

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 31st August, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ADMINISTRATION OF OATH

Mr. Speaker: Order, hon. Members! Hon. Members, we will proceed to administer the Oath of Allegiance to the hon. Chachu Ganya.

The Oath of Allegiance was administered to the following Members:-

Francis Chachu Ganya

Mr. Speaker: Order, hon. Members! Members at the entrance may wish to walk in!

(Hon. Members standing at the Bar entered the Chamber)

(Administration of Oath of Allegiance resumed)

Kigen Lucas Kipkorir
Mungatana Buya Danson

Mr. Speaker: Order, hon. Members! I have intimation that, Dr. Monda, the Chairman of the Departmental Committee on Health, has a Report to lay on the Table.

(Dr. Monda remained seated)

Can you explain your lack of vigilance?

(Laughter)

Dr. Monda: Mr. Speaker, Sir, I want to apologize. I did not get you directly that I had to come and table this Report. But I wish to lay it on the Table now.

Mr. Speaker: Proceed!

Dr. Monda: Mr. Speaker, Sir, last week, the Chair had directed the Departmental Committee on Health to go to Naivasha for a fact-finding mission on Question No.279 that was asked by Dr. Otichilo last week. The Committee went to Naivasha yesterday –

Monday 30th August, 2010 - and came up with a Report on the contamination and pollution of Lake Naivasha. This is the Report and I wish to lay on the table of the House.

PAPER LAID

The following Paper was laid on the Table:-
Report of the Departmental Committee on Health on the Contamination and Pollution of Lake Naivasha.

(By Dr. Monda)

QUESTIONS BY PRIVATE NOTICE

DAMAGE CAUSED BY FIRING OF HEAVY ARTILLERY AT LARESORO

Mr. Letimalo: Mr. Speaker, Sir, I beg to ask the Minister of State for Defence the following Question by Private Notice.

- (a) Is the Minister aware that 17 expectant women have suffered miscarriages and several buildings have cracked due to intensive firing of heavy artillery at Laresoro near Archer's Post?
- (b) Could the Minister consider stopping the firing of heavy artillery immediately to avoid further damage and re-locate future military exercises away from human settlements?

The Minister of State for Defence (Mr. Haji): Mr. Speaker, Sir, I beg to reply.

(a) There is no heavy artillery firing which takes place anywhere near Archer's Post Trading Centre. All heavy artillery firing is conducted after Laresoro, which is 20 kilometres away from Archer's Post. The area is free of any permanent civilian dwellings. Owing to the above facts then, it is unlikely for any expectant women to suffer miscarriage or any building to crack in the gazetted area.

(b) With regard to relocating future training activities, it is prudent to point out that the military training area in Laresoro was set aside for military training as per Official Kenya Gazette Notice Vol.LXXIXLO46 dated 11th November, 1977. A copy of Gazette Notice No.3210 is attached. For those who graze their cattle in the training area, we alert the Provincial Administration. The Provincial Administration then informs members of the public to clear and keep away from the exercise area and, particularly, the area that has been gazetted. The Ministry has invested a lot in the development of the training area, including undertaking humanitarian civil actions in the environs of the training area in the form of opening up access roads, schools, dams and water pans to assist the locals.

Mr. Letimalo: Mr. Speaker, Sir, I want to thank the Assistant Minister for the answer that he has given. But just to show you that this matter is really grave, as recently as last week, four women were hospitalized at Archer's Post Health Centre. One of them is Mrs. Gitonga. Several buildings have cracked, including schools and other facilities. In order for the Assistant Minister to ascertain that the people living there are subjected to a

lot of suffering--- The firing is done within human settlement areas. That is because when you talk about Laresoro, it is the only place where you can get water. That is why the community is crowded there looking for water. Could he undertake to send his personnel to find out the problems affecting the people? Could they also determine the proximity of the heavy artillery firing to human settlement? After that, the Assistant Minister should file a report to the House.

Mr. Haji: Mr. Speaker, Sir, I think up to this moment there is no medical evidence to show that women are aborting because of the firing. As I said earlier, there is no heavy artillery involved. Normal arms are used. In any way, the public is notified through the Provincial Administration to keep clear and away not only because of aborting or anything, but so that no stray bullet hits human beings. I would have wished, if the hon. Member is insisting, that he gives us some kind of evidence that will make us revisit the whole issue. The women may be aborting for other reasons, and not because of the reason that has been indicated by the hon. Member.

Mr. Lekuton: On a point of order, Mr. Speaker, Sir. Mr. Letimalo just clearly said that women have aborted; he clearly asked the Minister to send a team. Is it in order for the Minister to now direct the issue to Mr. Letimalo when that clearly falls within his mandate?

Mr. Haji: Mr. Speaker, Sir, the answers are normally prepared by officers who are in the field. Therefore, they have the information because they are in the field, just as Mr. Letimalo is. Therefore, I do not think there is any reason for him to ask me to give any proof.

Mr. Ethuro: Mr. Speaker, Sir, all that we are asking our good Minister, and we have a lot of respect for him, is that he has confirmed that the answer is given by officers on the ground; the area MP is also on the ground. Both parties who were on the ground do not seem to agree on the same issue; is it asking too much for this House to request the hon. Minister to give us a date when he can go and visit the area and establish for himself whether the 20 kilometres he is talking of is actually a safe area for the firing of artillery, whether heavy or light?

Mr. Haji: Mr. Speaker, Sir, I am as much concerned as the hon. Members, because the people he is talking about are Kenyans. I am quite prepared, maybe after the holy month of Ramadhan, to go to that place and see whether what is being alleged is true; perhaps I will then deal with the MP and not necessarily the House.

Mr. Letimalo: Mr. Speaker, Sir, I do acknowledge the promise given by the Minister. The Minister has stated that as a result of the military exercise being undertaken by the Kenya Army, they have assisted the community by undertaking tree development projects. Could the Minister cite any single project that has been undertaken by the Kenya Army? As far as I know, Laresoro Primary School which is within the vicinity---

Mr. Speaker: Order, Mr. Letimalo! During Question Time, you ask a question and allow the Minister to answer. Do not begin to explain why you have asked the question. You have concluded your question: could the Minister cite a project?

Mr. Minister, answer the question.

Mr. Haji: Mr. Speaker, Sir, we have developed a school there. A dam has been constructed. To allay the fear of the hon. Member, since we will visit the place I will ask him to show me where there is no dam.

UNDER-RECRUITMENT OF TEACHERS AT
TURKWEL BOYS' SECONDARY SCHOOL

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

- (a) Why is the Minister not considering employing more teachers at Turkwel Boys' Secondary School in Loima District in the current teacher recruitment exercise?
- (b) What plans does the Minister have to provide adequate teachers for Kerio, Loima and Lomil secondary schools built through CDF and which will open in January, 2011?
- (c) What affirmative action is the Ministry considering to ensure that the ASAL areas are given more teachers, more boarding facilities and more infrastructural funds than the standard allocations per constituency in order to address marginalization?

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

- (a) The Ministry has not received registration documents from the school, and as a result the school is not recorded as one of the operational schools in Loima District. Once the Ministry receives the registration documents, teachers will be posted to it immediately.
- (b) As I have indicated in part "a" Kerio, Loima and Lomil secondary schools' documents have also not been received in the Ministry for registration. Immediately we receive the documents the schools will be registered and teachers will be posted to them immediately.
- (c) The Ministry has developed a policy framework for nomadic education in Kenya. The Nomadic Education Commission will be formed to implement the policy. The policy will address the challenges of education, quality, access and equity in ASAL areas, including Turkana. I launched the policy on 15th July, 2010 jointly with the United Nations Children Education Fund and the Ministry of State for Development of Northern Kenya and Other Arid Lands at Garrissa Town. A stakeholders' meeting will be held to develop a cabinet memorandum and a sessional paper to the Cabinet and Parliament for approval.

My tour of North Eastern Province and the launch of the policy were informed by a response to Parliamentary Question No.116 by Mr. Adan Keynan, MP for Wajir West, and a request for a Ministerial Statement by Mr. Farah Maalim, the MP for Lagdera on the state of education in North Eastern Province. It should also be noted that the Ministry of State for Development of Northern Kenya and Other Arid Lands is also implementing affirmative action programmes cum projects to address marginalization in ASAL areas.

Mr. Speaker, Sir, if you will allow, I have a few copies here of the policy framework for nomadic education in Kenya, which I will hand over to the hon. Member through the Chair for his benefit, that of his colleagues and other people who do not have this policy document.

Thank you.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for confirming that he listens to this House, and also for giving copies of the policy framework. But I wish that the Assistant Minister would also listen to me. His answer to part "a" of the Question is that the Ministry/TSC has not received registration documents.

We have got this school as the only one in an area of over 9,000 square kilometres, with a population of over 121,000 people.

We built it very quickly last year and recommended it to be a DEB school. It had an intake this year. The Government registered the school. The address of the Ministry of Education is Jogoo House B. I am just wondering whether the Assistant Minister lives in another building and not Jogoo House. The school is registered. An assessment has been done and established the requirement for nine teachers, according to BCE. Why did you not allocate Turkwel Boys' Secondary School the nine teachers that it needed? I table this document.

(Mr. Ethuro laid the document on the Table)

Prof. Olweny: Mr. Speaker, Sir, let me have a look at the documents!

(Mr. Ethuro passed the documents to Prof. Olweny)

Mr. Speaker: Order, Member for Turkana Central! Please, resume your seat.

Prof. Olweny: Mr. Speaker, Sir, it is true this is a certificate indicating that this school was provisionally registered. That means my Ministry has to post teachers there. It also means that I was given the wrong information. However, let me assure the House that I will take action on this. We will post the required number of teachers as soon as possible.

Mr. Speaker: Very well. Last Question, Member for Turkana Central in the light of that answer.

Mr. Ethuro: Mr. Speaker, Sir, in the light of the answer, I want to thank the Assistant Minister who was my teacher in the University.

However, I would like him to confirm that he will post the nine teachers as recommended to the school. When will he post the teachers because the school is ongoing and students are in class?

Prof. Olweny: Mr. Speaker, Sir, you have heard the hon. Member saying that I was his teacher. However, he is trying to harass his former teacher.

Mr. Speaker, Sir, I have promised to do so. So, let the hon. Member be patient because we will do so immediately.

ORAL ANSWERS TO QUESTIONS

Question No. 006

ATTORNEY-GENERAL'S ACTION ON HARAMBEE SACCO KACC REPORT

Ms. Karua asked the Attorney General what action he has taken on the Harambee Sacco Society investigation file forwarded to him by the Kenya Anti-corruption Commission (KACC) on 12th August, 2003.

Mr. Speaker, Sir, I seek your direction whether this Question should be answered together with Question No.008, which was referred by the Chair to the Attorney-General.

Mr. Speaker: Very well, Mr. Attorney-General. Before you proceed, I did undertake to give directions on this Question. My directions are as follows to the Attorney-General: Since you had substantively answered this Question, you may provide the additional information as may be in your possession in compliance with the order made by the Deputy Speaker on 17th August, 2010.

So, proceed in that context and you may also cover Question No.008 for the information that you have.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to reply.

In relation to the Question, I believe the hon. Member had asked for the minutes of the 32nd Annual Delegates Meeting of Harambee SACCO. I hereby table the minutes.

(Mr. Wako laid the document on the Table)

Mr. Speaker, Sir, in relation to Question No.008 which was referred by you to my office from the Minister of State for Provincial Administration and Internal Security I wish to state as follows:

In his response to Question No.008, the hon. Ojode, Assistant Minister, Ministry of State for Provincial Administration and Internal Security informed the House that criminal investigation file relating to the inquiry was forwarded to my office by the CID in November, 2009. He further claimed that no response had been received from my office to date. Hon. Ojode tabled a copy of the letter.

Mr. Speaker, Sir, it is obvious that hon. Ojode was not fully briefed on what subsequently transpired after the said letter from the police was received in my office. I wish, therefore, to state as follows in regard to the matter:

1. It is, indeed, true that the CID had initially, vide the said letter, forwarded the inquiry file to my office for perusal and directions. This was the first time the CID forwarded the file to my office.
2. The letter of the CID forwarding the file to my office contained five allegations regarding the alleged misappropriation of funds at the said SACCO. These are irregular granting of loans to SACCO management amounting to Kshs724,068,864.
3. Default in repayment of the said loans.
4. Advances referred to as IOU to SACCO management amounting to Kshs67,0200,000
5. Fraudulent transfers of funds from other cashiers to none existing cashier; and
6. Overstated during the Annual General Meeting.

I need to emphasize this: It was the first letter received by my office. The recommendation of the CID was that no offence had been disclosed against any of the suspects in the alleged fraud. In essence, they were recommending that I accept closing the file.

However, upon review of the investigations file by office, the recommendation by the CID to close the file was not accepted and instead the police were directed to carry out through and further investigations on identified areas and resubmit the file to the office for further perusal and directions.

Along with the directives that we gave, we forwarded to the police a copy of a letter of complaint signed by five aggrieved members of the SACCO and containing serious allegations of fraud against SACCO management and other senior officials to guide the police in their further investigations. This was on 19th February, 2010.

On 4th June, 2010, the CID resubmitted the file to my office after covering some of the areas by way of further investigations.

The resubmitted file was further reviewed by my office. In the process, it was found that some crucial exhibits were missing from the file.

The CID were, therefore, directed to immediately avail the missing exhibits.

(vii) On 26th August, 2010, the CID forwarded a few of the missing important exhibits to my office. When Mr. Ojode said that I should answer the Question based on the letter of 2009, he ought to have been briefed that on the same day, the CID were actually forwarding some of the exhibits to my office.

(viii). On reviewing the resubmitted file, it became quite obvious that the majority of the vital exhibits were still missing. There is a blame game between the police and the SACCO officials as to who between them is responsible for the missing exhibits. There is even an allegation on the file that vital exhibits may have been destroyed. Furthermore, statements had not been obtained from crucial witnesses and /or first suspects.

(ix). In June, 2010, I received another investigation file relating to a separate, but related matter – all these are SACCO files. The allegations contained in the said file are similar to those in the file submitted earlier although different transactions. On perusal of this file, we found that the pattern and the deficiencies in the investigations were the same.

(x). In both files, the police appear to acknowledge the procedural difficulties in investigating these matters. I have suggested that a forensic audit be done by an independent institution. The Kenya National Audit Office (KENAO) had been appointed but it declined on the ground that it has no mandate to audit co-operative societies.

(Loud consultations)

From the foregoing, it is quite obvious that the police are either unable or unwilling to conclusively investigate this matter. In the premises, I have given the following directives---

Ms. Karua: On a point of order, Mr. Speaker, Sir. We appreciate the Attorney-General's answer, but the consultations are very loud. For example, we did not hear who declined to audit. May I request that you protect the Attorney-General so that we are able to hear the answer?

Mr. Speaker: Order, hon. Members! The Attorney-General is canvassing an important matter which the House was very keen to hear about. So, please, lower the level of your consultation so that we can hear the Attorney-General.

Proceed, Mr. Wako! Could you go back to the last paragraph?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, let me start from (ix). In June, 2010, I received an investigation file relating to a separate, but related matter. The allegations contained in the said file are different, but similar to those in the file submitted earlier on. On perusal of this file, we found that the pattern and the deficiencies in the investigations were the same.

