

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 30th September, 2010

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

CIRCUMSTANCES SURROUNDING DEATHS OF EVANS K. KEITANY /BRIAN K. BIRIR

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

(a) Could the Minister explain the circumstances under which Messrs. Evans Kipkoech Keitany and Brian Kiptanui Birir died while in the custody of Police Officers at Katarakwa Police Post in Koibatek District?

(b) Could the Minister provide the postmortem reports and state what action has been taken against the police officers responsible?

(c) What action will the Government take to ensure that such deaths, now occurring at high frequency at the police post, do not recur?

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

(a) The two deaths are not related to acts of commission or omission by the police officers.

(b) Under the ongoing police reforms, police officers will be sensitized on the importance of strict observance of human rights as embodied in our new Constitution. However, I wish to assure this House that if any police officer is implicated by the inquest, appropriate action will be taken as directed by the Attorney-General. In addition, the Ministry has drafted a Bill to be tabled before this House to create an independent policing oversight authority to provide an independent channel for investigations into unlawful conduct by the police and hold them accountable to the public and Parliament. Such complaints against the police will be addressed by this particular independent body. The postmortem reports are here with me and I wish to table them as requested by the Questioner.

(Mr. Ojode laid the documents on the Table)

(c) I am not aware that there is a high rate of deaths at Katarakwa Police Post in Koibatek District.

Mr. Lessonet: Mr. Deputy Speaker, Sir, the first part of the Question required the Assistant Minister to give us the circumstances under which they died when they were in police custody. However, the response by the Assistant Minister is only indicating that there was no act of commission or omission. I want him to tell us whether these two young boys at any time of that particular day were in the custody of the police.

Mr. Ojode: Mr. Deputy Speaker, Sir, let me give the chronology of the events.

It is true that Messrs. Evans Kipkoech Keitany and Brian Kiptanui Birir died while in the custody of police officers at Katarakwa Police Post in Koibatek District. On the night of 14th December, 2009, at about 10.00 p.m., Mr. Evans Keitany was found lying dead after having been knocked down by a hit-and-run motor vehicle along Nakuru/Eldoret Highway, about a kilometre away from Equator Training Centre. Earlier on, the deceased had spent the day drinking at a local bar, namely Kongosis. When it approached closing time, the watchman asked the remaining customers to leave the bar. The deceased was later found dead, knocked down by a motor vehicle. This was witnessed by members of public who have recorded statements to that effect. After postmortem, the cause of death was found to be severe head injuries with leg declining injury due to a blunt object, consistent with motor vehicle injury.

Mr. Deputy Speaker, Sir, Mr. Brian Birir was initially arrested for the offence of obtaining money by false pretence contrary to Section 313 of the Penal Code following a report by one Danson Kipchirchir Malungya on 15th August, 2010, at about 11.50 a.m. He was later released from custody after the complainant withdrew the case. On 17th August, 2010, the deceased was found hanging from a tree with a rope around his neck by a member of the public who informed our officers in Londiani Police Station. Police officers visited the scene and took the body to the mortuary. After postmortem, the cause of death was found to be cyanosis due to hanging. I have tabled the postmortem report.

Mr. Deputy Speaker, Sir, in the case of Evans Kipkoech Keitany, a Criminal Investigations Department (CID) Inquest File No.3/2009 was opened and the same was forwarded to the Attorney-General on 31st March, for advice. It is still being awaited. The file for Birir was also forwarded to the Attorney-General and once the investigations are completed, we will take action and the Attorney-General will also advise us on what type of action we should take as a Government.

Mr. Lessonet: Mr. Deputy Speaker, Sir, the Assistant Minister has tabled the postmortem reports, but I doubt whether they are real. I thought that they could be given to you so that you may certify that they are actually postmortem reports. As I await your response to that, I would like the Assistant Minister to take us through those postmortem reports and tell us exactly what caused the death of these boys. This is because we are residents of Eldama Ravine and know that these boys were killed in circumstances which can only be known to the police officers of Katarakwa Police Station.

Mr. Deputy Speaker, Sir, I await your response on these postmortem reports.

Mr. Ojode: Mr. Deputy Speaker, Sir, I sympathize with my friend because he does not know what a postmortem report contains. Maybe, it is because he is not a doctor. I would request Dr. Khalwale, who is a doctor, and who is seated next to him, to assist him to understand what is in the postmortem report. However, as I said earlier---

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister knows that the Government enjoys the services of the Director of Medical Services. Is he in order to expect me to discharge, without being paid, a job which is not mine?

Mr. Ojode: Mr. Deputy Speaker, Sir, hon. Khalwale is a good friend. I was just requesting him, if possible, to assist our friend who may not know what the doctor has written on the postmortem report. I said that after the postmortem, the cause of death was found to be cyanosis due to hanging. If you want me to elaborate on what the cyanosis condition is, that is why I was asking Dr. Khalwale to assist you to understand what happened.

Ms. Karua: Mr. Deputy Speaker, Sir, it is noted on the postmortem form that the accused had an injury caused by a blunt object. Since he was in custody, are the police taking responsibility for the injuries that the deceased suffered and which contributed to the cause of death? Has any action been taken against the officers involved?

Mr. Deputy Speaker: Mr. Assistant Minister, the Chair is at a loss because you admitted, in the first part of the Question, that two individuals died while in police custody. However, as you progressively went into the sequence of events, you indicated that they did not die. Is police custody what you are referring to as the road?

Mr. Ojode: Mr. Deputy Speaker, Sir, I said that they were first arrested and when they were released, one of them committed suicide. The other one was knocked down, maybe, on his way home. However, going by what hon. Karua has asked, we have instructed the police to investigate this matter thoroughly. I want to assure this House that once the investigations are complete, and once the Attorney-General gives advice on the file, we will take action no matter who is involved. However, as at now, since the investigation report has not come out, let us believe that it is true that the other one was knocked down by a car. The other one might have committed suicide as it is being alleged. Following the circumstances and the consequences which I have already mentioned, we believe that one was hit by a car while the other one committed suicide.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir, is the Minister in order to ask the House to believe that the police account is correct, when he knows that recently, 14 people were found dead in Kinale Forest, some of whom disappeared while in police custody? In those circumstances, is he in order to ask us to believe the police story?

Mr. Ojode: Mr. Deputy Speaker, Sir, the next Question involves the incident at Kinale Forest. I believe that if she is patient enough, she will engage me on that particular one.

Mr. Deputy Speaker: Why did you say that the investigations are not complete and yet you want the House to believe a certain position?

Mr. Ojode: Mr. Deputy Speaker, Sir, we must carry out a thorough investigation on anything that involves death. We might get the report in a month's time, depending on the witnesses that we have in our custody.

Mr. Deputy Speaker: So, are you saying that investigations are not complete?

Mr. Ojode: Mr. Deputy Speaker, Sir, in one of the cases, the investigations are complete and we have asked the Attorney-General to give us the way forward. Therefore, the file has already been forwarded to the Attorney-General. Once the investigations are complete, I will share the findings with my friends.

Mr. Sirma: Mr. Deputy Speaker, Sir, the Katarakwa Police Station is 500 meters away from my house. The Assistant Minister should have his facts correctly. If the investigations he is talking about are not complete, he needs to ask for more time because the person alleged to have been hanged was found in the forest. He was lying down. He was not hanging. Secondly, when members of the public went to the police station, they police did not have a report showing that they had been released. Instead, they became violent and shot in the air to disperse the people who had gone there. Could the Assistant Minister request for more time so that he can give a more comprehensive answer to this Question because he is not telling this House the truth?

Mr. Deputy Speaker: Mr. Assistant Minister, when a file is committed to the Attorney-General, there is a presumption that, that is a matter which should be prosecuted. That means that there is a suspicion on the part of the investigators that somebody might have been responsible for the death of one of those people. The other one is not complete. It only suffices for you to ask for more time so that you can complete the investigations and then come to the Floor of the House and give a comprehensive answer.

Mr. Ojode: Mr. Deputy Speaker, Sir, for somebody who was found hanging in a forest, there is nothing much we can do unless we get witnesses. That is why we opened a file.

Mr. Deputy Speaker: Which file was committed to the Attorney-General?

Mr. Ojode: Mr. Deputy Speaker, Sir, it does not matter. I can ask for more time. The police have done their part and we are waiting for the Attorney-General to give us the way forward so that we can act. The law says that the Attorney-General must give us the way forward for us to arrest those who were involved.

Mr. Deputy Speaker: How much more time do you want?

Mr. Ojode: Mr. Deputy Speaker, Sir, I want one month.

Mr. Deputy Speaker: Fair enough! It is so directed. The Chair directs that the Question be deferred to one month from today for the Assistant Minister to answer it well.

Mr. Sirma: On a point of order, Mr. Deputy Speaker, Sir, based on the fact that he has asked for more time, could he go and request for more statements from members of the public who went to complain?

Mr. Deputy Speaker: I thought that forms part of the investigations?

Mr. Ojode: Mr. Deputy Speaker, Sir, that is why the Question is being deferred to next month!

(Question deferred)

MURDER OF FOUR YOUTHS IN LARI DISTRICT

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

(a) Could the Minister confirm whether 4 male youths were found brutally murdered, 2 at Kariko, Kinale Forest and 2 others at Ngubi Forest, Lari District, on 15th September, 2010?

(b) Could he furnish the House with clear details of how the four youths met their deaths and who were the perpetrators of the heinous crime?

(c) What urgent security measures has the Government put in place to guarantee maximum security to people currently living in the crime-prone area?

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

(a) On 15th September, 2010 at about 8.00 a.m., the Assistant Chief, Lari, Mr. Jeremiah Thuku, reported to Lari Police Station through his mobile phone that there were two dead bodies of male adults aged between 24 and 28 years lying along the Nairobi-Nakuru Highway. On the same day, at about 9.00 a.m. at Ngubi Forest along Mai Mahiu Road, police officers on routine patrol came across two more dead bodies of male adults aged between 25 and 30. All the dead bodies had physical injuries. The bodies were collected and taken to the City Mortuary.

(b) The first report from the assistant chief was booked at OB No. 6/15/9/70/0 and Inquest File No.15/2010 opened to investigate and establish the circumstances leading to the deaths. The second report by the police officers on patrol was also booked as OB No.15/18/9/10 and another Inquest File No.16/2010 was opened. Both cases are under investigation.

I have instructed the Commissioner of Police to establish a special team of investigators who will assist to speed up these investigations, so that whoever is behind this heinous crime can be brought to book. Furthermore, I wish to state here that if the investigations reveal that police officers were involved in these murders, they will not be spared. Our new Constitution is very clear on the sanctity of life and the rights of every citizen. I wish to assure this august House that the law will take its course and anyone who is implicated in these murders will be arraigned in court.

(c) To guarantee and provide maximum security to the area residents, the following measures have been put in place:-

(i) Patrols have been intensified in the crime prone areas.

(ii) Community policing groups have been revitalized to enhance intelligence flow.

(iii) The District Commissioner, Lari, has been holding barazas to encourage locals to co-operate and help the police fight crime in the area.

(iv) Forest guards in the nearby forest have been put on higher alert to deter criminals venturing into the forest.

Mr. Njuguna: Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that the four youths were murdered and their bodies dumped into Ngubi and Kinale forests. This is a very serious matter. When will the Government eliminate completely the extra-judicial killings of the youth by the security agents? These extra-judicial killings have caused a lot of anguish, pain and suffering to families and to the nation.

Mr. Ojode: Mr. Deputy Speaker, Sir, it is against the Constitution and the rule of law to take the life of an innocent Kenyan. I want to emphasize that, should any police officer be involved in murder, the law will be applied without fear or favour. Any Kenyan has the right to live. Investigations are ongoing. We have also alerted the forest officers at Kinale to be on high alert, so that anybody entering the forest will be arrested and investigated for us to know where the truth lies. We will not spare anybody.

Ms. Karua: Mr. Deputy Speaker, Sir, I want to take the Assistant Minister seriously with his answer of upholding the right to life. I want to remind him that it is estimated that about 2,000 young men from the Mount Kenya region have lost their lives through extra-judicial killings by the police. In view of his answer that injuries were found on the bodies of the four and as the relatives buried them the other day, it is clear that they had all been in police custody shortly before they met their deaths. Could he check with the Kikuyu Police Station and any other police station, and confirm to this House whether all the four men were in police custody? If so, when were they released? If it is found that they were released from custody or purportedly released before they met their deaths, we will be expecting action on the Officer Commanding the Station (OCS) and/or his officers.

Mr. Ojode: Mr. Deputy Speaker, Sir, we consulted with the area chief, Mr. Jeremiah Thuku, who also confirmed to us that these young boys were never at the police station. Even after he confirmed, we are investigating this matter. This is not a light matter; it is a serious matter because it involves deaths. I want to assure this House that even if there were some people who were murdered, like the allegations which I am hearing today because I do not have the evidence and the names of those who are purported to have been murdered, each and every citizen has a right to life. Our duty is to protect the lives and the property of Kenyans. I want to assure this House that nobody will be allowed to take the life of another person. Once investigations are complete, we will arrest those who are involved and charge them with murder.

Mr. Murgor: Mr. Deputy Speaker, Sir, as the Assistant Minister answers the Question, it is clear that Kenyans are losing lives at the hands of the police. However, he comes to the House and utters very serious words, claiming that he will take action. When will he follow his tough words with actions that will make the police desist from killing Kenyans?

Mr. Ojode: Mr. Deputy Speaker, Sir, I want to confirm to this House that at no time have we received reports that the police are involved in the killings. That is the reason why I have brought in detectives, not from Lari, but from other areas, for us to know the truth. This issue involves loss of lives. People have died. We want to know who killed who. My police officers cannot kill because their primary duty is to protect the lives and property of wananchi. It is not possible! But once the investigations reveal that any one of them is involved, the law will take its course. They know that I will arrest those who are involved and charge them with murder. The law is there and it is very clear.

Mr. Kiuna: Mr. Deputy Speaker, Sir, from the way the Assistant Minister has answered the last two Questions, it seems as if he is not very serious or his officers are not very serious. It seems as if they are giving him the wrong information. I wish to seek your advice on whether these two Questions could be referred to the Departmental Committee on Administration and National Security for it to investigate the matter thoroughly and report back to the House.

Mr. Ojode: Mr. Deputy Speaker, Sir, if there are other avenues through which an investigation can be done, I will agree to it, but the fact of the matter is that as of now, my police officers are not implicated in any killing. If there is any evidence, I would want to ask---

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to keep on repeating the same answer he has given over the years, that the officers are innocent? If you listened to his answer, he said: "In a matter of minutes, several bodies were found." The same police officers are supposed to investigate themselves. That is self defeating.

