

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 8th November, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Financial Statements of Chama Cha Wananchi for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the Forum for Restoration of Democracy for the People FORD (P) for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the National Patriotic Party for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of VIVA Progressive Alliance for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the People's Democracy Party for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the Orange Democratic Movement (ODM) for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the National Labour Party for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the Attorney-General)*

Abstracts of Accounts of the County Council of Bondo for the two year period ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the County Council of Suba for the two year period ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Municipal Council of Siaya for the two year period ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

Abstracts of Accounts of the Town Council of Ogembo for the two year period ended 30th June, 2007 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Regional Development
Authorities (Mr. ole Metito) on behalf of the Deputy*

Prime Minister and Minister for Local Government)

Mr. Speaker: Hon. Attorney-General, I am told that you have a Paper to lay on the Table. What we normally do is that you stand in your position and you catch the Speaker's eye. You will then proceed. You do not sit! Proceed!

The Attorney-General (Prof. Muigai): Thank you, Mr. Speaker, Sir. Again, I am learning from you and I think I am in good hands!

The National Cohesion and Integration Commission Annual Report, 2009/2010.

(By the Attorney-General)

QUESTIONS BY PRIVATE NOTICE

PAYMENT OF RETIREMENT BENEFITS TO RETIRED TEACHERS BY TSC

Mr. Pesa: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice:

(a) How much money has been set aside to pay retirement benefits to teachers who retired between 1997 and 2007, following the dismissal of an appeal (Civil Appeal Case No. 300 of 2009) filed by the TSC against a judgment of the High Court in Nakuru in 1997 (HCCC No. 65 of 2006) awarding retirement benefits to the teachers?

(b) Can the Minister confirm that the money set aside will be adequate to pay all the benefits to the teachers and, if not, when will the balance of the benefits be paid?

(c) Can the Minister confirm that all the due benefits will be paid using the normal Government system, through the Treasury?

Mr. Pesa: Mr. Speaker, Sir, I seek your indulgence that I kindly read out this Question!

Mr. Speaker: Order, Member for Migori! I know that it is discretionary for a Member to read a Question if need be, but this Question is appearing on the Order Paper for the fourth time. Even Kenyans have been apprised of this Question. Even as I proceeded to the House this afternoon, there was emphasis given to your Question and that of the Member for Emuhaya.

Mr. Pesa: Mr. Speaker, Sir, I stand guided.

Mr. Speaker: In fact, they were read out. So, Minister proceed and answer!

The Assistant Minister, Office of the Deputy Prime and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to reply. This Question was first directed to the Ministry of Education and then it was re-directed to my Ministry.

(a) The Government has set aside Kshs3.34 billion in the current 2011/2012 Financial Year's Budget towards payment of additional retirement benefits to teachers following the court award.

(b) The retirement benefits due to the teachers will be paid within the next four years. The payments will be made in five phases or installments beginning with those who retired first.

(c) I confirm that all the benefits will be paid using the normal Government system through the Treasury and that the payments will be made to the respective bank accounts of the retired teachers affected by the court award.

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister says that the rest of the money will be paid in the next five years. However, we need to know that amount so that we see the magnitude and why it has to drag for five years.

Dr. Oburu: Mr. Speaker, Sir, it is estimated that the total amount of money to be paid is Kshs16.7 billion and it is to be paid to about 31,082 teachers.

Mr. Kabogo: Mr. Speaker, Sir, the Assistant Minister has now said that there is Kshs3.3 billion. You will note that most of the teachers who retired are elderly and sick. Others are deceased. Could he confirm by what date all these teachers will be paid, including the beneficiaries of the departed teachers?

Dr. Oburu: Mr. Speaker, Sir, the Teachers Service Commission (TSC) prepares all the details of the teachers. They give us how much is due to each of them and they will be paid on first retired-first served basis. They will be paid by the Treasury as soon as we get that submission from the TSC.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. You know that “as soon as possible” for this Government could be as soon as 2014. I asked for a specific answer. By what time will the money be paid? Asking for information from the Ministry of Education is not an easy process!

Mr. Speaker: Very well. Your point is made. Dr. Oburu, when?

Dr. Oburu: Mr. Speaker, Sir, I said that we have not got the revised pension for the teachers who are to be paid from the TSC. As soon as we get it, I can promise you that within one week of receiving it, we shall dispatch the money.

Mr. Koech: Mr. Speaker, Sir, this issue of pension has taken cycles until the teachers had to go to court. Now they have provided for Kshs3.3 billion and the Assistant Minister says he is yet to receive the details from TSC. Is he in order not to tell us a specific date now that this issue has been on for quite a long time?

Dr. Oburu: Mr. Speaker, Sir, this matter was before the court with the Ministry of Education; it was not with the Treasury. So, it is upon the Ministry of Education who were ordered to pay to prepare all the revised pensions so that immediately we receive them---

Mr. Mwangi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House? Last week, the Minister for Education did not answer this Question adequately. He said that it was to be answered by the Minister in charge of finance. If he was here last week, he would have heard the Minister for Education saying that it was his job to answer this Question.

Mr. Speaker: Order, Member for Kiharu! I do not find any substance in your point of order.

Ms. Karua: Mr. Speaker, Sir, may I begin by thanking the Assistant Minister for confirming that there is Kshs3.3 billion. Knowing that the Government is one and there is collective responsibility and we do not need teachers pushed from one Ministry to another for an answer, now that you have the funds and the Ministry has the records, could he undertake that by 15th December, 2011, he will have liaised with the Ministry of Education and the teachers will receive their money in time for Christmas?

Dr. Oburu: Mr. Speaker, Sir, I concur and I will endeavour to do that.

Mr. Njuguna: Mr. Speaker, Sir, now that the teachers have been waiting for their rightful dues for the last 14 years, could the Assistant Minister consider reducing the payment period, so that the suffering teachers will start benefitting from their dues immediately?

Dr. Oburu: Mr. Speaker, Sir, we had actually considered paying this amount of Kshs16 billion in two tranches. It is just because of the pressures that we have of the implementation of the new Constitution, the General Election which is next year and so on, that is what has pushed us. However, as soon as our finances improve, we will do our best to reduce the period of repaying these families.

Mr. Kiptanui: Mr. Speaker, Sir, this pension that has to be paid to teachers of Kshs3.3 billion is for those teachers who retired between 1997 and 2007. We have teachers who retired in 2008, 2009, 2010 and this year. How much money has the Assistant Minister set aside for those teachers?

Dr. Oburu: Mr. Speaker, Sir, actually the dates he has given are wrong. The matter which was before court was for teachers who retired between 1997 and 2003, not 2007. The ones who retired later on are not the subject of the dispute because they are being paid their pension every month.

Mr. Pesa: Mr. Speaker, Sir, I want to thank the Assistant Minister for committing in this House that he will pay the first tranche by 15th December, 2011. Could he also confirm that when he pays the first tranche he will pay all those teachers their arrears by 15th December, 2011?

Dr. Oburu: Mr. Speaker, Sir, there is what is called gratuity and the pension. That is what we will pay by 15th December, 2011.

DRASTIC INCREASE IN SUGAR PRICES

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

(a) Why has the retail price of sugar increased drastically - from less than Kshs120 per kilogramme to over Kshs.250 per kilogramme - in the last two months?

(b) What urgent action will the Ministry take to ensure that the commodity retails at a fair and affordable price?

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

(a) The price of sugar has increased significantly due to the shortage in sugar-cane in the country occasioned by drought; shortage of the product in the region; and high global prices.

(b) Measures to mitigate sugar supply and the prices include in the short-term: Aggressive cane development campaign with facilitation from the Sugar Development Fund (SDF); putting a halt to the harvesting of immature cane especially in Nyando Sugar Zone and investing in the rehabilitation of parastatal mills to improve sugar recovery parameters through the facilitation of SDF.

In the long-term: Establish a strategic sugar reserve; increase adoption of early maturing varieties of cane; improve the synchronization of factory capacity with cane supply through the enforcement of cane supply contracts; privatization of the parastatal

sugar companies; embracing irrigation technology and comprehensive cost reduction initiatives both at the farm and the factory levels.

Mr. Pesa: On a point of order, Mr. Speaker, Sir. I come from the sugar-growing area. Most of western Kenya grows sugar-cane. Is the Assistant Minister in order to mislead the House that there was drought in the sugar belt last year?

Mr. Ndambuki: Mr. Speaker, Sir, in 2009, there was. In 2007/2008 sugar-cane was destroyed during the post-election violence. These are some of the things that are giving us a lot of problems.

Dr. Otichilo: Mr. Speaker, Sir, please, allow me to say that I am very disappointed by the answer the Assistant Minister has given. This is no answer! In fact, he is just playing around with words. The truth of the matter is that we have not had any drought in western Kenya. The Ababu Committee on cost of living has clearly shown that the sugar factories in western Kenya, that is, Mumias Sugar Company, Muhoroni Sugar Company and Sony Sugar Company were producing sugar and selling it to the distributors at a price of Kshs6,500 a bag. This translates to Kshs130 per kilogramme. How come the sugar in the market is costing Kshs250? I would like him to clarify this matter.

Mr. Ndambuki: Mr. Speaker, Sir, I would like to tell the hon. Member that I am not playing with any words and that I am a very serious Member. I am telling him what I have and what I am going through. I would like to go through this document to show the House what is happening.

As I speak now, we have more than 39 applications, which are being processed to see whether we can get sugar into this country.

Mr. Mureithi: Mr. Speaker, Sir, it is surprising to hear that the prices of sugar at the retail level have gone up tremendously. Our recent tour of the sugar-cane growing areas, including South Nyanza, shocked us! The number of sugar farmers who are still having sugar-cane in their farms is so high to the extent that, farmers have coined a name for it - helicopter harvesting. That is because they were only harvesting for key personalities. Could the Minister tell us exactly what has happened to that cane? Even the cane owned by the management of SONY Sugar Company worth Kshs2 billion was still in the farms. Could he tell us what has happened to that sugar-cane, considering that there was no drought in that area.

Mr. Ndambuki: Mr. Speaker, Sir, the information we have from the millers is that they have no cane to produce sugar. At the moment, they are using immature cane. I want to give an example to show that. In September alone, Chemilil produced only 326 tonnes. The only company which produced a lot of sugar was Mumias Sugar Company, which produced 9,932 tonnes. Nzoia Sugar Company produced 254 tonnes. South Nyanza produced----

Mr. Speaker: Order, Mr. Assistant! Maybe, it would be useful if you indicate against what maximum capacity. Then that would help the House.

Mr. Ndambuki: The maximum capacity to be produced locally is---

Mr. Speaker: I mean for each of those factories. You have said Mumias produced 9,932 tonnes. But what capacity would it normally produce?

Mr. Ndambuki: Mr. Speaker, Sir, I do not have that information at the moment.

Mr. Speaker: Mr. Ndambuki, that information, surely, would be expected.

Mr. Ndambuki: At the moment, I do not have that.

Mr. Speaker: That is because you are saying that the sugar companies are under-producing because they do not have adequate cane to crush. So, you must indicate what they are producing now and the optimum level that they would produce if they had adequate cane. That way, you would be supplying information.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Now that my good friend the Assistant Minister has admitted that he does not have the figures, that totally undermines the credibility of his answer. Could it be in order for him to be asked to go back, do his homework and come with a credible answer? This is a very serious issue?

Mr. Speaker: As a matter of fact, Mr. Assistant Minister, this is a very serious matter. You are talking about an essential commodity that is consumed by about 95 per cent of the Kenyan population. So, you really have to come up with all the information pertaining to this matter. For example, what I put to you obviously follows. If you are talking about sugar shortage, then you will have to talk about how much is being produced and how much you would otherwise have produced if you had ideal conditions. So, I am afraid I will have to defer this Question yet again, but only up to Thursday because it is an urgent matter.

Hon. Member for Emuhaya, please, note: Thursday afternoon this week.

(Question deferred)

EVICTION OF RESIDENTS OF KYANG'OMBE/MASAI VILLAGES

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

(a) Why were the residents of Kyang'ombe and Masai villages in Embakasi area, Nairobi, evicted without notice?

(b) Why has the Government not provided the residents with alternative settlement?

(c) What measures has the Government taken to offer assistance to the evictees?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I would like to seek the indulgence of the House because, upon getting this Question, I made inquiries and the City Council, which would have been the one doing the demolition, is not the one that did it. The information we have is tentative and I would like to request that this Question be referred to the Minister of State for Internal Security and Provincial Administration. Indeed, I am writing to him and also to the Speaker because the demolition did not originate from the Ministry of Local Government.

Ms. Karua: Mr. Speaker, Sir, if that is the case, then it appears that the Minister of State for Provincial Administration and Internal Security gave wrong information to the House. He washed off his hands from this Question and, as a result, it was referred to the Ministry of Local Government. He also gave an undertaking that there would not be further demolitions. I want to stand here and tell you that there were demolitions at Njiru over the weekend and prominent among those standing over the demolitions were uniformed Administration Policemen. If, therefore, the Ministry of State for Provincial Administration and Internal Security is giving incorrect information and continue to

violate the rights of the under-privileged residents of Nairobi, this is an issue that the House should take seriously. I want to request the House to employ all means to know exactly where the demolitions came from so that, if the Minister of State for Provincial Administration and Internal Security gave incorrect information, then this House should take appropriate sanctions. I am in your hands, Mr. Speaker, Sir.