(x). In both files, the police appear to acknowledge the difficulties in investigating these matters. I have suggested that a forensic audit be done by an independent institution. The Kenya National Audit Office (KENAO) has been approached, but it declined on the ground that it has no mandate to audit co-operative societies.

(xi). From the foregoing, it is quite obvious that the police are either unable or unwilling to conclusively investigate this matter.

(xii). In the premises, I have given the following directives to the Chief Public Prosecutor, namely:-

(a) That both files be referred to the KACC for a thorough, comprehensive, impartial and independent investigations which should be carried out expeditiously.

(b) In addition, the KACC should carry out a forensic audit on the financial affairs, management and operatives of the Harambee Co-operative Savings and Credit Society Limited.

(c) The KACC to confirm whether its recommendations contained in its corruption assessment report on Harambee SACCO of March, 2004 has been complied with by Harambee SACCO and if not, the reasons for such failures. This is because all these complaints against the SACCO appear to have taken place after the KACC had done some report and made recommendations on how corruption can be avoided by the SACCO.

Mr. Speaker: The Member for Gichugu, please note that this matter had been dealt with very substantively.

Ms. Karua: Mr. Speaker, Sir, I beg your indulgence. Since they are two Questions, allow me to ask the last question on Question No.006 and then we come to Question No.008.

Mr. Speaker: Proceed accordingly and no other Member will be allowed further questions on Question No.006. However, you may interrogate the matter pertaining to Question No.008.

Ms. Karua: Thank you, Mr. Speaker, Sir. I thank the Attorney-General for the answer and for the tabling of the minutes that were required. I want to draw the attention of the House to Min.XII on page 5. It clearly indicates that the delegates requested to be explained on inquiry expenses. Therefore, it is not the honorarium paid to Mr. Mwaliko and team that was discussed, rather it is the expenses which are allowed under the law. However, honoraria to an investigator is corruption.

Since it is only expenses that were discussed in this meeting, what action will the Attorney-General take with respect to the honoraria of Kshs8.8 million paid to the Mwaliko Commission of Inquiry by the people he was investing which amounts to a bribe? What action is the Attorney-General taking?

Mr. Wako: Mr. Speaker, Sir, as I answered the Question last time, I gave a breakdown of the Kshs7 million. I stated that the file was resubmitted and the KACC, after this explanation, recommended to the Attorney-General that the only person who can be pursued for the amount of about Kshs246,000 is Mr. Mwaliko. Now, I know as a fact that appropriate letters were written by the KACC. When the file leaves me, it goes back to the KACC and they take the administrative matters that are recommended and accepted by me. They, in fact, wrote to the Registrar of Societies who I believe also wrote to the Government.

Dr. Khalwale: Mr. Speaker, Sir, I have in my possession a letter written to all Members of Parliament and it is marked "Very Urgent". It is signed duly by Mr. J. S. Lagat on behalf of the members of the Harambee SACCO. In this letter, he is telling hon. members that any employee in this society or any member who has attempted to expose--

Mr. Speaker: Order, Dr. Khalwale. Could I look at that letter before you go on?

Dr. Khalwale: Mr. Speaker, Sir, I table it.

(Dr. Khalwale laid the letter on the Table)

Mr. Speaker: I need to make a decision on whether or not it is admissible.

(Mr. Speaker perused the letter)

Ms. Karua: Mr. Speaker, Sir, may I---

Mr. Speaker: Yes, the Member for Gichugu. We will go back to the Member for Ikolomani.

Ms. Karua: Mr. Speaker, Sir, I want to appreciate that the Attorney-General has finally ordered a forensic audit because this is what is required in the SACCO. However, I want him to confirm that in the investigation report by the Anti-Banking Fraud Unit, which is duly signed by Mr. Mohammed Amin dated 4th June, 2010 – I will table it if it is required because that is the report I believe he is reading – it has been revealed that with regard to the matter of fraudulent transfers by cashiers in this SACCO, the police have been unable to recover documents to unearth the fraud.

Further, could he confirm that they detected that a Ms. Rhoda Aluoch and Ken Obuya were involved in fraud and are now repaying the money; each over Kshs2 million? Further, could he also confirm that the police also claim that they have been unable to get the documents relating to most of the fraudulent issues and tell us what he is doing about any officer who refuses to give documents to the police concerning this massive fraud?

I wish to table the report.

(Ms. Karua laid the document on the Table)

Mr. Wako: Mr. Speaker, Sir, I am just trying to get the documents. I am aware of the document that she is referring to. When the police were investigating this matter, they realized that some key documents were missing. Consequently, they wrote to Harambee Co-operative Sacco and said that they wanted those documents. There is a letter by Mr. Mohamed L. Amin, the officer in charge of the Banking Fraud Investigation Unit addressed to the General Manager of Harambee Co-operative Sacco. I wish to quote part of that letter. It reads:

“Our team of investigators is getting difficulties in getting some documents from FOSA Manager to enable them to complete the investigations without delay. The documents in question are the original cashier specification forms for Cashiers 1, 2, 3 and 8 and Treasury books covering the period 2006.”

Mr. Speaker, Sir, following that letter, I have a document from the General Manager, addressed to FOSA Manager, asking for those documents. The document is dated 14th January, 2010. The FOSA Manager then replies to the General Manager that they have been unable to get those documentations and further giving a plausible reason for being unable to get those documentations which are very critical. They say:-

“Kindly be advised that the cashiers’ specification forms files might have been taken by the police officers from the Criminal Investigations Department (CID), acting on a court search order sometimes in 2009. “

Mr. Speaker, Sir, that is why I said that there appears to be a passing of responsibility. The Harambee SACCO officials are saying that these documents were taken by the CID sometimes in 2009, pursuant to a court order. The CID are saying: “We do not have the documents, produce them.” I agree that there is everything rotten in Harambee SACCO and it must be unearthed. It appears to me that we cannot rely in the passing of the buck of responsibility between the police and Harambee SACCO. I stand to be corrected; Harambee SACCO actually is a SACCO for all the civil servants, I believe even including the police. So, you cannot rule out a possibility of collusion. Having received this report on 26th August, the day before the promulgation of the Constitution, it means that over the weekend and even on Monday, I was very busy going through voluminous records. I notice that there is something amiss in the whole thing. I have, therefore, decided that the matter be done by an independent Kenya Anti-Corruption Commission (KACC). Let them go into the whole thing properly, from top to bottom. Secondly, I have also decided that a forensic audit be done on the Harambee SACCO. But even now it is important to me because the KACC had done some corruption risk report on Harambee SACCO in 2004 and made some very good recommendations. Why is it that after that report these type of scandals still continue to come up? It means that, that report has not been properly implemented. I will find out why it has not been properly implemented and who is responsible, so that appropriate action can be taken.

Mr. Speaker: Dr. Khalwale, I confirm that I have looked at the letter and it is authentic. It is, therefore, admissible.

Dr. Khalwale: Mr. Speaker, Sir, in view of the content of that letter, which informs Members of Parliament that those Members who attempted to blow the whistle on this scandal either got sacked or died mysteriously, and the fact that in that document the author is telling us that the Minister in charge of these co-operatives is adversely involved and that he is also adversely mentioning the Attorney-General and accusing the Prime Minister of inactivity, could the Attorney-General address the issue of the central management committee led by the chairman, a Mr. Malonza, who appears to be all too powerful to the extent that even if you send there that audit team, they will use their tools of persuasion and make it difficult for them to give us actual results? Could he dissolve or suspend the central management committee, so that these investigations take place when they are out of office?

Mr. Wako: Mr. Speaker, Sir, I have not seen the letter, although I am a Member of Parliament. I should also have received a copy of that letter. But whether or not I can dissolve this committee, I do not have such powers to do so. I think the powers may lie somewhere in the Ministry of Co-operative Development and Marketing to where that question can be directed.

Mr. Namwamba: Mr. Speaker, Sir, let me reveal that I am intimately involved or familiar with this matter, including the issues raised in the Communication to this House by the SACCO, having way back in 2004 represented members of this SACCO in court in relation to some of these matters. We are talking about a matter that is of grave national importance. We are talking about a SACCO that represents over 100,000 public

servants, police officers and junior civil servants who struggle to eke a living through their sweat and set aside a little money to save through this SACCO. It is obvious from my past knowledge and the communication that has reached the Floor of this House, and the Attorney-General has affirmed that the management of this SACCO is rotten. Being familiar with the time it has taken to deal with this matter and the cat and mouse games that have been played in this matter, what timeframe has the Attorney-General placed on this forensic audit, so that action is taken?

Mr. Speaker, Sir, with your indulgence, with regard to the Question---

Mr. Speaker: Order! Order! I will stop you because it is Question Time and you are allowed one supplementary question at any given time and you have asked one.

Mr. Attorney-General, do you have a response?

Mr. Wako: Mr. Speaker, Sir, I have given KACC 90 days to do both a comprehensive investigation on this matter and carry out a forensic audit.

Mr. C. Kilonzo: Mr. Speaker, Sir, the allegations by Members which appear genuine - and the Attorney-General has confirmed - is that files get to the AG's office but no action is taken. Members of this House would want to know: Is the General Manager, a Mr. James Wandera Maloba, your cousin?

Mr. Speaker: Order! Ask the Question through the House.

Mr. C. Kilonzo: Mr. Speaker, Sir, the question that I would like to ask is this: Is Mr. James Wandera Maloba a cousin of the Attorney-General?

Mr. Speaker: Mr. Attorney-General, would you like to respond to that?

Mr. Wako: Mr. Speaker, Sir, I do not know him.

Mr. Mbadi: Mr. Speaker, Sir, it is very interesting because Harambee SACCO, as many hon. Members have said, is the biggest SACCO in this country. As I said last week, this SACCO, should it collapse, would have a multiplier effect on the economy of this country. It will make people lose confidence in the SACCO movement. The management of Harambee SACCO, I believe, was changed at one time. That time, the SACCO was doing very badly. It was around 2003/2004. It is interesting because, all along, Harambee SACCO's financial statement has progressively shown improved performance from a negative of Kshs500 million to a positive of almost Kshs1 billion. Could the Attorney-General confirm to us that Harambee SACCO, even with the changed management, is doing very badly as he has said? If that is the case, can we now believe the financial statements that have been coming from Harambee SACCO?

Mr. Wako: Mr. Speaker, Sir, I honestly cannot talk about the way they have been performing financially. I cannot say whether they have been performing better in terms of increasing their finances and so on. I am not qualified to do that. My role is very limited. Has an offence been committed? If it has been committed, do we have proper investigations? If we have proper investigations, has prosecution followed and have they been made answerable? My role is confined to that. So, I cannot really answer that. That is why I wanted a forensic audit to be done. Somewhere around 2003 and 2004, KACC carried out a corruption risk management report. Consequently, if the recommendations had been complied with and implemented, the type of issues we are discussing here could not have arisen. So, I would like them to check on that issue that you have raised here. We will all be better informed when we receive that report.

Mr. Speaker: Order, hon. Members! I have reflected on this matter even as the interaction or altercation between hon. Members and the hon. Attorney-General

proceeded. I have also acquainted myself with the contents of the letter dated 28th August, 2010; apparently addressed to all hon. Members with the exception of the Attorney-General and Mr. Speaker. That is because I have not received a copy of this letter although I am one among Members of Parliament. The two of us, the Attorney-General and I being *ex-officio* Members, make the number 224. There are very grave matters canvassed in this letter. It will be necessary that these matters are investigated - if not interrogated - by the relevant Committee of Parliament because Harambee SACCO is the largest SACCO in the country. Therefore, it is necessary that, as much as possible, it is given an injection of confidence at the earliest opportunity and action taken against any members of the public or members of Harambee SACCO - even if they be officials - who may be guilty of any wrong doing, so that the co-operative society is put on an even keel at the earliest opportunity.

I, therefore, direct that this matter be referred to the Committee on Agriculture, Livestock and Cooperatives. The Committee is obligated to inquire into the matter and file a report in this House within the next 21 days without fail.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Since there are legal issues in the matter, would it be in order for me to request you to include the Departmental Committee on Justice and Legal Affairs in the matter? I am not a member of the Committee but I think that there would be value added if it was a joint sitting of Justice and Legal Affairs and the Agriculture, Livestock and Cooperatives Committees as you have directed?

Mr. Speaker: Hon. Members, as you may be aware, invoking the provisions of our Standing Orders, all Members of this House are at liberty to attend meetings of all committees. So, if Members of the Justice and Legal Affairs Committee deem that this matter is important and it has matters that are to do with justice, they are at liberty to attend the sessions of the Committee. The Chair of the Committee should ensure that, as and when they convene meetings, they give notice to the Committee on Justice and Legal Affairs so that they are at liberty to attend the meetings.

Hon. Members, that took a bit of our time. We have seven more minutes to be spent on Question Time and the rest will be deferred. I will take the Question by hon. Member for Laisamis.

Question No.069

STATISTICS ON CHILD LABOUR IN KENYA

Mr. Lekuton asked the Minister for Labour:-

- (a) whether he could provide the statistics of children currently engaged in child labour in the country and indicate which areas in the country are most affected by the problem; and,
- (b) what efforts the Government is making to eliminate child labour and punish the offenders.

The Minister for Labour (Mr. Munyes): Mr. Speaker, Sir, I beg to reply.

Since 1992, the Government, through my Ministry, and in conjunction with the International Labour Organization (ILO) International Programme on Elimination of Child Labour (IPEC), the Federation of Kenyan Employers (FKE), the Central

Organizations of Trade Unions (COTU), civil societies as well as other key stakeholders had been implementing action programmes geared towards eliminating child labour in Kenya. According to the most recent survey, the Child Labour Report of 2008, there were 773,696 child labourers in Kenya aged between 5 to 17 years. Out of those, 408,160 were boys and 365,536 were girls.

The most affected provinces are the Rift Valley and Eastern provinces with 261,893 and 154,152 cases, respectively. Nairobi and Nyanza provinces had the least number of child labourers with 13,621 and 73,050 cases, respectively. The Government has put in place adequate measures and machineries to respond to the challenges facing labour in the country.

Mr. Lekuton: Mr. Speaker, Sir, I disagree with the Minister's statistics on child labour. The child labour statistics for the year 2000 showed a figure of 1.647 million. However, based on his answer to part "c" of the Question, he says that the Ministry is preparing a number of clauses to protect children from labour exploitation. Part "e" of the Question states that the Ministry has field labour officers across the country conducting regular labour inspection. Has the Ministry made any arrest of any companies or individuals, who continue to exploit child labour in our country? Does he have the numbers?

Mr. Munyes: Mr. Speaker, Sir, in responding to problems affecting children, my Ministry, in conjunction with the Provincial Administration, has created awareness to the public against the exploitation of children between the age of five to 17 years. The Employment Act provides for heavy penalties to those who exploit children. The Minister for Labour does not arrest. Ours is only to bring the issues forward and ask the Ministry of State for Provincial Administration and Internal Security to take up those cases.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, first of all, I do not think that the Minister has answered the question that was asked. Further to that, even if his mandate is limited, how many cases has he forwarded that required prosecution? How many has the Attorney-General failed to act on?

Mr. Munyes: Mr. Speaker, Sir, I want to thank the Member for pointing out the limitation of the mandate of this Ministry in responding to this problem. I want to tell this House that I had requested for Kshs10 million for this particular department to undertake various programmes, but it never got a single cent.

