya, giving the ruling exchange rate for the entire period of this transaction. Hon Ruto should look at it.

(Mr. Otieno laid the documents on the Table)

Mr. Speaker, Sir, on 14th November, 2006, Amb. Awori recommended that we purchase this property for JY2,208,834, which at the exchange ruling at that time translates to Kshs---

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Mr. Speaker, Sir. I thought the Minister was seconding the amendment that was moved by Dr. Eseli. We want him to stick to telling us why he is supporting the amendment, so that, as a House, we can go to the second stage of whether we will agree to the amendment or not, and then back to debate on the Report. The Minister is mixing the main debate on this Report and the seconding of the amendment moved by Dr. Eseli.

Could you give a direction, Mr. Speaker, Sir?

Mr. Speaker: Hon. Otieno, stick to your support for the amendment.

Proceed!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I am going to demonstrate by using the correct exchange rates and the correct translations that this was good value for money, and that the decision was made in a timely manner. So, I urge hon. Members to be patient as they will get the information.

On 14th November, 2006, the proposal by the very ambassador, whose information has been used in this Report, translated to Kshs1,333,252,202---

The Assistant Minister for Medical Services (Mr. Kazungu): On a point of order, Mr. Speaker, Sir. Is hon. Ruto in order to tell us that---

(Laughter)

Mr. Speaker: Order! Order! Proceed, Mr. Otieno!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I want the Members to note that the proposal to purchase this property was of Kshs1,333,252,202.

Mr. Speaker, Sir, on 17th March, 2009, the date the decision was made to purchase this property for 1.75 billion Yen, the shilling exchange rate against the Yen was 81.27 which means the actual value in Kenya shillings was Kshs1 billion---

Mr. Speaker: Order, hon. Otieno!

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir. I want to move that notwithstanding the provisions of Standing Order No. 20, this House resolves that it continues to sit until the conclusion of the business appearing under order No.8.

Mr. Speaker, Sir, you know this business is of national importance. It is important that we do justice to the business appearing under Order No.8 and reduce the tensions in the country outside there, and come to a conclusion on this matter today so that we can get on to the other constitutional matters that we need to start deliberating on.

Mr. Speaker, Sir, I would like to ask hon. Onyonka to second.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): I second!

(Question put and negatived)

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the second value which I would like the Members to note is actually the shilling value of the purchase price of Kshs1.75 billion. The shilling equivalent on the date the decision was made on 17th March---

Mr. Kabogo: On a point of order Mr. Speaker, Sir. Another point of order was raised here a while ago that the Minister is not telling the House why he supports the amendment to expunge the names or certain paragraphs. The Minister is telling us about an exchange rate and there is no amendment that is referring to an exchange rate. Is he in order to mislead the House?

Mr. Speaker: Order, Mr. Minister! That point of order is valid. It is your duty to give reasons why you are supporting the Motion of amendment by the Member for Kimilili. Why are you supporting the amendment? Try and stick to it.

The Minister of State for Public Service (Mr. Otieno): I am supporting the amendment because the Report has not given us how they arrived at the figure Kshs1.1 billion shillings lost. It is nowhere, in fact.

Secondly Mr. Speaker, Sir---

Mr. Farah: Mr. Speaker, Sir, if Mr. Otieno is not happy with the Report, he should reject it. He should support an amendment. The amendment essentially seeks to urge us to go ahead and adopt this Report but with certain deletions. So, if you are not happy with the Report the way it is, you should oppose it so that it is defeated. But you do not go there and say that because the Report is bad, I am going to support an amendment. Is the hon. Minister in order?

Mr. Speaker: Order, Mr. Otieno! You must stick to rules of relevance. Stick to the amendment bit and conclude!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the value that I want the hon. Members to note in 2006 was Kshs1,333,252,202. In 2009, the value was Kshs1,422,225,000 and the actual payment was Kshs1,418,589,468. The Kenya valuation was Kshs1,375,137,834. The over payment was---

Mr. Affey: Order! Order! Order, Mr. Otieno!

(Laughter)

Much obliged!