Mr. Speaker: Yes, hon. Member for Gichugu! I take you very seriously and, indeed, I appreciate that the matter is critical. I would want us to find a solution to it as much as possible, during this Sitting. So, I want to request, now that the Assistant Minister, Ministry of State for Provincial Administration and Internal Security is also here--- This Question was actually deferred last week after the Minister of State for Provincial Administration and Internal Security - I believe it was Prof. Saitoti - intimated to the House that he would not have all the information to answer the Question, and that the Deputy Prime Minister and Minister for Local Government would have information. So, I want to accord the two of you some 15 minutes or so, if you can retreat to the back, consult among each other, and I want the Attorney-General to join you and advise you so that you determine who will answer this Question. I want to have indications this afternoon during this Sitting so that we can direct when the Question can be answered and by whom. So, if the three of you could kindly go to the Speaker's Chamber at the back here, discuss the matter with the advice of the Attorney-General and determine who will answer the Question.

*(Messrs. Mudavadi, Mr. Ojode and Prof. Muigai
retired to the Speaker's Chamber)*

Member for Mosop!

PREMATURE REPLACEMENT OF JKUAT COUNCIL MEMBERS

Mr. Koech: Mr. Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that Council Members of the Jomo Kenyatta University of Agriculture and Technology (JKUAT) were replaced on 15th July, 2011, one year before the expiry of their term?

(b) What informed the decision and why was it done only six months to graduation?

(c) Can the Minister confirm that there is a relationship between the timing of the changes of the Council Members and the expiry of the Deputy Vice-Chancellor's term?

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware, but I am aware that there was a confusion on the term of the Council arising from different ways of interpretation of the expiry date, resulting in the Council seeking advice from the Attorney-General's Office.

(b) Upon the advice of the Attorney-General's Office, the expiry date of the Council members became 7th March, 2011 and not 20th March, 2012. The fact that the appointment was done six months to graduation was just coincidental and did not affect the graduation ceremony.

(c) There is no relationship between the timing of the changes of the Council members and the expiry date of the Deputy Vice-Chancellor's term. In that regard, I wish to indicate that the process of appointing the Deputy Vice-Chancellor is, at the moment, going on.

That is the position.

Mr. Koech: Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer. But, first of all, I want to make one serious correction on part "b" of his answer. He has said that the appointment was done six months to graduation. Actually, it was six weeks to graduation.

Mr. Speaker, Sir, regarding his answer, allow me to table the following documents: *Kenya Gazette* of 13th June, 2008 on the appointment of the Council members of Jomo Kenyatta University of Agriculture and Technology (JKUAT) where Adam Mohamed was made the Chairman, David Mutiso the Vice-Chair and George Akoth as the Honorary Treasurer. Down there, the appointment was for four years from 7th March, 2007. This *Kenya Gazette* Notice was for 4th June, 2008. One week after the Gazette Notice, there was a corrigenda on 20th June, 2008 which corrected the effective date from 7th March, 2007 to 7th March, 2008. I also want to table the letter from the Permanent Secretary confirming the corrigenda to the university that the actual effective date was 7th March, 2008. I am trying to correct the Assistant Minister who is trying to tell us that there was some confusion.

Mr. Speaker, Sir, on 3rd June, 2011 another corrigenda on the *Kenya Gazette* of 3rd June, 2011 was to delete the previous corrigenda. That is why I am suspecting that and I table it. On 15th July, 2011 a new Council was appointed. The previous Council had still one year to go. The following were appointed as the new Council members: Julius Riungu as the Chairman, Rose Waruhiu as the Vice-Chairperson and Father Joseph Dena as Honorary Treasurer. I want the Assistant Minister to confirm that, indeed, there was no confusion. There was a deliberate move to remove the Council members. Could he further confirm that the previous Council was never informed that their term had expired?

(Mr. Koech laid the documents on the Table)

Mr. Kamama: Mr. Speaker, Sir, I think I was very categorical when I was answering this Question. There was confusion especially when the corrigenda were being printed by the Government Printer. We corrected them on the basis of the advice by the Attorney-General. So, please, accept that because that is the correct position from the Ministry.

Mr. Koech: On a point of order, Mr. Speaker, Sir. The Assistant Minister is trying to confuse this House. There are two corrigenda that are being indicated here. One was in 2008 just before the appointment and another one done this year to delete the one that was done in 2008. Is that confusion?

Mr. Kamama: Mr. Speaker, Sir, if I may also rephrase it. Instead of confusion, let me say that there was an error. So, that was corrected on the basis of the legal advisor. We regret the error, but it was corrected.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Hon. Member for Ikolomani! Ask a supplementary question. You may embrace your point of order in your question.

Dr. Khalwale: Mr. Speaker, Sir, there is something fundamental that is very worrying about this process. The Assistant Minister has referred to the opinion of the Attorney-General, which is true. But I have two documents here. There is one by the Permanent Secretary where he sent out a circular giving the procedure of re-appointment of service chief executives in State corporations. He clearly stipulated that the principles involved would apply up to and including deputy vice-chancellors and principals of colleges and universities. Allow me to table that document.

(Dr. Khalwale laid the document on the Table)

Now, when they wanted to appoint that officer, the Chancellor of the University, Prof. Francis John Gichaga, then sought the opinion of the Attorney-General. The Attorney-General went ahead and told them that they can go ahead and interview and give an opportunity to that guy who never applied at all, because he was not within the six months' period as provided for in that circular. The point that leaves begging is: Was somebody bending all the way back to ensure that, that guy is given a job when, in fact, the circular provides to the contrary? I am very worried that our new Attorney-General can go ahead and write this kind of letter where he says, and allow me to read:- "Failure to apply for re-appointment within six months before the expiry of this term should not be the basis for refusing to re-appoint him because the circular from the Head of Public Service does not apply to his position."

The position is there before you. Was the Attorney-General or somebody who misadvised him trying to help that guy to get a job that he did not even apply for?

Mr. Kamama: Mr. Speaker, Sir, I just want to confirm to the House that the appointment of the Deputy Vice-Chancellor is still ongoing.

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

Mr. Speaker: Allow the Assistant Minister to finish. Let us give him one more minute.

Mr. Kamama: Mr. Speaker, Sir, there is no mischief in trying to interview that Vice-Chancellor. The process is still going on and once it is complete, we will update the House if the hon. Member is interested.

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has consistently repeated here that the appointment of the Deputy Vice-Chancellor is still going on. Could he confirm or deny that the appointment was finalized yesterday? If he denies, then could he tell us what action he will take to stop that appointment?

Mr. Kamama: Mr. Speaker, Sir, if the appointment was finalized yesterday, then it was done within the law. So, I do not think any law has been broken.

Mr. Njuguna: Mr. Speaker, Sir, could the Assistant Minister inform this House what the Ministry is doing together with the Attorney-General to contain these mistakes and confusion which has embarrassed the country?

Mr. Kamama: Mr. Speaker, Sir, I am not sure about the embarrassment. These letters have been tabled by Dr. Khalwale. They prove that the Ministry is committed to actually rectifying this error. So, there is nothing wrong in the entire process unless somebody proves it.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. The Assistant Minister is casually getting away without responding to pertinent issues that we have raised. I asked

him to tell us whether somebody or some people were going out of their way to have this man re-appointed. So that he realizes the weight of what I am saying, this is a document that contains a whole litany of acts of corruption that this Deputy Vice-Chancellor in charge of finance, the one they are trying to help to be re-appointed, has been involved in. It ranges from irregular approval of payment of overtime for himself, purchases tripling to Kshs2.9 million--- Allow me to table this document.

Mr. Speaker: Dr. Khalwale, what is that document?

Dr. Khalwale: Mr. Speaker, Sir, this is a document originating from the university. It is an appraisal document to the Council from Prof. M. Imbuga who is the Vice-Chancellor. He was trying to make an appraisal. These are the reasons why this Council had to be removed, so as to create a council that would then create a soft landing for this officer. Allow me to table it, so that the Assistant Minister can study it.

(Dr. Khalwale laid the document on the Table)

Mr. Speaker: Fair enough! Mr. Kamama, you want, perhaps, to refer to that? Are you aware of that document?

Mr. Kamama: Mr. Speaker, Sir, I am not aware of this document. However, I want to confirm to the House that once we establish that this document is authentic, then we will study it, carry out an investigation and when we find that this officer is involved or was involved in any corrupt activity or activities, we will deal with him firmly and decisively.

Mr. Koech: Mr. Speaker, Sir, my last part of the Question was very clear. Could the Assistant Minister confirm that there is a relationship between the timing of the changes of the Council? He has confirmed to me that they still had one more year to go until the expiry of the Deputy Vice-Chancellor's term. Allow me to table this document; a letter from Prof. Francis Njeru who had written to the Deputy VC, Eng. Riungu for his appointment. This letter is dated 18th July. It says:

“According to the latest issue of the *Kenya Gazette*, you are now the new chairman of the Council. I wish to congratulate you on this appointment. I am also writing to inform you of my problems regarding my appointment.”

Given that the document that has been tabled was an appraisal on his re-appointment, it raises some serious concerns. I want him to confirm to this House that there is a clear indication that the two have a relationship. Could he further confirm---

(Mr. Koech laid the document on the Table)

Mr. Speaker: Order, Mr. Koech! You cannot go that way! Mr. Kamama, will you, please, answer. Please note that, in the meantime, this document is admissible. It is clearly dated 13th September, 2011 and it is signed by Prof. Membo Imbuga, PhD, EBS, Vice-Chancellor.

(Applause)

Mr. Kamama: Mr. Speaker, Sir, we will get a copy of that report. I want to assure the House that we will carry out expeditious investigations to establish whether corrupt activities were actually committed.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. Thank you for giving me this opportunity. This university is in my constituency. I want to confirm before I raise the point of order that the issues raised by Mr. Koech are pertinent. It is a big issue in the university fraternity in Juja. I would request the indulgence of the Chair because this is a sensitive matter!

Mr. Speaker: Order! You have risen on a point of order, stick to it!

Mr. Kabogo: Mr. Speaker, Sir, I was building it!

Mr. Speaker: I am satisfied that you have built it adequately! Get to it!

Mr. Kabogo: I am obliged, Mr. Speaker, Sir. So, is it in order for the Assistant Minister to mislead the House that this is a simple matter and that he will investigate whereas it is a major concern? May I ask the Chair to defer this Question, so that he has enough time to consult the Attorney-General and come to the House with a comprehensive answer?

Mr. Kamama: Mr. Speaker, Sir, I think I have answered this Question to the best of my ability. I want to confirm to you that this Question was deferred last time to this date. I think we have given the House all the requisite documents that it requires. However, with regard to this document, we will look at it as a Ministry and take decisive action once we establish the truth.

Mr. Duale: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister---

Mr. Speaker: Order, Mr. Duale! You do not do that: You do not give yourself the microphone before you catch the Speaker's eye.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. A document has been tabled before this House raising matters that are grave in the sense that they affect the integrity and ability of the person to hold that office. Is it in order for the Assistant Minister to simply put aside that document and proceed to defend the appointment? Would it be in order for the House to consider that he has adequately answered the Question when he has not responded to the concern of this House? Since he has clearly indicated that he has had no prior knowledge of this document, would I be in order to ask that you defer this matter so that he can go through it and probably come and respond adequately to this House and the country at large?

(Applause)

(Several hon. Members stood up in their places)

Mr. Speaker: Mr. Assistant Minister, we must move on! Let us make progress hon. Members!

Mr. Kamama: Mr. Speaker, Sir, when we get reports from this House on certain people or issues of integrity, what we do as a Ministry is to take the document and establish the truth. We were not aware of those integrity matters that are contained in that document. I want to confirm to the House that we will investigate this matter and take decisive and firm action on this officer.

Dr. Khalwale: Mr. Speaker, Sir, in view of your admitting those documents and in view of the alleged contents of those documents, would I request that if you accept that the matter be deferred, you go further and direct the Assistant Minister to stand down the appointment of this officer because already the hon. Member has confirmed that he was appointed yesterday. Let us stand him down until after this matter has been resolved.

Mr. Speaker: Mr. Assistant Minister, what is your reaction to that?

Mr. Kamama: Mr. Speaker, Sir, first of all, the issue of interpretation of these gazette notices or corrigenda, I think we do not need to go back to the Attorney-General again because his letter is here and Dr. Khalwale tabled it. Now that these issues have been raised in that document and that we are not aware that this officer was appointed yesterday, I wish to ask that we be given time to really get to the bottom of that report and also look at how this officer was appointed. In the answer that I gave, I confirmed to the House that we are not aware. His appointment and interviews are still ongoing. So, I will look at this issue and let me report later to the House.

Mr. Speaker: Maybe if you answer this then I will be prepared to give directions: Are you willing to commit yourself to report back to the House your final findings on the matter? If so, when will you want to report back to the House?

Mr. Kamama: Mr. Speaker, Sir, yes, on Tuesday, next week!

Mr. Speaker: You want to report back on Tuesday, next week? Are you sure?

Mr. Kamama: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well! I will then direct that you report back to the House the final outcome of this matter on Tuesday, next week at 2.30 p.m. Note hon. Members that the Assistant Minister shall not necessarily answer further questions. He will actually report the final outcome which will be an indication one way or the other that either, whatever procedure they had followed had been wrongful and corrective action has been taken, or that the procedure has been correct and they are re-confirming their position, whichever way. So Mr. Kamama, you will report the final outcome in those terms to the House on Tuesday afternoon, next week.