Mr. Speaker: Order, Minister! You have, as I heard it, a straightforward question. How many cases have you forwarded to the Attorney-General? How many has he failed to prosecute?

Mr. Munyes: Mr. Speaker, Sir, I can provide that answer later. I do not have the exact figures.

Mr. Speaker: Then just say you do not have the answer instead of beating about the bush!

Mr. Lekuton: Mr. Speaker, Sir, in his answer, the Minister has talked about the National Steering Committee on Child Labour. Taking into consideration the new Constitution that we signed on 27th August, that really protects children from labour abuse, what plans does he have to integrate this document and the answer he has given me in order to have an effective policy on protecting our children in this country?

Mr. Munyes: Mr. Speaker, Sir, when I came to this Ministry, the first thing I did was to finalize the child labour policy which was not in place. As I speak, the child labour policy has been submitted to the Cabinet. We have also gone ahead to formulate the National Steering Committee (NSC), which has helped us to review the activities and the progress we have made with the assistance of the Non-Governmental Organization (NGO's) which are doing a very good job. It is a big challenge, but as I speak, we want to fast-track the child labour policy. With the assistance of the NSC, my Ministry will have a legal framework that will help us to respond to the problem of child labour in this country.

Question No.343

LACK OF WAITING LOUNGE AT JKIA

Mr. Kombo asked the Minister for Transport:-

(a) whether he is aware that passengers on transit through the Jomo Kenyatta International Airport (JKIA) have no Waiting Lounge;

(b) whether he is also aware that the working station for Immigration Officers at JKIA is too small hence hampering effective clearance of passengers; and

(c) what the Government is doing to rectify the above to ensure services at the airport meet international standards.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I will answer this Question.

Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that passengers on transit through the JKIA have no waiting lounge apart from the corridors. The airport was designed for a capacity of 2.5 million passengers annually, but is currently handling approximately 5 million passengers.

(b) Yes, I am also aware that the work stations for the Immigration officers at the JKIA are inadequate, thus clearance of passengers is hampered. Indeed, the Immigration Department has complained of inadequate space at the airport to process the passengers.

(c) The airport was designed for a capacity of 2.5 million passengers, but is currently at double that capacity. The Kenya Airports Authority is carrying out an expansion programme which will expand the airport capacity to enable it to handle initially 9 million passengers annually and after that grow substantially. This project will take place within the next three years, set out in phases which include the following:- The expansion of the aprons, construction of a new terminal building and car park, and lastly, renovation, modification and expansion works on the existing passenger terminals.

In the meantime, as a stop-gap measure to address the physical limitations of the infrastructure, the Authority is undertaking the following:- Procuring 2,000 passenger lounge seats to ease the discomfort of transit and other waiting passengers, which is currently at the procurement level. We are expanding the existing counters at the JKIA to accommodate an extra two personnel per counter to increase the capacity to 24 extra positions on the main counters at both the departure and the arrivals. The existing half counters at arrivals area will also be extended to accommodate an extra person each.

Works are expected to commence at the beginning of October and be completed by the end of October creating extra work stations for the Immigration officers.

We are also installing fast-track Immigration counters at both Units 1 and 2 Departures, with one position each. Procurement is in progress and delivery is expected by the end of September, 2010. When complete, these changes will provide a total of 54 work stations against the existing 26.

Mr. Kombo: Mr. Speaker, Sir, at the first glance, the answer looks good but on close examination, it turns out to be deceptive and, in fact, comical. The Minister has talked of 2,000 chairs. We have said that there are no transit lounges. Where will those chairs be put? Will they be put on the corridors, which are already crowded? The only way out is to remove some of the Duty Free Shops to provide for departure lounges. Too many Duty Free Shops have been given to just one person, who is well known. Why should this one person have many shops which are selling the same things, including kiosks for tea? Or, is he holding them as a proxy?

Mr. Speaker: Order! You have done well! You have asked your question. Stop there. You have the last chance after this one.

Mr. Kimunya: Mr. Speaker, Sir, if I got it right, the question is where the seats will be put.

Mr. Speaker: Order, Minister! The question is in two parts: (a) where the seats will be put because, currently, the only thing you have there are corridors. (b) When you will consider removing kiosks to give room for those chairs.

Mr. Kimunya: Thank you, Mr. Speaker, Sir. As part of the extension programme, the Kenya Airports Authority (KAA) has already identified specific areas which will be converted into transit lounges, as a stop gap measure, in terms of placement of the new seats that are coming. Part of that has been in terms of re-configuring some of the shopping areas. I, therefore, wish to confirm that there is no problem in terms of where the chairs will be placed. I hope that when all this is done, hon. Members travelling will have an opportunity to see the re-distribution of those seats.

In terms of the second part of the question, we are already looking into the leases of all the Duty Free Shops. We are working on the ones to be taken over by the KAA at the earliest opportunity, even if we have to compensate leaseholders for the unexpired terms of the leases, for purposes of the expansion programme. The expansion programme will involve re-configuring of the entire shopping area any way. So, between now and next year, those shops will not be there. So, it is really a matter of the details on which shop gets converted into lounges or used for the expansion programme.

We have given very firm instructions to the KAA that airports are not shopping areas, but areas for people to transit to and from one destination to another. Airports are not parking areas, hence you will be seeing many more changes coming, including how you get into the airport and out of the airport. The queues seen at the gates occur because of people paying parking fees, yet airports are not parking areas.

(Mr. Ruto stood up in his place)

Mr. Speaker: Order! Mr. Isaac Ruto, you are actually out of order! You cannot remain standing when another hon. Member is on the Floor contributing to the business of the House, and you know that only too well!

Mr. Ogindo, proceed!

Mr. Ogindo: Mr. Speaker, Sir, I want the Minister to clarify to this House the following: Knowing very well that the core business of the KAA is to facilitate air traffic, what is the wisdom in the decision to convert these lounges into kiosks, to begin with, and before they take remedial measures? What informed that decision?

Mr. Kimunya: Mr. Speaker, Sir, it is the standard practice in airports all over the world to provide people with some basic facilities where they can shop as they wait for their flights. However, we seem to have overdone it in Nairobi. Fortunately, I was not there then. Now that I am there, you will see the re-configurations.

Mr. Bahari: Mr. Speaker, Sir, there is crisis at the airport. I must state here that some people pass through Jomo Kenyatta International Airport (JKIA) to just do shopping. They leave money in this country. So, it must be noted that those shops are very important. My question is: Now that they have put this country into a crisis of this nature, how can the Minister fast-track the construction of the additional units they are going to put up?

Mr. Kimunya: Mr. Speaker, Sir, as I have said, the procurement process has already been completed and the contract awarded for the expansion of the second phase of the project, which will basically be putting up an extra floor, reconfiguring those areas and confining all the shops to one main shopping area, so as to leave the lounges for the exits and arrivals. We also intend to separate the departures from the arrivals, create extra parking spaces, and open up the airport for other facilities in terms of other shopping areas for people who may want to shop. That whole reconfiguration plan will start soon and the contractor is mobilising. I want to inform hon. Members that it is just a matter of time before you see a brand new airport, and a new way of doing things at the JKIA, which is a natural hub for people travelling into and out of Africa.

Mr. James Maina Kamau: Mr. Speaker, Sir, the question of lack of space at the JKIA notwithstanding, that facility is called an international airport. However, the restaurants you find there are nowhere near international standards. For how long are passengers going to bear this situation? What are they doing to make sure that the JKIA becomes an international place, where one can be comfortable?

Mr. Kimunya: Mr. Speaker, Sir, I am not sure what “international standards” in terms of restaurants mean, but if you have had a meal at the Simba Restaurant at the JKIA, you will agree with me that it meets international standards. In terms of the eateries within the airport, they have their own challenges, and we---

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

Mr. Speaker: Order, Member of Parliament for Kandara! Let us hear the Minister!

Mr. Kimunya: Mr. Speaker, Sir, in terms of the mini restaurants within the lounges, they have their challenges. That is why we want to expand the whole airport and create more space for people to move around, and then challenge the operators to shape up on their catering facilities. However, in terms of the meals served, I believe that the eateries at the JKIA meet international standards as do all other meals served in Kenyan restaurants.

Mr. Yakub: Mr. Speaker, Sir, for Muslims, prayers are conducted five times in a day. Could the Minister consider availing a prayer room at the JKIA local terminal?

Mr. Kimunya: Mr. Speaker, Sir, I am aware that there is a prayer room. Perhaps all that we need is to get more information. If it is not operational right now, I will ensure that it is activated. I know that next to the Immigration Offices, there is a prayer room.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I think the Minister is misleading the House, because in the local terminal at the JKIA there is no prayer room. Maybe, he has referred to the international terminal. What hon. Yakub has asked is whether the Minister can provide a prayer room at the local terminal.

Mr. Kimunya: Mr. Speaker, Sir, let me communicate that to the KAA for them to look at the configuration of the airport, and then we can communicate the result accordingly. The request will be communicated. It is a good request.

Mr. Wambugu: Mr. Speaker, Sir, the Minister seems not to travel through that airport any more. There is no difference between the Departure Lounges and the Transit Lounge. Passengers from both lounges intermingle very freely. Is the Minister aware that the intermingling of transit and departure passengers poses a great risk to security at the airport?

Mr. Kimunya: Mr. Speaker, Sir, we are aware that the commingling and intermingling between the departures and arrivals is an inconvenience, even to the passengers, apart from the security implications. In terms of security, we are comfortable with people transiting through our airport because of the measures that we have put in place. But as I had already said earlier, the reconfiguration of the airport will include splitting the levels so that arriving passengers are on their own level and departing passengers depart from the same level and the two passengers never get to meet except when they are moving around the lounges. In terms of an express passenger, he or she should have that convenience of getting off from the aircraft to the transit area and to the arrival without necessarily commingling with those who are departing. That is part of the reconfiguration and I do hope that within the next two years when it is all finished, hon. Members will be happy to travel through the Jomo Kenyatta International Airport (JKIA) and to be the walking-talking ambassadors of the airport in travels on a global scale.

Mr. Kombo: Mr. Speaker, Sir, construction of another terminal has been on the cards for very many years. It is approximately seven years since we started hearing about it. What assurance can the Minister give to us now, that it will be completed in three years and money will not be swindled through other channels?

Mr. Kimunya: Mr. Speaker, Sir, I trust the hon. Member is asking about a new terminal which is what we are already doing and we have awarded a contract. We have three units and each of those is a terminal. We are getting a new fourth terminal which will be Unit 4. If you are talking of a second runway, that is the next phase of the project which we are studying and we shall be doing again, depending on the increase in traffic at the airport. Within the next three years, that will be done. I can assure the hon. Member and the House that Kenya Airports Authority (KAA) and indeed, the entire Government will ensure that we are prudent in the use of resources that have been earmarked for that and hence, it should translate into a better airport and not misuse of funds.

Mr. Speaker: Order, hon. Members! Mr. Minister, you have done very well but my attention has been drawn to a part which you did not deal with; which is that, the kiosks have been allocated to one person. Is there any substance in that?

Mr. Kimunya: Mr. Speaker, Sir, let me say that the duty free shop which the hon. Members are referring to as kiosks were allocated to one person who then sub-contracted

to others many years ago, the tenancy is just about to come to an end, I believe not later than next year. So, if hon. Members could just hold their horses, we could terminate it even earlier for the expansion, then we would have a more transparent basis of allocating all those facilities to as many people as can qualify.

Mr. Speaker: Very well, Mr. Minister!

Hon. Members, we must then come to the end of Question Time because of the nature of business that is still in the balance. So, questions beginning from Question No.279 to the end are deferred to tomorrow morning, the 1st September, 2010 at 9.00 a.m. and those Questions will take priority over those that may be due tomorrow. In which case, beginning from Question No.279, they will appear on the Order Paper for tomorrow morning first.

Question No.279

RELEASE OF SEWAGE INTO LAKE
NAIVASHA BY NW&S COMPANY

(Question deferred)

Question No.346

DELAYED DISBURSEMENT OF FREE
PRIMARY/SECONDARY EDUCATION FUNDS

(Question deferred)

Question No.264

PROVISION OF FPE FUNDS TO
KATANGI SPECIAL SCHOOL

(Question deferred)

Question No.164

STALLING OF MZIMA SPRINGS PROJECT

(Question deferred)

Question No.313

LIST OF BOREHOLES DRILLED BY WATER
MINISTRY IN ALL CONSTITUENCIES

(Question deferred)

Question No.365

NON-PAYMENT OF APC CONSTABLE SAMUEL
MUNYAO'S SERVICE GRATUITY

(Question deferred)

Next Order!

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. With your indulgence, I request that you give guidance or ruling on a matter that is of concern to me. I have noticed on the Order Paper that it is written the Tenth Parliament, Fourth Session, when actually, we have a new Republic and my understanding is that this should be the First Parliament and not the Tenth Parliament. Could we, please, have your direction or guidance on this matter?

Mr. Speaker: Order, hon. Members! I have noted that concern and since it is a matter of interpretation of the Constitution, I shall be careful to ensure that I give the correct interpretation. Therefore, I will defer my direction until an opportune moment. If we do not adjourn, then I will be able to do it later on this week.

MINISTERIAL STATEMENTS

OUTCOME OF 2009 KENYA POPULATION
AND HOUSING CENSUS

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I wish to issue a Ministerial Statement on the outcome of the 2009 Kenya Population and Housing Census released earlier today.

Mr. Speaker, Sir, Kenya has a successful history of census taking, going back to 1948 when the first comprehensive census enumeration was undertaken. Since the first post-Independence census in 1969, the country has conducted population census every ten years as recommended by the United Nations (UN). Over the years, census agenda has evolved from mere head count to comprehensive inquiries meant to support the country's complex information needs as socio-economic development continues. The 2009 Census enumeration was undertaken in a very peaceful and tranquil atmosphere, thanks to the efforts of various stakeholders, including hon. Members of Parliament who played a key role in the sensitization campaign, the Provincial Administration, security and law enforcement agencies and the Kenya National Bureau of Statistics (KNBS) management and staff who facilitated the exercise in various ways.

His Excellency the President and the Rt. Hon. Prime Minister were also at the forefront in advocating for and taking leadership of the census process, including being among the first Kenyans to be enumerated. Accordingly, the President declared a public holiday on the first day of the enumeration which facilitated the census process in more ways than one and subsequently contributed the success of the exercise.

Mr. Speaker, Sir, the provisional results were originally slated to be released on 31st December, 2009. However, because there were just basic aggregates, the view of the Government was that comprehensive results be processed and released as soon as

possible to support the ongoing reforms. I am, therefore, happy to report that the comprehensive results were released earlier today. The speed and accuracy with which the data were processed is another first for Kenya, making us the first country in this region with our size of population to complete the process and tabulation of comprehensive results within 12 months.

The results present a basic census results for general audience and we have released four volumes as follows:-

Volume 1(a) – population distribution by administrative units, that is, sub-locations, locations, divisions, provinces, rural-urban and urban centres.

Volume 1(b) – population distribution by political units like constituencies and counties.

Volume 1(c) – population distributed by age and sex.

Volume 2 – population distributed by socio-economic characteristics like education, labour force participation, disability, livestock types, household assets, housing conditions and ethnic affiliations and religion.