Mr. Ojode: Mr. Deputy Speaker, Sir, what I said is that I have brought in detectives from another station to investigate that particular matter. I went further to say that my police officers cannot be involved in the murder, because their duty is to primarily protect the lives and property of wananchi.

Mr. Joho: Ahsante, Bw. Naibu Spika. Tunazungumzia maisha ya binadamu katika Bunge hili. Maisha ya binadamu yana haki ya kulindwa na Serikali ya nchi hii. Sisi, kama wawakilishi, tunahaki ya kuwakilisha matakwa ya wananchi wa Kenya. Nimeshtuka kumsikia Waziri Msaidizi akisema kwamba maisha yanapotea inakuwa ni jambo la kuzungumzia tu, na kusema "nitachunguza". Ninayajua maeneo ya Kisauni, ambayo ninawakilisha Bungeni. Watu wasiopungua kumi walipoteza maisha yao. Hakuna uchunguzi uliofanywa, isipokuwa nimemsikia Waziri Msaidizi akizungumza kwa nguvu na hamasa kwamba watafanya uchunguzi. Ningependa kumuuliza Waziri Msaidizi atoe list ya watu ambao wameuawa katika miezi sita iliyopita, ni wangapi ambao mauaji yao yamechunguzwa, na ni watu wangapi waliopolekwa kortini na haki kutendeka?

Mr. Ojode: Mr. Deputy Speaker, Sir, it is true that people are losing their lives through acts of goons in this country.

Dr. Nuh: Jambo la nidhamu, Bw. Naibu wa Spika. Mhe Joho ameuliza swali kwa lugha ya Kiswahili. Kwa hivyo, haifai Waziri Msaidizi kujibu kwa lugha ya kimombo. Inafaa ajibu kwa lugha ambayo mhe. Joho anaelewa.

Mr. Deputy Speaker: Anaweza kujibu kwa Kiingereza!

Mr. Ojode: Read your Standing Orders! I am sorry, you are a first timer!

Mr. Deputy Speaker: Order! Assistant Minister, the House is debating a matter touching on the lives of Kenyans. Everybody in this House should treat this matter with all the seriousness it deserves. Can you proceed and answer the question that hon. Joho has asked?

Mr. Ojode: Mr. Deputy Speaker, Sir, this is a very serious matter. The reason as to why I am sometimes saddened is because we have lost a life of an innocent Kenyan. The only thing I would not want to agree with is the fact that every time there is a death, it is presumed that it is the police who have killed. Police officers are also human beings. They can kill. I am not saying that they cannot kill, but let investigations be done for us to know who actually killed. If police officers actually killed, the law is clear. Once the report of the investigation comes out, we will arrest them.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, this Assistant Minister behaves like a criminal lawyer. It is very evident that he has assured police officers that they can do whatever they want, and that he will protect them in the House. We have had many other such cases, which have come to this House, but the Assistant Minister has never come back to tell us if any of them was conclusively investigated, and that police officers arrested the persons who committed the crimes. There is a small clique of officers which is spoiling the name of the police force. So, is he in order to take this House round in

circles on the same issue, which keeps on cropping up in the House? Is he in order to behave in this House like a criminal lawyer for the police officers?

Mr. Deputy Speaker: Mr. Assistant Minister, if you, as a Minister, believe that those Kenyans were killed by goons or thugs, what is your proof? Have you been able to arrest them and take them to court?

Mr. Ojode: Mr. Deputy Speaker, Sir, that is a very good question. We have arrested so many people who were involved in this kind of heinous act. The only problem is that sometimes people do not read newspapers when suspects are taken to court, charged with murder. A murder case is not something you can dispose of tomorrow or the day after tomorrow, because once it emerges that you were involved in the murder, you are also sentenced to be murdered. That is what the old Constitution provides. So, we have to investigate these cases thoroughly, and take those who committed the murder to court.

Mr. Deputy Speaker, Sir, I want to congratulate some of my police officers for having done a wonderful job. We have arrested so many suspects and charged them with murder. Some of them are at Kamiti Maximum Security Prison, while others are at Shimo La Tewa Prison. So, we are going to investigate this murder. If necessary, I will report back to Parliament and tell hon. Members whom we will have arrested and charged in court.

Ms. Karua: Mr. Deputy Speaker, Sir, it is obvious that the Assistant Minister is not satisfying the House with his answer. I am requesting your direction. Would it be in order to ask the Parliamentary Committee on Security to investigate this matter, so that the House may get to the bottom of this case and other unexplained killings?

Mr. Ojode: Mr. Deputy Speaker, Sir, I do not---

Mr. Deputy Speaker: Order! The hon. Questioner has sought a direction from the Chair, and not from the Assistant Minister!

The Chair, being a citizen and resident of this country, is not ignorant of the fact that many Kenyans are losing their lives in very suspicious circumstances. Nonetheless, Parliamentary Committees do not have to be directed by the Chair. However, as a measure of emphasis, the Chair is going to direct the relevant Parliamentary Committee to carry out its own exhaustive scrutiny and investigation into this matter and report back to Parliament as soon as possible. Two weeks is, according to the Chair, sufficient period for that Committee to be able to report back its findings to Parliament. Under the circumstances, the Chair is going to---

Mr. Lessonet: Mr. Deputy Speaker, Sir, you have made a very good observation. I want to request that before the relevant Committee interrogates this matter, we also include the question I raised, touching on the case of Katarakwa Police Station.

Mr. Deputy Speaker: Fair enough! I am sure that the Members of the Committee have heard the sentiments of the hon. Member for Eldama Ravine.

Mr. James Maina Kamau: On a point of order, Mr. Deputy Speaker, Sir. While on the same, I would request the House to look at the answers that the Assistant Minister has been giving to this House, because he does not seem to be serious with whatever answers he gives to this House. Day in, day out, he gives the same answer. He is behaving like an actor.

Mr. Deputy Speaker: Hon. Members, under the circumstances, the Chair directs---

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. Just to enhance your ruling, I wish to request that as the relevant Departmental Committee handles this matter, they also peruse and include the inquest files which have been opened all over this country for atrocities that were committed by the police. The Assistant Minister should also give us the status of all these inquest files which were opened in 1900 before I was born.

Mr. Waititu: On a point of order, Mr. Deputy Speaker, Sir. Considering that there is a new law on how to deal with organized crime, could we also involve the Departmental Committee on Justice and Legal Affairs, so that the Assistant Minister could be directed on how to deal with organized crime in future instead of eliminating the suspects?

Mr. Deputy Speaker: Under the circumstances, the Chair directs that this Question appears on the Order Paper three weeks from today. I hope that the Minister would have come up with an adequate answer. It is the responsibility of the security machinery in this country, not only to protect the lives of Kenyans, but also to indicate who has killed Kenyans. It is your responsibility. If you insist that it is thugs and goons, then you have to investigate and do so properly and come up with information that essentially commits those criminals and goons to jail.

Mr. Ojode: Mr. Deputy Speaker, Sir, I agree with your ruling because these cases involve murder. I would request that they be investigated thoroughly and the report as you had mentioned be in the House within two weeks. I am not objecting to that.

Mr. Deputy Speaker: That is for the Committee on Administration and Security.

Mr. Ojode: However, Mr. Deputy Speaker, Sir, I am at a loss when you are also equally saying that I have to reply to the same while we are also waiting for the report.

Mr. Deputy Speaker: Order! There is a difference between a Parliamentary Committee reporting to the House and a Minister answering a Question. The Minister has the responsibility to the House to come up with an answer that is essentially adequate and that is proper. So, the Chair is giving the Assistant Minister three more weeks for him to answer the same Question again and hoping that the answer that is going to come to the Floor three weeks from today will be better because he insisted that there is an investigation going on. So, you might have better information for the House.

(Question deferred)

Next Question!

HARASSMENT OF KIBELINGWANI VILLAGERS BY KWS OFFICERS

Mr. Mungatana: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Wildlife and Forestry the following Question by Private Notice.

(a) Why were the villagers of Kibelengwani beaten and forced to eat raw meat by KWS officers on 27th September, 2010?

(b) What disciplinary action will the Minister take against the officers who used excessive force?

(c) When will the Government compensate farmers who lost all their crops to the hippopotamus killed during that week?

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

(a) No villagers of Kibelengwani were beaten and forced to eat raw meat by Kenya Wildlife Service (KWS) Officers. However, on 27th September, 2010 a team of eight KWS staff, acting on a tip off, found fresh hippopotamus meat on sale in the village and managed to arrest one Mr. Muhsin Komora in the process of cutting about four kilogrammes of hippo meat. The suspect was arrested and booked at Witu Police Station on the same day.

(b) The KWS rangers did not use excessive force on the villagers of Kibelengwani on 27th September, 2010 and there are no reports to the Kenya Police or any other authority indicating that the officers that carried out the operation used excessive force. However, should my office receive such a report then full investigations will be carried out and appropriate disciplinary action taken.

(c) Under the current Wildlife Conservation and Management Act, 1989, Cap.376, there is no provision for compensation for crops, livestock and property damaged or destroyed by wildlife. However, my Ministry initiated the review of Cap.376 with a view to exploring sustainable options for compensation. The draft Wildlife Policy and Legislation is pending discussion and subsequent approval by this House. As the law stands now, the only compensation provided is for human injury and death caused by wildlife.

Mr. Mungatana: Mr. Deputy Speaker, Sir, I am very disappointed by the answer given by the Assistant Minister. Is he aware that on the morning of 27th September, 2010 at 8.00 a.m. his officers, two of them from Kipini and six of them from Mukoe, went to a village in Kibelengwani and ordered all the villagers to lie down? Fifteen men were forced to lie on their bellies. They were also forced by KWS officers to eat raw meat. Is he aware that the new Constitution was passed? Section 25 of the Constitution protects every individual in Kenya from inhuman treatment from torture. Is he aware that people were beaten up, including that Muhsin? What action is he taking against the corporal who is in charge of Kipini Station, Mr. Lesian and the six officers from Mukoe Station who came to beat up people in Kibelengwani Village? What action will he take to ensure that people are not mistreated in the village? This Constitution is not a theory. What action is he taking against these officers?

Mr. Nanok: Mr. Deputy Speaker, Sir, this incident happened a few days ago on 27th September, 2010 and today is 30th September, 2010. I believe that the hon. Member may have received the information he has on telephone. However, according to the information we have, and I want to state this very clearly---

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. When people are beaten and treated inhumanly, it is not a laughing matter. Garsen is not that far. People actually came to see me. It is not a matter of telephone. Could the Assistant tell this country what he is doing to deal with these people? He should not go round this issue.

Mr. Nanok: Mr. Deputy Speaker, Sir, this country has procedures of dealing with incidences of officers doing things that are illegal. This particular incident of this individual, to be very correct, there were six officers from Kipini KWS section. One was a serjeant, a corporal, four rangers and two others from Tana Delta Problem Animal

Control Team. I want to say that Corporal Lesian and one ranger, acting on an intelligence tip off, went to this specific village and found a woman and a man in a house with hippo meat. On questioning them, they established that the woman and the man belonged to that house. Since trade in illegal meat is not accepted, they put them in a vehicle, a Land Cruiser KAV 922E and went straight to Witu Police Station and booked the man, Mr. Muhsin Komora under OB No.13/27/9/2010. The case was brought to court the following day. There were no reports of incidences from Mr. Muhsin Komora or any villagers. I want to inform the hon. Member who has brought this issue up that there are procedures for bringing this matter up. The best that I can advise him is to let these people go to the police station and get the P3 forms. If we find that our officers had acted illegally, we will take action.

Mr. Gunda: Thank you, Mr. Deputy Speaker, Sir. Could the Assistant Minister tell the House whether, when the Kenya Wildlife Service (KWS) officers are taken for training, one of the things they are taught is to force people to eat raw meat whenever they catch them with wild game in their homes?

(Laughter)

Mr. Nanok: Mr. Deputy Speaker, Sir, that is not a true allegation and at no point have our officers forced anyone to eat raw meat.

Mrs. Noor: Mr. Deputy Speaker, Sir. This situation reminds me of a sad situation that took place in the 1980s. We are in the “Second Republic” now and it is unfortunate that, that kind of behavior still continues to date. What action will the Assistant Minister take against those officers because this is unacceptable?

Mr. Nanok: Mr. Deputy Speaker, Sir, let me repeat again that it is illegal for any officer to take an illegal action against someone who has been caught committing a particular incident which is not allowed by law. If we have any evidence that there is a KWS officer who has been involved in this act, there are procedures to deal with this matter; it is not only about informing us, but also reporting. The hon. Member should get this information reported to the nearest police station and booked. That particular person should get a P3 form, then we shall investigate. If we establish that this is true, we will take appropriate disciplinary action.

Mr. Mwakulegwa: Asante Bw. Naibu Spika. Bw. Naibu Waziri amesema kwamba kuna mjadala anataka kuleta hapa kuzungumzia ili mtu akiuawa ama akiumizwa na Wanyama wa pori, malipo yaongezeke. Tangu nimekuwa Bunge kwa miaka mitatu sasa, huu umekuwa wimbo; umekuwa ni uzembe na haijakuja mada kama hiyo kuzungumziwa hapa. Hiyo ni kama ni dalili ya kuzuia kulipa watu wanaoumizwa na Wanyama wa pori. Ni lini mada hiyo italetwa hapa ili tuzungumzie kinaganaga?

Mr. Nanok: Mr. Deputy Speaker, Sir, when the last Question of such a nature was raised, I did table a letter in this House indicating at what stage the Wildlife Bill and policy was and, indeed, it was awaiting the signature of the Minister for Finance so that it gets tabled in the Cabinet and then comes to the House.

Mr. Deputy Speaker: Has it got the Minister for Finance’s signature now?

Mr. Mwakulegwa: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Do you want the information?

Mr. Nanok: Its okay!

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, I did ask this Question last year in June and he said that it was to be presented in the House last year. To date, it has not been presented and tabled in the House. When is it going to be presented to be discussed by this Parliament?

Mr. Nanok: Mr. Deputy Speaker, Sir, although that is not information, as we know, this House is the final approval of any Bill. What I have indicated previously and particularly last month in one of the sittings here was that, this Bill is awaiting approval by this House, but as it is now, it is yet to pass through the Cabinet. I was asked to table a letter and I tabled the letter which we had written to the Minister for Finance indicating that, that is where the delay was emanating from.

Dr. Khalwale: Mr. Deputy Speaker, Sir, in the good old days of John Marie Seroney, Martin Shikuku and George Anyona in this House, whenever an hon. Member used to raise a Question which gave a different side of the story, Ministers in those good old days used to humble themselves and reconfirm the facts on the ground. What has been stated by hon. Mungatana---. Honestly, he is not talking from the top of his head. You should have humbled yourself and tried to confirm his allegations on the ground and sought to answer the Question at a later date. But that is not important. What is important is that, this incident is not confined to Garsen. Even in Kakamega Forest, Malaba Forest and Bunyala Forest of Kakamega County, we have similar stories. When little girls are picking dried twigs for firewood at home – 12 or 14 year olds – they are slapped by KWS officers.