Mr. Kamama: Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Very Well!

Question No.897

CREATION OF "UNIVERSITY INFRASTRUCTURE BOND"

Mr. Speaker: Where is Mr. Odhiambo? Clerks at the Table, do you have any information as to the fate of the Member for Butula?

(Mr. Speaker consulted with the Clerks-at-Table)

Very well, I am informed that Mr. Odhiambo may, in fact, have gone to Nakuru to attend a Committee meeting that pertains to parliamentary business, although hon. Members, please, note that normally that would not be acceptable. It is for the hon. Members to organize themselves and ensure that they are in the House to ask Questions. This Question, in fact, has been dropped twice and reinstated on an equal number of times, so I was actually hesitant to drop it yet again because otherwise it would not be permitted to come back on the Order Paper for the next six months. So, the rest of us

ought to note that, that is the practice. We will give the hon. Member the benefit of the doubt for the last time. So, I will defer this Question to Thursday, next week.

(Question deferred)

Question No.747

FATE OF PYRAMID SCHEME MONEY HELD BY BANKS

Mr. C. Kilonzo asked the Attorney-General:-

(a) what became of the approximately Kshs.5 billion held by the Central Bank of Kenya and other commercial banks in “frozen” accounts belonging to “pyramid schemes”;

(b) when the “pyramid scheme” victims will be refunded their money; and,

(c) why the Government has failed to institute criminal proceeding against the directors/proprietors and officials of the schemes.

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

(a) The Attorney-General has no knowledge of any funds held by the Central Bank of Kenya (CBK) and other commercial banks in frozen accounts belonging to pyramid schemes.

(b) The Attorney-General is not aware of any plans to refund the victims as the Attorney-General has not been made privy to the matter of money held on the basis that it originates from pyramid schemes and earmarked for refunds to victims.

(c) There has been no Government body, department or Ministry that has sought the opinion of the Attorney-General in this matter. The Attorney-General draws the attention of the House to the fact that as from 29th August, 2011, the powers of prosecution previously vested in the Attorney-General are now vested in an independent Director of Public Prosecutions (DPP) under Article 157 of the Constitution of Kenya. The DPP has indicated to the Attorney-General that six files were forwarded to his office for prosecution in 2005. One was withdrawn and the rest were sent back for further investigations. To the best of my knowledge, the files have not been returned to the DPP.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. You will recall that this matter has been pending in this House. Before I brought it, indeed, it was pending for another two years. This Question originally, if I could get your eye and ear---

(Mr. Speaker consulted Mr. Mudavadi)

This Question was originally forwarded to the Ministry of Finance and so what the Attorney-General has done---

(Mr. C. Kilonzo paused)

Mr. Speaker: Mr. C. Kilonzo, I see you want me to hear you!

Mr. C. Kilonzo: Mr. Speaker, Sir, I was saying that this matter has been in this House for the last two years. Since I took over this matter, it has been pending for another

six months. This Question originally was forwarded to the Ministry of Finance. What the Attorney-General has done is to ignore the Question and to personalize the matter. That is why he is answering thus: “The Attorney-General has no knowledge, the Attorney-General is not aware.” My Question was to the Government. So, is he in order to purport that he is not aware while the Government itself tabled a document here known as the *Task Force on Pyramid Schemes* which is a Government document?

(Applause)

(Mr. C. Kilonzo laid the document on the Table)

This document confirms that, indeed, there was over Kshs5 billion which was stored by the CBK. However, according to the CBK, the law forbids it from sharing information on bank accounts with third parties. So the question of whether the money is there or not does not arise. Therefore, is he in order to purport that he is not aware and to personalize this matter while we are asking about the Government involvement in this matter?

Mr. Speaker: Mr. Attorney-General, do you want to react to that or, perhaps, you want time to look at this document if you have not seen it?

Prof. Muigai: Mr. Speaker, Sir, the Attorney-General is only the legal advisor to Government Ministries, departments and other organs. The Attorney-General can only become aware of matters that he is informed about by Ministries or their departments because they seek his legal advice or counsel. To the best of my knowledge, at no time has the counsel of the Attorney-General been sought in respect of the matters that have been raised by the hon. Member. If, indeed, there are funds that are “frozen”, I would suggest, with tremendous respect to the hon. Member, that the Question could be legitimately put to the Ministry responsible for the CBK.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. C. Kilonzo!

Ms. Karua: On a point of order, Mr. Speaker, Sir. If the Attorney-General was merely a Government advisor, then there would be no basis for him to sit in the House. He could very well advise the Government out there in Cabinet meetings.

(Applause)

But by sitting in the House, it means that there is an area he comes to answer on behalf of the Government to Parliament. Is he in order to evade the Question? And if answering for the DPP is not within his mandate, could he then name the Ministry that this Question could be directed to because this inquiry must be satisfied? The last time it was in the House, it was squarely under the Attorney-General’s docket. If it has changed, is he in order by not informing the House?

Mr. Speaker: Mr. Attorney-General, that challenge, to me, appears legitimate, but even before you respond, let me hear Mr. C. Kilonzo so that we can put these together and you respond to them.

Mr. C. Kilonzo: Mr. Speaker, Sir, at no time was this Question directed by the National Assembly to the Attorney-General’s Office. That was an arrangement within the

Government. This matter has always been squarely with the Ministry of Finance. The fact that the Ministry of Finance forwarded the matter to the Attorney-General's Office and he accepted to respond, he cannot now come to the House and change tune.

(Applause)

Mr. Speaker: Attorney-General, those to me are legitimate challenges and you must respond to them in a manner that is reasonably exhaustive.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, this Question was referred to my Chambers by the House. My officers and I have responded to the best of the information that was available to us, and that could have been presented to us by officers who were working in close co-operation with my office such as the Director of Public Prosecutions (DPP). I have said how many cases he has informed me he took to court; how many he required further investigations on *et cetera*.

Mr. Speaker, Sir, I do not know how, even with the best of intentions, I would be in a position to establish whether the Central Bank of Kenya (CBK) is holding any amounts in "frozen" accounts. That legitimately must lie in the purview of another Minister of Government. I think---

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, hon. Members! We really must use our time optimally. I have heard the issues and the Attorney-General, like I did say, the challenge by the hon. Member for Gichugu as supplemented by the hon. Member for Yatta is actually legitimate. Your office is central in so far as legal matters are concerned, including arrests and prosecutions because the DPP does not come to the House. He can only account to the House and the country through your office. So, Attorney-General, I will actually expect you to gather all this information and be able to give a satisfactory answer, more so---

(The Attorney-General stood up in his place)

Attorney-General, if the document which has been tabled by the hon. Member for Yatta is, in fact, a Government document then you ought to be aware. Now that you have become aware, you are the only person who can advise on the import of that document. What does it mean to the Government? It is only the Attorney-General who can speak to that really!

I want to be fair to you because I know you have not been in the Office long enough. Please, gather this information and I want to give you two weeks because you are new in the Office. Let us just be fair to the Attorney-General.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, if your order to me is that I should consult other Ministries of Government and find out from them about the issue and then inform this House, I will obey your order.

Mr. Speaker: Please do so. That is my order! Attorney-General, please, note that the import of your office is that you will be expected to be aware of all matters happening in the Government. You know *volenti non fit injuria*?

(Laughter)

So, you carry the burden because it goes with the office.

The hon. Member for Yatta, two weeks away the Attorney-General will endeavour to furnish the House with as much information as he can on the pyramid schemes. Attorney-General, as long as you act in absolute good faith, you have no reason to fear.

The Attorney-General (Prof. Muigai): I oblige, Mr. Speaker, Sir.

Mr. Speaker: That is okay!

(Question deferred)

Yes, the Member for Mutito!

(Mr. Kabogo stood up in his place)

Mr. Speaker: Are you the Member for Mutito?

Mr. Kabogo: Mr. Speaker, Sir, I am not the Member for Mutito but I have been asking this Question on behalf of the hon. Member and he asked me to continue doing so. I had the permission of the Chair.

Mr. Speaker: You have been asking the Question on his behalf and he asked you to continue doing so. So, how will the Speaker be aware? How will the House be aware?

Mr. Kabogo: Mr. Speaker, Sir, I thought you remembered because last time it was---

Mr. Speaker: Order! Order! This House does not run on presumptions. So, I am afraid I will have to defer this Question to Thursday this week until such time that you take the requisite procedural steps to ensure that it is properly within your mandate to ask.

Mr. Kabogo: Most obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Question No.1088

GAZETTEMMENT OF LOCATIONS/SUB-LOCATIONS
IN MUTITU/NZAMBANI DISTRICTS

(Question deferred)

Question No.1125

SHORTAGE OF MAIZE IN KENYA

Mr. Baiya asked the Minister for Agriculture:-

(a) the cause of the current maize shortage in the country considering that there was no drought experienced in 2010;

(b) why the Government has failed to stock the National Strategic Grain Reserve (NSGR) with maize at the appropriate time; and,

(c) why the Government is importing maize at high prices and yet the National Cereals and Produce Board did not purchase maize from local farmers?

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

a) A combination of the current drought, high global prices and cross border prices is the cause of the current maize shortage in the country

(b) The Government has not failed to stock the NSGR with maize. The Government now intends to increase the SGR stock from the current statutory level of 3 million bags to 8 million bags in the next two years starting this financial year. The Government recently released Kshs950 million to the National Cereals and Produce Board (NCPB) to purchase maize locally.

(c) The Government is not importing maize at all.

Mr. Baiya: Thank you, Mr. Speaker, Sir. I would like to thank the Assistant Minister for the attempt to respond or give an answer.

Mr. Speaker, Sir, the concern being brought out in this Question is about the Kenya Government policy with regard to management of farmers' produce as well as food security in this country. The Government has demonstrated time and again that it is able to buy food during emergency situations to feed Kenyans and yet the country continues to experience incidences where farmers keep complaining of poor prices during peak production. Is the Government really serious when it claims that it wants to fund NSGR to the extent of 8 million bags and commit money to buy only 300,000 bags in a year? Is this Government serious?

Mr. Ndambuki: Mr. Speaker, Sir, I have already indicated that the Government has provided Kshs1 billion in the Budget, which will be used to buy maize this season. The NCPB has already opened all the depots where harvesting is going on and they are in the process of buying maize for the NSGR.

Mr. Ethuro: Mr. Speaker, Sir, food security in this country as a Government policy is assured through the NSGR. There are two components. At any one time, it is either 8 million bags or you have cash in lieu of the balance. Like the difference between 3 million and 8 million bags, the NCPB should have the equivalent in terms of cash so that, at any one point---

The Assistant Minister has said that they are releasing money for the next two years. Why does the Government break its commitment in terms of policy to assure this nation that at any one time, they must have an equivalent of 8 million bags either in terms of stock or cash? When will the Assistant Minister ensure that, that balance is met?

Mr. Speaker: Order! Yes, Mr. Assistant Minister!

Mr. Ndambuki: Mr. Speaker, Sir, currently, we have over 2 million bags in our stocks and as I have said, we are in the process of increasing them. The Government will continue to increase the stock until it reaches the point it has promised Kenyans it will maintain.

Mr. Speaker: Yes, the Member for North Horr!

Mr. Chachu: Mr. Speaker, Sir, I had the privilege many years ago to be a director of the National Cereals and Produce Board (NCPB) and I am talking as an insider. The NCPB have enough assets all over this country in terms of land. If they are given the opportunity to borrow money, they can actually finance their own operations and even ensure they have a lot of grain in NSGR. Could the Assistant Minister enable the NCPB to finance that operation by allowing it to borrow using its own assets?

Mr. Ndambuki: Mr. Speaker, Sir, NCPB has been given authority to borrow Kshs2 billion in order to buy maize for commercial purposes, but not for the NSGR. Money is going to be provided by the Government for the purchase of the NSGR maize.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. That was exactly my point and that is the crux of the matter in terms of food security. They are supposed at any one time, and not over a period of two years, to ensure that we have 8 million bags or cash, yet now they have 2 million bags of maize. Is the Assistant Minister in order to persistently mislead the House that he is going to give more money until he has covered a period of at least two years? You know where I come from; even as we speak now, the World Food Programme (WFP) has been unable to distribute general food relief for lack of commodities in the country.

Mr. Speaker: Order! Mr. Ethuro, you have actually made your point. Mr. Assistant Minister, what hon. Ethuro has persistently asked you, and you have not answered him, neither have you responded to the point of order, is this: At any given time, your strategic grain reserves must have 8 million bags of maize. If you do not have 8 million bags of maize, then you ought to have the monetary equivalent so as to fill those reserves at any time on a need basis. So, please respond! What are you doing to ensure that becomes the position in accordance with government policy?

Mr. Ndambuki: Mr. Speaker, Sir, I totally agree with what you are saying, but we cannot afford to buy the 8 million bags in one sitting. But we are in the process---

Mr. Speaker: Order, Assistant Minister! Can you then confirm to the House that you have the money to buy the difference of 6 million bags? Can you confirm now that you have that money in your account?

Mr. Ndambuki: Mr. Speaker, Sir, we do not have that money in our accounts but---

Mr. Speaker: Then you see you are falling short of the policy. What are you doing then to ensure compliance with the policy?