The four volumes will be available in Room 8 from Thursday, 2nd September, 2010, for collection by all Members of Parliament. The second series of reports will be released after in-depth analytical work on various themes are completed. The results indicate that Kenya population stood at 38,610,097 being 19,192,458 male, and 19,417,639 female. This represents an increase of 34.6 percent compared to 28,686,607 persons enumerated in the year 1999 or a growth rate of 3 percent.

Mr. Speaker, Sir, why I am issuing this statement is because we had inconsistent results in some districts. The data for 2009 Census is fairly accurate. However, after performing routine data evaluation and assessment as recommended by the United Nations before releasing of any census results, we have observed that the results of the following eight districts are irregular. One is Lagdera. The population seems to be understated. The population for Wajir East, Mandera Central, Mandera East, Mandera West, Turkana Central, Turkana North and Turkana South districts were overstated. The results were considered irregular for the following reasons:- The rate of increase is higher than what was documented population dynamics; that is looking at the birth and death rates and migration trends; and inconsistency in what obtains for the rest of the country including the neighbouring countries. The enumerated figures fall way above the projected ones based on the previous census. Thirdly, the age and sex profile deviates from the norms, overall substantial excess of men observed as opposed to expected slight excess of females. In Mandera, the men are double the number of women. There was significant growth observed in household size. While the population was increasing, the household numbers were not increasing. The ratio shows substantial excess of persons in certain age groups contrary to expectations. The Government wanted this exercise to be as transparent as possible and, therefore, has proceeded to release the results for all areas enumerated. However, the Government has decided to repeat the exercise in the affected districts with a view to ascertaining the results at a date that will be announced soon.

Mr. Speaker, Sir, my second Statement is on a petition by the Albinism Society of Kenya to the Government of Kenya through hon. Wamalwa. The society wanted four issues. First, they wanted to be granted a special code for persons with albinism to facilitate counting of such persons whenever they may be in Kenya during the upcoming

census for purposes of establishing the number and places where such persons reside for future planning and policy formulation to cater for the category in Kenya.

Two, they required introduction of an Act of Parliament to be known as Persons with Albinism Act or an amendment to the Persons with Disability Act to expressly provide for and cover persons with albinism so as to cater for their fundamental rights, unique needs and protect them from exposure to skin cancer, ritual killings, discrimination in employment and other problems faced by persons with albinism in Kenya and the world.

Three, they required total waiver of duties on sunscreen lotions for persons with albinism in order to ensure efforts, ability, affordability and accessibility by all persons with albinism and reduce the rate of skin cancer which is threatening to wipe out persons with albinism in Kenya and the world at large. Lastly, they were petitioning to have one person of their own nominated to the Kenya Parliament and other institutions to represent others.

Mr. Speaker, Sir, on the first request, I would like to observe that during the 2009 Census preparation process, the technical working group on disability worked closely with the Kenya National Bureau of Statistics but they did not explicitly request for the creation of a special code. Again, the petition by the society came late when the 2009 Census questionnaire and other material had been printed. So, technically, the inclusion of the special code in the census was not possible. The Ministry has taken note of the concerns of the society and will in future census discuss with the group for inclusion on various aspects in the questionnaire. However, we are planning to have a special census for persons with albinism using the Provincial Administration.

On the second request, Mr. Speaker, Sir, I would like to inform this House that the Government and the National Council for Persons with Disability together with the other stakeholders in the disability fraternity are in the process of consultation with a view to amending the Persons with Disability Act. It is, therefore, recommended that the persons with albinism enjoin this group to facilitate inclusion on the main concern. Thirdly, I would like to inform the House that the Office of the Deputy Prime Minister and Ministry of Finance has indicated that it is consulting on the matter. The Deputy Prime Minister and Minister for Finance will soon give this session agreed policy on this specific request. On the last one, in view of the constitutional, political parties can nominate one of these persons among the 12 to be nominated in the National Assembly or amongst the two in the Senate. I urge members of the Albinism Society of Kenya to strongly lobby the parties to ensure consideration and inclusion.

Mr. Speaker: Hon. Members, clarifications from both Statements and we will take five, beginning with the hon. Wamalwa.

Mr. Wamalwa: Mr. Speaker, Sir, may I start by thanking you for giving clear directions on the expeditious of the petitions. When we went on recess last time, there were directions from the Chair that petitions should be disposed off within 21 days and indeed, the Minister has been able to deal with this petition within 21 days after we resumed. Mr. Speaker, Sir, I must thank you very much. I must also thank the Minister who is a very sensitive Minister. He is a compassionate Minister and he is a competent Minister.

Apart from the answer he has given to the House, he invited the Albinism Society of Kenya to his office and as of this morning while releasing the census results, he gave

specific undertaking that there will be a special census for persons with albinism and I wish to thank him. The only aspect I wish to ask for clarification is the timeframe within which the third prayer as to waiver of duty on sunscreen lotions which persons with albinism need as a matter of survival, will be implemented.

Mr. Chachu: Mr. Speaker, Sir, I want the Minister to clearly state when the census in the eight districts that were cancelled will be repeated. Census data is critical for national planning and allocation of resources? I want the Minister to tell this House and Kenyans at large when the census will be repeated in those eight districts in northern Kenya.

Dr. Khalwale: Mr. Speaker, Sir, the Minister can recall that over the months, people who participated in the census have been complaining about non-payment. Could he confirm that he has since paid them and if not, when is he going to clear with everybody?

Mr. Wambugu: Mr. Speaker, Sir, as the Minister replies to the issue on the lotion for Albinos, could he also state when he is going to remove duty on sunglasses used by the Albinos because they are also very important for their survival, especially because of the ultra-violet rays?

(Applause)

Mr. Mbadi: Mr. Speaker, Sir, I think we need to congratulate this Minister and his staff for a job well done. That is because the final results of the census have come out very fast. However, I want to find out from him about the following: Now that he has agreed to carry out a fresh enumeration exercise in some districts, what will happen with districts or tribes which are doubting the numbers that he has given out?

(Applause)

The Government in its wisdom, decided to separate Subas from Luos at some point. Now, the number of the Abasuba that he is giving is just about 100,000 and yet, they are in two districts and one division. So, what is he going to do with people who have complaints like me? That is because I doubt the number of Abasuba that his Ministry has given to the Republic of Kenya?

Mr. Ethuro: Mr. Speaker, Sir, I have been waiting for this day and I thought I was going to praise my good friend, Mr. Oparanya, as the best Minister who has released results within one year. Unfortunately, the Minister, himself, seems to be busy undermining the integrity of his results. I want the Minister to clarify the following: By canceling the figures for certain constituencies and districts, have you not undermined the integrity of the entire census process?

(Applause)

Are you confirming to this House that northern Kenya is still being marginalized by the Government through you like ever before, even in spite of a new Constitution? Finally, I would like the Minister to clarify the following: What is this grudge that the Kenya Government has against the people of northern Kenya?

Ms. A. Abdalla: Mr. Speaker, Sir, my question to the Minister is: Given that his process of training and the materials used for the census were the same throughout the country; meaning that they needed to do the actual census in each household--- Now that he has said he is canceling the results of those districts he has mentioned, what political responsibility has he, as the Minister, taken? What action has he taken on his staff who caused those figures to be inaccurate?

(Applause)

(Several hon. Members stood up in their place)

Mr. Speaker: Order, hon. Members! We must now relax. I see there is too much interest from North Eastern. But we must stop at some point. We will take Dr. Nuh, lastly!

Hon. Members: He is from the Coast!

Dr. Nuh: Mr. Speaker, Sir, I want to correct that I come from Coast Province!

Mr. Speaker: Order, Dr. Nuh!

Dr. Nuh: Mr. Speaker, Sir, the Minister has cancelled results for some districts because of inconsistencies that he has cited. I want to ask him: Why he does not want to appreciate the diversities of this country? In a country, you will have one, two or three unique districts! In northern Kenya, there are men with four wives! Why would you want to doubt the reproductive capacity of a man with four wives?

(Laughter)

Mr. Speaker: Order, hon. Members! Dr. Nuh, you have, indeed, confirmed the suspicions of the Chair. You said you are from the Coast Province but you have been canvassing the interests of Northern Kenya!

(Dr. Nuh stood up in his place)

Order, Dr. Nuh! Proceed Mr. Oparanya!

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I will start with the last one raised by Dr. Nuh. In fact, the reason why we are repeating the exercise in those specific districts is because we have three males to one female. He has just rightly said that it should be one to four; it is the vice-versa. So, we have many men between 35 years and 75 years. So, we do not know where the women are. So, that is quite an issue!

Hon. Members: Where are they?

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, so where are the women? We need to go there and confirm that!

On the action being taken on the staff involved, I have already held a meeting with the Minister in charge of Provincial Administration and Internal Security. You will note that in those areas, we used the Provincial Administration. We used chiefs, assistant

chiefs and DOs. Investigations will be undertaken and any staff who will be seen to have colluded---

(Mr. Affey stood up in his place)

Mr. Speaker: Order, Mr. Affey! Let us hear the Minister!

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, action will be taken on any staff who will be found out to have colluded.

On the clarification sought by hon. Ethuro, I would like to say the following: By canceling the results, we are not marginalizing them. In essence, we are recognizing that they are there and they should be counted properly. In fact, in Lagdera, the number is well below the projections. That is why we cancelled the results. We want to go and confirm the right number. So, how are we marginalizing them when we feel that the number is low and it is supposed to be much higher? We are very much taking into account the interest of the people of North Eastern. It is not the entire North Eastern but a few districts in the larger Mandera, Wajir and Lagdera. As you know, North Eastern is bigger than the three districts.

On separation of Subas and Luos, there was a questionnaire asking for your tribe. So, there are those who said they are Suba and others said they are Luo. That is now up to him to go and sensitize his people that in future, when they are asked about their tribe, they say they are Luo. That is what they answered.

(Applause)

On the non-payment issue raised by Dr. Khalwale, this has been a problem with the Ministry. I must admit that it has been a challenge. In fact, once I was on air and I gave my own number. About 200 people called me. So far, the dues of those people who called me have been processed. But the problem has been that quite a number of people who were involved in this exercise gave incomplete information. For example, you will find that a lady was involved in the exercise but when she gave her account number, she gives that of the husband. So, when the money goes to the bank, it comes back. By the time we try to trace the payment, it takes time. Those are some of the mistakes! Some people undertook the exercise without having IDs. So, that has been a problem. But we are sorting them out one by one.

On the issue of albinos, the waiver on sun glasses and the lotion as already stated, I have raised this issue with the Deputy Prime Minister and Minister for Finance and it is under consideration. I am hopeful that within three months, this will have been sorted out.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I wonder whether it is in order for the hon. Minister to continue telling us that he has given us the census results. According to his definition of census, it is, and I quote:

“A population census is total process of collecting, compiling, evaluating, analyzing and publishing or otherwise disseminating demographic, economic and social data pertaining at a specified time in all persons in a country or in a well delimited part of a country.”

It is therefore, census results, in his own definition, if he has done it in the country--- He has excluded certain parts by cancelling results in some areas. Is it still, therefore, census results, even according to his own definition? The law allows him to carry out census once after every ten years. Which other census is he about to do? Is it legal?

Mr. Speaker: Order. Your point is made. You stood on a point of order. Mr. Minister, are you misleading the House?

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Can I see the statement that he has read?

(Mr. Ruto laid a document on the Table)

Mr. Speaker: Mr. Minister, will you look at that? In the meantime, I will take another point of order from Mr. Affey.

Mr. Affey: On a point of order, Mr. Speaker, Sir. Clearly, the figures released this afternoon were quite depressing. I would like to know from the Minister the period he gave in terms of the repeat of this exercise. He said in the next one month. We would like to request him to make sure that this exercise is done at a time when it is comfortable for those people in the northern part of Kenya, particularly the pastoralists. The best time to do this is during the rainy season; that is the only time when you can capture the highest number of citizens who are ready to participate in the exercise. Even constituencies like Wajir South and the projections given, could he then consider---

Mr. Speaker: Order, Mr. Affey. You caught the Speaker's eye on a point of order. So far, I do not see any point of order in what you are---

Mr. Affey: Mr. Speaker, Sir, I thought I was contributing.

Mr. Chachu: On a point of order, Mr. Speaker, Sir. The Minister conveniently refused to answer my question. I wanted to know conclusively, when the Government will repeat the census exercise in those districts in northern Kenya; let him be specific, unless the Government is taking this opportunity to marginalise further, the people of northern Kenya.

Mr. Speaker: Mr. Minister, could you take those two points of order? There is a point of order first on the definition and whether or not, you are misleading the House by the Member for Chepalungu.

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, on the issue of repeating the exercise, I will engage the Members of Parliament from that region and we will agree on the appropriate time. You can see one hon. Member says that we have to do it when it is raining so that the pastoralists are there. This is something over which we have to engage the Members of Parliament from that area.

However, on what we will do in the interim time, we will use projected figures. If you looked at the projected figures, you would find that the margin error is just three percent. So, the projected figures are very reliable. In the interim period, we will use the projected figure.

Regarding what Mr. Ruto has raised on the definition, it is well defined here:

“Or in a well delimited part of the country”.

That says, in a particular area. I think he clearly avoided reading that; if he read it, then there was some misunderstanding.

Mr. Speaker: Mr. Ruto, that is a serious aversion against you. What do you have to say?

Mr. Ruto: Mr. Speaker, Sir, this is clear English. It says:

“Pertaining at a specific time to all persons in a country or in a well delimited part of a country”.

This particular exercise was in the whole country. It was not about a delimited part. If, indeed, you got a delimited part, could you table how you arrived at a delimited part of this country where to do a census? Did you exclude North Eastern Province?

If by your own publication of the results, you excluded that particular area, then could you go through the process of delimiting and carry out the census in the whole country? This particular definition outlaws the census he just announced because he has excluded certain parts, which were not delimited for exclusion.

Mr. Speaker: Mr. Minister, note the point of order by the Member for Chepalungu although exercising my mind, it is a matter of interpretation. I do not see much to it.

Dr. Nuh: Mr. Speaker, Sir, the Minister would want to contravene his own census results by declaring that the reason as to why he is canceling them in some districts in the upper north of this country is because he has a female to male ratio of one to three, when the results he produced this morning show the opposite. They have a ratio of about one to one. So, why would the Minister want to create a wrong impression?

Mr. Speaker: What page are you referring to, Dr. Nuh, for ease of reference?

Dr. Nuh: This is for Mandera Central, page 102. Even generally for North Eastern Province, he has 1.2 million against 1.052 million. I would want to ask whether that in simple mathematics means one to three.

Mr. Speaker: Mr. Minister, could you note that concern by Dr. Nuh and we will take the last one on this matter? I am afraid this matter must rest.

Mr. Ethuro: Mr. Speaker, Sir, mine is basically to adduce the same to support Dr. Nuh’s argument. The Minister’s opening argument is that the results of eight constituencies have been cancelled because of their high ratio. I will give the example of Turkana. In Turkana North, the males are 197,506; females – 170,906. What is that ratio? In Turkana Central---

Mr. Speaker: Order.

Mr. Ethuro: Let me just give him enough information.

Mr. Speaker: You have made your point.

Mr. Ethuro: Just one last point. It is different. In Turkana Central, males – 126,539; females – 128,067. This ratio is one to one; it is not one to three, unless he went to a different school!