What are you doing, in view of the new Constitution, to ensure that KWS Officers are retrained to understand that the Bill of Rights does not allow them to do what they are doing?

Mr. Nanok: Mr. Deputy Speaker, Sir, we have asked our officers to exercise caution when arresting suspects. But as I said before, we have procedures when dealing with suspects. We do not have a police station in KWS. If we have suspects and they are caught with exhibits, these cases are normally taken to police stations. For this particular incident, it did not only go to the police station, but it is in a Kenyan law court. So, it is a matter before the courts.

Ms. Karua: Mr. Deputy Speaker, Sir, one answer by the Assistant Minister has disturbed me; asking that the complainants report to the police.

A report by an hon. Member to this House is an official report and there is no legal requirement that one reports to the police after it has reached the House. Could the Assistant Minister confirm that he will now cause internal investigations to go on following the matter which has now been formally raised in this House by an hon. Member?

Mr. Nanok: Mr. Deputy Speaker, Sir, the laws this House has made are very clear; that criminal incident reports have procedures of raising and reporting. This matter has been brought to a police station, this matter has gone to court; at no point in those two levels has there been any indication that some villagers have been beaten. If there is any – I do not doubt what the hon. Member has brought up – let them follow the right procedure and then we will institute investigations and take disciplinary action.

Ms. Noor: Mr. Deputy Speaker, Sir, Ms. Karua has just asked a simple, straight forward question. A court order and those other things are different issues. Do you not

have internal mechanisms of handling issues at the Ministry? Is the Assistant Minister in order not to answer the question that was asked?

Mr. Nanok: Mr. Deputy Speaker, Sir, at the Ministry, we do not keep an Occurrence Book, but we will definitely look into it and report back. But the information we have is that there are no incidents of any villagers who were beaten and made to eat raw meat. But in case the hon. Member has any other information that will be useful, please, raise it with us and then we will do the needful.

Mr. Deputy Speaker: Hon. Mungatana, ask the last question on the same!

Mr. Mungatana: Mr. Deputy Speaker, Sir, what has been happening in the outer parts of this country – I like the fact that hon. Nanok comes from those outer parts – is that, animals have been given a bigger value than human beings. In fact, human life is not valued at all. Today, if you kill a crocodile, the whole of KWS including Mr. Kipng’etich and the Minister will take a chopper and go to look at who has killed the crocodile. If the crocodile has eaten a child, nobody cares about this issue.

Hon. Members: Yes!

(Applause)

Mr. Mungatana: Mr. Deputy Speaker, Sir, is it true – because this is what we are told on the ground – that the current policy that the KWS has is that, nobody should touch or shoot any animals, like in this case where hippopotamus and even buffalos are just feeding on the poor people’s crops? Is it a policy of the Ministry of Wildlife that KWS officers are not to shoot; they are just supposed to “shoo” away the animals or shoot in the air?

(Laughter)

Is it a policy or are they supposed to eliminate these animals that are causing poverty to our people? Can he confirm what the current policy is because people are suffering? Whenever these issues are reported, his officers just dance around. They sleep there, wait for a hippo or a crocodile to chase them away and they say that it is the Ministry and the Kenya Wildlife Service (KWS) who are responsible. Can he confirm what the policy is? If it is not, can he say from the Floor of the House that the KWS officers should shoot these animals when they come to destroy the crops of the poor people?

Mr. Nanok: Mr. Deputy Speaker, Sir, the KWS is a Government parastatal that was established by an Act of Parliament approved by this House and specifically the Wildlife Conservation and Management Act of 1989, Cap. 376. At no time has the KWS and its officers worked outside the provisions of the law.

Mr. Deputy Speaker: Order, hon. Assistant Minister, Order! The hon. Member asked you a matter of policy. You have a duty to explain to Kenyans and this House how you deal with these wild animals when they go into the farms of Kenyans. Explain! Because if they kill them, they are committing crimes. How do you save the crops?

Mr. Nanok: Mr. Deputy Speaker, Sir, that is very simple. Eighty percent of the Kenyan wildlife live outside the protected areas. Due to population pressure, we have even encroached onto wildlife corridors. And because we do not have that sufficient capacity to police every inch of the country, we depend on information we receive from

communities, the Provincial Administration and from other Government departments. We have stationed KWS officers in various places particularly in the hotspots.

Mr. Deputy Speaker: What is the policy?

Mr. Nanok: But I have said that the policy is very clear. It is within the Act that was created by this House and this is what we have asked our officers to abide with. But in the event they do not abide with the Act, then we have taken appropriate disciplinary action at any time we have established there is evidence that they have acted outside the confines of what the law requires them to do.

Mr. Mwakulegwa: On a point of order Mr. Deputy Speaker, Sir. Why is it that when the communities he is referring to ask for help when they are being terrorized by wildlife, it takes one month for rangers to reach there but when an elephant or a hippo is killed by the same communities, the rangers are there within one hour?

Mr. Deputy Speaker: The point of order raises relevant concerns. Can you answer that, Mr. Assistant Minister? Why is your response pace so low when it comes to crops?

Mr. Nanok: We have always made efforts to respond in the quickest time possible, particularly in all hotspots. In areas where we do not have officers, I, personally, have received information, and we have told our officers to act. You will also realize that under Kenyan and international law, particularly the CITES Treaty---

Mr. Mwakulegwa: I think the hon. Mungatana asked what the policy is. We wanted to be told what the policy is. If the policy is after you report, they take two hours, then we need to be told here. We have heard the allegations that when somebody is killed they take a month but when a hippo is killed, the whole KWS from the headquarters will be there within an hour. What is the policy?

Mr. Deputy Speaker: Order, hon. Mwakulegwa!

Mr. Nanok: Mr. Deputy Speaker, Sir, I have indicated the policy, you get the information, inform the nearest KWS post or station and we will always do the needful to report.

Mr. Deputy Speaker: Next Question, Dr. Khalwale!

GOVERNMENT POLICY ON POSTGRADUATE TRAINING FOR DOCTORS

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

(a) Is the Minister aware that 94 doctors who have been admitted for postgraduate training commencing on 12th October, 2010, risk missing the postgraduate training programme due to a directive issued by the Ministry?

(b) What is the Ministry doing to avert the crisis which has far reaching adverse consequences in the health sector?

(c) What is the Government policy on postgraduate training for doctors?

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply-

(a) Yes, Mr. Deputy Speaker, Sir, I am aware that 94 doctors offered admission in Moi and Nairobi universities for various specialities risk missing the postgraduate training programme. However, this is not because of the circular issued by the Permanent

Secretary on 8th September, 2010. The circular merely explained and gave reasons why the doctors could not commence their training, namely; inadequate funding from Treasury aggravated by an increment in university fees by 80 percent from Kshs120,000 to Kshs214,000.

(b) To mitigate against the crisis, the following measures have been taken:

(i) The Minister has written to the Treasury seeking funds to bridge the budgetary deficit within the Ministry's operational areas, one of which is training.

(ii) Doctors who can sponsor themselves have been given study leave and also their pay is not going to be attached.

(iii) Doctors who cannot sponsor themselves have been assured of sponsorship funding when funds are available.

(iv) Through its partners, the Ministry has secured 8 scholarships which will be distributed as follows:

(a) Five slots will go for eye specialization.

(b) Three slots will go for family medicine.

(c) There is no specific policy on postgraduate training for doctors. Training for health workers is regulated by the human resources development policy developed by the Ministry of State for Public Service for all civil servants.

Mr. Deputy Speaker, Sir, however, the Ministry of Medical Services is in the process of developing a training policy on postgraduate training for health workers. As this is happening, the Ministry has currently reserved 75 per cent of Treasury allocation on training for postgraduate training of doctors. This demonstrates the importance the Ministry attaches to training of doctors. That is all I have for my brother.

Dr. Khalwale: Thank you, Mr. Deputy Speaker, Sir. I have in my possession a circular signed by the Director of Medical Services which actually cancelled this programme. It is dated 3rd September and he is talking of another circular that is dated 8th September. Mr. Deputy Speaker, Sir, allow me to table the circular!

(Dr. Khalwale laid the document on the Table)

Mr. Deputy Speaker, Sir, he will tell us how he disowned that circular which is the reason why the doctors became disillusioned. Having said that there is no policy and given that I know what the policy in the Ministry has been for all these years from 1967 when Prof. Maina Mungai started the School of Medicine at the University of Nairobi, it has been that doctors work for the Government for three years up to seven years and then during that time, they are allowed to be trained. In fact, in the budget of the Ministry every year, 75 percent of the money meant for training is reserved for postgraduate training for doctors. Can he tell the House who cancelled that policy and when, to make him believe that there is no policy today?

Mr. Kambi: Mr. Deputy Speaker, Sir, I am aware of that letter which cancelled this. However, it is not about the cancellation of the post graduate training. What happened is that after they went for the interviews, we realized that the Treasury only allocated us enough funds to pay for the debts we have with universities. Therefore, we realized we cannot give them the money. However, we have written to the Treasury so many times. I would like this House to help my Ministry because the way our Ministry has been treated is like an orphan. We ask for money to do a, b, c but we cannot get it.

Mr. Deputy Speaker, Sir, we have not cancelled the policy. Once the funds are available, we are going to give them and I am sure they are going to continue with this programme.

Mr. Deputy Speaker: Last question, Dr. Khalwale!

Dr. Khalwale: Mr. Deputy Speaker, Sir, when this matter came up to the notice of the 94 doctors, they ran to the Kenya Medical Association (KMA). The Association went and sat with the Director of Medical Services and the Minister. The KMA then issued a second circular, a copy of which I have here and which I table.

(Dr. Khalwale laid the document on the Table)

The KMA then directed these doctors that Prof. Anyang'-Nyong'o and the Director of Medical Services and the Permanent Secretary had made special arrangements with the Vice-Chancellor of the University of Nairobi to have these doctors admitted while the Ministry looks for funds to train them. Could the Assistant Minister tell us, in view of the discussion between them and the KMA, whether it is true they have made those arrangements so that these 94 doctors whose list I have tabled can proceed to the University of Nairobi (UoN) for training while they are looking for money?

Mr. Kambi: Mr. Deputy Speaker, Sir, it is true that we had such a discussion but we are not in control of universities. The university told us that they will not take even a single student if we do not pay money in advance. In these circumstances, the only thing we can do is to write to the Treasury.

Mr. Deputy Speaker, Sir, if you look at the table we have and our budget, sooner rather than later, leave alone the training of doctors, I will not have funds even to pay salaries for our doctors. I am asking the relevant committees to take up this matter because you are going to see doctors on the streets. We do not even have money to pay doctors' salaries, leave alone money to send them for training. This is very serious!

We have written to the Treasury and the Office of the President but nothing has happened. So, as a Ministry, what do we do?

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. There are three arms of the Government; the Judiciary, the Executive and the Legislature. You have heard the Assistant Minister say that the Government is totally not able to address this particular issue and worse things are coming. Is the Assistant Minister in order to bring issues of Government inefficiency to the Floor of this House rather than address them there and inform us what the Government is doing about the issue? The Assistant Minister could as well tell us that the Government is not able to perform its duties and quit! We are ready to take over!

Mr. Kambi: Mr. Deputy Speaker, Sir, it is not a matter of inefficiency in the Government. When there is no money, there is no money. I cannot come here and lie to the public that we have money and that we are going to do this and that, yet it is not going to happen. We do not have money.

We have written to the Treasury and everything is done by the Ministry of Finance. It is upon the Ministry of Finance to avail the funds. We have had discussions with them. However, they only give us promises. We cannot give promises to the universities. They want money and, therefore, our hands are tied.

I am sure if hon. Members of Parliament are with us, they are going to---

Mr. Deputy Speaker: Order, Mr. Kambi! You are a Member of the Government and the Government is the Executive arm, why do you not raise these things in the Cabinet meetings? You have your forum for talking to your own Cabinet colleague in the Ministry of Finance. It is not for Parliament or backbenchers to help you.

Mr. Kambi: Mr. Deputy Speaker, Sir, we have raised that issue several times. I promise to bring copies of letters we have written to the Treasury but no funds have been forthcoming. They only told us that in the next financial year they are going to consider this.

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. I know the problems he is talking about, however, there is a statement he made about the fact that doctors may be going to the streets because the Government does not have money to pay them salaries. In this House, we approved the expenditure, including Recurrent Expenditure, for the Ministry of Medical Services. Is the Assistant Minister saying that what they proposed in that budget does not include doctors' salaries? What is he saying? We are very anxious as a country.

Mr. Kambi: Mr. Deputy Speaker, Sir, yes and I have figures. We asked for a budget which was cut down. I beg to table the figures here.

(Mr. Kazungu laid the document on the Table)

Mrs. Noor: On a point of order, Mr. Deputy Speaker, Sir. Kenyan universities charge some of the highest fees in the world. What is the Ministry doing to address this issue because it is just too expensive for ordinary doctors to attain post-graduate training?

Mr. Kambi: Mr. Deputy Speaker, Sir, the issue of high fees for post-graduate is not within our Ministry. It lies with the Ministry of Higher Education, Science and Technology. We have appealed to them because surely if you look at the increment from Kshs120, 000 to Kshs214, 000, it cannot be afforded by an ordinary doctor. This increment is more than 100 per cent.

Mr. Deputy Speaker: Next Question!

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Since this is a matter of grave consequences to the public if we fail to train doctors, I request the Chair to allow the Assistant Minister to come back next week after he has done a bit of research. I have grievances raised by doctors which I tabled; he should look at them.

Mr. Deputy Speaker, Sir, when it comes to next week, he should answer two things:-

(i) What happened to the money which we voted for and passed and which was meant for training in the Ministry of Medical Services?

(ii) Why is it that the Ministry of Medical Services is experiencing financial problems when the Ministry of Public Health and Sanitation has been over-funded this financial year? It has been over-funded by a whopping Kshs1.2 billion when this other one is suffering. Is it because of the usual PNU/ODM dynamics that cause suffering to Kenyans?

Mr. Kambi: Mr. Deputy Speaker, Sir, I do not need a week or two days to answer Dr. Khalwale. As much as---

Mr. Deputy Speaker: Mr. Kazungu, you are worried about the serious consequences to the public health sector because you said that doctors might not be paid

and they might go to the streets. That is a serious matter on the Floor of the House! I have letters here which have been tabled on the Floor of the House which are, frankly speaking, very disturbing. Under those circumstances, you need to do a little bit more homework on this Question. That is because it touches on the very well being of Kenyans. The Chair directs that this Question appears on the Order Paper next week and hopes that you will come up with a better answer than you came up with today.