Mr. Ndambuki: Mr. Speaker, Sir, what is happening is that once the NCPB finishes the Kshs500,000,000 that they have been given, they will be given some more money to buy more maize for the strategic grain reserve for this country.

Mr. Mureithi: Mr. Speaker, Sir, I would like to inform the Assistant Minister that due to the climate change---

Mr. Speaker: Order, Mr. Mureithi! Mr. Assistant Minister, do you want information from Mr. Mureithi?

Mr. Ndambuki: No, Mr. Speaker, Sir.

Mr. Ogindo: Mr. Speaker, Sir, I would like the Assistant Minister to clarify this situation. In the last five years we have never seen maize stored in Homa Bay cereals store, and it serves the entire Homa Bay County and beyond. Could the Assistant Minister inform the House the reasons why there has not been any strategic maize stored in that store?

Mr. Ndambuki: Mr. Speaker, Sir, if there is no maize stored, I will find out because I am not aware of that. I thought all the stores had maize.

Mr. Baiya: Mr. Speaker, Sir, my question to the Assistant Minister is: Bearing in mind that the figure of 8 million bags as the stock volume was arrived at in view of the strategic needs of the country, could the Assistant Minister inform the House what considerations have actually influenced the Government to sustain stock at 2 million bags? Is he telling us that if we have an emergency, the Government will contribute more money from other sources to the NSGR? So, what are the considerations for this?

Mr. Ndambuki: Mr. Speaker, Sir, we are looking for more money to make sure that we achieve what we can but this financial year we cannot achieve to stock the 8 million bags. We are working towards that.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. The Assistant Minister seems not to have a ready answer. If he does not have it, he would better own up to this country and the House. If the Government's policy on this is irrational the best thing is for him to own up, and then go and tell the Government to change the policy. Is he in order to avoid responding to the question?

Mr. Speaker: Order! Mr. Assistant Minister, let us dispose of this thing finally. Do you first of all confirm that as per the Government policy, the strategic reserve threshold still stands at 8 million bags? If you do, then when are you going to achieve that threshold, so that the country can rest assured that you are taking action?

Mr. Ndambuki: Mr. Speaker, Sir, we do not have the 8 million bags at the moment.

Mr. Speaker: Order, Assistant Minister! Have you heard what I have asked you to do? Can you confirm that as per the Government policy the threshold for the strategic national reserve stands at 8 million bags? If you have not achieved it, when are you going to achieve it? Respond to that and then we will rest the matter.

Mr. Ndambuki: Mr. Speaker, Sir, in the next two years we will have achieved the 8 million bags.

Mr. Speaker: Very well. We move to next Question by Mr. Ruteere.

Question No.985

REVIEW OF DIRECTIVE STOPPING HIRING OUT OF SCHOOL BUSES

Mr. Ruteere asked the Minister for Education:-

(a) whether he is aware that most secondary schools have bought buses on hire-purchase and have made arrangements to repay from proceeds of hiring out of the buses as well as money raised through development funds;

(b) what informed the Minister's directive to stop the hiring out of school buses to the public; and,

(c) whether he could consider rescinding that directive.

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

(a) Yes, I am aware that some secondary schools have bought buses on hire purchase and have made arrangements to repay the loan from money raised by the

Parents Teachers Associations (PTAs) and Board of Governors (BOGs) through various ways, including hiring out of the buses.

(b) The Ministry's directive to stop the hiring out of the school buses was as a result of court cases arising from accidents involving school vehicles carrying passengers other than students, teaching and non-teaching staff of the respective schools. Other parties using school buses are not covered by the insurance policy provided by the Ministry, and when they are injured, they sue the schools, and in some cases courts award huge compensation which at times have caused schools to incur a lot of expenses or face threats of losing property through court action. For example, Emining Secondary School bus, which was hired by a community member to carry people to a wedding, was involved in a road accident in 1993 and one of those injured sued the school. He was awarded Kshs770,000 as compensation but the school could not raise this amount, resulting in the court issuing an order attaching the school property. The Ministry then intervened and gave Kshs500,000 to help the school settle the matter.

(c) The directive has already been overtaken by events, as the Ministry has issued new guidelines on the purchase, use of, hiring out, safety measures and insurance cover for school vehicles. In the guidelines, which will take effect from 1st January, 2012, schools are required to make arrangements to insure their vehicles and are allowed to hire them out.

Mr. Ruteere: Mr. Speaker, Sir, I want to appreciate the answer given by the Assistant Minister. But I would like him to table the guidelines that he has talked about, and also tell us why the Ministry is withdrawing the insurance cover to schools and, therefore, giving them the burden of paying for the insurance cover.

Mr. Mwatela: Mr. Speaker, Sir, I will table the guidelines. But before doing so, may I just quote from the guidelines, so that we can see the Ministry's rationale for withdrawing from insuring the vehicles directly. The Ministry's position has been informed by this situation: The current allocation by the Treasury for insurance cover for institutional vehicles stands at about Kshs130 million against an actual average expenditure of Kshs300 million. So, the Ministry is left with a gap. It has nowhere to source for money to get insurance covers. So, it is upon the schools to make proper arrangements to cover the vehicles, just as they make arrangements to purchase the vehicles. They can recoup that money through hiring out of the buses and other arrangements.

Mr. Chepkitony: Mr. Speaker, Sir, why is the Ministry abandoning the schools and leaving the burden to parents to pay for the insurance cover? Why the change of policy and yet, we require Government support to have those schools running and not to overburden the parents with more fees to cover the insurance?

Mr. Mwatela: Mr. Speaker, Sir, I think the hon. Member's concern may be valid. But like any other burden that the Board of Governors (BoGs) or school communities opts to take on board, I think it is fair that each school, as much as they endeavour to raise money either from the Constituencies Development Fund (CDF) or from the school community to purchase the bus, they should make adequate arrangements to make provision to get insurance for the same. It is just being responsible and not an abdication of responsibility by the Ministry. Actually, it is being realistic. It is unfair for a CDF committee to purchase a bus and fail to see how that bus is going to be insured.

Mr. Shakeel: Mr. Speaker, Sir, the sole purpose of a school is to educate and transport students from one spot to another. The fact that the schools are now using those buses as private service vehicles will require that they are insured for private service with the intension of hiring them out. I would like the Assistant Minister to be very clear. In the guidelines that they have given, have they stipulated that vehicles must be insured for hiring out to third parties? It is a very important issue.

Mr. Mwatela: Mr. Speaker, Sir, before responding directly to the very important issue that the hon. Member has raised, may I also say that it is the Ministry's policy to ensure – and it is also stated in the guidelines – that schools, first of all, must address the major components that they require. Buses are not necessarily major components of a school. But the issue that has been raised by the hon. Member is valid. We, as a Ministry, have issued guidelines to ensure that, if a school is going to hire out a bus, then the insurance cover must include the element of other parties other than members of staff, school students or the main school community.

Mr. Speaker: Last question, Member for North Imenti!

Mr. Ruteere: Mr. Speaker, Sir, the Ministry has withdrawn the insurance covers. Initially, the purpose of giving insurance covers to schools was to encourage them to try and get vehicles for their institutions. What will the Ministry do to help schools to get transport for their institutions?

Mr. Mwatela: Mr. Speaker, Sir, I also want to thank the hon. Member for that very good question. The Ministry is, definitely, encouraging schools to be properly equipped. As communities, we purchase buses that lie idle in schools for a very long time. That is one reason why the Ministry has gone ahead to allow the hiring out of the buses, so that they can be put to use and help in recouping the cost of their purchase. The Ministry's guidelines indicate clearly how the schools can maximize the usage of the buses. We are, indeed, going further and encouraging that, instead of individual schools buying buses, those buses be purchased for a number of schools by CDF or school communities.

Question No.1007

RECOGNITION OF MOMBASA/KISUMU AS CITIES

Mr. Chachu asked the Deputy Prime Minister and Minister for Local Government:-

(a) whether he is aware that the National Population Census categorizes Nairobi, Mombasa and Kisumu as cities;

(b) why the Ministry has not given charters or other legal recognition to Mombasa and Kisumu following their elevation by the President; and,

(c) when the two cities will attain legal recognition as cities.

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

(a) Yes, I am aware that Nairobi, Mombasa and Kisumu have reached city status.

(b) I wish to state here that Nairobi, of course, has a charter. However, for Kisumu and Mombasa, we have just passed a new law which is the Urban Areas and

Cities Act which provides the mechanisms through which we can grant charters for other cities. This is found from sections 6 to 9 of the Act.

(c) Kisumu and Mombasa have already been recognized and given legal status in the Act that we approved in this House. That is under Section 60 which states that notwithstanding any other provisions of this Act, the municipalities of Mombasa and Kisumu existing immediately before the commencement of this Act shall be deemed to be cities established under this Act. That is the position.

Mr. Chachu: Mr. Speaker, Sir, I thank the Deputy Prime Minister and Minister for Local Government for his response. I filed this Question before the Urban Areas and Cities Act of 2011 was gazetted on 30th August this year. This is barely two months ago. The Act now recognizes both Mombasa and Kisumu as cities. Due to that fact, this Question has been overtaken by events.

Mr. Speaker: Are you satisfied?

Mr. Chachu: Mr. Speaker, Sir, I am satisfied.

(Ms. Karua stood up in her place)

Mr. Speaker: Very well! What is it the Member for Gichugu? Do you have a supplementary question?

Ms. Karua: Yes, Mr. Speaker, Sir.

Mr. Speaker: Carry on!

Ms. Karua: Mr. Speaker, Sir, now that Kisumu and Mombasa are recognized as cities, when will the Deputy Prime Minister and Minister for Local Government issue them with the charters?

Mr. Mudavadi: Mr. Speaker, Sir, the Act spells out the process. I would like to say here that the Ministry will initiate the process so that we can issue the charters formally. That will be done within two months.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I think the Deputy Prime Minister and Minister for Local Government read correctly that notwithstanding any provisions of the Act, the Urban Areas and Cities Act that we passed here, the two towns are already deemed to be cities. So, notwithstanding sections 6, 8 and 9 that the Deputy Prime Minister and Minister for Local Government has referred to, these cities are already deemed to be cities. So, he is supposed, first of all, to give them the charters. This is if he follows the logic and the legality of this. The Deputy Prime Minister and Minister for Local Government will remember that we actually put this Clause at the Committee Stage because we did not want the two cities to be marginalized or the former directive of the former President to be ignored. So, could the Deputy Prime Minister and Minister for Local Government issue those charters, as per the law; the way we formed it?

Mr. Speaker: Order! The Member for Garsen, your point is actually made.

Mr. Deputy Prime Minister and Minister for Local Government, when will you fulfill this formality?

Mr. Mudavadi: Mr. Speaker, Sir, I have said that I will be able to fulfill this within two months.

Mr. Speaker: Very well! Yes, the Member for Mathira!

Eng. Maina: Thank you Mr. Speaker, Sir. The Deputy Prime Minister and Minister for Local Government is aware that during the last adjudication of

constituencies, Mombasa and Kisumu were not regarded as cities. There might have also been other towns that were affected. Could the Deputy Prime Minister and Minister for Local Government confirm that he will communicate immediately to the new Independent Electoral and Boundaries Commission (IEBC) which is in place that Mombasa and Kisumu are cities and that they should be considered as Nairobi in the allocation of constituencies? This should also be done for any other town that will be considered as a city. Otherwise, they will get undue advantage and be given constituencies as if they are densely populated rural areas.

Mr. Mudavadi: Mr. Speaker, Sir, first of all, I would like to state that the new Commission will be alive to this Act. In the process of looking at boundaries and demarcating urban areas, particularly the wards, they must be alive to this Act which is now law. Nevertheless, I would like to assure the House that the Ministry will work closely with the new Commission on any issue that may require confirmation from the Office of the Deputy Prime Minister and Minister for Local Government.

Mr. Bahari: Thank you Mr. Speaker, Sir. I want to thank the---

(Eng. Maina stood up in his place)

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

Mr. Speaker: What is it, the Member for Mathira? It had better be a point of order now that you are insisting.

Eng. Maina: Mr. Speaker Sir, it is. My question is specific. Already, an error exists in the allocations of constituencies regarding Kisumu and Mombasa. Is the Deputy Prime Minister and Minister for Local Government in order not to clarify to this House now but just say that they will refer to the Act? Is he in order to do that? He should clarify to us and state that he will, indeed, convey the message to them and demand they do the right thing.

Mr. Mudavadi: Mr. Speaker, Sir, the issue of the boundaries is really not in my domain but in the domain of the new body that has been set up. This Parliament has provided legislation to guide the Commission on that basis. So, that is a territory that I cannot venture into. However, I have said that where the Commission will require any clarification; if it includes some of the issues raised by the hon. Member, then the Office of the Deputy Prime Minister and Minister for Local Government will co-operate with the Commission and provide the requisite information they may wish to have.

Mr. Bahari: Mr. Speaker, Sir, I want to thank the Deputy Prime Minister and Minister for Local Government for being ready to enforce the law in the next two months. However, I want him to clarify whether he has brought the new Act to the attention of the two cities so that they can start the preparations because this is a very important event for the two cities?

Mr. Mudavadi: Mr. Speaker Sir, I have confirmed to the authorities in the two cities, that is, both Mombasa and Kisumu, that they have now attained city status. I have made this very clear to them.