Mr. Speaker: Mr. Ethuro, we must let matters rest. You have just said you are making a different point but really, it has not been different.

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Speaker, Sir, I think the hon. Member is missing the point. If you followed my argument, I have given five and the ratio of men to women is just one of them. If you look at Mandera West figures, males are 174,807 and females are 144,969. You can also see Mandera East figures. They are all there. So, that is just one of the

reasons we are repeating this exercise. There are other reasons that I have enumerated them.

Mr. Speaker, Sir, I have even tabulated tables here that I have not gone through. Hon. Members are free to look at the tables that we have tabulated. These are some of the reasons we decide to repeat this particular exercise in those areas.

Mr. Speaker: Order, hon. Members! That matter now must rest there. We will take the next statement by the Minister for Foreign Affairs.

This is a Statement with respect to which there has been a lot of interest. As a matter of fact, I had received an earlier request from nominated Member, Mr. Musa Sirma. But the Minister is doing this on his own motion.

PRESENCE OF SUDANESE PRESIDENT OMAR AL-BASHIR DURING
PROMULGATION OF NEW CONSTITUTION OF KENYA

The Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Speaker, Sir, for allowing me to issue a Statement in relation to the visit to Kenya on the invitation of the Government of Kenya, of President Omar Al-Bashir of Sudan.

Mr. Speaker, Sir, on the 27th August, 2010, the people of Kenya marked an extraordinary moment in the country's history. Our new Constitution was promulgated by His Excellency the President in front of hundreds of thousands, if not millions of Kenyans, including several foreign dignitaries, including four Heads of State from our sub-region. The new Constitution had been overwhelmingly endorsed earlier in the month at a national referendum and celebrated as a positive step towards democracy and a new future for this country. The promulgation of the new Constitution marked the end of a 20 year long struggle to produce the Constitution.

Mr. Speaker, Sir, the new Constitution has been billed as the most important event in Kenya's history since our Independence in 1963. It is in this regard, that the Government took a decision to invite a number of foreign Heads of States and Governments to grace the promulgation ceremony among them, President Omar Al-Bashir of Sudan. I would like to speak specifically, on President Omar Al-Bashir's presence at the ceremony due to the concerns raised by many Kenyans about this visit.

The decision to invite President Al-Bashir of Sudan to the ceremonies of the promulgation of Kenya's new Constitution was based on a number of factors.

1. The desire to entrench and deepen the principle of good neighbourliness and the need to maintain closer relations with neighbouring countries is a matter of strategic and national interest for Kenya. The Heads of States consist of Kenya's partners in the East African Community; that is Rwanda, Burundi, Tanzania and Uganda and member countries of IGAD; that is Uganda, Ethiopia, Sudan, Djibouti and Somalia. They were all invited.
2. As a guarantor of the Sudanese Comprehensive Peace Agreement (CPA), it is incumbent upon Kenya to ensure that progress towards the conclusion of the Sudan peace process is undertaken successfully and results in the promotion of peace, justice, reconciliation and stability in the region.
3. There are a number of steps in this process which will culminate in the self determination referendum of Southern Sudan on 9th January, 2011. Only by carefully

midwifing the process can stakeholder countries of the region be assured of a peaceful conclusion of the CPA, regardless of the outcome of the referendum.

4. In that regard, leaving President Al-Bashir out of the invitation to the ceremonies would have amounted to initiating a process of isolation of one of the key partners to the CPA. This will be inimical to the implementation of the CPA and particularly, holding of the referendum that I have referred to. Such an outcome could jeopardise the peace process in the Sudan with disastrous consequences for Kenya and the sub-region as well as erode Kenya's role as a trusted interlocutor between the parties to the CPA; that is the Congress Party and the SPLM.

Mr. Speaker, Sir, Kenya is a regional leader and one of the few countries in the world to pass a new Constitution at peace time. It was, therefore, considered important to include in our invitations, neighbouring countries which are still experiencing problems internally, first, as a sign of encouragement to their own internal processes, and secondly, for them to learn from our experience.

Mr. Speaker, Sir, the Government of Kenya invited both President Al-Bashir and the President of Southern Sudan Salva Kiir, who is the First Vice-President of the Sudan to the event. This was in line with Kenya's obligation as principle guarantor to the CPA and in order to maintain dialogue and close working relationship with both parties. However, Kenya was informed at the 11th hour that President Salva Kiir of the South would not be able to attend the ceremony as Sudanese protocol does not allow both the President and the first Vice-President to be out of the country at the same time.

Mr. Speaker, Sir, let me mention at this stage that President Al-Bashir in visiting Kenya, landed at Jomo Kenyatta International Airport (JKIA), inspected a ceremonial guard and then came to the ceremony. At no time did he land at Wilson Airport, neither did he come in secretly.

A cardinal principle in Kenya's foreign policy is to ensure peace, stability and security in the neighbouring countries, since any past turmoil in the sub-region has always had serious repercussions on our country. Kenya's objective in this case was to ensure that it safeguarded this principle tenet as a matter of national interest by taking actions that promoted the maintenance of peace in the Sudan. It was also aimed at reaffirming its position as a guarantor to the CPA. Kenya also takes her commitment to the African Union very seriously, out of the realisation that our future is inextricably linked to that of the entire African continent. We are, therefore, in this regard, part and parcel of the AU's request to the UN Security Council to defer proceedings against President Al-Bashir for at least one year for purposes of peace and reconciliation in the Sudan.

Mr. Speaker, Sir, the AU's request to the UN Security Council to defer the proceedings initiated against President Al-Bashir of the Sudan in accordance with the Article 16 of the Rome Statute of the ICC has never been acted upon. This prompted the AU member states to enter an Assembly decision at the 13th Ordinary Session of the Assembly of Heads of States and Governments in 2009 in Libya, not to co-operate with the ICC.

Mr. Speaker, Sir, on the specific issue of the arrest and surrender of President Al-Bashir of Sudan, this decision was reinforced at the 15th Ordinary Session of the AU Assembly in July, 2010 in Kampala where the AU Heads of States agreed to a resolution that reiterated calls for freezing the arrest warrant on President Al-Bashir and urged

members to work on amending provisions in the Rome Statutes. Our President attended both these Summits. The Summit further requested its member states that are states parties to the Rome Statutes of the ICC to ensure that they adhere and honour their obligations to the AU under Article 23(2) of the Constitutive Act. The AU's decision is binding on Kenya. It was in line with these provisions that Kenya took the decision to invite President Al-Bashir to the promulgation ceremony among other reasons.

Mr. Speaker, Sir, the AU has since issued a statement, which with your indulgence I read to the House, fully supporting Kenya's decision not to arrest the President of Sudan during his visit to Kenya. The ACP and we have Members of this August House who attend ACP meetings; a group with 79 Member states stretching three continents, also so merit in the position taken by the AU and has offered unequivocal support to the position that the AU Member countries should disregard the warrants against President Al-Bashir.

Mr. Speaker, Sir, we have read in the media that Kenya has got world opinion by inviting President Bashir to visit our country. Which is this world opinion if countries like the United States of America (USA), China, India and Russia are not even members of the International Criminal Court (ICC)?

(Applause)

It is also worthy to note that African countries comprise of the largest single regional group in the ICC and it is, therefore, critical that their views are taken seriously. Consistent with our desire and that of the African Union (AU) to secure peace and reconciliation in the Sudan, very successful discussions took place between President Kibaki and President Al-Bashir at State House soon after the promulgation of the Constitution. The State House discussions on 27th August, 2010 between the two presidents prompted a meeting between President Bashir and his two Vice-Presidents, Salva Kiir and Ali Osman Taha on 29th August, 2010. I am happy to inform this House that the meeting led to a breakthrough on the most difficult contentious issues including but not limited to the following:-

1. The President of Sudan and his two Vice-Presidents agreed to hold the Southern Sudan Referendum on the date stipulated in the Comprehensive Peace Agreement (CPA) namely 9th January, 2011.
2. The three agreed that they adopt a number of measures to remove all impeding issues facing the Referendum Commission.
3. The three agreed to form a joint political committee for the speedy determination and demarcation of the north/south border before the referendum.

My own colleague, Mr. Dalmas Otieno, if he is here, can bear me witness that only last week, him and I received a high level delegation from Southern Sudan, raising all these issues that our President has resolved by meeting President Bashir in Nairobi.

Mr. Speaker, Sir, Kenya has ratified the Rome statute of the ICC, meaning that national authorities are obliged to co-operate with the Court, including arresting indicted persons. However, this requirement is supposed to be carried out in tandem with Kenya's other obligations as a member of the international community. Kenya is a member of the African Union and adherence to its decisions is a cardinal responsibility. Regardless of this, Kenya remains fully committed to its obligations to co-operate with the ICC. This

has been exemplified several times, including most recently by the decision to allow investigators from the ICC to come to Kenya to carry out investigations pertaining to the identification of the perpetrators of the post-election violence.

Mr. Speaker, Sir, earlier on, Kenya had fully co-operated with the ICC in securing safe passage and protection of some of the witnesses in Darfur. You may also wish to note and recall that Kenya is one of the few countries that resisted pressure to undermine the ICC through conclusion of bilateral immunity agreements with one of the UN Security Council member States. I want to laud my predecessors; that is, Messrs. Kalonzo Musyoka, Chirau Mwakwere, and Raphael Tuju for resisting pressure from a powerful UN Security Council member for Kenya to sign an agreement not to arrest or hand over any of its nationals as and when they are arrested in pursuance of the ICC.

Kenya takes its responsibility to the ICC very seriously and will continue to provide the Court and its agents whatever help they need in order to accomplish their objectives in the country. The AU Assembly Resolution that Kenya has adhered to in this matter confines itself to non-co-operation solely on the case of President Bashir and not in general terms. Kenya and other African countries are, therefore, not rejecting the ICC as an institution or the Rome Statute as a treaty. This can be seen from the fact that the AU, in fact, has sought to use the mechanisms within the Rome Statute to hold the Bashir case. First, there was an attempt to use Article 16 on the deferral and now, the current Resolution justifies non-co-operation on the basis of Article 98 of the Statute.

I wish to observe that the decision on the invitations to the ceremonies for the promulgation of the new Constitution were deliberated on and adopted by a high level committee of Government which involved all stakeholders, Government Ministers and departments, including the Office of the President, the Office of the Prime Minister and the Office of the Vice-President and Ministry of Home Affairs. The Permanent Secretary, Secretary to the Cabinet and Head of Public Service, Amb. Muthaura and the Permanent Secretary, Dr. Isahakia were the alternate chairs to the preparatory meetings.

The Ministry of Foreign Affairs in its role as the Government arm responsible for Kenya's relations with outside world took part in those deliberations and conveyed individual invitations to these countries. For those who believe in pollsters, the opinion polls shown on our televisions show that Kenyans overwhelmingly have supported the invitation and presence of President Salva Kiir in Kenya.

Mr. Speaker Sir, allow me now to read to this House a statement from the AU. It is only two pages and it is very important that you allow me to read it.

Mr. Speaker, Sir, it goes as follows:-

“The African Union Commission has noted with grave concern statements attributed to some members of the UN Security Council as well as the decisions ICC-02/05-01/09 of 27 August 2010 of the ICC Pre-Trial Chamber informing the United Nations Security Council and the Assembly of the States Parties to the Rome Statute about Omar Al-Bashir's presence in the territories of the Republic of Chad and the Republic of Kenya.

The said statements and the decisions assert that the two African Union Member States have a clear obligation to co-operate with the Court in relation to the enforcement of such warrants of arrest, which stem both from the United Nations Security Council Resolution 1593, whereby the United Nations Security Council urged all member States concerned, regional and other international organizations to co-operate fully with the

Court and from Article 87 of the Statute of the Court to which the two countries are state parties. The African Union Commission further notes that the decision by the Pre-Trial chamber was made strangely in respect of the expected attendance of Omar Al-Bashir at the celebration scheduled for Friday, 27 August 2010.

The African Union Commission expresses its deep regret that both the statements and the decisions grossly ignore and make no reference whatsoever, to the obligations of the two countries to the AU, arising from decisions of Assembly/AU/Dec. 245(XIII) adopted by the 13th Ordinary Session of the Assembly of Heads of State and Government, wherein the Assembly decide that in view of the fact that the request by the AU has never been acted upon by UN Security Council, the AU Member States shall not co-operate pursuant to the provisions of Article 98 of the Rome Statute of the ICC relating to the immunities for the arrest and surrender of President Omar Al-Bashir of The Sudan, which decision was reiterated by the 15th Ordinary Session of the Assembly held in July, 2010 in Kampala, Uganda.

Additionally, the statement and the decisions did not take cognizance whatsoever of the obligations of the AU Member States arising from Article 23(2) of the Constitutive Act of the AU, which obligates all member States to comply with the decisions and policies of the AU. Thus the decisions adopted by the AU policy organs are binding on Chad and Kenya and it will be wrong to coerce them to violate or disregard their obligations to the AU.

It is to be recalled that the repeated appeals to the UN Security Council by the Assembly of Heads of State and Government of the AU as well as the AU Peace and Security Council – Kenya is a member of the Peace and Security Council - to defer the proceedings against President Omar Al-Bashir of Sudan for one year in application of the provisions of Article 16 of the Rome Statute have never been acted upon by the UN Security Council.

The same United Nations Security Council, which has ignored this request by African Union (AU) Member States, and which includes states that have no obligations to the International Criminal Court (ICC), has no moral authority to sit in judgement over Chad and Kenya. Indeed, by virtue of their membership of the AU, these two countries have committed themselves to “condemnation and rejection of impunity” and voluntarily negotiated the Rome Statute along with the Organisation of African Unity and joined the ICC with a view to enhancing the fight against impunity.

The AU Commission recalls that both Chad and Kenya being neighbours of The Sudan, have an abiding interest in ensuring peace and stability in The Sudan and in promoting peace, justice and reconciliation in that country, which can only be achieved through continuous engagement with the elected government of that country. Neighbouring countries do this as a matter of survival as they bear the brunt of instability or insecurity in neighbouring states. Kenya as a member of IGAD and a guarantor to the peace process in The Sudan, arising from the implementation of the Comprehensive Peace Agreement and the impending referendum in South Sudan, has a duty and obligation to continuously engage with President Omar Hassan Al Bashir and President Salva Kiir.

It is to be noted that engagement with the elected leaders of The Sudan is vitally and strategically essential and unavoidable for the countries of the region as well as the entire continent, which by their location, are better able to understand and take into

account the local realities and dynamics. The attempt to involve the UN Security Council in this matter is yet another effort to pressurise African countries to support the ICC, irrespective of the complex dynamics on the ground which require a fine balance between peace and justice. In this regard, the AU shall oppose any attempt to coerce African countries to undermine the common African position.

Mr. Speaker, Sir, finally, the AU will continue to fight against impunity as a requirement by the relevant Assembly decisions as well as Article 4 of the Constitutive Act and shall oppose the pretensions and double standards that are evident from the statements being made about the two countries. The AU believes and will continue to pursue in respect of The Sudan the interconnected, mutually interdependent and equally desirable objectives of peace, justice and reconciliation. It also requests all African Countries and friends of Africa to reject any draft resolution that may be tabled before the UN Security Council on this matter.

Thank you, Mr. Speaker, Sir.