(Applause)

Mr. Kambi: Thank you, Mr. Deputy Speaker, Sir.

(Question deferred)

PRICES OF CANE DELIVERED TO MUMIAS SUGAR FACTORY

Mr. Washiali: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Could the Minister provide a list of both theoretical and actual prices of how Mumias Sugar Factory has been paying farmers for cane delivered from June, 2010 to date?

(b) How much money have the Mumias farmers lost from the difference in price since Mumias Sugar Company stopped honouring the formula given by the Kenya Sugar Board?

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

(a) The theoretical formula and the actual cane prices to the farmers who have been delivering cane to Mumias Sugar Factory, from June 2010 to-date, is tabulated here below and I lay on the Table the schedule.

(Mr. Mbiuki laid the document on the Table)

(b) The total amount of money Mumias farmers have lost from the difference in price since the company stopped using the formula is Kshs881,23,084 or approximately Kshs1 billion through that price disparity.

Mr. Washiali: Mr. Deputy Speaker, Sir, I would like to take this opportunity to thank the Assistant Minister for that honest answer. It is not many times you receive this kind of answer in this House. You have heard from the Assistant Minister that in four months, Mumias farmers have lost a whooping Kshs881 million. No wonder the poverty index in Mumias still stands at 76 per cent!

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker took the Chair]

Mr. Speaker, Sir, the Kenya Sugar Board (KSB) which operates under his Ministry has among other functions, to facilitate an equitable mechanism for the pricing

of sugarcane. What is the Assistant Minister going to do, now that it has become very clear that farmers have not been receiving their fair share of the price?

Mr. Mbiuki: Mr. Speaker, Sir, the Ministry of Agriculture, through the KSB, will call a special Board of Directors meeting next week so that we can deliberate on this unfortunate precedent which has been set by Mumias Sugar Company, of underpaying farmers. There is a sugarcane pricing committee which has been formed to come up with a formula of paying farmers. But it is so unfortunate that the same millers who are part of those committees are merchants of impunity. They set a formula on how farmers would be paid and, unfortunately, went ahead to break the same rules. So, the board will be meeting next week to take disciplinary action against all the millers.

(Loud consultations)

Mr. Speaker: Order, hon. Members! Will you, please, lower the level of your consultations, so that we can hear the Assistant Minister?

Proceed, Mr. Mbiuki!

Mr. Mbiuki: Mr. Speaker, Sir, I am saying that it is extremely unfortunate because the sugarcane pricing committee is composed of sugarcane millers, growers and KSB. That is the committee which is charged with the responsibility of setting up cane prices. Unfortunately, the same millers go against the committee's recommendations. So, we have called a special meeting next week on Wednesday, together with KSB team, so that we can deliberate on measures to take against those merchants of impunity who are out to destroy our sugarcane farmers.

Dr. Khalwale: Mr. Speaker, Sir, I would like the Assistant Minister to appreciate the fact that Mumias Sugar Company is within the same county as West Kenya Sugar Company (WKSC) and Butali Sugar Company (BSC). However, WKSC pays Kshs3,360 per ton. Mumias on the other hand, you have allowed it to pay Kshs3,148. Given that the Government enjoys majority slots at the KSB, why do you allow MSC to underpay farmers when you have the other experience from WKSC, which is from the same place, paying a better fee? Finally, what are you going to do to make sure that MSC also pays farmers with due consideration to the core generation because they are now producing electricity and they want to produce ethanol?

Mr. Mbiuki: Mr. Speaker, Sir, as I had earlier indicated, MSC is a private entity and it is extremely difficult for the Government to enforce prices.

Mr. Washiali: On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that MSC is a private company and, therefore, he cannot enforce any law on MSC because it is private. Is he in order to say that when KSB is supposed to act on both private and public companies?

Mr. Speaker: Order, Mr. Mbiuki! That is a valid concern because MSC, even though it is a limited liability company registered at the Companies Registry, it is a fact that the Government has shares in MSC. Therefore, there is a public component in it and you are under duty to protect the public. So, you cannot get away by saying it is a private company! Please, proceed and answer the question!

Mr. Mbiuki: Mr. Speaker, Sir, I have indicated that the Government has told the KSB team to call for a meeting next week, so that we can deliberate and take appropriate action against MSC, whom I had earlier indicated were merchants of impunity. It is

extremely unfortunate because they are part of the committee which sets those prices and goes ahead to break them. I even call upon the Departmental Committee on Agriculture, Livestock and Cooperatives to help us to take appropriate action against those millers.

Mr. Ogindo: Mr. Speaker, Sir, it is very sad that the Assistant Minister is lamenting on the Floor of the House and seeking the assistance of the relevant Committee. The Ministry of Agriculture is the regulator of the sugar industry in this country. The primary concern of the Ministry of Agriculture is the promotion of agriculture. The Assistant Minister has admitted that farmers have lost a whopping Kshs841 million in the past four months. What is the Ministry doing to ensure that farmers are compensated for that loss?

Mr. Mbiuki: Mr. Speaker, Sir, as I have indicated, we are going to take appropriate action next week when the board meets. It will advise us on the next course of action.

Mr. Washiali: Mr. Speaker, Sir, now that the Assistant Minister has accepted liability, I request the Chair to give more time to the Assistant Minister to come back after one week – after the findings of the committee – so that we can also know what the committee will have decided. If the committee decides that the money should be paid, they should consider payment in arrears because the figures are very clear.

Mr. Mbiuki: Mr. Speaker, Sir, I would like to be given exactly two weeks to come back to the Floor of this House to explain what measures the Government has taken to correct this historical injustice meted out against the sugarcane farmers by Mumias Sugar Company.

Mr. Speaker: Hon. Members, I am satisfied that the Assistant Minister has dealt with the Question adequately in the form in which it is, and the Member for Mumias is at liberty to follow up on further action by the Ministry.

Next Question!

ORAL ANSWERS TO QUESTIONS

Question No.396

HIGH STORAGE CHARGES OF ESSENTIAL GOODS AT PORTS

Mr. Warugongo asked the Minister for Transport:-

(a) whether he is aware that due to delay and costly storage charges at the port, the cost of such essential goods as medicine escalate drastically; and,

(b) whether he could consider increasing the number of free storage days, especially at Jomo Kenyatta International Airport, from two to five.

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

(a) I am aware that due to delay and costly storage charges, the cost of essential goods such as medicines escalate drastically. However, the Kenya Ports Authority allows five days free storage period for all imported goods.

Importers, or their clearing agents, are encouraged to lodge their clearing documents and remove cargo within five days from the time of arrival. After this period, cargo starts accruing punitive storage costs as a way of discouraging importers from using the port as a storage area, which usually leads to port congestion, consequently delaying the ships waiting to offload at the port.

For cases of goods like medicine which are of greater need to Kenyans, applications for waiver of storage charges can positively be considered by the Authority if there is any genuine reason which caused the delay to clear them within the free five days.

(b) The provision of free storage days at the Jomo Kenya International Airport is based on the fact that air freight cargo should move rapidly through the airport, hence its transportation by air, which is a most rapid and expensive means of transport.

At the policy level, the Government has launched a campaign through the National Single Window Programme to reduce the dwell time of the cargo at all entry and exit points in the country. The programme, which is being implemented by the Ministry of Transport at the Port of Mombasa and the JKIA, involves automation and phasing out of the manual system previously employed. Components of this project have been funded by the Government in partnership with the World Bank and the Singapore Government. Its outcome is to reduce the dwell time of cargo both at the Port of Mombasa and at the Jomo Kenyatta International Airport.

To increase the free storage days at the JKIA from two days to five days would revert the situation back to the past, where shipping lines and airlines would start levying delay charges, thereby defeating the Government policy on efficiency in clearing goods and services at Kenya's entry points.

The Kenya Airports Authority, as the airport operator, has outsourced the processes of storage to concessionaires, namely the Kenya Airways Cargo, Swissport Kenya Limited, Transglobal Cargo Centre and Siginon Freight Cargo Centre. These are private entities, which are independent operators and are not subject to direct control by the Government.

It would not be in the best interests of the country for the Government to increase the free storage days from two days to five days at the Jomo Kenyatta International Airport.

Mr. Warugongo: Mr. Speaker, Sir, while I do appreciate the answer given by the Assistant Minister, I am not satisfied. This is because if you import ten tones of cargo, especially medicine, and it happens that the cargo stays at the airport for ten days, you will end up paying over Kshs1 million. I am saying this because the fee is passed on to the consumer, who is the common *mwananchi*. Could the Assistant Minister consider waiving all storage charges on essential commodities like medicine?

Mr. Mwau: Mr. Speaker, Sir, with due respect the clearing agents of importers have a leeway, and can lodge importation documents before the cargo arrives. Therefore, extending days at the JKIA from two to five days will bring congestion at the airport, and cost more money because the airlines will impose the surcharge that we are trying to avoid.

Mr. James Maina Kamau: Mr. Speaker, Sir, I would also like to thank the Assistant Minister for attempting to answer this Question. The reason why Kenyans continue paying more for imports into this country is because there are so many

unnecessary bureaucratic stages that one has to go through before he clears his goods. Could the Assistant Minister consider things like direct access formula, under which the owner of a car can clear it and then come back later and talk about the charges? The Assistant Minister has said that the Government has no control over the private concessionaires that are all over the place. We have Signon and CMS in Mombasa and nobody knows who controls the charges or levies that they impose.

Mr. Mwau: Mr. Speaker, Sir, there are two things that we must consider here. One is the duty that is levied by the Kenya Airports Authority, and the duty that is levied by the Kenya Revenue Authority. There is storage charge by the KAA and the Customs Department. In the case of urgent cargo, an importer is entitled to get a prior release without paying duty, and he can pay duty afterwards. If we increase storage days, this will encourage people to use the airport as a storage area. It will not be fair for importers who are honest.

Mr. Njuguna: Mr. Speaker, Sir, I would like the Assistant Minister to indicate to this House what the Ministry is doing to decongest the port. Some of our neighbouring countries have threatened to have their imports shipped to Dar-es-Salaam as a result of the unnecessary delays at the Port of Mombasa.

Mr. Mwau: Mr. Speaker, Sir, as I said earlier, the congestion at the port is due to the cargo that is not removed within the stipulated period of time. That is why the port authority is becoming strict. People who import goods must remove their cargo within that period of time, so that the port can be decongested. We want to give incentive to the ship owners who are threatening to leave the Port of Mombasa.

Mr. Warugongo: Mr. Speaker, Sir, I would like to say that the two days given to people to clear goods from the ports, especially Jomo Kenyatta International Airport, is very short. This is because by the time you have got all your documents in order; the invoices, the import declaration forms, the permits and the airway bills, one day is gone and you find that you have only one day left. The Assistant Minister does not want to give us an extra day or two so that these charges can be eliminated.

I want to ask the Assistant Minister whether he can give, at least, three days instead of five. That means he should allow one more day to the importers---

Mr. Speaker: Order! Order, Mr. Warugongo! You asked a question! Do not explain why you are asking the question! Do not even justify!

Mr. Assistant Minister, you may respond.

Mr. Mwau: Mr. Speaker, Sir, my understanding is that the delay is caused by documentation that relates to the Kenya Revenue Authority. The second thing that I would like to explain to the Member is that the new Constitution has provisions for consumer rights which would include the services that are offered either by individuals or even by the Government department. Therefore, I would expect that KRA would be able to adhere to the rights that importers are entitled to and this problem will come to an end.

Mr. Speaker: Order, Mr. Assistant Minister, you had a straightforward and simple question. Are you prepared to consider increasing the number of days from two to three? Simple and straightforward! Say "yes" or "no".

Mr. Mwau: Mr. Speaker, Sir, I would not be in a position to consider that because currently we are renovating the airport. The space is not enough, we cannot allow more cargo. But after the renovation of the airport, then maybe, that will be considered in future.

Mr. Speaker: So, the answer is that you are prepared to consider that in future.

Mr. Mwau: That is correct, Mr. Speaker, Sir.

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

Mr. Speaker: Order, Member for Kandara! We have taken the last question. Next Question, Member for Yatta.

Question No.264

PROVISION OF FPE FUNDS TO
KATANGI SPECIAL SCHOOL

Mr. C. Kilonzo asked the Minister for Education:-

(a) whether he could explain why the Government has not been providing funds for free primary education to Katangi Special School; and,

(b) when the Government will start availing the funds?

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

(a) In order that the Ministry disburses funds to schools, bank accounts have to be submitted. Katangi Special School submitted its bank accounts to the Ministry on July, 15, 2010, which was too late to factor disbursement for 2009/2010.

(b) The school has now been captured in the Free Primary Education (FPE) data and the funds will be disbursed in October, 2010, actually tomorrow as I speak.

Mr. C. Kilonzo: Mr. Speaker, Sir, I wish to thank the Assistant Minister and I am satisfied.

Mr. Speaker: That then must rest the matter.
Member for Kisumu Town West!

Question No.282

COMPENSATION OF OFFICERS
INVOLVED IN CAR ACCIDENT

Mr. C. Kilonzo, on behalf of **Mr. Olago**, asked the Minister for Fisheries Development:-

(a) whether he is aware that Dr. Paul Obade, Mr. Nicanor Omire, Mr. Ezra Odada, Mr. Jared Ochieng' and Mr. Paul Odhach suffered injuries as a result of an accident involving motor vehicle Reg. No. GK A67C on 3rd March, 2007;

(b) whether he is also aware that compensation due to the officers under Workmen's Compensation Act was duly assessed and confirmed and the Ministry duly notified of the same; and,

(c) what steps he is taking to ensure that the officers' compensation is paid expeditiously.

The Minister for Fisheries Development (Mr. Kingi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) Indeed, I am aware

(c) The Kenya Marine and Fisheries Research Institute (KEFRI) Board of Management discussed and approved the employees' compensation during its 65th session held on 8th of February, 2010 and the respective employees were compensated a total of Kshs5,792,398.40. Payment cheques were forwarded to the Assistant Director of KEFRI, Kisumu on 10th September, 2010 to be paid through the Provincial Labour Officer in Kisumu.

Mr. Speaker, Sir, the latest information I have is that the cheques have been collected by the beneficiaries.

Mr. C. Kilonzo: Mr. Speaker, Sir, indeed, I am informed that the parties have been compensated, but only after the Question was brought to the House. What will the Government do to ensure that in future we do not need to bring Questions here for the Government to do its work?