Question No.1072

STATUS OF ESP PROJECTS IN JUJA CONSTITUENCY

Mr. Kabogo asked the Deputy Prime Minister and Minister for Finance whether he could provide a progress report on all the projects undertaken by the Ministry in Juja Constituency through the “*Economic Stimulus Programme*”.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to reply.

The achievements and implementation status of the Economic Stimulus Programme (ESP) projects in Juja Constituency are at different levels of completion.

The Office of the Deputy Prime Minister and Minister for Finance is responsible for disbursement of requested funds to respective Ministries implementing the ESP who then periodically report on the macro status progress for our collation, monitoring and evaluation.

Status of specific constituency-based progress in implementation can, therefore, only be obtained from the implementing Ministries. We kindly ask the hon. Member to seek clarification from there.

In anticipation of the frequency of such demands, however, the Office of the Deputy Prime Minister and Minister for Finance facilitated the development of an interactive website and EIS portal www.economicstimulus.go.ke where we collect information received from the implementing Ministries framed in a county and constituency definitions which is offloaded on to the website as and when received.

I, hereby, table a summary of an extract of the Juja Constituency data for the information of the Member.

(Dr. Oburu laid the document on the Table)

Mr. Kabogo: Mr. Speaker, Sir, this Question was deferred last week because it had initially been directed to the Ministry of State for Planning, National Development and Vision 2030. If you remember, it was forwarded to the Office of the Deputy Prime Minister and Minister for Finance because it was the right Ministry to address the matter.

In the first paragraph of the answer, the Assistant Minister has directed me to go to the various Ministries and find out the progress of the ESPs whereas it was said in the House that it is the Office of the Deputy Prime Minister and Minister for Finance that is responsible for those programmes. I am at a loss and seek the direction of the Chair as to what direction this will take. In any case, the documents the Assistant Minister has tabled refer to the internet which I have already seen. I asked the Question because there was not enough information in the internet. I seek the indulgence of the Chair on this matter.

Dr. Oburu: Mr. Speaker, Sir, the Ministry of State for Planning, National Development and Vision 2030, disburses the funds to the various implementing agencies. The Question that was asked was so general that it did not specify where the problem is. In our own website which we created in which Ministries directly post information, it is the only available information to us.

If the hon. Member has any specific project that is under-funded, is stuck or has been abandoned for whatever reason, we are ready to deal with it and assist the Member to get the right information from the correct Ministry. If it is a funding issue, we will deal with it.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! We must make progress towards the end of Question Time. I want to observe this from the Chair.

Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance, are you confirming that all the projects undertaken are as posted on your website?

Dr. Oburu: Mr. Speaker, Sir, there is no strict deadline for a Ministry to post the information on the website. Therefore, they haphazardly post them. I cannot confirm that the information which we have on the website is up to date.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I would like to assist the House. I chair the CDF Committee as you are all aware and economic stimulus is part of the programmes we provide oversight. Is it in order for the Assistant Minister for Finance, which is the responsible Ministry - the line Ministries are partner Ministries - to come to the House and say that he cannot provide the information because his partners cannot provide the information when they have a whole directorate in charge of economic stimulus in the Ministry of Finance?

Mr. Speaker, Sir, the Ministry of Finance itself made a commitment to this country that the Economic Stimulus Programme is for six months only which should have ended ten months ago. You have now gone to the extent where you have opened a website. You do not even know what goes on to the website, yet you claim it is your own website. Is he in order to mislead the House?

Dr. Oburu: Mr. Speaker, Sir, as the hon. Member states correctly, this Economic Stimulus Programme was supposed to go on for only a short period of time. Because of this, that department he is referring to as a directorate is not a directorate. It was just an *ad hoc* department created specifically to implement this programme. It has skeleton staff who cannot go round the country to collect all the information which is required. This was a just one-off thing. It was just meant to kick off the economy and that is why it is called stimulus.

Mr. Speaker, Sir, that is why I am pleading with the hon. Member that if there is any specific project under economic stimulus--- We undertook to this House that we shall make sure that any project which is not completed is completed and we are going to provide the funds. I am just pleading with the hon. Member that if there is any specific project, I will liaise with the Ministry concerned or the implementing Ministry and make sure we get to the bottom of the matter and resolve it.

Mr. Washiali: Mr. Speaker, Sir, part of the projects the Ministry was supposed to undertake is the supply of motorcycles and bicycles. Now that this was a programme that was supposed to have taken six months, when are you going to supply these motorcycles and bicycles?

Dr. Oburu: Mr. Speaker, Sir, we have supplied most of them. However, if there are any cases where they have not been supplied, we are ready to take it up and supply.

Mr. Washiali: On a point of order, Mr. Speaker, Sir. I had looked at the response given to Mr. Kabogo. In that response, they have only indicated seven motorcycles while in a constituency I represent; Mumias, no motorcycle has come. When are you supplying motorcycles for Mumias?

Dr. Oburu: Mr. Speaker, Sir, I am going to liaise with the necessary department and make sure that Mumias is supplied, if they have not been supplied.

Mr. Speaker: Very well! As a matter of fact, that is a different question.

Mr. Lessonet: Mr. Speaker, Sir, I would like the Assistant Minister to undertake to this House that the schools which we did not succeed to complete with the Kshs30 million which you gave us and the health centres which we also did not succeed to complete with the Kshs20 million you gave us, will be factored in the Supplementary Estimates so that early next year, we should be through with them.

Dr. Oburu: Mr. Speaker, Sir, that was done. In fact, I gave an undertaking here in the House that for those projects which were not completed under the Economic Stimulus Programme, we are liaising with the implementing departments and we are going to provide the necessary funds to make sure that they are completed.

Mr. Kabogo: Mr. Speaker, Sir, I sought the help of the Chair to understand the directive by the Assistant Minister that I visit line Ministries. I wonder; for example, regarding buying of motorcycles, which Ministry do I visit to find out the progress? In any event, if you look at the data provided by the Assistant Minister, you will find in some places the Minister has given the percentage of progress but in others he has not. Would I be in order to ask the Assistant Minister to accompany me to these sites? For example, for centers of excellence, he says: "Data not compiled by constituency". That is the answer he has given me. Which Ministry does he want me to go to find out the data that relates to centers of excellence? Could the Assistant Minister undertake to the House that, if there are any stalled projects in Juja under the Economic Stimulus Projects (ESP), he will undertake to finance them to completion?

Dr. Oburu: Mr. Speaker, Sir, I have given that undertaking for the whole country and also want to specifically give it for Juja.

Mr. Speaker: You are specifically giving it to the Member for Juja?

Dr. Oburu: Yes, Mr. Speaker, Sir.

Mr. Speaker: And you will be prepared to visit these projects with him to ascertain the position for yourself?

Dr. Oburu: Yes, together with him.

Mr. Speaker: Very well! that rests the matter!

Next Question by the Member for Makueni!

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

Mr. Speaker: Member for Rongai, you need to look at the clock and see where we are even as you press!

Question No.1233 by the Member for Makueni!

Question No.1233

CONSTRUCTION OF BRIDGE ACROSS KIATINI (MUONI) RIVER

Mr. Speaker: The Member for Makueni is not here! Question dropped!

(Question dropped)

That brings us to the end of Question Time!

Ms. Karua: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: On what, Member for Gichugu?

Ms. Karua: Mr. Speaker, Sir, you asked the Deputy Prime Minister and Minister for Local Government and the Minister of State for Provincial Administration and Internal Security to go and discuss so that they can say who among them will answer my Question on evictions in Kyang'ombe and Embakasi.

Mr. Speaker: Yes, Question No.3 by Private Notice.

Minister, will you give the House an indication?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I would like to seek the indulgence of the House so that I can deal with this Question on Tuesday next week.

Mr. Speaker, Sir the actual position is that the whole eviction process started with the Ministry of State for Provincial Administration and Internal Security. However, in the interest of collective responsibility, I undertake to gather all the necessary information and then respond to this Question on Tuesday next week.

Mr. Speaker: Member for Gichugu, is Tuesday afternoon fine with you?

Ms. Karua: Mr. Speaker, Sir, I was pleading for Thursday. This is a Question by Private Notice deferred last week because of the same problem. I think that the Minister could try to do it on Thursday.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, the issues relating to this matter cut across a number of Ministries, including the Ministry of Transport. So, I would plead that the House accepts the Tuesday date, so that I can have sufficient information.

Mr. Speaker: Very well. We all agree, including the Member for Gichugu. So, you have that indulgence.

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

Mr. Speaker: On which matter, Member for Naivasha?

Mr. Mututho: Mr. Speaker, Sir, I rise under Standing Order No.23---

Mr. Speaker: Order, Member for Naivasha! You consulted with the Chair. Is your memory so short? I told you that you rise after Order No.7. It is not very long ago, Member for Naivasha.

Hon. Members, that brings us to the end of Order No.6. We now go to the next order.

MINISTERIAL STATEMENTS

Mr. Speaker: We will have the Assistant Minister, Ministry of State for Provincial Administration and Internal Security, first, because his Ministerial Statements were outstanding from last week.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, Mr. Speaker, Sir. I did consult with the Chair, that since I have several Ministerial Statements to give, I will plead with you to allow me to make three Ministerial Statements; I have five Ministerial Statements that are supposed to be delivered today. I would also plead with the Chair to allow me to make the Statements irrespective of whether those who sought them are here or not.

Mr. Speaker: Very well; proceed and do three.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I will start with the one of hon. Ababu Namwamba, who requested a Ministerial Statement on the death of Florence Abungu.

FATAL SHOOTING OF MS FLORENCE ABUNGU

Hon. Namwamba wanted to know the circumstances under which Ms. Abungu was killed, how far the police have gone with investigations, what assistance the Government is extending to the family, whether the Government will compensate the family of the deceased and why the Government is attempting to evade responsibility.

Mr. Speaker, Sir, on 15th October, 2011, at around 1100 Hours, officers from Buru Buru Police Station received information from the members of the public that there were suspected robbers who were driving along Kangundo/Outer Ring Road in Motor Vehicle Registration No.KBJ383G. An operation was mounted by the security officers, and the suspects confronted. The suspects opened fire at the police officers and a shooting ensued. It was during the shootout that Florence Abungu was fatally injured. It is yet to be established whether the bullet was from the police officers or the thugs.

Inquest File No.30/2011 was opened by the District Criminal Investigations Officer (DCIO), Buru Buru, and investigations revealed that the deceased died as a result of a gunshot. However, the report from the ballistics experts is being awaited to confirm the source of the bullet that killed her. It is worth noting that the police recovered two rifles, a patchet and barretta from the robbers. The Government will consider assisting the family with the burial arrangements, if a request is formally made by her family members.

Mr. Speaker, Sir, as regards compensation, this can only be awarded through a court verdict after the completion of the investigations and the due process of the law. At the moment, the inquest is still awaiting completion of the investigations.

Finally, it is the mandate of the Government to protect the lives and property of all Kenyans as enshrined in the Constitution, and will not at any time evade responsibility. Therefore, the allegations by the hon. Member that the Government is evading responsibility are unfounded. I once again want to clarify that it is only through investigations and the due process of the law that the culpability of the Government can be determined.

Mr. Speaker, Sir, the next one---

Ms. Karua: On a point of clarification, Mr. Speaker, Sir.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): You can do that one later.

Mr. Speaker: Order! Order, Assistant Minister! If hon. Members want clarification on that one, you will have to allow them.

Yes, Member for Gichugu.

Assistant Minister, take notes so that if there is any other hon. Member who is interested, you can respond to all of them.

Ms. Karua: Mr. Speaker, Sir, the Assistant Minister has said that, should the family of the late Abungu request to be assisted with the burial, he would assist. May I now formally request from the Floor of this House that the Ministry does assist that family with burial arrangements, pending any other issues?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I do not know whether hon. Martha Karua is one of the family members. If she is, then we would like to know the particular component they would want us to assist with.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Clearly, the Assistant Minister is trying to avoid commitment. He said “if the family formally requests--- I am a Member of this National Assembly, sent here by the people of Gichugu but also representing the interests of all Kenyans, as a Member of the national Assembly of Kenya. It is in that capacity that I request that this family be assisted with burial arrangements, and it is now up to the Ministry to contact the family, because they have the contacts, so that they may sit and agree on arrangements. Could he give confirmation that this will be so? Otherwise, his statement will be taken as not being upfront with Parliament.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I had been consulted by the Questioner, who told me that he would bring a letter from the family members, requesting the particular component they want the Government to assist them with. Once we get that letter, we will do exactly what the letter will say.

Mr. Speaker: Very well. So, you confirm that the Government is prepared to assist?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, Mr. Speaker, Sir, with the burial arrangements.

Mr. Speaker: Fair enough. Do the next Ministerial Statement.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the next Ministerial Statement was sought by hon. Wamalwa and luckily, the hon. Member is here.

KILLING OF MR. D.N. WABILANGA

Mr. Speaker, Sir, hon. Wamalwa rose on a point of order and sought a Ministerial Statement on insecurity in Trans Nzoia. In his request, he sought clarification on whose authority the police officers and the persons accompanying them entered the said farm, which is at Mengo in Saboti Division, under what circumstances a young man was shot dead, and who was the police officer responsible. He also wanted to know what action has been taken against the said police officer and the persons accompanying him, and whether we are doing to ensure that police officers do not misuse civil disputes.