(Applause)

Mr. Speaker: Order, hon. Members! Before hon. Members interject, Mr. Minister, I wish that the record of the House is consistent with respect to how we handle, treat and admit documents. How do you authenticate this document that you have just read as the last document from the AU?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, as the Minister for Foreign Affairs, first, I am familiar with the logo of the AU. I also received the original of the document from the AU Headquarters in Addis Ababa. I also did the due diligence of serving the document on the Chair well in advance before reading it. It is an authentic document and from the tenor and tone of the content, there is no doubt that it is an AU document. I, consequently, table it and ask the Chair to allow it to be part of the record of the House, in view of the importance of its contents and also the enormity of the matter that Kenya is dealing with in The Sudan. It is not just about President Al Bashir coming here but the issue The Sudan, position of the AU and the international community at large. It is an addendum to my Statement.

(Mr. Wetangula laid the document on the Table)

Mr. Speaker: Order, Mr. Minister! The difficulty I have and which I expect you to understand, is that this press release is not signed. It has no signature. I will want you to just account for how you received it, then maybe, I can make my decision on that basis.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, you may recall that the Chairman of the AU Commission, Dr. Jean Ping, attended the promulgation ceremony. In fact, I think I introduced him to you, but I know that you knew each other before.

Secondly, after the ceremony, he stayed back for two days. He was able to get in touch with me. In fact, I am gratified to him that on Saturday, he was part of the many Kenyans, including my colleagues in this House, who honoured me by attending my daughter's wedding, including yourself. In the process, he discussed with several leaders

in this country and mentioned to me that he was horrified to hear what was being said about the presence of President Al Bashir and that on reaching Addis Ababa, he was going to make a release statement from the AU Headquarters.

Mr. Speaker, Sir, I am very familiar with statements from the AU; they are never signed. The statements are released and channeled out on the website of the AU. This statement is on the website of the AU and anybody can access it. It has also been forwarded already to the United Nations (UN), urging it to be careful on what it is doing or about to do about this country. So, I do urge---

Mr. Speaker: Mr. Minister, how was it conveyed to your office?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, we have an Embassy in Addis Ababa that collected the document and forwarded it to us. So, we received it through the normal channels. We have a permanent representative to the AU, who also represents our country to Ethiopia. So, the document was properly conveyed through diplomatic channels.

Mr. Speaker: Do you also confirm that it is on the AU website?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, it is on the AU website. In fact, I read it yesterday on the website of the AU when I was in Mbabane, Swaziland.

Mr. Speaker: Very well! In that case, I will communicate to the House after I verify those contentions, tomorrow afternoon.

I will allow interjections for clarifications from the Minister. I will take as many as we can because of the interest in this matter. Mr. Minister, please, take notes. We will do a round of five and if necessary, another round of five.

Mr. Farah: Mr. Speaker, Sir, I am going to seek my clarifications, but before I do so, I rise on a point of order. Communiqués, press releases and statements from the AU are not signed. Secondly, a Minister for Foreign Affairs is the authentic mandated person. So, as a Government, when a Minister says that this is the position - I seek the direction of the Chair – we do not seek any other authentication on this.

Mr. Speaker, Sir, having said that, let me now seek my clarification.

Mr. Speaker: Order! Order! That is a very dangerous statement, particularly coming from a Member who shares collectivity in the Chair. I have given directions that I will make communication on the final position as to the admissibility of that document tomorrow afternoon. That position will stand as it is, because that is the correct position in law.

Mr. Farah: Much obliged, Mr. Speaker, Sir. I am seeking my clarifications. To begin with, I must say that for once in a very long time, I am proud of my Ministry of Foreign Affairs and my Government too. For very long, we have never asserted our sovereignty as an independent country that actually earned its own Independence through the spilling of blood. We have acted as an appendage to the foreign policy of the super power.

Mr. Speaker, Sir, having said that, I seek the following clarifications from the Minister.

First, could the hon. Minister, tell us what is our interest there? What is the volume of trade that we have with Sudan, the number of Kenyans who are working in Sudan whom I know are in the hundreds of thousands, and those doing business, including in Southern Sudan and Northern Sudan?

Mr. Minister, my memory serves me very well. General Scott Gration, who is the Special Envoy of the President of the United States of America (USA), more precisely, Obama, has said that there is no genocide that has taken place in Darfur. Could the Minister confirm the authenticity of that to this House?

Mr. Minister, the United States of America, as you stated very clearly, is not a signatory to the International Criminal Court (ICC). Not only is it not a signatory to the ICC, but it has got what is called the Hague Invasion Act. Any country that arrests an American citizen, including a criminal who is involved in genocide, and who is taken to the ICC, the American Government has a right to invade that particular country. Can you confirm or deny to this House, for the benefit of both the House and the Kenyan society?

Very finally, this is oil business. It is the American interest in oil the way they had it in Iraq and Saddam. How much potential is there for Kenya to do business with the Sudan for the future now? I have rested my case.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir, I have listened to the Deputy Speaker, who is a very good friend of mine. By my point of order is this: He has repeatedly mentioned the American Government so many times. Could he clarify because I thought we were asking this as Kenya and not the American Government? Could he clarify how the American Government is getting into the whole issue?

Mr. Speaker: Order! Hon. Member for Lagdera, do you want to make any response to that?

Hon. Members: No! No!

Mr. Farah: Order! Order! I can stand on my very own. The fact that the current President of the United States of America has got an "O" and has the first name "Obama" Hussein and has got parents who are partly from Kenya, does not mean that he is the President of this country. It does not mean that he is any less American than any other American! But the point is---

Mr. Speaker: Order, hon. Members! I do not think this is adding value to the business of this House. So, in fact, I will order that, that part that refers to the President of the United States of America by name be expunged from the record of the House.

Proceed, hon. Sirma.

Mr. Sirma: Mr. Speaker, Sir, thank you for the opportunity. I had requested for a Ministerial Statement but the Minister has taken over and given the Ministerial Statement. The Minister and the organizing committee of the promulgation of the new Constitution were aware of the indictment of Omar Al Bashir, which is internationally known. Out of the 10 charges against Al Bashir, three of them are on genocide; five on crimes against humanity and two murders amongst the 300,000 people who have died in Darfur. Such people, in this country, do not belong to the streets but in jail. How can we stand as a country and say that, that man is innocent? We are defending a person who is a criminal. We have caused disrepute to the ICC which was given recognition by this House! The International Crimes Act was enacted in this House. The Attorney-General deposited instruments of ratification in 2005 and yet, our Government can say no to the arrest of Al Bashir.

How did he come when we know he is a criminal?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I want to thank the Minister for that Statement. The Minister is a member of an organization called Parliamentarians for Global Action. I would like to congratulate

him for the Statement he has made. Indeed, it is not in dispute that Kenya is a party to the Rome Statute. It is also not in dispute that Kenya passed the International Crimes Act. I am holding a copy here. Therefore, it domesticated the Rome Statute. It is also not in doubt that there is an arrest warrant by the ICC against one Omar Al Bashir, the President of Sudan. Now that Al Bashir has been here, that is water under the bridge. I am just pleading with the Minister that, in future, the Government ensures that, that gentleman is not invited to this country and, if he is--- If he sets foot on our soil again, he is arrested. Can I get that assurance from the Minister?

Mr. Speaker: Order, hon. Members! Hon. David Musila caught my eye and I was curious to find out what his point of order was. For some time, I believed that he was supplying information to his friend until he started to ask for a clarification. I am at a loss as to how an Assistant Minister can ask for a clarification on a Ministerial Statement when he has an opportunity elsewhere. I would want to hear the Leader of Government Business.

What is your reaction to this?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I am sure that hon. Musila is aware of the doctrine of collective responsibility. Therefore, he is bound by the Statement by the Minister for Foreign Affairs. Therefore, I think his remarks, to the extent of a clarification, although I am aware that he is a member of the Parliamentarians for Global Action, should be expunged from the records of this House.

Mr. Speaker: Hon. Musila, you have heard that reaction.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, It is not my intention to argue either with the Chair or the Leader of Government Business. It is on record that the Prime Minister, who is a Member of the Government, said that he was not consulted in this. If that is the case, it means the issue of collective responsibility would not arise because even the Prime Minister said that he was not aware.

Mr. Speaker: We will go back to requests for clarification.

Dr. Khalwale: Mr. Speaker, Sir, I am not on a point of order. I thought you were giving me a chance to ask for a clarification.

Mr. Speaker: That is what you have caught my eye on.

Dr. Khalwale: Mr. Speaker, Sir, I am asking myself whether we, the hon. Members in this House, remember that Kenya is a signatory to the Rome Statute. To go against it, then the same Members should be asking the Minister whether he is in a position to tell us, or whether he would want to refer the matter to the Leader of Government Business or some other higher authority, whether this is not a confirmation that in spite of us moving on to the new Republic, we are still stuck in the culture of impunity. Regardless of whatever considerations the Minister for Foreign Affairs, and indeed, the Government, had for inviting the Mr. Bashir, there was a lot of loss of tact. This is because we can only conclude three things, namely, nothing has changed in Kenya and we are still in the culture of impunity. Secondly, that the same Minister is telling us that the Office of the President together with the Office of the Prime Minister, were involved in inviting Al-Bashir. Is he telling us that the Prime Minister of Kenya was lying to the Republic when he told us that he did not know? He needs to clarify this to us.

Thirdly, the souls of the---

Mr. Farah: On a point of order, Mr. Speaker, Sir. The Prime Minister of the Republic of Kenya cannot lie. If there is anything, he can only mislead. The hon. Member is out of order by saying that the Prime Minister lied. That is unparliamentary language.

Mr. Speaker: Order! I appreciate that, hon. Farah, except that the Member for Ikolomani was not making that assertion. He was wondering and wanting the Minister for Foreign Affairs to clarify if the Prime Minister was lying. So, that will be valid.

Dr. Khalwale: Mr. Speaker, Sir, I was just concluding my last clarification from my brother, hon. Wetangula. The Government of Kenya should know that the souls of the 300,000 poor victims who were killed in Darfur are resting there. We do not know whether it is in peace or whether they are crying. The men and women who control power in this country must know that God is watching us. As God watches us, could the Minister clarify whether these strong considerations that made him consider the interest of doing business rather than the loss of 300,000 lives will be used in the event that the International Criminal Court (ICC) will go ahead and indict some leaders in this country for having been perpetrators of the post-election violence that took place in this country and whether he will use the same considerations to give a waiver to those particular perpetrators?

Mr. Njuguna: Thank you, Mr. Speaker, Sir, for giving me this opportunity also to get a clarification from the Minister. Could he explain to this House the level of technical co-operation that is extended to Southern Sudan by our Government in allowing learners in that region to sit for our national examinations, namely, the Kenya Certificate of Primary Examinations (KCPE) and the Kenya Certificate of Secondary Examinations (KCSE)?

Mr. Nyamweya: Mr. Speaker, Sir, the Minister has referred to a powerful country in the Security Council which has been pressurizing Kenya to avoid having its nationals arrested for whatever reasons. Could he clarify to the House which is that powerful country which has been pressurizing Kenya?

The Minister for Foreign Affairs (Mr. Wetangula): Thank you, Mr. Speaker, Sir. With regard to the Deputy Speaker's sentiments, yes, we have enormous economic engagement and interest with the Sudan. But let me make it very clear as I clarify because hon. Sirma alluded to this. At no time has anybody in the Government of Kenya said that President Al-Bashir is innocent of anything. At no time, have we said that. It must remain on record.

We have no capacity to pass value judgement on the guilt or otherwise of President Al-Bashir until he goes through the due process. As a lawyer, that is very clear.

Southern Sudan, and the Sudan as a whole, has a lot of engagement with Kenya in relation to the question by the Deputy Speaker. If he just wants to know, we have about 40,000 Kenyans working in Southern Sudan alone, mainly teachers, contractors and business people. We have a lot of tea trade. The construction of the Port of Lamu is predicated on the economic interest between Kenya, Ethiopia and Sudan and many other issues. I am sure you have heard the Minister for Roads pronounce that there is a road from Isebania, Kisumu, Kakamega, Webuye, Kitale, Lodwar up to Juba. That again is an economic lifeline.

I do not want to speak for America, but I also know that she has very heavy engagement in the Sudan. She has an embassy and the President of American has a special envoy in the name of General Scott Gration, who represents him in the Sudan.

That is a manifestation of how deep the relationship and the engagement between the two countries is. As to what they do between themselves, it is not for me to say.

I am fully aware, according to what hon. Sirma asked, that President Bashir is indicted. I started by saying that and my Statement is very clear. Even the African Union (AU) Statement says that. It is important to understand that the ICC is no ordinary court. It is a *quasi* political court. That is why it is given to the Security Council to have the final word on who is prosecuted and who is not. Indictments are not enough. The Security Council can stop the indictments or the prosecution of any person at the ICC. This is the window that was created in the Constitution of that court to allay the fears of some of the member countries. Even with that, you may recall that President Bill Clinton had signed the Rome Statute, and President Bush came and struck out his signature. America is not a signatory any more. The ICC is a *quasi* political court. We must appreciate this. That is why the AU, being very keen and clear on due process, went to the General Assembly. They did not just tell us as member States to ignore. They asked the General Assembly and the Security Council to defer these warrants because of the issues of peace, security and stability in the region. The Security Council has neither said “no” nor “yes”. Having waited long enough, the AU advised member States not to enforce these warrants and not to comply with them. We are a member of the AU. We are also a member of the Peace and Security Council of the AU. More importantly, let it not be lost to my colleagues that our most critical constituency in our international affairs starts with East Africa, then Africa and then the rest of the world.

My colleagues who have been in diplomacy for a long time can tell you that if it were not for the AU member states, the United Nations Environmental Programme (UNEP) would not be based in Nairobi today. They wanted to take it away to Europe. That is a constituency we must constantly cherish.

Mr. Speaker, Sir, hon. Sirma asked how President Al Bashir came to Kenya. He came by air!

(Prolonged laughter)

Mr. Speaker: Order! Order, hon. Members! We must hear the Minister for Foreign Affairs.

Mr. Sirma: On a point of order, Mr. Speaker, Sir. The reply that the Minister has given to my question really ridicules rather than answers it. I know that there is nobody who travels from another country by road, or by any other means, to Nairobi. They all travel by air. President Al Bashir travelled by air from Sudan to Nairobi to attend the function. Therefore, that is ridicule. Therefore, I need you to protect me, so that he can withdraw that statement.

Mr. Speaker: Order! Order, hon. Members!

Hon. Sirma, did you pose the question: “How did Al Bashir come to Kenya?”

Mr. Sirma: Mr. Speaker, Sir, I asked: “How did Al Bashir get invited to Kenya?” The HANSARD will bear me witness on this.

Mr. Speaker: Very well, if that is so, we cannot make a finding unless we ascertain what is recorded on the HANSARD. If you asked the question: “How did Al Bashir travel to Kenya?”, then the Minister has given you a proper answer.

(Applause)

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, indeed, my hon. colleague asked two questions: “Why was he invited and how did he come?” I have already explained how he was invited, and I have said how he came.

Dr. Khalwale made categorical statements that Kenya is a signatory to the Rome Statute. That is true. He asked me to confirm that we are stuck in impunity. We are not. In fact, we are making major strides. I did mention very clearly that the issue of President Al Bashir and the geopolitics of this region, and the desire for a stable, prosperous and peaceful Horn of Africa region must be looked at when we are dealing with the question of the Sudan.