Mr. Speaker: Order, hon. Members! I want to urge the House that you, please, be a bit calm on this matter. It is a very important matter that is up on this Motion. It is necessary that we are all controlled, especially in our temperament. The hon. Member for Lagdera, you are not in the Chair and so, you do not shout "point of order!" So, make your contribution but, please, be calm!

(Laughter)

(Messrs. Farah and Otieno moved to the Dispatch Box)

Mr. Farah: Much obliged! I am on the Floor. Can you protect me from Mr. Otieno!

Mr. Speaker: You are protected! Proceed!

Mr. Farah: Mr. Speaker, Sir, it looks like Mr. Otieno has had a lot of excitement and he has not understood the rules of the House. The amendment which has been moved by Dr. Eseli essentially - in a layman's language - proposes to delete the name of the Minister and leaves the rest, including the Permanent Secretary and the rest of them, to face it. Now that you are supporting it, you have to say why you think the Minister's name should be deleted and the rest should be left. But you should not go into the content---

(Applause)

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, the Minister is being crucified because he said the purchase was good value for our money. I am demonstrating that in terms of Kenya Shillings at the right exchange rate, it was good value and that is why the amendment is required.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! Mr. Otieno, will you, please, relax and conclude your contribution on the amendment? You have one minute to conclude!

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I have compared the option of purchasing the Government offered plot at Yen 1.3 billion, the cost of construction at Yen 589 million, the escalation in the depreciation of the Shilling and I have concluded that, that deal would have saved the country more than Kshs200 million.

With those few remarks, I beg to support the amendment.

(Question proposed)

Ms. Karua: Mr. Speaker, Sir, I rise to oppose the amendment.

(Applause)

This very proposed amendment puts us at crossroads; whether people charged with responsibility will take responsibility or will continue with buck passing. When this matter occurred or when the sale happened in Tokyo, the Ministers were operating under the old Constitution. Section 22(3) of the Old Constitution gives Ministers semi-executive authority. It reads as follows:

“Where the Vice-President or any other Minister has been charged with responsibility for a department of Government he shall exercise general direction and control over that department and, subject to that direction and control, every department of Government shall be under the supervision of a Permanent Secretary”.

What this means is that the Minister is the overall and the Permanent Secretary runs the day to day affairs. I have seen a trend in Government where Ministers are exempt from any responsibility. This will not augur well for the reforms we are carrying out.

Mr. Speaker, Sir, these amendments again demonstrate the evil of a system where the Executive sits in Parliament. Any time there is a Motion examining the manner in which the Executive performs their duties, the Executive regroups to defeat that Motion. What is this report which is being amended saying? It simply says investigate and in the meantime, let both the Minister and the Permanent Secretary step aside to facilitate investigations. It does not condemn any of them; not yet. It leaves that to investigations, because Parliament realizes that it does not have the capability to do thorough investigations.

Mr. Speaker, Sir, let us not stigmatize those who opt to step aside. Those who opt to step aside are people of honor, who want their names cleared and want to take responsibility for their jobs. But when you stigmatize stepping aside and make it look like a conviction, then how will we be able to even implement the high standards of integrity and ethics in Chapter 6 of our Constitution? I would urge Members of the Executive and those who are supporting this amendment to consider the impact of this amendment on the new dispensation. I would urge the Minister and the Permanent Secretary to gracefully accept to withdraw themselves from office while the investigations continue.

We have seen investigations in various Ministries going on when the Ministers and their Permanent Secretaries are sitting pretty. Those investigations have yielded nothing. It is not right that top officers sacrifice their juniors and help to cover up for themselves. When investigations are done when they are away, if they are cleared, then we will know that genuinely, they have been cleared. But if you are cleared when you are sitting in there, we will believe it is a cover up.

I oppose the amendments on these grounds, and suggest that the report should go as it is, and that when you take up responsibility for which you get paid, be ready to do the job, including taking overall responsibility, or what I would call political responsibility. It is different from criminal responsibility. Criminal responsibility can only be after a court of law convicts you. We are asking, as a House, in this Motion that the top officers take political responsibility; after investigations, then we will know whether there is any criminal responsibility or not. This is a hazard that goes with the job. The only insurance against this hazard is being very diligent.