Mr. Speaker, Sir, on 22nd October, 2011, a Senior Deputy Registrar from the Attorney-General’s Chambers, Nairobi, Mr. F.S.M. Ng’ang’a, was to hold a meeting at Mengo Farm Primary School, starting from 10.00 a.m. The official had applied for provision of security from the Commissioner of Police, vide his unreferenced letter dated 13th October, 2011, which was also copied to the Chairman of the District Security and Intelligence Committee, Trans Nzoia West. On account of this, police officers accompanied him to the venue and on arrival at the venue, they found that the school was closed and members of the public who were outside the school gate could not allow anyone to enter the school compound.

The Senior Deputy Registrar decided to return to Nairobi without holding the meeting but before he could embark on his return journey, irate members of the public

shouted at him that they had not been notified about the meeting. They became unruly, heckled and stoned the convoy of vehicles accompanying the Senior Deputy Registrar and damaged two saloon cars. Nobody was injured during the incident as no firearm or ammunition was used.

On the same day, at around 4.00 p.m. the deceased, Duthis Natembea Wabilianga, was found lying down with bullet wounds on the abdomen at Kapretwa Farm, which is about four kilometres from Mengo Farm, by his brother, Dominic Wabilianga. He was rushed to Kitale District Hospital, where he was pronounced dead on arrival. The deceased's brother later reported the incident to the police, who visited the scene and commenced investigations. It is not clear how the deceased met his death. However, Inquest File No.5/2011 was opened by the DCIO, Kitale, to establish the cause of the death.

Mr. Speaker, Sir, following this, no action has been taken against any police officer as the investigations conducted so far do not link any one of them with the killing. However, appropriate action will be taken against anybody who will be linked with the killing. It is also worth noting that police officers will always be duty-bound to provide security once requested, and this will be done in accordance with the law.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Any hon. Members requiring clarifications?

Mr. Wamalwa: Mr. Speaker, Sir, the occurrence that took place at Mengo Farm on the 22nd was as a result of one of the litigants abusing the system, over the land called Mengo Farm, and using the local police to intimidate residents of Mengo Farm while there is a case pending in the Court of Appeal of Kenya that is yet to be concluded.

It is not the first time that particular litigant, Mrs. Obuyu, has used the local police, including the District Commissioner, in intimidating those she is litigating with over this parcel of land. Could the Assistant Minister give an assurance to this House that litigants are not going to use the police or the local administration to achieve selfish ends when the matter is pending before court? This is because the death of Natembeya was related to the land and the dispute in question.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I want to say here clearly that the police officers and the DC are not supposed to be used by any Kenyan. They are not supposed to be used for intimidation purposes. I would request Mr. Wamalwa to give us time in order for us to get the report of the investigation. I will take action as per the report. In the meantime, the DC should be out of this matter. The police officer should be out of this matter until the determination of the case.

Mr. Wamalwa: Mr. Speaker, Sir, the Assistant Minister has given me an assurance about the DC and the police are not coming to this land, but the particular litigant, Ms. Rose Obuyu is the one who has been visiting this farm and causing tension. Could he give that undertaking that she will not be going back to Mengo Farm with police officers to intimidate residents of Mengo Farm?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the police officers are not supposed to accompany this particular person to Mengo Farm until the case is determined.

ACID ATTACK ON MRS. FARIDA RASHID

Mr. Speaker, Sir, the last Statement was sought by Ms. Karua. She sought for a Ministerial Statement from my Ministry on the acid attack on Mrs. Farida Rashid. In the Statement, she wanted to know the following:

1. why arrest of those known youths has not taken place.
2. why these people who assaulted and harmed this lady are being left to go scot free.
3. whether this incident is related to an earlier incident where bodyguards of a prominent local Mombasa politician fired at demonstrators, killing one of them; and,
4. whether the investigations in that case have brought up anything.

Mr. Speaker, Sir, I wish to state as follows: Around 24th October, 2011, Mrs. Farida Rashid made a report at Nyali Police Dog Unit vide OB No.39/24/10/2010 that at about 4.30 p.m. while she was leaving Sand Rock Hotel in Kisauni District, off Mombasa-Malindi Highway, her car was blocked by a group of youth led by one Kumalo Mabebe and Abdallah Rajab Sumba whom she noticed in front of her car, demanding handouts from her.

However, as she was gazing at them an unknown person emerged from behind her car and splashed some itchy substance into her vehicle through the driver's window, damaging the dashboard, her clothes and injuring her right eye.

Mr. Speaker, Sir, in her statement to the police, she was not able to identify the person who splashed the injurious substance in her vehicle because the assailant came from behind the vehicle. Immediately, an inquiry was conducted at the scene, but nobody came forward to assist in naming the culprit.

This development prompted the police to open an inquiry file No.18/2011 to comprehensively investigate the matter with a view of establishing the identity of the assailant and other underlying security concerns that occurred on the fateful day. The complainant's cloth that received drops of the liquid in question and swabs of the vehicles dashboard were taken to the Government Chemist for analytical examination to establish the degree of corrosive contents in the injurious substance used.

This particular evidence, in conjunction with the medical report on P3, will be crucial in a legal proceeding where the assailant will be apprehended and prosecuted. The file will be placed before the Attorney-General for legal advice immediately a report from the Government Chemist has been received and filed thereon.

Otherwise, the inquiry is open for any new information that is valid to the case. The three youths mentioned by Mrs. Farida as having blocked her vehicle with others are being sought by police to be charged with creating a disturbance in a manner to cause a breach of peace.

Those three youths disappeared on the fateful day and are still on the run, but efforts are underway to apprehend those them.

The inquiry file is still open and will contain a comprehensive chronology of events in this matter upon its completion. But it is also worthwhile to clarify that there has not been an incident in recent times where a bodyguard to a politician in the province fired at demonstrators killing one of them.

The only similar incident recorded in the province was on 27th December, 2010 when a group of peaceful demonstrators was attacked by rowdy youths and one Hamis Juma Mungaza was seriously injured by Michael Mwabula and Stephen Kazungu who were subsequently arrested and arraigned in court vide police case file No.345/745/2010, court file No.3958/2010. The case was later withdrawn by the complainant under Section 204 of the Criminal Procedure Code and the accused acquitted accordingly.

Mr. Speaker, Sir, the Government has enhanced security operations against illicit drugs in Coast Province. Currently, the level of usage has drastically dropped thus upholding the rights and dignity of the residents of that province. There are no cartels in Mombasa and, therefore, nobody lives in fear as alleged. We do urge the complainant to be patient and accord investigators a conducive environment to complete the investigations in a professional manner in order to achieve a lasting solution to the matter. Any subsequent threats to the complainant or any other person is a violation of the Bill of Rights and must be reported to the police for legal action.

Finally, the complainant should endeavour to assist the police in identifying and arresting her assailant instead of blaming the police for not taking her assault case to court.

Ms. Karua: Mr. Speaker, Sir, I am surprised at the inaccuracies in the Statement and I hope these are not deliberate.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, there were two assaults on this particular day and the Prime Minister was holding a consultative forum with stakeholders in Mombasa at the Sai Rock Hotel. Farida, in the company of others raised the issue of the need to fight drug use and drug cartels in Mombasa. She clearly says that she was pointed out and accosted by youth in the company of one Ali Joho. The Statement does not mention Ali Joho at all. It is important that the Assistant Minister clearly states whether a statement has been taken from Ali Joho who is one of the suspects, according to Farida.

Is he also aware that before the assault on Farida the same group led by Ali Joho had assaulted a Mr. Farouk in the presence of the PPO, the Provincial Administration and almost quite a number of police officers and nobody assisted him? His complaint was not taken seriously. Farouk is now living in fear of his life. He has relocated from Mombasa for the time being. Is the Assistant Minister and the Government sincere in fighting the drug menace, in protecting the lives of Kenyans and in combating crime?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, it is news to me that one of our colleagues, hon. Ali Hassan Joho is being mentioned. But if you go according to the Standing Order No.78 (2), we need to move a substantive Motion in order to discuss that colleague. However, I would want the complainant to report.

Ms. Karua: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Do you want information from Ms. Karua?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, Mr. Temporary Deputy Speaker, Sir.

Ms. Karua: The Ali Joho that I mentioned is said to be a brother of a prominent politician. So, I am not touched by the Standing Orders.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, with the information which is now coming in, I would want the complainant to go and give an explanation to the DCIO Mombasa. I want to assure this House that once the complainant has given the information, I will come back to this House and inform the Members which action we will have taken. This is because, at least, now I have a witness whom we can use in order to get more information.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, it is in the public domain that there are untouchables in this country on matters related to drugs. Listening to what the Member has said, the last case was before a PPO. Which other office can that poor citizen report to if all these events took place in the presence of the PPO? The matter seems to be very serious and it is good that the Assistant Minister re-assures us on the safety of Kenyans, particularly the absence of PPOs in whose presence people who volunteer information are assaulted or accosted.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me assure this House that this is a genuine concern. I will get the address and the telephone number from hon. Karua so that I can speak with the complainant to ask her to go and report this matter to the DCIO specifically. Then I will report to this House what action we will have taken. If, indeed, it is true that the PPO and the Provincial Administration were there, then we will take action against the officers who were present when the lady was being assaulted.

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has said that the matter should be referred to the DCIO. This happened in the presence of the PPO. So, I do not know how a DCIO will be able to handle such a matter. It would have been better if the matter was referred to the Director of the CID or somebody else senior if, indeed, the PPO stood there when this whole event unfolded. Is the Assistant Minister in order to continue misleading this House that due attention is being made in respect of this complaint while he knows that the assailant assaulted the subject in front of the PPO?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the information I have was that the PPO was not at the scene, but now that we are getting this kind of information, I will request that the complainant reports to the Director of the CID in order for him to take action. Then I will report to the House.

Mr. Kigen: On a point of order, Mr. Temporary Deputy Speaker, Sir. The situation is not as easy as the Assistant Minister puts it. We know many Kenyans who have been killed. Could the Assistant Minister commit himself to find out which police officers were present without telling us that he is going to talk to the DCIO? A short while earlier, he said that he is going to find out whether the PPO was involved.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, that is why I want

the complainant to go and see the Director of the CID. In any investigation, we have to start somewhere. So, I would want the complainant to go and see the Director of the CID and then the Director of the CID will report to me as the Assistant Minister in charge of Internal Security. Then I will report to my colleagues in the House.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Karua! You have just stood up without rising on a point of order.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House? When he says that they should go to the Director of the CID and we have indicated that a Mr. Farouk, a second person was assaulted before Ms. Faryda was assaulted in the presence of almost the entire Coast police and the Provincial Administration, is he in order to ask them to go to the Director of the CID without committing that he is going to ensure that their security is guaranteed?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me assure the Members of the House that nothing will happen to the two complainants. The reason why I am referring this matter to the CID is because within the Coast Province, the officers who are supposed to help the complainant were already there when the assault was being done. That is why I am referring this case to the Director of the CID. After getting the report, we will lay it bare.

The Temporary Deputy Speaker (Mr. Ethuro): Order! That matter is dispensed with.

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I had risen on a point of order and I would have really sought your indulgence---

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are on another matter!

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.23

ROAD CARNAGE ALONG NAKURU-NAIROBI HIGHWAY

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am rising under Standing Order No.23, on a matter of definite national importance. I confirm that I have---

Mr. Lessonet: On a point of order, Mr. Temporary Deputy Speaker, Sir. A while ago, hon. Mututho was accused of suffering from short memory. I just wanted you to confirm to us whether that is parliamentary; whether that language fits or suits what is normally called parliamentary language before Mr. Mututho proceeds.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Member for Eldama Ravine! Short and memory are too English words. So, they are very parliamentary. The Member for Naivasha was just ahead of his time. Now his time has come.

Proceed, hon. Mututho!

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I want to confirm, before I proceed, that I have never suffered from short memory or amnesia or indeed, any of those conditions.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Mututho! You want to proceed with the matter or you do not?

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to proceed because this is a matter of definite national importance. While you may be right from the Chair on your statement, I also want to say that I am still suffering from shock having seen 16 bodies of children, women, men and tourists literally torn apart by the recent carnage at Naivasha.

I have satisfied the Standing Order No.23(2) and I have reported this matter and got consent from the Speaker to rise on this matter of definite national importance touching on the road carnage in the Republic of Kenya.

(Several Members stood up in their places)

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Clerk, take a count.

(The Clerk-at-the Table counted the hon. Members who were on their feet)

Order, hon. Members! You have got the requisite number. So, the Motion will be slotted for today---

(Mr. Kivuti stood up in his place)

What is it, Mr. Kivuti?

Mr. Kivuti: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to seek your indulgence---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kivuti! The Speaker is fully aware of your matter. Let me dispose of Mr. Mututho's Motion.

The Motion is, therefore, acceptable and will commence at 5.10 p.m. until 6.30 p.m. today.

Again, hon. Members, I need to explain that Mr. Kivuti is representing a Committee and because they were time barred and this is a matter that must be dealt with today, the Speaker has allowed him to proceed on to Order Nos.4 and 5.

Mr. Kivuti: Thank you, Mr. Temporary Deputy Speaker, Sir.

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Labour and Social Welfare on the Vetting of the Chairperson and the Member of the National Gender and Equality Commission.