Mr. Speaker, Sir, I thought that Dr. Khalwale was going, through me, to congratulate the President for meeting President Al Bashir and unlocking the impasse that was threatening the referendum of 9th January, 2011, which is now firmly on course. The Coalition Government of Kenya does not, cannot and will not condone impunity. That must be very clear, and must be put on record.

The issue of Darfur and the number of people who have died in it is a whole complex web of the difficulties that the Sudan is going through. That is why the AU has appointed an Eminent Persons Group of retired Presidents including Thabo Mbeki, Piere Buyoya and Abubakar of Nigeria, who have returned a very clear verdict, which has been adopted by the AU and forwarded to the UN – that any attempt to deal with the Sudan in isolation of the issue of peace, security, stability, reconciliation and justice will come to naught. All must be addressed jointly, if we have to secure the Sudan.

Mr. Speaker, Sir, I have no doubt that Dr. Khalwale knows that the overflowing camps of people at Kakuma, in northern Kenya, happened when Sudan was at war with herself. The fact is that the refugee camps at Kakuma are empty, our brothers and sisters having gone back. They are now preparing for a referendum. We know that justice is a critical component of human life, but we also know that equally important is peace, stability and security.

The Member of Parliament for Lari asked about the technical support we have for the Sudan. We do---

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. The Minister has moved away from my question. I wanted him to confirm to the nation, having told us that both the Office of the President and the Office of the Prime Minister were involved in the invitation of President Al Bashir, whether the Prime Minister was lying to the nation.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, first of all, I am not the spokesman of the Prime Minister. Secondly, I do not want to pass any valid judgement on the Rt. Hon. Prime Minister and whatever he said. In fact, I do not know what he said.

What I informed the House is that there was a committee which was alternately chaired by Amb. Muthaura and Dr. Mohamed Isahakiah – Permanent Secretaries (PSs) in the Offices of the President and the Prime Minister, respectively. They all shared in the process of inviting the dignitaries and in the success that we phenomenally witnessed at Uhuru Park.

Mr. Speaker, Sir, allow me to, in fact, on behalf of this House, to congratulate the two gentlemen for a job well done.

The Member of Parliament for Lari asked about the technical support we have for Southern Sudan. We have a Memorandum of Understanding (MoU) on education and technical support in terms of building capacity for administration. In fact, outside the East African federation, Southern Sudan today is the only country where Kiswahili is a compulsory teaching language in all their primary schools. We have Kenyan teachers who are teaching there. So, those are some of the benefits flowing out of it.

Mr. Speaker, Sir, on hon. Nyamweya's question, I would like to respond that it is common knowledge that a powerful country has repeatedly asked many countries, Kenya included, to sign an exception to Article 98 of the Rome Statute, so that any of their nationals arrested or indicted for whatever reason cannot be arrested. I am sure that you know what I mean.

Mr. Speaker: Order! Order, hon. Members! As I indicated at the beginning, we will take just another five clarifications. This matter must come to a rest.

Yes, hon. Amina Abdala!

Ms. A. Abdalla: Mr. Speaker, Sir, I would also like to congratulate the Minister for being proactive in giving us this Ministerial Statement. Our current Government is a special Government. It is a Grand Coalition Government. The Minister has told us the decision to delay the arrest of President Al Bashir was reached at the 13th Sitting of the African Union. What measures did he take to inform the entire Cabinet, so that they could all understand that Kenya had decided to support that AU resolution? I know that he does not do it in this House. He is supposed to communicate decisions he has agreed to when he goes to AU meetings. What measures has he taken to inform other members of the Cabinet, so that we do not see the display of the embarrassment that we saw this weekend?

Mr. Speaker: Yes, hon. Jakoyo Midiwo!

Mr. Midiwo: Mr. Speaker, Sir, I want the Minister to clarify whether a resolution of a sitting of the AU can be equated to the laws of the land. If it can, how binding can it be compared to what our laws say? The Rome Statute was domesticated by this House. So, we want to know, as we move into the new era, whether we want to continue living in the past.

Secondly, the Minister has said that there was a committee of Government, and he has thanked the two PSs he has referred to. However, I want him to clarify who signed the letter which invited Hon. Al Bashir.

I also want the Minister to clarify whether the Government of Kenya, or a representative of a section of the Government of Kenya, had some input in the drafting of the Communiqué of the AU that he has read before this House.

Lastly, because Al-Bashir has come and gone as Mr. Musila said, it is now water under the bridge. The way some of us are interpreting this is that, the wider implication of the visit - which is the impunity of Al-Bashir - is meant to have a wider implication on the post-election violence which took place in this country in 2008. I want the Minister to assure me that the people who ordered the killing of my people in Nakuru, Eldoret, Kericho and Nairobi shall not go scot-free, if and when they are indicted by the International Criminal Court (ICC).

Mr. Twaha: Mr. Speaker, Sir, President Al-Bashir is the President and Commander-in-Chief of a sovereign State and I am sure the Minister is aware that you cannot arrest a President and Commander-in-Chief. You can only capture him in an act of

war. What part of ICC empowers it to order countries to declare war on one another? While at it, is the Minister aware of any proceedings against one George W. Bush, Tony Blair, Ariel Sharon and the people who dropped bombs in Nagasaki and Hiroshima?

Mr. Mbugua: Mr. Speaker, Sir, I would like to clarify for the Minister if---

Mr. Speaker: Member for Kamukunji! Are you seeking clarification or clarifying?

Mr. Mbugua: Mr. Speaker, Sir, I am seeking clarification from the Minister if indeed the African Union has frozen the arrest warrants for Al-Bashir and to explain to the House what stand they should take? Is it the ICC's decision to arrest Al-Bashir or the AU's decision?

Mrs. Shebesh: Mr. Speaker, Sir, I would like to seek the following clarification from the Minister. He knows that I sit in the Pan-African Parliament (PAP) in the Committee of International Relations. Therefore, I would like him to clarify that an AU decision, especially this that came in regard to President Al-Bashir was not a decision that was agreed upon by all nations but it was a decision that all nations were told to uphold. It is important that people know whether there were some who dissented to the decision that was made at the AU. I would also like him to clarify to us, in terms of the situation of Southern Sudan, our country is at the forefront. As the Minister said, Kenya is the custodian of the peace accord.

The Minister also said that in the meeting with the President of Sudan, four issues were resolved. I do not know whether he understands how heavy that statement is, including the issue of the demarcation of borders. Could he clarify again on the Floor of this House that the issues including having a referendum for the people of Southern Sudan in January and the demarcation was agreed upon by the President and if that would be ratified by the AU?

Mr. C. Kilonzo: Mr. Speaker, Sir, on many occasions, I have always found myself on the other side of the Minister but for once I am with him on this case. I appreciate the indiscipline in the Government. Those are your problems. The Minister has brought up the issue of the AU. I want to know what this AU is doing on the murder of Patrice Lumumba who was the Prime Minister of Congo by the western countries. At the same time, I want to know what this AU is doing about this false war in Iraq. You know the pretext was that Iraq had weapons of mass destruction. I also want him to clarify which comes first; national interest or international interest. At the same time, I want him to confirm who is living in these parts of the region; is it Kenya or is it another country?

Finally, I want him to confirm whether indeed this Government is in charge because we have evidence in many cases where the Central Bank of Kenya (CBK), corporations, judges and Ministers starting with my good friend, Mr. Kimunya, have been threatened by a travel ban. Who is in charge of this country? Those missions or yourself as a Government?

Mr. Speaker: Hon. Members, we will do the last one, I am afraid. The matter must rest at some point. I will give the chance to the hon. Member for Ndaragua.

Mr. Mbadi: Mr. Speaker, Sir---

Mr. Speaker: Order, hon. Member for Gwassi! Everyday is not Sunday!

Mr. Kioni: Mr. Speaker, Sir, I would want the Minister to clarify; when President Al-Bashir was being sworn in after the recent elections in Sudan, were we invited and

did we attend? If so, who attended? Also were there representatives from the United Nations Security Council?

Secondly, there is this AU organization and one of the paragraphs says that:-

“The AU Commission further notes that the decision by the Pre-trial Chamber was made strangely in respect of expected attendance”.

It is good to know what is strange about that pre-trial.

Thirdly, what benefits, if any, have we realized as a nation from this visit? Lastly, why is it that we are over-relying on the position that was taken by the AU?

Mr. Speaker: Order! The Minister will now respond.

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is your point of order, taking care that you share responsibility with the Minister?

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Speaker, Sir. In the course of seeking clarifications, several adverse mentions were made on a Head of State of a friendly nation which, I believe contravenes our Standing Orders, specifically Standing Order No.79. Would I be in order to ask you to expunge, or ask for those references to be expunged, because they contravene our Standing Orders?

Mr. Speaker: Order! You will have failed in your duty as a Member of the House in as much as you ought to raise those matters which are in breach of the Standing Orders instantly, as and when they are addressed. You will notice that when the Chair became aware of one such incidence, I did direct that it be expunged from the records. So, for the reason of your being late to raise those matters and you cannot do so in general terms, I am afraid you are out of order.

Mr. Minister!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, Ms. A. Abdalla wanted to know if we circulate the decisions from the AU. First of all, every decision taken is posted on the website of the AU. So I expected my colleagues to be sufficiently computer and IT compliant to see them. But I take your cue and I will be circulating them as soon as we make them.

Mr. Midiwo asked about the resolution of the AU. This is also part of what Mr. Kioni asked.

Mr. Speaker, Sir, I want to inform the House that we have to comply without exception. By Article 23 of the Constitutive Act, members states have to comply with the decisions and policies of the African Union. The highest organ of the African Union (AU) is the Summit. It is the Summit that says the Heads of State and Government that made the decision for the AU Members States not to comply with the issue of President Bashir.

Mr. Speaker, Sir, hon. Midiwo also asked who signed the letter and I think that question is just rhetorical. A letter inviting a Head of State can only be signed by a fellow Head of State. That is the peer. So the letters were generated from the committee and they were signed by our Head of State inviting his colleagues; Heads of States. In fact, regarding the invitation to the President of Southern Sudan, Salva Kiir, there was debate as to whether that letter should be signed by the Prime Minister or the Vice President, but I advised and I think rightly so, that we are inviting President Bashir as a Head of State and also as a party to the Comprehensive Peace Agreement. So Salva Kiir was also

invited as a party to the CPA and Kenya as a guarantor, we were obligated to invite both of them and the President signed both letters as is expected. But as it turned out, their protocol could not allow both of them to leave the country. This happens in many other countries. If you may recall, many times President Mandela had to swear in Buthelezi to act as a president because both him and his vice president were going out.

Mr. Speaker, Sir, hon. Midiwo also asked about the wider implications and whether the visit by President Bashir has a bearing on post election violence. I have said it over and over that the Government is co-operating fully with the process of the International Criminal Court of Justice (ICC) on post-election violence. A committee chaired by Prof. Saitoti, myself, Mr. Orenge, Mr. Kingi and one or two other colleagues has been dealing with the issues. I know that there is progress and nobody has impeded the ICC from carrying out its duties. The issue of President Bashir has absolutely nothing to do with our post election violence. It must be noted that the same AU whose resolution we are obeying and respecting is the one that sent here the eminent persons in the person of Koffi Annan, Ben Mkapa and Graca Machel that led us down the path up to the phenomenal event that we had in Uhuru Park the other day. So we cannot possibly turn away and say we value the AU for sending the eminent persons here and we do not agree with them on the issue of President Bashir. This will be double standards. I think we have to respect the AU because it is the core of our diplomacy and comfort in this region and sub-region.

Mr. Speaker, Sir, on the issue of---

(Several Members stoop up in their places)

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. The Minister seems to be contradicting himself. Is he in order to be contradicting himself? When he was giving his substantive Statement, he said that in order to balance peace and justice, we cannot take action as per the ICC. Now in order to balance peace and justice, he is telling us we shall nonetheless be taking action. Is he being honest?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I have not in any way contradicted myself. I think I have been very consistent in isolating and defining the case of President Bashir and the issues of the Horn of Africa and the post-election violence that Mr. Midiwo asked. I do not think I have contradicted myself in any way---

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Hon. Midiwo sought a very serious clarification as to whether a resolution of the AU and a law passed by this Parliament---

The Minister for Foreign Affairs (Mr. Wetangula): I was coming to that.

Mr. Wamalwa: Thank you.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I was coming to that, Mr. Wamalwa. The Resolution of the AU on the ICC is borne out of the strength and authority of the Constitutive Act which was not only ratified by the Government of the Republic of Kenya, but was adopted by this Parliament before ratification by the Government of the Republic of Kenya and, under which, we are obligated to obey the decisions of the organs of the AU. In terms of the domestication of the Rome Statute, we domesticated it as part of our laws and we must, like I said in my

Statement, look at the wider context of issues. The AU has given us direction; it has not told us to walk out of the ICC or to disregard the Statute of Rome. It has isolated one case and if you read the Act properly, you will see that the final Act on any ICC processes lies with the Security Council of the UN, not even with member States. That is the why the AU dutifully went to the Security Council.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to avoid answering this question? There is Article 2(6) of our Constitution which says that we have to recognize the treaties that we sign. They become part of our laws. Then, he is talking of a Resolution of the AU. Is that more superior to a treaty or convention that this country has signed; the law of this country?

(Applause)

Mr. Speaker: Mr. Wetangula, will you please try and move to conclude?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, yes, we also signed the treaty of the Constitutive Act of the AU, which is very critical to the survival of this country.

Mrs. Shebesh asked whether the decisions were unanimous or not. The decisions of the AU were made without any dissention. So, they are taken to be unanimous and I always thank her and her colleagues from this Parliament who always join us. You have seen that and you know what the AU has said about this issue.

Mr. C. Kilonzo has asked me a very weighty issue about Patrice Lumumba and all our brothers who died a long time ago, and other issues like the war in Iraq and so on. We all have varied judgments on these issues. I am sure that what prompted Mr. C. Kilonzo is on the minds of many others. We live in an un-equal world. We live in a world that is devoid of justice! I want to assure the hon. Member that our national interests must, at all times, be cardinal and paramount. Anything else must be subordinate to our national interests. That is why certain countries, in pursuit of their national and strategic interests, have even kidnapped heads of states of other countries and jailed them in their countries.

On the issue raised by Mr. Kioni, I would like to respond as follows: When President Bashir was being sworn in after elections that were described by Retired President Carter as: “Despite the imperfections, they were elections, nonetheless. They were a way forward for the Sudan.” President Kibaki sent his Vice-President and Minister for Home Affairs who represented us at the ceremony. Equally, when President Salva Kiir was sworn in, the same Vice-President and Minister for Home Affairs was sent by the President to represent us. Many countries, including organizations as important as the UN, were heavily represented. In fact, the Secretary-General of the UN has one of his deputies permanently stationed in Sudan, Khartoum, to oversee the issues of Sudan.

Finally, the benefits from the visit of President Bashir can be, again, reflected in what I said. I received a note from the Embassy of Sudan that listed four things: That the parties agreed, following President Bashir’s return to Sudan and meeting his two Vice-Presidents, to hold the Southern Sudan Referendum on the dates stipulated in the Comprehensive Peace Agreement (CPA) on 9th January, 2011 to adopt a number of measures to remove all the impediments facing the Referendum Commission. The referendum Commission had repeatedly raised alarm bells that they were not ready to

hold the referendum and so on. The principals have told them the referendum must be on the date set.