Mr. Kingi: Mr. Speaker, Sir, in future, the Government, indeed, will act expeditiously on issues of this nature and certainly we will not wait to be prompted by Questions that are being asked on the Floor of the House.

Mr. Speaker: That really, must rest the matter, hon. C. Kilonzo!
Member for Turkana Central!

Question No.296

GOVERNMENT'S COMMITMENT TO INTERNATIONALLY AGREED DEVELOPMENT GOALS

Mr. Ethuro asked the Minister of State for Planning, National Development and Vision 2030:-

(a) whether he could indicate the Government's commitment to all the internationally agreed development goals stating the item, when the country agreed to, when due, estimated costs, current allocations and the responsible ministry;

(b) what specific actions the Government is taking to ensure that it meets the internationally agreed development goals of the Millennium Development Goals and any other international commitments especially in relation to food security, reproductive health in meeting the needs of young people and when the Government will commit to adequately fund the relevant budget lines to meet these goals; and,

(c) whether he could state the specific contributions by the donors to the realization of these internationally agreed development goals, specifying the donor, the exact amount contributed and the year the contributions were made.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Speaker, Sir, I beg to reply.

It is a long answer but I have gone through it with the Questioner so that I can just highlight the key issues.

Mr. Speaker: Please, just highlight the salient aspects.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Speaker, Sir, Kenya is one of the signatories of the Millennium Declaration of September, 2000 to which 189 countries are signatories. The Millennium Declaration committed these countries to achieving the MDGs which are one up to eight.

- (a) (i) Eradicate extreme poverty and hunger.
- (ii) Achieve universal primary education.
- (iii) Promote gender equity.
- (iv) Reduce child mortality.
- (v) Improve maternal health.
- (iv) Combat HIV/AIDS, malaria and other diseases.
- (vii) Ensure environmental sustainability; and
- (viii) Develop a global partnership for development.

These eight goals have 18 targets and 48 indicators for monitoring their progress and they are expected to be attained by the year 2015.

In 2005, the Government, in conjunction with development partners, carried out a needs assessment and costing report to determine how much it would cost to achieve MDGs. This was estimated at US\$5.9 billion, which is Kshs4.1 trillion.

Over the years, the Government allocation and expenditures have steadily increased as indicated in the table, which the hon. Member has.

However, based on these trends and especially in the year 2009/2010, 2010/2011, the Government has not yet been able to achieve the Declaration of Maputo which states that allocation to agricultural sector should be 10 per cent, while the Abuja Declaration sets at least 15 per cent of the Budget to go to the health sector.

The MDGs sectors lie across multiple Ministries; Ministry of Agriculture, Ministry of Livestock Development, Ministry of Fisheries Development, Co-operative Development and Marketing, Sports and Youth Affairs, Basic Education, Gender and Social Development, Public Health and Sanitation, Medical Services, Information and Communication, Trade and Ministry of Finance.

(b) The Government has put interventions in place to ensure that the MDGs are achieved by 2015. This we actually reported last week at the UN General Assembly. The current medium term plan for Vision 2030 was developed with attainment of MDGs in mind.

The Government is committed to fund the relevant budget lines to achieve the MDGs. This is indicated by the increase in budgetary allocation every financial year to the MDG sector. Again we have a long list of all the goals of whatever we have done.

(c) In the Millennium Declaration, the developed nations pledged point zero seven of their GDP as aid to developing countries to assist them in achieving their MDGs. However, this pledge has not been honoured. In Kenya, only the Government of Finland has directly been contributing towards the MDGs process through projects; mainstreaming of MDGs in Kenya Development process dated 17th June, 2005. The project was funded to the tune of Kshs281 million over a period of four years.

One of the projects ran from July, 2005 to December, 2009. However, other development partners have been indirectly giving assistance towards the achievement of MDGs. The Government of Kenya appreciates and welcomes more donors to add support to the achievement of MDGs.

Mr. Ethuro: Mr. Speaker, Sir, I wish to thank the Assistant Minister for the good answer, and also appreciate the Government's efforts in terms of realizing these MDGs. However, the Assistant Minister has admitted that the Government has been unable to realize the Maputo Declaration, which stated that the agriculture sector should get 10 per cent of the Budget. The Abuja Declaration stated that 15 per cent of the Budget should go to the health sector. The allocations towards agriculture and health stand at about 7 per cent and 5.53 per cent respectively in this particular financial year.

The Assistant Minister has an assessment of needs of Kshs4.1 trillion. What plans does the Ministry have? From the year 2000 to 2010, it is a period of ten years. From 2010 to 2015, it is another five years. What plans do you have in order to ensure that you double your efforts so that by 2015 we are able to realize these very important MDGs, including the one on poverty alleviation?

Mr. Kenneth: Mr. Speaker, Sir, there are quite a number of interventions that have been put in place to ensure that we achieve the MDGs by 2015. Most of them are in the Medium-Term Plan, which is a small slice of the Vision 2030. We are hoping that in the Financial Year 2011/2012 the sector budgetary allocation, especially for the health and agriculture sectors will be increased, so that we can be in line with the Abuja and the Maputo declarations.

Mrs. Noor: Mr. Speaker, Sir, international communities and organizations have supported the achievement of MDGs. We need to appreciate that and I want to thank the Assistant Minister for doing so.

There are many initiatives that our country has designed in order to achieve the MDGs. One of them is a social protection programme like *Kazi kwa Vijana*. In the practical sense if you go to the ground you will realize that the youth work only for one month out of the 12 months in a year. They are paid Kshs250 per day. Do you think that programme is doing justice to the youth? Does that programme address eradication of extreme poverty and hunger? Will the youth really be free of hunger and poverty by getting involved in the *Kazi kwa Vijana Programme* which is well-intentioned, but is not practically translated on the ground?

Mr. Kenneth: Mr. Speaker, Sir, the *Kazi kwa Vijana Programme* was just a very short-term initiative. Most of the projects that were captured under the Economic Stimulus Package (ESP), for example, the setting up of fresh produce markets in every constituency were supposed to alleviate poverty by encouraging farmers in terms of agriculture. There are a number of initiatives under each goal. Hon. Ethuro has a list which shows that. Under each goal, there are specific immediate programmes that the Government has undertaken and continues to undertake. We hope that under the ESP, things like *Jua Kali* sheds are going to encourage the youth to be more productive rather than relying on the one-off *Kazi kwa Vijana Programme*.

Mr. Ethuro: Mr. Speaker, Sir, you heard the Assistant Minister say that they are going to increase the allocation to this Fund. I appreciate that. However, in human resource development, which is a sector in the education and health budgets--- Within the health sub-sector, the family planning, the supplies and commodities budget has actually declined in the current financial year from Kshs1.18 billion to Kshs1 billion. I hope the Assistant Minister is alive to the fact that the new Constitution provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution. Now that they ratified ICPD, and MDGs, what concrete actions is the Assistant Minister

going to take to ensure that they will not be liable in terms of a breach of the Constitution for failing to honour international commitments within the specified time frame?

Mr. Kenneth: Mr. Speaker, Sir, the Constitution is for all of us. The best challenge as Members of Parliament is to remain vigilante so as to ensure that all the rights guaranteed in the Constitution are actually granted to Kenyans.

Mr. Speaker: Member for Butula!

Dr. Khalwale: Mr. Speaker, Sir, the hon. Member requested that I ask the Question on his behalf and he has already consulted the Chair. I would like you to allow me to ask the Question.

Mr. Speaker: Proceed. I will take your word for the truth.

Question No.326

SHORTAGE OF CANCER SPECIALISTS IN HEALTH INSTITUTIONS

Dr. Khalwale, on behalf of **Mr. Odhiambo** asked the Minister for Medical Services:—

(a) whether he is aware that there is an acute shortage of cancer specialists in the country's health institutions and, if so, what the Government is doing to solve the problem;

(b) whether the Government is working on a framework to decentralize cancer management throughout the country and, if so, when it will be effected; and

(c) if he could provide the current per-province names of cancer specialists and details on the availability of drugs in each province.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there is an acute shortage of cancer specialists in the country. To address the problem, the Ministry is pursuing a number of interventions, key among them being the following:

(i) a national task force to study and recommend improvements in cancer management was commissioned early this year;

(ii) preparation of a National Cancer Policy and a strategic plan is presently at the finalization stage and a draft Cancer Bill is due to be tabled in Parliament after Cabinet approval;

(iii) legislation to curb the incidence of cancer has been enacted; in this regard, a comprehensive Tobacco Control Act and the National Alcohol Control Act have now become operational, having been signed into law;

(iv) cancer awareness campaigns are ongoing, including a robust HIV prevention programme in place to try and limit HIV associated cancers;

(v) vaccination campaigns for certain cancers are ongoing; in this regard, Hepatitis B vaccine is part of routine immunization in children while vaccine for Human PapillomaVirus is available on the non-cancerous root of the epithelium;

(vi) on the treatment front, Kenyatta National Hospital is in the process of acquiring a Cobalt Unit for cancer treatment at a cost of US\$1,350,000; the unit is expected to be commissioned in February, 2011;

(vii) The Ministry has sought support from the International Atomic Energy Association (IAEA) to improve cancer treatment in the country; in this regard, the Ministry sent a delegation to the IAEA conference in Vienna, Austria, in September, 2010; the delegation addressed the conference and requested the IAEA to support the Government in its integrated programme of building capacity, infrastructure, and equipping all our earmarked centres that will provide cancer services.

(b) The Ministry has already commenced the process of decentralizing cancer treatment. In this regard the following activities have been carried out:

(i) two satellite oncology cancer or tumor clinics have been established at Coast and Nyanza provincial general hospitals, and both are functional; other centres will be established in due course.

(ii) eight medical doctors from provincial hospitals have been seconded to KNH for training as radiation oncologists;

(iii) plans are underway to train other technical staff in the field, namely medical-physical therapy technologists; this will raise the number of specialized oncology personnel who will be seconded to other peripheral cancer care centres.

(c) There are four cancer specialists within the Ministry of Medical Services all of whom are stationed at Kenyatta National Hospital (KNH). These are: Dr. Opiyo, Dr. Njuguna, Dr. Catherine Nyongesa and Dr. Abwao. It is this team at the KNH that provides outreach support to the satellite clinics in Mombasa and Kisumu.

Regarding the availability of cancer drugs in the provinces, the Ministry does not stock cancer drugs outside a treatment centre at the KNH. Patients diagnosed with cancer buy the drugs from the hospital. However, Coast and Nyanza Provincial General Hospitals keep stock of cancer drugs for certain cancers occurring in children under supply arrangement with Non-Governmental Organizations (NGOs).

Dr. Khalwale: Mr. Speaker, Sir, both at the Moi University and University of Nairobi, the lecturers are trying to expand the medical schools and to teach at those schools, you need specialists. Fifty years after Independence, we are still relying on foreigners to train our children in medical school in this specialty. Could the Assistant Minister tell us how many oncologists he intends to train this year so as to try and meet the high demand at those two universities?

Mr. Kambi: Mr. Speaker, Sir, this year, we have not started this programme, but we have a budget which will be coming to the House in the next financial year. But we are addressing the issue as a Government.

Dr. Khalwale: Mr. Speaker, Sir, the training of an oncologist is one of the most expensive specialties that you find in medicine. Just before you came in, the Assistant Minister had told us that they have cancelled post-graduate training for doctors in this country. In fact, he has written to 94 doctors who had been admitted to Moi University and University of Nairobi not to proceed for training because they will not pay for it. Could he tell us, now that he has admitted that you need these oncologists, whether they are going to reverse that wrong misguided decision and get those doctors to be trained?

Mr. Kambi: Mr. Speaker, Sir, as I said earlier, we are not going to reverse that decision because we are talking about budgetary deficit within our Ministry. So, when funds are available, we are going to reverse that policy.

Mr. Speaker: Next Question, hon. Chepchumba!

Question No.350

IMPACT OF RUSSIA'S WHEAT BAN ON COMMODITY PRICES

Ms. Chepchumba asked the Minister for Agriculture:-

(a) what precautions are in place by the Ministry to cushion the country against the expected rise in commodity prices following the ban by Russia of wheat exports arising from devastating draught and heat waves;

(b) whether he could confirm that the 300,000 tonnes of grains annually produced is a third of the country's consumption of 900,000 tonnes; and

(c) what plans are in place to make sure that surplus produce in local markets are mopped up in readiness for any eventualities.

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

(a) There is no precaution that the Ministry of Agriculture can put in place against the expected rise in commodity price of wheat as a consequence of the ban on wheat exports by Russia. This is because the wheat subsector is fully liberalized.

(b) I confirm that the country produces 300,000 metric tonnes of wheat against an estimated requirement of 900,000 metric tonnes.

(c) I would like to clarify that the country does not have any surplus wheat produce in the local market. Farmers have been withholding their produce due to low market prices that were being offered by millers. However, to encourage farmers to sell their stocks, the Ministry, millers and farmers met and agreed on a standard price of Kshs2,700 per a 90-kilogramme bag.

Ms. Chepchumba: Mr. Speaker, Sir, could the Minister confirm to this House that Kenya is not self-sufficient in wheat production and, therefore, imports the cereal to bridge the deficit?

Mr. Mbiuki: Mr. Speaker, Sir, yes, I want to confirm that Kenya is a net importer of wheat.

Mr. C. Onyancha: Mr. Speaker, Sir, could the Assistant Minister tell us out of that 300,000 metric tonnes how much the Government has bought or is planning to buy for food security in the country?

Mr. Mbiuki: Mr. Speaker, Sir, I would like to request the hon. Member to repeat because I have not heard him clearly. My colleague here is consulting very loudly.

Mr. C. Onyancha: Mr. Speaker, Sir, how much tonnage of wheat does the Government have presently as part of our food security programme? What is it planning to purchase from our farmers as part of the food security?

Mr. Mbiuki: Mr. Speaker, Sir, the Government is not holding any wheat as part of our Strategic Grain Reserve. The market is liberalized and it is the millers who normally buy this wheat from the farmers.

Mr. Koech: Mr. Speaker, Sir, in his answer, the Assistant Minister has indicated that it was after the Ministry, millers and farmers sat down that they had to improve the price to Kshs2,700 per bag. The Ministry imports wheat at a price of Kshs3,100 per bag. The reason we have a shortage is because the farmers have not been given a good price

for it. Could the Assistant Minister consider giving wheat farmers the same price that the Government pays to import wheat so that many farmers could be encouraged to produce it?

Mr. Mbiuki: Mr. Speaker, Sir, I would like to make it very clear that we are living in an era of a liberalized market. The Government does not import any wheat at all. We are in a free market where the law of demand and supply prevails. It is not the business of the Government to set any wheat prices at all.

Mr. Speaker: Last question, Member for Eldoret South!