(By Mr. Kivuti)

The Temporary Deputy Speaker (Mr. Ethuro): Proceed, Mr. Kivuti!

NOTICE OF MOTION

ADOPTION OF REPORT ON NOMINATION OF CHAIRPERSON AND MEMBER OF NATIONAL GENDER AND EQUALITY COMMISSION

Mr. Kivuti: Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the vetting of the Chairperson and member of the National Gender and Equality Commission laid on the Table of the House today, Tuesday, 8th November, 2011.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kivuti! Have you read out the notice of Motion?

Mr. Kivuti: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): The one you have read out does not seem to be the same as the one the Clerk-at-the-Table has.

Mr. Kivuti: The notice of Motion that I have read out is as follows:-

“THAT, this House adopts the Report of the Departmental Committee---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kivuti! You still have two lines before the word “adopt.”

Mr. Kivuti: Okay. I may be having another one.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kivuti! There is a copy for you.

(The Clerk-at-the-Table passed on a document to Mr. Kivuti)

Mr. Kivuti: Thank you, Mr. Temporary Deputy Speaker, Sir. These notices seem to have come from two different sources. The notice of Motion is as follows:-

THAT, pursuant to Section 11 of the National Gender and Equality Commission Act, 2011; this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the nomination of the Chairperson and member of the National Gender and Equality Commission, laid on the Table of the House today, Tuesday, 8th November, 2011.”

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): That is Good!

(Prof. Kamar stood up in her place)

Prof. Kamar, you have a Statement to make. Hon. Members, you have to remember that between the Statement by the Minister and your clarifications, you only have 15 minutes.

MINISTERIAL STATEMENT

IMPENDING STRIKE BY STAFF IN PUBLIC UNIVERSITIES

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make a Statement on the threatened strike by university staff, which was released this afternoon.

I want to give the background information. In 2003, the Government allowed university academic, middle level management and non-teaching staff in public universities to join trade unions for purposes of negotiations of their terms and conditions of service with the public university councils. Two unions were, thereafter, established and registered. They are the University Academic Staff Union (UASU) and the Universities Non-Teaching Staff Union (UNTESU). Before then, there was already a union representing the support staff called “The Kenya Union of Domestic Hotels, Educational Institutions, Hospitals and Allied Workers”. In the meantime, in 2003, in order to negotiate as one, the public university councils, as employers, formed the Inter-Public University Councils Consultative Forum (IPUCCF) as an affiliate of the Federation of Kenya Employees (FKE) and entered into collective bargaining agreement with the three unions.

The negotiations for the current cycle, which the issue of the impending strike touches on - the 2010/2011 and 2011/2012 cycles - between the forum and the three unions actually started and stalled. The forum sought time off to consult with the relevant Government organs on negotiation guidelines, especially on the maximum levels to offer to the unions. In the absence of the guidelines on maximum negotiation levels, the universities were unable to proceed with the negotiations.

In the meantime, on 16th April, 2010, the Deputy Prime Minister and Minister for Finance through Treasury Circular No.5 of 2010 on Guidelines for Preparation of 2010/2011 and 2011/2013 Medium-Term Expenditure Framework Budget, froze new wage negotiations in the public sector. On 13th February, 2011, the then Minister for Higher Education, Science and Technology wrote to the Deputy Prime Minister and Minister for Finance forwarding a draft Cabinet Memorandum on Collective Bargaining Agreements (CBAs) between public universities and the trade unions seeking Cabinet’s authority for the resumption of the stalled negotiations. This was done at this period in order to include the negotiated and agreed position in the 2011/2012 Budget.

Mr. Temporary Deputy Speaker, Sir, in a letter dated 24th January, 2011, the Deputy Prime Minister and Minister for Finance responded:-

“In view of the fact that the final installment of the last CBA was actually paid in the beginning of the Financial Year 2010/2011, there was need to give the Government fiscal space to consider the emoluments of other public servants.”

Further, on 25th May, 2011, in a Circular Ref.OP/CAP2/23A on Determination of the Review of Remuneration in Public Service, the Head of Public Service and Secretary to the Cabinet directed:-

“Following the establishment of the Salaries and Remuneration Commission in the new Constitution with a mandate to determine and advise the national and county governments on remuneration of the State and public officers, it was decided that with effect from that date – the day of the Circular, which was in May, 2011

– no setting or review of salaries and allowances will be undertaken outside the purview of the Commission.”

The circular further said that such salary reviews would, therefore, have to wait until the commission has been operationalised through an Act of Parliament; the law would also provide for the necessary advice on these matters.

Mr. Temporary Deputy Speaker, Sir, the three unions, particularly the University Academic Staff Union (UASU), in a meeting I had with them on October 13th 2011, and in a letter written to me on 17th October, 2011, questioned the validity of the circular from the Head of Public Service. They, therefore, sought to jumpstart the stalled negotiations with the Forum. Following consultations that I undertook with the Ministry and between the Ministry and the Head of the Public Service and the Attorney-General, both the universities and the unions were on 2nd November 2011 advised to resume the stalled negotiations. It was noted that in the absence of the Salaries and Remunerations Commission, which has not been constituted to date, normal industrial relations would be subject to the Labour Relations Act of 2007.

Mr. Temporary Deputy Speaker, Sir, subsequently, on the 3rd of November 2011, the Forum formally invited the unions to resume negotiations. A detailed negotiation schedule was also provided to the unions by the Forum. According to the schedule, the Forum was scheduled to meet the unions for negotiations as follows, and I want to stress this for hon. Members to know that the negotiations between the Inter-Public Universities Councils Consultative Forum (IPUCCF) and UASU was supposed to take place today, tomorrow and 10th of November. KUDHEHIA was supposed to follow on the 10th and 12 of November. The meeting of the mid level staff union, the Universities Non-Teaching Staff Union (UNTESU) was supposed to take place on the 13th and 14th of November. The Forum’s negotiating team is in Kisumu. They went there yesterday and they have been ready and waiting for the UASU to commence negotiations.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! We had agreed on five minutes. Can you, at least, conclude, so that the Members also have time to ask you questions?

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you. I am concluding.

When I learnt today that the unions may be reluctant to attend the negotiation meeting in Kisumu - we got a report that they had not reported there - I immediately held consultations with Vice-Chancellors and, thereafter, we formally invited the unions to come for further consultations. It is critical that we all try to avert the threatened industrial action by these unions. Unfortunately the unions did not show up for the meeting that we had invited them to this morning, despite the fact that we knew that all the officials were in Nairobi. They were preparing to release their own Press statement. The said officials actually have, sadly, released a joint Press statement, launching a nationwide industrial action on seven grounds.

One of the grounds, which is very important for Members and the public to know, is the item that the salary restructuring and harmonization can only be deliberated on and negotiated by the Ministry of State for Public Service and not by their colleagues in the universities as councils depend on the Exchequer. This again is another turn of events which took us by surprise, because universities normally discuss their salaries with university councils. They have said that was the initial intention of the letter from the

Head of Public Service, when he said that we should not be negotiating because of the new commission that is being formed.

Mr. Temporary Deputy Speaker, Sir, this action, therefore, of the unions has taken us backwards and the Forum is currently negotiating afresh. We are discussing between ourselves to see what the next course of action will be.

So, I wanted to make this statement because it is very important that the country knows that the threat that is out in the public now, that universities are going to be on strike tomorrow, but we are doing the best we can to make sure that we avert that. These unions have not given dialogue a chance, in spite of the fact that all through we have given them the opportunity to dialogue with us.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Appreciate that we have five minutes and I will only allow one clarification from each hon. Member; Minister, note all of them.

Mr. Lang'at: Mr. Temporary Deputy Speaker, Sir, I want to congratulate the Minister for coming up with a Ministerial Statement when it had not been asked for. Secondly, could the Minister explain why, always, university lecturers and teachers must go on strike in order for her to listen? Why is it that she always listens to strikes and not to reason?

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, our country is currently at war with terrorists called *Al Shabaab*, and the last thing we want in this country is instability, particularly in our institutions of higher learning. I heard the Minister say that the lecturers of the universities have not given dialogue a chance. It should be the other way round. What has the Government tried to do to dialogue in order to avert this strike? These people are reasonable. I am sure the Government has not done much to avert this strike. Can the Minister assure us that they are going to do that?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I also want to thank the Minister for volunteering the statement. The Minister has set a precedent in the Ministry. We sat as a Budget Committee. We said that there was no money for teachers, and then suddenly the Treasury came up and said that there was Kshs4 billion and they would pay the teachers. Now, after the strike, damage and everything--- Why do you want to lengthen this process? We know that, going by precedent, immediately they go on strike you will look for money from the Treasury and pay them. Why can you not just pay them so that we do not have this problem? This Ministry has set a precedent.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, while thanking the Minister for bringing the statement, and noting that she comes from the university teaching fraternity, is there no entry point she can find to engage the university lecturers in serious and meaningful dialogue? This way they can see commitment from the Government and, therefore, avert the national strike. We cannot get quality education without looking after the lecturers and other staff.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, could the Minister clarify what difficulties the Government has in paying lecturers when we know that through the parallel system the lecturers are bringing a lot of money, and they are being extremely underpaid? Why can she not just pay them straight from that money instead of forcing them to go on strike?

The Temporary Deputy Speaker (Mr. Ethuro): Now, Minister, as you proceed, note that exactly at 5.10 p.m., I will allow the Motion for adjournment under Standing

Order No.23. I will allow you to continue tomorrow with what you will not have addressed. I allowed you to proceed today for the sake of the issue that was at hand.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, then can I continue tomorrow so that I can put all of them together?

The Temporary Deputy Speaker (Mr. Ethuro): You still have a few seconds.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, in the few seconds that I have, I want to assure hon. Members that we have tried our best. We have had meetings with UASU. We had the first meeting on 13th of November, 2010. We had the second meeting on 29th of November, 2010. At that time we wanted to be very clear about the letter that had come from the Head of the Public Service, because that was their big issue. They requested actually that we get clarification on why the Head of the Public Service had stopped the negotiations.

We told them to give us time and they did so. But then on the day when we went to explain the fact that we were actually waiting for their written submission, they backed off and decided to give notice for a strike.

Mr. Temporary Deputy Speaker, Sir, I will continue tomorrow.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Minister! It is tomorrow morning session for avoidance of doubt.

Hon. Members, I now call upon hon. Mututho to move his Motion. Hon. Mututho, you should be aware that you have ten minutes to move the Motion and every other hon. Member contributing has five minutes.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.23

ROAD CARNAGE ALONG NAKURU-NAIROBI HIGHWAY

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, Kenya is definitely at war with our neighbour, but nothing brings higher casualty than our roads. Are we at war with ourselves? Recent events, particularly around Naivasha, will indicate that, within the last six months, in different incidences on Highway A104, we have lost 46 persons. They include three tourists - a happy couple and a friend, who had travelled all the way from India and enjoyed Maasai Mara. They then thought that they would be able to have a cup of tea at Nakuru. As fate had it, on their way back, at a junction in Naivasha at a place called Caltex--- I am specifying that section because on the Floor of this House, I have raised concerns about fatalities on that particular section not less than six times. The HANSARD will bear me witness.

Mr. Temporary Deputy Speaker, Sir, an overloaded lorry, that had travelled all the way from Rarieda to Nairobi the previous day, came all that way and crashed into those people. 16 of them died. I will repeat that on inspection today---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Mututho, you need to move the Motion first and then you can give the explanations.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I beg to move that this House do now adjourn to discuss a matter of definite national importance.

Mr. Temporary Deputy Speaker, Sir, the matter in question is about road carnage. For those of you who may think that Mr. Mututho today is suffering from a new condition, I want to say that I saw the 16 bodies. We were trying to assemble bodies just like engine parts. They belonged to individuals - happy people like you and me who were driving luxurious cars. They were smashed by a lorry that had travelled from Rarieda the previous day, drove all the way to Nairobi and was overloaded, and then drove back all the way, in the presence of multiple roadblocks, and nobody detected that it was defective. At the point where they crushed, it was said that, that lorry must have been moving at over 150 kilometres per hour and the passengers had no chance. We are not talking about drunk drivers here. We are talking about a lorry that was literary flying and hitting motorists driving luxurious cars head-on; luxurious cars that all hon. Members like to drive. For simplicity, when a car is driving at about 150 kilometres per hour and you are going uphill at 80 kilometres per hour, the impact is 230 kilometres per hours and you stand no chance. The situation is that bad that, up until now, as I speak here, I can recall and see the faces of kids who had no chance of closing their eyes. I am telling you! I went to the morgue and the kids and adults died without knowing what the surprise was. Even the ladies who had light shoes, still had them on. There was no time, perhaps, even to repent.

Mr. Temporary Deputy Speaker, Sir, according to the police, there were 7,895 accidents recorded in the year 2010. There is also a reported 2,570 fatalities according to the police. In these modern times, we are seated in this august House to acknowledge a report by the police that 2,570 Kenyans have died because of road accidents. I have said that in Naivasha, over the last six months, we have had 46 on different occasions. But accounting for the last ten years is a nightmare with one intersection called Kinungi recording about 100 deaths, including pedestrians. In actual fact, pedestrian number four was hit by a car from this Parliament and has never been compensated.