Mr. Speaker, Sir, they also formed a joint political committee for the speedy demarcation of the north-south boundary before the referendum. We also know that within the Comprehensive Peace Agreement (CPA) negotiated by our Vice-President, who was then the Minister for Foreign Affairs, has a window for what they call “popular consultations after the referendum” to deal with all outstanding issues that may not have been dealt with, so that there is no pretext of outstanding issues to delay the referendum that everybody is looking forward to.

Fourth, the meeting called upon the regional partners and the international community to live up to their commitment and pledges to support the implementation of the remaining provisions of the CPA. They also thanked President Kibaki for meeting President Bashir to unlock this impasse and get things moving. We cannot do better than that.

Mr. Mbugua: On a point of order, Mr. Speaker, Sir. The Minister has not answered my question, which was with regard to freezing of the arrest warrant. I did ask him if he can confirm if, indeed, the AU has frozen the arrest warrant against President Al Bashir.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, the AU has no power to freeze the arrest warrant, but it has authority to direct its member states, as it has done, to disregard it in the wider interests of peace, security, stability, reconciliation and justice.

Mr. Speaker: Hon. Members, we must make progress. We have spent too much time already on this matter and I shall allow no more time on it.

POINT OF ORDER

FUNDING OF COCKTAIL PARTIES TO CELEBRATE PROMULGATION OF NEW CONSTITUTION

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I stand to request a Ministerial Statement from the Leader of Government Business. This is in respect of who is funding the current cocktail parties that are being held in honor of the passing of the new Constitution. I would like the Leader of Government Business to clarify the following. Could he clarify if he is aware of the following cocktail parties;

1. The one that was held at State House gardens, hosted by His Excellency the President on the afternoon of 27th August this year;
2. The one that was held by the Prime Minister in an evening at the Carnivore Restaurant, hosted by the Prime Minister on the 27th of August;
3. Eight provincial receptions hosted by our Provincial Commissioners on 27th August; and,
4. An evening cocktail party to be held today at Parliament grounds at 7.00 p.m.

If he is aware of these parties, could he tell us the total cost of these parties, and who is funding them? Why was the taxpayer asked to fund cocktail parties by the Prime Minister and the Vice-President, when protocol demands that public funding be limited to

a State House Garden party at the end of a function like the one we had on Friday, which was extended as provincial receptions hosted by the Provincial Commissioners?

Mr. Speaker, Sir, will the Government consider surcharging the Prime Minister and the Vice-President and Minister for Home Affairs since the Chairperson of the NARC(K) Party hon. Karua actually paid for her own reception/cocktail party at the City Cabanas on the evening of the 27th of August---

*(Mr. Mbadi and Mrs Odhiambo- Mabona
stood up in their places)*

Mr. Speaker: Order, hon. Members! Member for Ikolomani, can you, please, conclude?

Dr. Khalwale: Mr. Speaker, Sir, will the Government consider surcharging them, so as to instil discipline in Government spending in line with Government financial regulations and procedures?

Mr. Speaker, Sir, I beg that since the Leader of Government Business is here, he need not to do research on the three questions that I have raised; that he be asked to respond now before we go to the party.

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

Mr. Speaker, Sir, while appreciating the point of order raised by hon. Dr. Khalwale, I heard him mention that the party that was organized by NARC(K) was fully funded by NARC(K). Does he have evidence that that is the case? If so, could he table it?

Mr. Speaker: Member for Ikolomani, that is a legitimate concern. You are responsible for the accuracy of any statement that you make in this House. Could you substantiate that claim that the party for NARC-K was fully funded by NARC(K)?

Dr. Khalwale: Mr. Speaker, Sir, before I raised this Ministerial Statement, I did my research. I have been able to receive assurances which I have no reason to doubt from the hon. Karua that she paid the bill at City Cabanas. More importantly, two hon. Members who participated in that function actually paid for their drinks.

Mr. Speaker: Order! Member for Ikolomani that is not good enough for substantiation. But our Standing Orders as they are today allow you to substantiate at the earliest. The earliest opportunity will be tomorrow morning. Will you, please, come with evidence to substantiate that claim?

Dr. Khalwale: Mr. Speaker, Sir, I will certainly do so.

Mr. Speaker: Yes, at 9.00 a.m. tomorrow.

Dr. Khalwale: Mr. Speaker, Sir, I beg that it be at 2.30 p.m. because, probably, I would have to get documents from the other place.

Mr. Speaker: Fair enough. Do so, at 2.30 p.m. tomorrow.

What is your point of order, Mrs. Odhiambo-Mabona!

Mrs. Odhiambo-Mabo: Mr. Speaker, Sir, that is one of the things I wanted him to clarify.

But in asking for the same statement, Dr. Khalwale said that the Vice-President and Minister for Home Affairs and the Prime Minister used State funds, meaning that he already has that information. So, why can he not just table it?

Mr. Speaker, Sir, with your indulgence, just allow me to ask one more clarification. Whether he could request the persons organising these parties to organise one for women?

(Laughter)

Mr. Speaker: Order, hon. Members! I am afraid, I do not find much substance in the point of order by hon. Odhiambo-Mabona. This is because the statement sought by the Member for Ikolomani, among other things, was looking for information from the Leader of Government Business. Therefore, he cannot substantiate what he is looking for.

Leader of Government Business, could you give us an indication as to when this statement can come?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, first of all, I thank my good friend Dr. Khalwale for making request for this Ministerial Statement and for actually inviting all of us to this evenings cocktail. Indeed, I was going to stand up and invite all of hon. Members to join me as we continue to celebrate what has been really momentous. I hope he would be the first one to get there, because I want to shake his hands.

I will definitely get back to this House sometime next week. I think that is a valid request. I need to check with the Prime Minister. In fact, when I spoke to him, he was in Gigiri and he said that he also wanted to be here. I think this is time to celebrate. For once, let us be positive about these things.

(Applause)

Mr. Speaker: Order, hon. Members! The Leader of Government Business, when will the Statement be delivered?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I do not want to anticipate debate, but it is possible when the House Business Committee (HBC) meets soon after the rise of this House, there may be a Motion of Adjournment. In the event that the House does not adjourn, then, certainly the Statement will be delivered next Thursday. If, however, the House adjourns, then it will be delivered as soon as we come back from recess. In any event, that will have given me all the time to get all the facts because Dr. Khalwale is very---

Mr. Speaker: Order, Mr. Vice-President and Minister for Home Affairs. I direct that you deliver the Statement on Thursday next week at 2.30 p.m.

COMMUNICATIONS FROM THE CHAIR

INVITATION TO COCK TAIL PARTY HOSTED BY LEADER OF GOVERNMENT BUSINESS

Hon. Members, I received notice from His Excellency the Vice-President and Minister for Home Affairs in his capacity as Leader of Government Business, that he wishes to host a cocktail in the gardens of Parliament with a view to urging Members on, on implementation of the new Constitution. I have, therefore, authorized that gathering,

not to celebrate, but to accord the Leader of Government Business an opportunity to lobby the membership of the House.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Outside the celebrations, we have a Constitution that talks about collective responsibility. The same Constitution gives Parliament oversight over Government. In exercise of this oversight responsibility, could I be in order to request a Statement from the Leader of Government Business to explain why there is serious discord in the Government?

Mr. Speaker: Order, the Member for Chepalungu! You will be out of order if you look at the provisions in our red book. The Standing Orders provide that before you stand to request for a Ministerial Statement, you will have given due notice to Mr. Speaker. I am afraid I do not have notice of your request. I rule that out of order. I am afraid.

DEFERMENT OF SECOND READING: THE FINANCE BILL

Mr. Speaker: Order, hon. Members! Before we move to the next Order, I wish to notify the House as follows. That the business at Order No.9 will not proceed because the Deputy Prime Minister and Minister for Finance has intimated to the Chair that there is need for further consultations before this matter can be transacted. I, therefore, exercise the prerogative I have under Standing Order No.36 to defer this business.

(Bill deferred)

DEFERMENT OF MOTION FOR ADJOURNMENT

With respect to the Motion for Adjournment, I also wish to exercise the prerogative I have to defer the Motion for Adjournment as appears on the Order Paper to take place not later than 6.00 p.m. because further consultations are necessary and the HBC needs to redraw its programme on when this business should appear on the Order Paper. So, be guided accordingly.

THAT this House do now adjourn until Tuesday 21st September, 2010 at 2.30 p.m.

(Motion deferred)

Mr. Speaker: We will proceed in terms of the balance of the business on the Order Paper.

BILLS

First Reading

THE RETIREMENT BENEFITS (AMENDMENTS) BILL

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

Second Reading

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

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Speaker, Sir, I beg to move that The Insurance (Motor Vehicle Third Party Risks) (Amendment) Bill be now read a Second Time.

Mr. Speaker, Sir, allow me to share with hon. Members a brief history of the insurance of motor vehicle third party risks in Kenya. The insurance of motor vehicle third party risks is mandatory for everyone operating a motor vehicle on a public road in Kenya. To this end, several insurance companies have been offering insurance to owners of Public Service Vehicles (PSVs). The PSV insurance companies have, however, faced enormous challenges in the underwriting of PSV insurance business, a situation that has from time to time threatened to destabilize the entire insurance industry.

Mr. Speaker Sir, in the early 1970s, matatus were allowed to operate in all localities as PSVs with little regulation which led to disorder and hence, increased the number of road accidents. This eventually made insurers reluctant to underwrite this class of business due to the high number of claims that were unmanageable. To try and address this problem, insurance companies opted to form a voluntary pool to share the risks associated with this class of business, an initiative that failed later. Consequently, the Government formed a compulsory motor insurance pool which also failed. This led to a crisis in the country as there were no insurance providers for the compulsory vehicle third party cover. As a result, the Government formed a second compulsory motor insurance pool in 1985, which again failed and was abolished by the Government in 1989.

Mr. Speaker, Sir, after the collapse of the pool a few private insurance companies ventured into the underwriting of this class of business. These companies have faced various challenges and eight of them have collapsed since 1992. As a result, most of the insurance companies have shied away from insurance of PSVs as they consider it a bad risk, such that, currently, of the 44 licensed insurance companies, only five offer insurance coverage to PSVs and the same are struggling to remain in the market.

Mr. Speaker, Sir, the collapse of most of the PSV underwriters has largely been attributed to widespread malpractices and fraud, which is perpetrated by syndicates of fraudsters comprising of ambulance chasers chasing lawyers, medical doctors, private investigators, claimants, law enforcement agencies and the Judiciary amongst others. The frauds make the risk unmanageable, thus leading to the collapse of most of the insurance companies offering third party cover. The fact that a structured compensation scheme for various injuries does not exist compounds the problem even further by allowing accident victims to invariably seek legal redress under common law, opening room for ambulance chasers and other related frauds.

Mr. Speaker, Sir, in order to address the aforementioned problems and help sustain insurance companies offering cover for the compulsory motor vehicle third party risk, I

propose to introduce a structured compensation scheme which prescribes the maximum percentage of the existing ceiling of Kshs3 million to be payable for a specified injury. This measure will go a long way to offer sustainability on the expected levels of compensation and also mitigate against ambulance chasing and related fraud.

Mr. Speaker, Sir, I beg to move and ask hon. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I rise to second this Bill. It is self-evident and clear on what needs to be done and, therefore, we do not need to belabour the point. I would ask the House that we pass this Bill with minimum interrogation or debate on it because the matter is very clear.

Mr. Speaker, Sir, with those few remarks, I beg to second.

(Question proposed)

Mr. Ngugi: Mr. Speaker, Sir, as a former Chairman of the Association of Kenya Insurers and a former Chief Executive in the industry, I cannot let this matter pass without giving a comment. First of all, I would like to support this Bill which, for a long time, we have asked for, in order to streamline the claims payments in the insurance industry. In saying so, I have a few words to say to the Deputy Prime Minister and Minister for Finance.

We have an Insurance Regulatory Authority which was formerly under the Commissioner of Insurance. For many years, the Finance Minister has said that several insurance companies insuring motor vehicles have collapsed under an Insurance Commissioner. Now, there is an Insurance Regulatory Authority. When those companies collapsed, those people who had insured their vehicles were left to bear the claims. The Office of the Deputy Prime Minister and Ministry of Finance should be held responsible for the collapse of those companies. It is also the responsibility of the Government to have compensated the people who had insured the vehicles. Those insurance companies failed and yet, the Office of the Deputy Prime Minister and Ministry of Finance, through the Insurance Regulatory Authority, was there to make sure that they exercise their mandate.

[Mr. Speaker left the Chair]

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

Madam Temporary Deputy Speaker, I urge the Deputy Prime Minister and Minister for Finance to ensure that the Insurance Regulatory Authority, in its dual mandate of developing and supervising the industry, makes sure that, as we pass this Bill, in future, we will not see insurance companies collapsing. The Government will come to the aid of the people insured by those companies which have been licensed by the Office of the Deputy Prime Minister and Ministry of Finance. By doing that, the Deputy Prime Minister and Minister for Finance will give the public the assurance that the companies are capable of carrying those risks.

With those few remarks, I support.

Dr. Machage: Madam Temporary Deputy Speaker, in supporting this Bill, I take great cognizance of the memorandum, objectives and reasons as to why the Minister has decided to bring this Schedule to us. I take great cognizance of the amendment that he has suggested in Section 3 Cap 405 which talks about the dominance of the hand. Which hand is dominant when it is incapacitated? It is also important to note that the dominant side of the brain that is mostly used for usual actions and activities is important in the way the anatomy of man is. Therefore, compensation must be deferred in cognizance of the fact that when you are right-handed and your right hand is incapacitated, you lose more than if you lost your left hand. I congratulate the Minister to have noticed this difference. That problem had been ignored by the insurance companies in terms of compensation. I also take cognizance of the fact that the Minister is also left handed.

I take great note of the different compensations that the Minister has attempted to address in the Schedule, especially on the different levels of compensations, and which the insurance companies have abused for many years. They have abused that form of compensation by using a legal process because of lack of a schedule in the court of law. This Schedule should be adapted without any amendments, so that there is a proper legal document to follow when compensations are being determined by the courts as directed by an Act of Parliament.

In view of the above sentiments, I beg to strongly support the Minister for Finance.

Mr. Mututho: On a point of order, Madam Temporary Deputy Speaker, from the mood of the House and looking at the importance of this matter and the many people who have been manhandled by the insurance industry, will I be in order to request that the Mover be called upon to reply?

*(Question, that the Mover be now called upon to reply,
put and agreed to)*

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Speaker, I thank all the Members who have contributed to the debate on this Bill. I completely concur that we will ensure that the IRA does everything that is necessary in future to ensure that insurance companies do not collapse.

Secondly, I want to assure hon. Machage that the left hand is as important to the left handed person as the right hand is to the right handed person.

With those few remarks, I beg to move.

*(The Bill was read a Second Time and committed to a Committee
of the Whole House tomorrow)*

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time to adjourn the House. The House, therefore, stands adjourned until tomorrow, Wednesday, 1st September, 2010, at 9.00 a.m.

The House rose at 6.30 p.m.