(Mr. Oyongo Nyamweya waved his hand)

Order, Member for South Mugirango! That is not the way you behave in the House. You do not draw the Chair's attention by signaling with hands.

(Laughter)

Ms. Chepchumba: Mr. Speaker, Sir, what incentives are in place or the Government is putting in place for local farmers to produce more grain so that we do not experience shortages?

Mr. Mbiuki: Mr. Speaker, Sir, we are encouraging farmers to increase the acreage of farms. At the same time, we are giving subsidized farm inputs such as fertilizer and seeds, so that it can become economically viable for our farmers to produce enough wheat for local consumption.

(Mr. Oyongo Nyamweya stood up in his place)

Mr. Speaker: Order, Member for South Mugirango! Maybe you need to spend some time with the Minister for Foreign Affairs, if not the Leader of Government Business. They will be able to assist you on what to do in the House.

Next Question by the Member for Migori!

Question No.359

CAMPAIGN BY ICT BOARD ON FEMALE
DIGITAL CONTENT DEVELOPERS

Eng. Gumbo: Mr. Speaker, Sir, the Member for Migori had asked me to ask this Question on his behalf, but he later came back to inform me that he had spoken to the Minister concerned and agreed that the Minister will bring the answer next week. But I am ready to proceed if the Minister has the answer.

The Assistant Minister for Information and Communications (Mr. Godhana): Mr. Speaker, Sir, I wish to request for more time to put more research to this Question so that I can answer it next week on Tuesday.

Mr. Speaker: Very well! Given that it appears to be by mutual agreement, I defer the Question to next week on Wednesday, at 2.30 p.m.

(Question deferred)

That brings us to the end of Questions.

Next Order!

MINISTERIAL STATEMENTS

APPOINTMENTS TO HBC

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Thank you Mr. Speaker, Sir. I have two Statements to make. I would like to start with the one which I am sure my friend, Dr. Khalwale, will be very pleased about.

I take this opportunity to inform the House that pursuant to Standing Order No.11 (2) and with the approval of the Government, the hon. Dr. Sally Kosgei, EGH, MP, Vice-Chair of the House Business Committee and Minister for Agriculture has been appointed as the First Deputy Leader of Government Business and hon. Amos Kimunya, EGH, MP, Minister for Transport, as a Second Deputy Leader of Government Business.

In terms of Standing Orders No. 11(3), the said Members constitute the Government Panel that will be chaired by the Leader of Government Business. Finally, these appointments are consistent with the provisions of Standing Order No.11 (4) as due regard has been taken with regard to gender parity.

BRIEF ON HOUSE BUSINESS FOR THE PRECEDING WEEK

My second Statement is pursuant to Standing Order No.36 (4). In terms of that Standing Order, time was allotted, 15 minutes, specifically, to the Leader of Government Business to appraise the House with regard to the business for the preceding week.

First of all, I would like to take this opportunity to thank the House for the work we have done since we resumed our sittings this week, Tuesday, 28th September, 2010. Next week, the House is expected to deliberate on the Tea Amendment Bill, Bill No.12, which is envisaged to bring reforms in the tea sector. The Finance Bill as well, Bill No.9 of 2010, as well as the Insurance Motor Third Party Risks Amendment Bill, Bill No.10 of 2010, will also be going through the Second Reading stage next week.

As Members may wish to note, this afternoon, we will embark on a Motion to appoint Members who will serve in the Constitutional Implementation Oversight Committee. The Parliamentary Committee on the implementation of the Constitution will be expected to present its report on the following critical Bills on the implementation of the Constitution:

One, the Commission for the Implementation of the Constitution Bill, Bill No.15, secondly, the Vetting of Judges and Magistrates Bill, Bill No.16 and thirdly, the Judicial Service Commission Bill, Bill No.17. I am, therefore, appealing to them to exercise their mandate fully of overseeing the implantation of the new Constitution and, in particular, urge them to expedite their work. They should also ensure the timely introduction and passage of legislation required by the House in close liaison with all the relevant stakeholders.

Last but not least, I would like to urge the House that the House Business Committee has resolved that within the next one month, Parliament should organize a

workshop for all hon. Members so as to sensitize them on the new Constitution and expected laws, including the timelines of legislations as stipulated in the Fifth Schedule of the new Constitution.

Mr. Speaker: Very well! I had a few requests for a few Statements.

POINTS OF ORDER

JOB SECURITY FOR PROVINCIAL ADMINISTRATORS

Mr. Kiuna: Thank you Mr. Speaker, Sir. I would like to have a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security.

Mr. Speaker: Order hon. Member for Molo! What did you say? Did you say that you would like to “have”? Are you requesting for a Ministerial Statement?

Mr. Kiuna: Mr. Speaker, Sir, I am requesting for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to the Prime Minister’s Speech on the New Constitution and the Way Forward. He alluded to the fact that some offices in the Provincial Administration may be abolished. This statement has not been taken lightly by the provincial administrators in the whole country. It has created a lot of panic.

Mr. Speaker: Order, hon. Member for Molo! Would you, please, resume your seat? When you request for a Ministerial Statement, you give a summary of the circumstances that are leading you to request for the Statement. You then follow by indicating what clarifications you want the Minister to cover in that Statement. Could you proceed in that manner?

Mr. Kiuna: Thank you, Mr. Speaker, Sir, for giving me direction. I will be very brief. I would like the Minister to reassure the provincial administrators of the security of their jobs because right now---

Mr. Speaker: That is one. Number two?

Mr. Kiuna: Mr. Speaker, Sir, number, two, he should tell us whether they can resign and start looking for employment elsewhere before it is too late. Some senior members of the Cabinet have been telling them to start packing and go.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, allow me to respond to the Ministerial Statement now.

Mr. Speaker: How long do you require?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I require about three minutes.

Mr. Speaker: Then, you may proceed.

The Assistant Ministry, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, a Statement was made here yesterday by the able Right Hon. Prime Minister with regard to the Constitution, and not particularly to what will happen to the Provincial Administration officers. I want to give a chronology of events. In 2005, when we had a referendum to vote for the draft Constitution, there was a proposal by the Bomas and by the Wako drafts that we would scrap and/or abolish the Provincial Administration. When we went for the referendum, the draft Constitution did not carry the day. We defeated those who were for “Yes”, and

who wanted to scrap or abolish the Provincial Administration. When we went for the recent referendum, it was also suggested and put in the new Constitution under Article 17, Sixth Schedule--- For the benefit of my colleague, I would like to read that Article with regard to what it says, so as to make it clear.

This Article is found on page 199 of the new Constitution and it reads as follows:-
“Provincial Administration:

Within five years after the effective date, the National Government shall restructure the system of administration commonly known as the Provincial Administration to accord with and respect the system of devolved Government established under this Constitution.”

Mr. Speaker, Sir, I want to say this; when you take a dictionary and look at the definition of the word “scrap” you will see that it means “to remove”. When you look again in the dictionary for the word “abolish” means, you will see that it means you abolish the law or the institution or dissolve.

Mr. Speaker, Sir, when you go to the dictionary, you will find that the word “restructuring” means “re-organize”. So, it is upon us to know what we are talking about. We should leave politics aside. We are allowed to restructure, which in English means to re-organize. So, as far as I am concerned, we are going to restructure the Provincial Administration and it is there to stay. Because of the democratic right and space, you are allowed to interpret this particular Article the way you want it, but we must follow the law. In any case, if anybody wants to scrap or abolish, he or she is allowed to bring an amendment to this particular Article. I rest my case.

Mr. Speaker: Hon. Members, we will allow some requests for clarification beginning with the Member for Molo.

Mr. Kiuna: Mr. Speaker, Sir, the Assistant Minister has assured us that the Provincial Administration is here to stay. However, I would like to ask the Government to openly state its position on this matter. The ordinary mwananchi is worried when he hears contradicting positions advanced by Government Ministers about this matter. Yesterday, the Prime Minister gave a different position all together. Today, the same Government is re-assuring the House---

Mr. Speaker: Order, Member for Molo! Please, resume your seat! You need to be very careful over this matter because it is actually a very sensitive matter. It is of serious national importance. It is important that, therefore, you put it into proper context, including what the Prime Minister said yesterday in his Statement. Indeed, I was in the Chair and I did not hear the Prime Minister to be saying either expressly or even by implication, that the Provincial Administration will be scrapped. I, however, did hear him say that there is no provision for provinces in the Constitution. Do you understand? That does not mean that a Provincial Commissioner (PC) will have no place in the new Government. It is not the same thing. So, be careful over what you are saying. Indeed, you are now pleading that the Government comes out clearly in the open. Which is a more open forum than in Parliament which is covered live? So, please, be careful; otherwise, it will be you who will be misleading the mwananchi. So, come again. Let us see if you really have a request!

Mr. Kiuna: Mr. Speaker, Sir, I concur with you. However, I am glad that the Assistant Minister has now come out clearly and stated the Government’s position about the Provincial Administration. I hope that from today henceforth, any Government officer

will be in agreement with him that the Provincial Administration is here to stay and that it will not be scrapped.

Dr. Khalwale: Mr. Speaker, Sir, the concern of some Members is whether the restructured Provincial Administration within a county will be answerable to the governor of the county or whether it will be answerable to the President. Because the Assistant Minister chose to take it very lightly and answer on the spot, could he also tell us on the spot whether the restructured Provincial Administration that he intends to have will report to the Governor or to the President?

Mr. Gunda: Mr. Speaker, Sir, my sentiments have been expounded by Dr. Khalwale.

Mr. Ngugi: Mr. Speaker, Sir, the Provincial Administration comes from our colonial history. Kenyans are opposed to the manner in which it has operated. It has allowed the brewing of illicit brews and harassed the wananchi. Could the Assistant Minister confirm whether in the restructuring, members of the Provincial Administration will be trained to understand that they are there to serve the public and not to oppress it while serving the Executive?

Mr. Ogingo: Mr. Speaker, Sir, it is a fact that provinces will no longer be there. The largest unit in the new constitutional dispensation order will be the district. Could the Assistant Minister confirm to us whether the restructured Provincial Administration will cover anything more than the governor will cover?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the Constitution gives us the mandate to restructure the Provincial Administration. In other words, our Ministry will generate a Bill on the restructuring. Once a Bill has been generated, it will be taken to the Cabinet and eventually, it will be brought to the House. All those other questions will be addressed by this House through legislation. Whether you want us to adopt the France system where the Provincial Administration officers are referred to as prefects is up to us. Whether you want the Zambian or the Ugandan styles, it is up to us. It is through legislation that the Provincial Administration will be restructured as per the Constitution.

Mr. Speaker: Hon. Members, that brings us to the end of Statements.
Next Order!

PARTIES NOT CONSULTED BEFORE APPOINTMENT OF MEMBERS TO
CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

The Assistant Minister for Roads (Mr. Kinyanjui): On a point of order, Mr. Speaker, Sir. I rise to seek your guidance on the validity of Motion No.8 that seeks to create the Constitutional Implementation Oversight Committee. The Sixth Schedule, Fourth Section clearly states the purpose of the Committee, but does not state how that will be done. The Standing Order No.159 states as follows:-

“Unless otherwise provided by any written law or these Standing Orders, the House Business Committee shall, in consultation with parliamentary parties, nominate, for approval by the House, Members who shall serve on any select committee.”

Mr. Speaker, Sir, this is where we are. The parliamentary parties have not been consulted.

Mr. Speaker: Order, Mr. Kinyanjui! Sorry, I have to stop you before you go any further. Please, resume your seat.

This House runs its business bearing in mind precedence, past practices and, indeed, the Standing Orders as they apply. Our practices and the reading of the Standing Orders, particularly the relevant Standing Order No.56, you will find that you cannot begin to address yourself to a Motion before the House is seized of it.

The House becomes seized of a Motion after it is moved and seconded. It is then proposed and becomes the property of the House. So, you may have a genuine point, but the point at which you are raising it is not right. So, wait until the Motion is moved and seconded, and we will hear you.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I have been in this House from 2.30 p.m. and notice of this Motion has not been given. So, unless the Chair has allowed the usual practice to be changed, we would like you to rule on whether we can proceed before notice of the Motion is given.

Mr. Speaker: Dr. Khalwale, this is not the first Motion of this nature. Even without going further, if you have been here since the Ninth Parliament, you know that we have not had notices given when the House constituted Committees. Go to the annals of history of this House. There is no incident, not a single one, unless you want us to set a new precedent today. So, I need not rule on that one.

Proceed, Vice-President and Minister for Home Affairs!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I thank you for that direction. I hope that hon. Henry Kosgey, who is a Member of the House Business Committee, is in the House; we had agreed that he would second the Motion. He is not here, but I think hon. Jakoyo Midiwo will kindly second the Motion.

MOTION

APPOINTMENT OF MEMBERS TO CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to the provision of Section 4 of the Sixth Schedule of the Constitution, the following are appointed as Members of the Constitutional Implementation Oversight Committee:-

1. Hon. Hussein Mohammed Abdikadir, M.P.
2. Hon. (Prof.) Phillip Kaloki, M.P.
3. Hon. Martha Wangari Karua, E.G.H.,M.P.
4. Hon. Chirau Ali Mwakwere, E.G.H., M.P.
5. Hon. (Dr.) Kilemi Mwiria, M.P.
6. Hon. Charles Kilonzo, M.P.
7. Hon. Beth Mugo, M.P.
8. Hon. Ekwee Ethuro, M.P.
9. Hon. Cecily Mbarire, M.P.
10. Hon. Wavinya Ndeti, M.P.

11. Hon. Moriasi Ombui, M.P.
12. Hon. Amina Abdallah, M.P.
13. Hon. David M. Ngugi, M.P.
14. Hon. Ababu Namwamba, M.P.
15. Hon. Danson Mwazo, M.P.
16. Hon. Mohammed Maalim Mohamud, M.P.
17. Hon. (Dr.) Joyce Laboso, M.P.
18. Hon. Joseph Kasaine Nkaiserry, M.P.
19. Hon. Charles Onyancha, M.P.
20. Hon. Alfred Khang'ati, M.P.
21. Hon. John Mbadi, M.P.
22. Hon. Elizabeth Ongoro, M.P.
23. Hon. Rev. Julius Murgor, M.P.
24. Hon. Millie Odhiambo, M.P.
25. Hon. Lucas K. Chepkitony, M.P.
26. Hon. Benedict Fondo Gunda, M.P.
27. Hon. Rachel Shebesh, M.P.

Mr. Speaker, Sir, the House Business Committee took this responsibility very seriously, and I can report to this House that our deliberations were not easy. Indeed, before we went on a short break in order to be able to, among other things, participate effectively during the recent very successfully held Commonwealth Parliamentary Association (CPA) Conference, it was the assumption that political parties would consider and consult over this list, because we are dealing with a country which is absolutely enlightened with regard to the new constitutional order.