Remember, the Minister did say, and it is in this report, that the Government got value for money. That is a statement that requires that he be investigated to know whether there is anything more that he knew or not. It may be an innocent statement, but the moment you say there was value for money and the main thrust of this report is that the Government of Kenya and the people of Kenya have lost money, you need to step aside to let investigations continue. It does not mean Parliament has found you guilty. Let us open a new chapter. I oppose this amendment. It does not mean that Parliament has found you guilty. Let us open a new chapter.

Mr. Speaker, Sir, I oppose this amendment.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, I rise to oppose this amendment for only two reasons. One, it is not the hon. Minister who is being accused. We are investigating the whole Ministry. If we stand here today

and start expunging some paragraphs of the Report and leave others, it would mean then that this Committee was doing all this work to investigate one individual.

Mr. Speaker, Sir, secondly, we have always been faced with situations where we always sacrifice the “small fish” and let the “big fish” get away scot-free. We are talking about expunging Section 76 that only deals with the Minister, while we leave Paragraph 77 that deals with the civil servants, for them to be roasted. It is very unfortunate that the Minister who is supposed to defend public servants, hon. Otieno, has stood here to defend only his colleague in the House. Those who do not have a voice must also be defended. If this Parliament today is not going to defend those civil servants also who would equally require equal opportunity to be given time, just the same way the Minister requires time, then we are not doing justice to them and this country.

Mr. Speaker, Sir, we are in a new constitutional dispensation where the chapter on integrity must be respected. For the first time, we must take full responsibility. We cannot run away from the fact that we are given Ministries so that we can supervise them. We even have our overall supervisor, who is the Prime Minister. If, today, even the Prime Minister who is supposed to supervise other Ministries, would run away and say; “I am not involved, just sacrifice the Minister, that cannot stand today.

Mr. Speaker, Sir, if we are expunging any paragraph of this Report, then we throw it away. If we are not going to interrogate the facts in this document--- Everybody has admitted, including the Minister, the way money was exchanged and transaction was carried out, was faulty. Everybody is admitting that you cannot go to a bank and pay cheques in cash worth Kshs1 billion. We are dealing with a billion and not Kshs5. We have waited until a Committee of this House did investigations on behalf of the Government so that this matter can be brought into light.

Mr. Speaker, Sir, I oppose this amendment.

Mr. Farah: Mr. Speaker, Sir, I stand to oppose the amendment. We have come out of a very powerful dispensation in this country; not only are the citizens of this country watching us, but the whole world is watching us. The biggest problem we have in this country is corruption itself. What we know is that corruption is at the top. When I say “at the top”, it is with the big people – the Cabinet and above. It is only going to be fair that this matter is dealt with in the manner it is supposed to be dealt with. The buck stops with the Minister for Foreign Affairs in here. The buck stops with every Minister who is here. Before we came in here, there was a rumour milling around, which I do not want to share, but then we can be accused of cutting deals; one Minister being protected by other Ministers and the other one also being protected by other Ministers. This is a new dispensation and Kenya has to change. The way we did business all along has to change and we have to seize the opportunity for this new dawn.

Mr. Speaker, Sir, I oppose the amendment.

The Assistant Minister for Youth and Sports (Mr. Kabando wa Kabando): Thank you very much, Mr. Speaker, Sir, for this opportunity. The new dawn and Constitution clearly requires that when a Cabinet Minister ignores procedures, there cannot be blame-shifting. The new law, among other things, says that responsibility for the Government is demarcated. I say this with a heavy heart because there are also human beings beyond the borders of this Parliament. We must stop this behaviour of instigating issues that isolate other people. For Paragraph 76 to be deleted and other sections including those that cover long serving civil servants in that Ministry to be left intact, it is

the high time that Members of Parliament, particularly, we on this Bench, the Executive--

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Mr. Speaker: Order!

The Assistant Minister for Youth and Sports (Mr. Kabando wa Kabando): Mr. Speaker, Sir, I beg to oppose.

ADJOURNMENT

Mr. Speaker: Hon. Members, we have come to end of the business today. The House is, therefore, adjourned until tomorrow, Wednesday, 27th October, 2010, at 9.00 a.m.

The House rose at 6.30 p.m.