I have said it before, from the Floor of this House that this august House, the Tenth Parliament, has a serious date with the destiny of this nation. I think we cannot be seen to be prevaricating in our responsibility to give direction. So, the time to implement the Constitution that the people of this great country overwhelmingly passed, and which was also promulgated on 27th August, is now. The responsibility lies completely on our shoulders, as the Tenth Parliament.

Mr. Speaker, Sir, I, therefore, want to urge that we rise to the occasion and seize the moment, because we have already gone down well in history. I know that every hon. Member is qualified to be a Member of this oversight Committee. That is what came out. Every hon. Member, with the mandate of his or her constituency, is pre-eminently qualified to be a Member of this oversight Committee, but we have to make progress.

Even when I joined you on the occasion of talking to hon. Members of this august House with regard to the treaty establishing the East African Community, as soon as I walked out, we were confronted by the media, because members of the Fourth Estate are serious stakeholders in this whole process. They have been calculating the dates. They asked you questions, which, I think, you better answered than I did. People were saying: "You are running out of time".

Mr. Speaker, Sir, I, therefore, think it is important that, acknowledging that all of us are qualified to serve in this Committee, we do what we heard some Members in the House Business Committee do. For instance, if the Member of Parliament for Gichugu was here, she would agree with me. She had wanted two Members from Narc Kenya. She said that the membership of Narc Kenya has been rising. I think we are all witnesses to

that fact. She said that they are now 16 Members of Parliament and, therefore, they are entitled to two slots. We had to convince her, and she stepped down. That political party has only one Member in the Committee.

That is the spirit we should be able to move with, if we are going to make progress. Therefore, I want to urge hon. Members, because we are all a family of the Tenth Parliament, regardless of the political parties we represent. If we can rise to the occasion and pass this list, I think the country will listen to us, and will give us good marks. However, if we are going to begin tearing down the list by saying that there was no full consultation, as we have already heard my good friend, hon. Lee Kinyanjui, saying - he is going to get an opportunity to raise the subject - that there was no political consultation, yet we had recess time---

Mr. Speaker, Sir, I know that the Whips tried to do the best they could. We had to send them out again and again; we have a product we can live with.

Therefore, I want to really plead with this House that we pass this list and move to the next issue, because there are things which must be done expeditiously.

Thank you.

Mr. Midiwo: Mr. Speaker, Sir, I rise to second the Motion before the House. In establishing this Committee, we adhered to the provisions of Standing Order No.159. Also, under the guidance of the Chair of the House Business Committee, we agreed that both sides of the political divide would sit down and make sure that everybody is properly represented in this Committee.

Mr. Speaker, Sir, on the instruction of the House Business Committee, and I am speaking as the Whip from the Orange Democratic Movement (ODM) side, we worked together with Mr. Muthama. We realized that Kenya has to move forward. This Committee should have been established 60 days ago because from the 27th August, 2010 the Judicial Service Commission (JSC) had only 60 days to be formed. We have lost 30 days. Therefore, 30 days from today, we must have JSC in place. We have only 60 days to form the Implementation Committee which is supposed to guide this process.

I know many hon. Members would like to serve in this very important Committee. There are so many people. We toyed with figures and names and we believe that what we came up with is the best we could. Let me talk as the Whip of ODM and I want to plead with hon. Members. In my own region, a place represented by over 20 Members of Parliament – I know Mr. Gumbo contacted me this morning – I chose not to put even a single Luo from that region and I am one of them because I wanted to accommodate the rest. Therefore, I decided to put Mr. Mbadi who is a Suba---

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

What you are stating on the Floor of the House, to me, is fairly dangerous. You appear to be saying that you as the Whip on your own, you decided: You are saying, “I chose”; be careful. Let me just understand you clearly. I do not want you to go on record as saying that you applied your mind to this process as a person and, indeed, from your own words as a Luo. That is definitely dangerous.

Mr. Midiwo, just be careful because you are a joint Government Whip.

Mr. Midiwo: Mr. Speaker, Sir, if that is the impression that is being created, then I withdraw it. I think this is important.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Mr. Midiwo, do you wish to be informed by the Leader of Government Business?

Mr. Midiwo: Yes, Mr. Speaker, Sir.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, to just assist my friend, the Whip, I just wanted to give this information.

(Loud consultations)

Mr. Speaker: Order, hon. Members!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, we did not look at the tribal thing. We looked at the constitutional requirement that out of the 27 Members, nine must represent ladies. I think for that, we must be given a plus because we have complied strictly with that requirement. We decided that we will not start by flouting the provisions of this Constitution. That is what Mr. Midiwo and Mr. Muthama took into account.

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Speaker, Sir. It would appear that both the Mover and the Secunder are already trying to defend the Motion even before the matter is put to the Floor. Is it really in order for both the Mover and the Secunder to be doing that in spite of your best effort to guide them in the right direction? Clearly, even before we start this Motion, you can see something is amiss.

Mr. Speaker: Order, hon. Members! Let us hear Mr. Midiwo second the Motion. When he is doing so, he is entitled to do so, in a manner that complies to the Standing Orders. So, as long as he is relevant and raising issues that apply to this Motion, we will hear him.

Mr. Midiwo: Mr. Speaker, Sir, I did not mean to offend anybody, but this took us a long time to even come up to the constitutional provision where we would have nine women in the Committee, although men were the majority. So, we had to give and take. I think we are doing this country proud by beginning by obeying the Constitution which we seek to implement. I want to plead with hon. Members that Kenyans are waiting for this Committee. If there is anybody who may be offended in one way or another, I want to plead that we should move forward because it is time to begin the implementation of this Constitution.

I beg to second.

(Question proposed)

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of order, Mr. Speaker, Sir. Mr. Kinyanjui rose on a point of order about Standing Order, No.159 which sets out the process in which select committees of this House are nominated to serve on select committees. It states clearly that:-

“Unless otherwise provided by any written law or these Standing Orders, the House Business Committee shall, in consultation with parliamentary parties, nominate, for approval by the House, Members who shall serve on any select committee.”

Mr. Speaker, Sir, I as a Member of Parliament belonging to a parliamentary political party, I am not aware of any attempt whatsoever from the Party of National Unity (PNU) of consultations. Therefore, there is a new question to which we seek your guidance. Is this Motion really properly before the House?

Mr. Speaker, Sir, Standing Order No.160 says that in constituting select committees, the House Business Committee will pay attention to matters of gender, ethnicity and geography. However, when you read the list proposed, the first 13 names, five of them belong to the geographical region generally known---

The Assistant Minister for Lands (Mr. Wakoli): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Wakoli!

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Speaker, Sir, I was saying that five of the first 13 names belong to the region generally referred to as eastern. Is that really practical that the face of Kenya is represented by eastern? Therefore, we are seeking your guidance. Is this Motion properly before the House?

The Assistant Minister for Roads (Mr. Kinyanjui): On a point of order, Mr. Speaker, Sir.

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

The Assistant Minister for Roads (Mr. Kinyanjui): Thank you, Mr. Speaker, Sir. I had risen previously and I really respect your guidance on that matter. But I want to stand and say here that previously, we have stood in this House and said that the new Constitution is about freedom; it is about democracy and it is about consultation.

Mr. Speaker, Sir, Members of our own party did not hear these names until today in the newspapers, and here we are told that these names are products of consultations. We would want to know when the meeting was held, where the minutes are and who the Members who actually attended this particular Committee were.

Looking at the names proposed, it is also obvious that the ODM Party has excluded Ministers and Members of the Cabinet from that Committee because there exists a Committee in the Cabinet for the implementation of the same. But in our team, two Members of the Cabinet have now again been appointed on our side and we are supposed to take that as part of consultations.

Mr. Speaker, Sir, I want to say here that we cannot start on the wrong footing. I know we have taken more days than we probably would have done, but we would have been happier if we took more days consulting. This is the first time that we are seeing it and the fact that they could not bring it on time and they did not consult us does not mean, therefore, that we do it in a hurry just because we want to meet the deadline.

Lastly, it is unfortunate that you corrected the Chief Whip, Mr. Midiwo. But the reality is that he spoke his mind: "I did it!"; "I did it!" "I chose this!" "I decided not to do this!" That is the culture that we are entrenching in this House.

Mr. Speaker: Order! Order, Mr. Kinyanjui! Why do you want to belabor that even after the Chief Whip changed that? He actually withdrew!

The Assistant Minister for Roads (Mr. Kinyanjui): Yes, Mr. Speaker, Sir, I agree that he withdrew, but it was after your intervention. The reality is that he spoke his mind.

Mr. Speaker: Order! Order, Mr. Kinyanjui!

The Assistant Minister for Lands (Mr. Wakoli): On a point of order, Mr. Speaker, Sir. It is true that we have not been consulted as PNU. I have a short message on my phone that PNU is meeting tomorrow. Surely, if we are going to discuss this thing, what is the purpose of PNU meeting tomorrow? We were not consulted! We are not against the names; we are against the way PNU wants to handle matters in this House.

Mr. Mbadi: Mr. Speaker, Sir, the issue raised by hon. Nderitu is weighty and in your ruling, I would like to request you to consider that what the Standing Order No. 159 says is that:-

“The House Business Committee shall, in consultation with parliamentary parties”.

It does not expressly state what this party organ is; is it parliamentary group or party leadership?

So, as you make your ruling, I want to request you to consider that consultation with political parties does not mean the same thing as consultation with parliamentary group.

Thank you.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, hon. Members! The procedure in this House is that if you table any document or equipment, it would then become the property of the House.

(Laughter)

Proceed, Mr. Gunda! What is your point of order?

Mr. Gunda: On a point of order, Mr. Speaker, Sir. Is hon. Nderitu and hon. Kinyanjui in order to mention that hon. Chirau Ali Mwakwere comes from the eastern part and that hon. Nkaiserry, hon. Khangati and hon. Elizabeth Ongoro are not Members of the Cabinet from the ODM side?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Speaker, Sir. I want to contribute.

Mr. Speaker, Sir, I rise to support this Motion. All hon. Members of this august House are eligible to be Members of this important Committee. We are more than 220 hon. Members of Parliament and this Committee is composed of only 27 hon. Members. So, clearly, it is not possible for all of us to be Members of this Committee. It is not possible! Let us be practical!

Secondly, a point has been raised that ODM has not appointed any Cabinet Minister to this Committee and that PNU has---

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): I am on the Floor!

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): That PNU has appointed two Cabinet Members.

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir---

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

Mr. Nderitu: Mr. Speaker, Sir, I seek your indulgence. I did rise on a point of order to seek your guidance as to the validity of this Motion. The hon. Member is proceeding with debate before we get direction from you.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, it is not possible for all of us, the 220 hon. Members to be in this Committee. We are all eligible to be in this Committee. The fact that---

Mr. Speaker: Order! Order, Mr. Githae!

Hon. Members, I have listened and, indeed, considered the point of order raised by the hon. Member for Laikipia West and supported by other hon. Members, including hon. Lee Kinyanjui, hon. Bifwoli Wakoli and to some extent, the hon. Member for Bahari, although the concern for the hon. Member for Bahari was slightly different. The essence of the point of order is that the House Business Committee has not complied with Standing Order No. 159 of our rules.

Hon. Members, if I may read that Standing Order *in extensio* provides that:-

“Unless otherwise provided by any written law or the Standing Orders, the House Business Committee shall, in consultation with the parliamentary parties, nominate for approval by the House Members who shall serve on any Select Committee.”

As I understand the position to be where we are, it is that the mover of this Motion, who is the Leader of Government Business, has stated in his contribution while moving the Motion that consultation did take place. So has the seconder who is the Joint Government Chief Whip. Four hon. Members have subsequently differed with that position. The Chair, obviously, has no way of knowing who is stating the truth; whether it is the Leader of Government Business and the Government Chief Whip and maybe, even the hon. Member for Bahari or the hon. Members who have a different view or argument. Indeed, the Chair will not be drawn into that debate.

(Applause)

We have a precedent on this and the intention of this Standing Order is so as to ensure that when parliamentary Committees are formed, all different organs of Parliament that those organs are inclusive of all political parties as are represented in Parliament. Therefore, it is an exclusively political party process to which the Speaker is a stranger!

(Applause)

We will certainly not allow hon. Members to draw the Speaker into the intricacies of the leadership of political parties management. The Speaker will stay away from managing political parties. I, however, want to say this; that given the basis, a valid Motion which was properly drawn to the attention of the Speaker and the Speaker considered its validity and approved and it is now before the House, those Members that feel dissatisfied or unhappy with the Motion have a number of options. One of the options is to raise their

concerns and put their sentiments on record as we go through the debate on this Motion. The second option is to muster adequate support so that when this Motion is put to vote, it is defeated. The third option is to invoke the Standing Orders and seek deferment of debate on this Motion until further consultations to the satisfaction of all the political party membership. Indeed, there is a precedent on this. I direct that we proceed that way.

Mr. Githae has the Floor and moreso in the light of what I have directed

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Speaker, Sir, for that guidance that the Motion is properly before the House and, therefore, we can debate it. I rise to support this Motion. In doing so, I am cognizant of the fact that we are 220 Members of Parliament and we are all eligible to be members of this Committee. But this Committee has only 27 members, so it is not possible for all of us to be members of this Committee. I personally called the Acting Chief Whip and told him I do not want to be considered to be a member and therefore I wish other people could do the same so that we can move forward.

The seconder of the Motion has said that the ODM Party met and agreed on their list. Apparently, it appears as if there may not be much discussion on the issue. I am a member of the PNU and I would like to caution my fellow colleagues in PNU that we should not bring the confusion of PNU into this House. In other parties when the leader of the party has made a decision, the Members accept the decision. But we have a problem in PNU because when our leaders make a decision, the Members do not accept that decision. They dispute that decision but we must have discipline in PNU. When the leader of the party has made a decision, this should be accepted by all Members. That is the only way we can move forward.

(Loud consultations)

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Speaker, Sir. Is the Member in order to say that PNU can dictate us and we just lie low like an envelope just because we are in PNU? Why is he dragging PNU differences on the Floor of the House? Is he in order?

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

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I fully agree with you that, that is not a point of order.

The point I am making is that even if we deferred this Motion---

(Mr. Nguyai stoop up in his place)

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr Nguyai): On a point of order, Mr. Speaker, Sir. You very clearly stated in your ruling that the appointment of this Committee will be done through consultations among the political parties, but I have heard the Member on the Floor repeatedly say the leader has decided, the leader can decide, the leader has decided. Could he clarify whether we worked in consultation or which leader decided on the membership of this Committee?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I have said the PNU party has decided that these are the right members to be

in this Committee. Therefore, we should not wash our dirty linen in Parliament. Those are internal issues---

Mr. Speaker: Order, Mr. Githae! What is it your point of order, hon. Jamleck Kamau?

Mr. Jamleck Irungu Kamau: On a point of order, Mr. Speaker, Sir. I just want to take you back a little bit to what happened in this House when the President presented the name of the Leader of Government Business and the Chair rejected that name because there was no consultation made between the President and the Prime Minister. As we speak right now, you have heard very clearly how hon. Githae has said that the leader of the party has made a decision which cannot be subjected to any scrutiny by any other person.

Mr. Speaker, Sir, the point of order that I am raising---

(Several Members stood in their places)

Mr. Speaker: Order, hon. Members! Let us hear the hon. Jamleck Kamau!

Mr. Jamleck Irungu Kamau: As we speak here, I belong to the PNU and because I do not see my Chairman here and I am the Vice-chairman, I am the senior most member of PNU in this House at this minute. I was not consulted by anybody. Is the hon. Githae, who is my junior in the party, in order to mislead the House that PNU as a whole has made a decision while you know very clearly that is not the position?

Mr. Speaker: Order, hon. Members! That is a valid point of order. Mr. Githae; are you misleading the House? Do you agree?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I have never misled this House and I have no intention of misleading this House. But what I am saying is that consultation does not necessarily mean that you must have a formal meeting for you to consult. Consultation can be through Short messaging services (SMSs)---

Mr. Speaker: Order! Order, Mr. Githae! As the Speaker of this Assembly, I am aware and it is within my knowledge that hon. Jamleck Irungu Kamau is the Vice-Chairman of PNU and so, what he says would obviously be authoritative because he is very close to the top of that party. So, unless you are able to disapprove the contention of the Vice-Chairman of PNU, I am afraid, I will find that you are misleading the House.

(Mr. Mwakwere stood up in his place)

Mr. Speaker: Mr. Githae, do you want to be informed by the hon. Member?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Yes, I would like to be informed by our Acting Chief Whip.

(Loud Consultations)

Mr. Speaker: Order hon. Members! The hon. Githae wishes to be informed by the Chief Whip but the Chief Whip did not rise on a point of order; the hon. Ali Mwakwere did. So, you decline information from hon. Mwakwere, do you?

The Minister for Nairobi Metropolitan Development (Mr. Githae): I accept Mr. Speaker, Sir.

The Minister for Trade (Mr. Mwakwere): Thank you very much, Mr. Speaker, Sir. I stand here as the First National Vice-Chairman of PNU. My colleague is one of the Vice-Chairmen but I am the First National Vice-Chairman. Having said that, I would like to confirm that there was thorough consultation within the party.

(Loud consultations)

Mr. Speaker: Order! Order, Mr. Bifwoli! Let us hear Mr. Mwakwere!

The Minister for Trade (Mr. Mwakwere): Mr. Speaker, Sir, as the First National Vice-Chairman of PNU, I wish to confirm to the House that there was consultation and the list is---

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

Mr. Speaker: Order, Member for Kamukunji! Let us hear Mr. Mwakwere, he is on a point of information!

The Minister for Trade (Mr. Mwakwere): Mr. Speaker, Sir, the list presented by the party is right and proper and represents the position of the party.

The Assistant Minister for Lands (Mr. Bifwoli): On a point of order, Mr. Speaker, Sir. Is it in order for the so called Vice-Chairman to mislead this House that there was consultation when I have just presented a text message saying that PNU is meeting tomorrow at 9.00 a.m. to consult? Is it in order for the "Vice-Chairman" to mislead the House?

The Minister for Labour (Mr. Munyes): On a point of order, Mr. Speaker, Sir. I stand to call the House to get some respect over this matter. This is a matter that calls all of us to respect each other. This matter has been treated with a lot of arrogance. When we talk of consultation, if we really want to take this Constitution in a smoother manner, it is all key players to consult. Nobody has consulted us as Ford-Kenya.

(Applause)

Mr. Speaker: You speak as the Secretary-General---

The Minister for Labour (Mr. Munyes): As the Secretary-General of Ford-Kenya Party.

Mr. Speaker: An affiliate of PNU?

The Minister for Labour (Mr. Munyes): Yes, and nobody has consulted us.

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

Mr. Speaker: Who do you want to inform, Mr. Muthama?

Mr. Muthama: Mr. Speaker, Sir, I want to inform Mr. Githae.

Mr. Speaker: No! Mr. Githae sat down a long time ago.

Mr. Githae, will you please proceed with your contribution? Try and conclude!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I want to conclude.

The definition of consultation is not given in our Standing Orders. I am aware that all the political party leaders in PNU received letters and confirmed that the Members proposed are the right ones.

Mr. Speaker: Can you please conclude? You are being repetitive now!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, even those speaking about provinces, we do not have any provinces in this Constitution.

I support the list and we should not bring the PNU confusion to this House.

MOTION

ADJOURNMENT OF DEBATE ON APPOINTMENT OF CONSTITUTIONAL IMPLEMENTATION COMMITTEE MEMBERS

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I am appalled at the line of argument adopted by my very good learned senior, Mr. Robinson Githae whom I have a lot of respect for. I would advise him to be less aggressive and be more accommodative to other views.

Mr. Speaker, Sir, I wish to move a Motion whose notice I have submitted to you under Standing Order No.25 (1):-

THAT, the debate be now adjourned so that we can give time for wider, better and more accommodative consultations.

Mr. Speaker, Sir, I am saying this not because I am questioning the qualifications or validity of any name on the list. Indeed, each and every hon. Member in this House has the capacity, ability and will to serve on such a Committee. However, we have come a long way with this Constitution. I want to appeal to hon. Members that the stage where we have reached, we should not send mixed and confusing signals to the public. As an hon. House, I want to urge that we, as a House of dignity representing the people of this country, move together and in unison, carrying everybody.

Mr. Speaker, Sir, the process is as important as the results we desire. If the process is convoluted, if the process is not consultative, if the process is not convincing, we lawyers; including yourself, say, “justice is not what the judge does but what others perceive the judge to be doing”.

I want to urge that contrary to what the House has been told, I am a very senior Member of a party that is an affiliate of PNU. My Secretary-General has spoken here. My party has not been consulted at all. My party has not even contributed a Member to the Committee because of lack of consultations. I do not want to speak for other parties. I want to urge even the parties that have no difficulty and have consulted among themselves and brought a consultative list to rest quietly and allow those that are in difficulties to resolve so that we move together.

Mr. Speaker, Sir, it is wrong for my colleagues in PNU to say there were thorough, deep and wide consultation when there were none!

We have sworn to be dignified in this House and I want to urge that we remain dignified.

I therefore, very humbly urge the House that another day is not too long for us to give a clean, smooth process to what we are doing so that every Kenyan comes with us. Members of this House are going to be very critical in passing every Bill that will come here. It is good to have Members going to debate those Bills without hesitation and

without doubt, ill will or feelings that we should have been consulted at some stage as we came along this road.

I humbly submit that this House do adjourn. For those parties that are in order, we thank you for being orderly. Give those that are not an opportunity to also get their act together.

I invite my colleague, Mr. Duale to second the Motion.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, I stand to second this Motion of adjournment.

I want to put it on record that I am the First National Vice-Chairman of ODM but I was not consulted.

Mr. Speaker, Sir, I think---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to be deliberately misleading this House when I sat at a meeting where he was one of the people who chaired? We gave very clear principles and guidance about how we were going to select people. We proposed names, I remember proposing names, some of which came through and others did not because it is not my final decision. We consulted. Look at the meaning of the English word, "consultation" means we spoke to each other.

Mr. Speaker: Order, Mrs. Odhiambo-Mabona! That is not a valid point of order. It is a matter of argument.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, I think you have already ruled that in terms of seniority, I am more senior in the party than Mrs. Odhiambo-Mabona, being the National Vice-Chairman.

(Applause)

Mr. Speaker: Order! That is exactly what I captured in my directions; that the Speaker or the Chair for that matter will not be drawn into party intricacies. I am, therefore, not about to decide who is senior to the other in any party.

(Applause)

Proceed!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, I stand here to support the Motion of Adjournment. This is a very crucial day and this House is discussing the Implementation Oversight---

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): On a point or order, Mr. Speaker, Sir. Thank you for giving me this opportunity. I know you have made a ruling here. But the Tenth Parliament has a precedence. Let me take you back when we were forming the Parliamentary Select Committee (PSC) on the Constitution. At that time, this country had the urgency of constituting the Committee of Experts (CoE), Independent Interim Electoral Commission (IIEC) and Independent Interim Boundaries Review Commission (IIBRC)---

Hon. Members: And others!

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Speaker, Sir, you made a ruling in this House when there was controversy over the members of the

PSC. This is the same controversy that is coming up right now. So, the only best thing I can ask is: Let the Parliamentary parties recede back and bring a list that everyone is comfortable with.

(Loud consultations)

Mr. Speaker: Order, Mr. Nanok! Your point of order is not valid because what you are suggesting is what we are in the process of doing. So, you just need to stand and make your contribution. I am afraid, I rule you out of order!

Proceed and finish Mr. Duale!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Speaker, Sir, I said this is an important day and we want to form an important organ of Parliament dealing with the implementation of the Constitution. This Constitution is very clear on internal democracy and the integrity of the leadership of this country. It is very sad today that political party politics have been drawn into the Floor of the House. I agree with Mr. Wetangula that if political parties will not consult, then there are more other issues that we need to bridge the gap on party politics. These are issues like the reforms in the police and the controversial issue of the Provincial Administration. I think we need to do what is good to this country. We should go back and consult each and every Parliamentary party in this House. The days when chief whips, party leaders and a few leaders of political parties thought that this country's political system would be run in accordance with their wishes, those days ended when we passed this Constitution and when the President assented to it on 27th August, 2010.

With those few remarks, I want this House to take the indulgence and give the Kenyan people a better representation. There should be consultations. I think the consultations should be spearheaded by the Prime Minister and the President.

(Question proposed)

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. M. Kilonzo) Mr. Speaker, Sir, it pains me but I must say these things. The architecture of the Constitution has been designed to prevent arbitrary exercise of political power by any one group or individual. It is also designed to take account of the fact that it recognizes that factions or small interest groups are inherently dangerous to political freedom and stable Government. It pains me when I see my two learned friends, Messrs. Wetangula and Githae, men I respect, although one of them was my student, expressing contrary views on the Floor of the House.

(Laughter)

Therefore, I want to draw your able attention to Article 91 of our Constitution at page 61. It seems to me that the proceedings this afternoon are not taking cognizance of the fact that this is the first time, since the Promulgation of the new Constitution, for this House to be charged with responsibility of seeking to implement the Constitution. The country is watching. If we start on the wrong foot, we will remain on the wrong foot.

Under Article 91, basic requirements for political parties are very expressly stated and they are: Every political party shall – and I want to refer to (d) – abide by the democratic principle of good governance, promote and practice democracy through regular fair and free elections within the party and, particularly (e), respect the right of all persons to participate in the political process, including minorities and marginalized groups. If I may just pause and refer to those two, it is quite clear to me since there is only half an hour left of today's activity, that the proposal by Mr. Wetangula is reasonable. That is because much as I am aware that we have very strict deadlines, but if we start with allegations that these principles of this Constitution are already being violated by the political parties that have donated hon. Members, it will be a very sad day for this country. Bearing in mind that the country is watching, I also want to refer you to page 193; the functions of the committee and, particularly, at page 194; the function of the Committee which is the subject of the Motion by the Leader of Government Business. It says that it is the function of this committee to co-ordinate with the Attorney-General, the Commission on the Implementation of the Constitution and relevant Parliamentary Committees to ensure the timely introduction and passage of legislation required by this Constitution. I think it is very unfair to this country for us to stand here and continue this interchange where all parties that have donated hon. Members to the House appear to have issues that you cannot deal with. The House Business Committee (HBC) is composed of hon. Members elected by this House and it also comprises the two chief whips of both partners in the Grand Coalition Government. Therefore, I would suggest, with respect, because we want to start on the right foot, much as I am aware of the timeframes, that we adopt the proposal in the Motion proposed by Mr. Wetangula – who was my student, so that when we meet next time, at least, we can start this process on a proper footing.

With those few remarks, I beg to support.

Dr. Eseli: Mr. Speaker, Sir, thank you for giving me this chance to support this Motion to adjourn the debate. I have sat here and listened to many senior Members of this House who have said certain things which were shocking! In the sense that some have even arrogated to themselves party positions that do not exist in those respective parties, and they purport to use the same to push an argument which we have clearly said the consultation was not there. While my colleagues in Ford-K might have come in through the ticket of PNU, I came in as Ford-K.

If any letters were written to anybody, I did not receive them.

Mr. Speaker, Sir, it is important that while we have abolished provinces as we know them, this has actually left without what used to be Western Province. It is very interesting that the counties of Trans Nzoia, Bungoma and Kakamega are not represented at all, while when we go to the counties of what used to be Eastern Province, they have got five representatives. That is against the laws of natural justice.

Mr. Speaker, Sir, I support this Motion and urge fellow hon. Members that we adjourn debate on this Motion.

Mr. Waititu: Thank you, Mr. Speaker, Sir, for giving me this chance. I rise to support the Motion. First, the list is not representative because some of the names in it are supposed to be different. First and foremost, we have one person, who is the chairman of the Parliamentary Caucus on Constitutional Review, Mr. Mungatana and his name is not on that list. During the constitutional making process, he did a lot of work; we had so

many meetings. I just wonder how other names can appear there and his name is not there. Also looking at the list, we have no Members from the former Western Province. We just wonder how they can be left out of such an important committee on implementation of the Constitution.

I therefore, support the view that that list be looked into again and we bring here another list after we have consulted widely.

Mr. Speaker: Hon. Members, I am satisfied that the mood of the House has been captured in terms of contributions to this Motion. I will now put the Question, that the debate be adjourned to Tuesday, 5th October, 2010.

(Question put and agreed to)

Hon. Members, I note that the Motion for Adjournment has been carried. I want to take this opportunity to plead with the following persons, just as we did in the year 2006, that the Leader of Government Business, his able deputy, the joint chief whips and leadership of different political parties ensure that they consult in earnest, so that we have a solution to this matter before debate resumes on Tuesday.

I also want to draw the attention of those persons I have mentioned, and, indeed, to all Members of Parliament to the provisions of Section 261 of the Constitution. Please bear in mind the implications of that section and the consequences thereof.

ADJOURNMENT

That being the case now, hon. Members, the business under Order Nos.9 and 10 is for all practical purposes spent. So, that brings us to the end of business for today. The House stands adjourned until next week, Tuesday, 5th October, 2010 at 2.30 p.m.

The House rose at 6.05 p.m.