Mr. Temporary Deputy Speaker, Sir, are we that helpless? Can all the blackspots identified by the police not now be managed, even if it means scattering the traffic officers? They have identified the blackspots and all the carnage has been through those particular spots. They are all over the country. I want to constantly remind hon. Members that it is not about the matatus or good drivers. When you are hit while driving and keeping left by a speeding lorry, even if you are driving a supercar, you will still be crashed. Obviously, if you are a politician, you may wish to say that your political opponent did something about that but most Kenyans are helpless. If you look at the faces of those Asians--- I saw them. The mother of the kids who were there was wondering about such wonderful roads. But somewhere along the chain, the performance of the police in respect to controlling accidents is wanting. In between that, there was a battalion of traffic officers. What do they do? They whisper to the drivers whatever they whisper and the driver drives on. That explains how the driver must have left Rarieda, drove all the way to Nairobi and then back. We are investing all our resources into the highways; we are investing everything we can in human resource but at this rate of destruction, then we must also be either a condemned lot or a country that is so desperate--- Even if we cannot do bumps, at least, at this moment in time, particularly when the police admit again that they collect in terms of court fines, Kshs434,724,590, that means that, even if the Government was going to be broke – which is not the case – they have collected fines to an extent of Kshs500 million. That amount is enough to have the electronic software

which will be able to advise somebody sitting in Nairobi that a car is speeding at this much or a truck is moving this fast.

Mr. Temporary Deputy Speaker, Sir, as I conclude, that particular section of the road between Nakuru and a place called Flyover, all the way to Suswa and the escarpment in that whole route is patrolled by one GK Land Rover 914, which has a broken turbo. It is said that when the thugs are chased by the police using that Land Rover, they stop their bus to pass on water because the car cannot make 50 kilometres per hour. That is the state of the severance of the policing of our roads. It is a very painful thing, particularly for the children and the citizenry who rely on us to perform our oversight role. We are looked upon to offer solutions to that. It is not a blame game. It is not about the Minister for Roads or anybody. It is about a whole system that has broken down and allowed carnage to that extent. It is about a system that thrives and celebrates collecting Kshs434 million, without using a paltry Kshs40 million or Kshs100 million to buy electronic ware that will help to have effective policing. It is a system that cannot afford a car that can manage marauding drivers on the road. What more can I say?

I seek support from my fellow Members that we come up with a solution even if it means a good number of the police or the Executive going home so that we can have another team that will do the same job.

I beg to move.

The Temporary Deputy Speaker (Mr. Ethuro): Who is seconding you?

Mr. Mututho: Ms. Martha Karua will second my Motion.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this Motion and congratulate the Mover for thinking about this crucial issue. I am thinking that we are suffering from a self-inflicted misfortune.

Hon. Members will recall that in 2003 when the Michuki Rules were enacted, accidents reduced drastically. I am wondering what was different then. Kenyans were committed then to obey the law and ensure that the *matatu* drivers also obeyed the law. Everybody had a new mood. The police enforced the rules and ensured that everybody had a safety belt, the vehicles were not overloaded and were in good order.

Today, we have to fight the lords of impunity to reduce the carnage on the roads. It is impunity that is fueling the carnage. The drivers know that all they have to do is go back to their pockets, bribe their way around. If they go to court, they can talk to the prosecutor and the next person. We need to fight impunity, reform the police force and make this a priority. We also need to seek cooperation between the Ministry of Transport and the Ministry of State for Provincial Administration and Internal Security.

When the Michuki Rules worked, the then Minister of State for Provincial Administration and Internal Security cooperated with the Ministry of Transport. However, when there is no cooperation between these two Ministries, the Ministry of Transport will just give the rules but the enforcement is with the Ministry of State for Provincial Administration and Internal Security. Perhaps the Traffic Police should fall under the Ministry of Transport so that we can have one place where the buck stops.

Mr. Temporary Deputy Speaker, Sir, we also need to be determined, as a people. We are talking about our lives. Even if you do not ride a *matatu*, any accident on the road can affect any other road user whether a by-stander or another vehicle passing by. We need to be worried about the rate of traffic accidents and we are not just talking about the close to 3,000 people who have died this year. However, we are talking about thousands

others who have been maimed permanently from accidents and who then become heavy burdens to their families and suffer pain throughout their lives.

I heard the Minister for Transport sometime ago talk about tachometers. If we are not enforcing speed governors, what would be the use of tachometers? It would just enrich another few people who would be the suppliers. Why can we not address the problem where it is? Let us address issues of enforcement and issues of the rule of law first. If the speed governors are in the vehicles, do not ask the people in the transport industry to incur further costs in installing tachometers. Use the speed governors, which were quite effective at that time, make sure that rules are obeyed and that there is no overloading. Perhaps the Ministry should buy gadgets to measure the speed which the traffic police will be having at their stops. We know that most accidents are caused by over-speeding and defective motor vehicles especially those with defective breaks. What are all the roadblocks about if after so many road blocks, unroadworthy vehicles are still on the road? What do all those traffic police on the road do if accidents continue to increase? The members of the public must be forgiven for assuming that traffic policemen only come to the road to benefit themselves and not to look after the public.

The culture of the police in assisting public victims needs to be improved and they need to be trained. Yes, they are provided with gloves. The other day I was passing on the Thika-Sagana Road and there was an accident by a motor cycle and the police were on the opposite side of the road continuing to stop vehicles which were coming and going to them instead of rushing to assist the accident victims. I had to personally ensure that---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Hon. Martha.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, with those many remarks, I beg to support this Motion and ask the Minister for Transport to get serious.

(Question proposed)

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to thank Mr. Mututho for bringing this matter to the fore. I completely agree with his suggestion that, indeed, this is a matter of national importance. We need, as a Parliament, to say something about what is happening on our roads. According to statistics available to us, Kenya is losing over Kshs4 billion annually due to road accidents where over 3,000 Kenyans die. Majority of these people are aged between 15 and 44 years. The statistics further say that the Traffic Department estimates in excess of US\$50 million is a loss to the economy of this country because of the accidents we have on our roads.

I was a victim a few years ago along the Mombasa-Nairobi Highway when I was with my family. I am speaking what I know. The Government needs to identify black spots and make it clear to all road users that certain places are dangerous and that they need to slow down. This is not outside the reach of Government. This is not a question of people being drunk or asleep, but it is something that the Government needs to do something about.

I want to speak about the Mombasa-Nairobi Highway. Many people die somewhere near Maungu and many other places that Mr. Mututho has mentioned. If you are coming from the airport, for example, you will see that there are small bumps that any motorist who is coming from the airport can either see from their lights because of the

reflections or can feel them as they drive along. This is not outside the reach of Government. The Government should do something about all these black spots.

I wish to table information on the potential black spots. In Eastern Province, we have eight black spots; Central Province - nine; Rift Valley, 12; Coast Province, 20; former Western Province - seven; former Nyanza Province - 11 and Nairobi Province - five. I want to table this list so that the Government, in terms of preparing---

(Mr. Mungatana laid the document on the Table)

The Temporary Deputy Speaker (Mr. Ethuro): Where is that list from?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, this list is from the Traffic Department.

The point I would like to make is that the Government will end up spending less if it uses reflective material on black spots and create rumble strips near these places so that drivers can see them and avoid the cost that comes with the loss of lives.

With those few remarks, I beg to support this Motion.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to also make my contribution to this very important Motion. At the same juncture, I would like to thank my brother, Mr. John Mututho for bringing it for discussion.

Mr. Temporary Deputy Speaker, Sir, it is tiring and very irritating to watch news every evening and see a lot of people that we are losing on the roads because of one reason or another. It is because of this that we feel we must make our contribution and seek that the Ministries concerned, that is the Ministry of Transport and the Ministry of State for Provincial Administration and Internal Security, need to do much more than they are doing today.

One of the major reasons why there are so many accidents is the over-speeding on our roads. I take the example of the stretch between Sachangwan and Sobea that comes through the famous place called Salгаа. This year alone, up to 31st August---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! The document tabled by Mr. Mungatana, while it might be useful general information, it is not admissible according to our requirements. There is no signature and we do not know where it is coming from. Therefore, you can use it but you should know that it is not properly before the House.

Proceed, Mr. Kigen!

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, up to 31st August, 2011 as per the reports held by the Provincial Traffic Office in Nakuru, we have lost up to about 240 souls along Salгаа-Sobea stretch alone. When His Excellency the President came to console the people who got burnt in Sachangwan, he proposed that a trauma hospital be built there urgently because of the distance from that area up to the nearest hospital. Up to now, this has not been done. It is only the designs that have been done, but no funds have been allocated. This was about three years ago. These are the kind of laxities that we observe and are contributing largely to the loss of many people we are losing every year.

We are emphasizing that the traffic officers we see on the roads everyday are just there but they do not remove unroadworthy vehicles for purposes of getting rid of them on the road and only retain good vehicles. The vehicles are supposedly owned by those who are supposed to protect or ensure that traffic rules are obeyed.

Mr. Temporary Deputy Speaker, Sir, we are suggesting and asking is for the police be a little bit more serious. If they were serious, they would identify those who are driving vehicles without driving licences.

With those many remarks, I suggest the Ministry of Transport and the Ministry of State for Provincial Administration and Internal Security work closely to ensure that we only have vehicles that are roadworthy on the roads. That way, we will reduce road accidents drastically.

Thank you.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I want to support this Motion. I also want to congratulate the Member for Naivasha, Mr. Mututho, for bringing this issue as a matter of national concern.

Many of us when we watched this on television, we were not only shocked and horrified, but also asked ourselves the very fundamental question that has been brought here as a Motion. I want us to get straight to the crux of the matter. I do not understand why we are treating the Government kid gloves on this issue. There is a crisis. There is an increase on the number of accidents and it is not a secret. It is no longer safe to drive on the roads of our country. We cannot speak about it as if it is a Public Relations (PR) exercise and yet this Government has the capacity to deal with this issue. When there was another Minister in this docket; Mr. Michuki, everybody can tell you that, yes, there were accidents, but they were reduced.

Mr. Temporary Deputy Speaker, Sir, I do not know why if somebody has done well in a certain area, they cannot be returned there to restore some discipline. I am saying this with all due humility to the current Minister, that I believe that to deal with road carnage, we need somebody who will go and get his hands dirty on the ground. To deal with the police, un-roadworthy vehicles, the issue of speed governors and safety belts will not be done in the comfort of offices. It is beyond reason to be building super highways in this country to cause deaths.

Mr. Temporary Deputy Speaker, Sir, this particular road definitely has a design problem. The design problem being that when people are driving on this road, the speed goes up to 200 kilometers per hour. Before an airplane takes off, it goes up to 260 kilometers per hour. You can see the kind of speed that people have on this road. There is no way we can continue using this road as a death trap. It seriously is exactly that. We are speaking here on an issue of national importance because next week, there could be another accident.

Mr. Lessonet: On point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to talk about design of roads and to tell us that it has a design problem when we know that she has never even sat in an engineering class and, therefore, is not in a position to give us an opinion on roads?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Lessonet!

Mrs. Shebesh, just ignore that!

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I will ignore him. I normally do.

The issue of the design of this road and the speeds at which people drive at must be something that the Ministry is willing to look into. It must be redesigned at whatever cost. I can assure you that with the speeds on that road, as we are seated here speaking on an issue of national importance, it will not be a week or two weeks before we hear about

another road accident. So, is it the work of this Parliament to keep debating the same issues when the Government sits and listens to us in a manner that is a bit aloof? We are raising issues that are pertinent to this country and are changing the lives of people. When a family loses six people at a go or when tourists die on the road--- We are talking about tourists being abducted by the *Al Shabaab* but what about dying on the roads as a result of accidents? What are we saying about our tourism industry?

Mr. Temporary Deputy Speaker, Sir, I say this without fear of contradiction. I think it is about time that some changes were made in this Ministry.

I beg to support.

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

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

Mr. Kioni: Thank you, Madam Temporary Deputy Speaker, for the opportunity to contribute to this Motion.

One of the things that happen in our country every time we have road carnage is the issue of crackdowns. There is always a directive from the Executive that we need a crackdown. However, I think what we need is continued vigilance on our roads. The motorists are aware that these crackdowns will go off and the steam will be off in a month or two months. After that, they will be back to the same kind of things that cause road accidents.

Madam Temporary Deputy Speaker, in the accident that happened in Naivasha, one of the drivers confirmed that the speed governor was malfunctional. In fact, we are only looking at speed governors fitted for the *matatus*. I think the police have forgotten that they need to look at the commercial vehicles. I think if this is not a continued effort and there is a proper team looking at this, the way we are doing it, we will continue burying our own every other time because it has become a habit.

We have the Motor Vehicle Inspection Unit but the level of corruption within it is something that is known. We cannot over-emphasize it here. Everybody knows that all you need to get a sticker for your lorry is pay some Kshs8, 000 from whatever point of this country - you do not need your vehicle inspected - and that gives you a sticker. That is again another licence that we keep getting for our accidents.

Madam Temporary Deputy Speaker, when we talk of the state of the roads in my own constituency Ndaragwa from Weumererie to Nyahururu, it is a sure way of getting involved in a road accident. Anytime you want to use that section of the road, you are courting disaster.

Nobody is bothered about the potholes. We actually get stuck in the mud along the tarmac. This is a ridiculous thing which needed to have been sorted out by the Ministry a long time ago.

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

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

Madam Temporary Deputy Speaker, I have been on this Floor to ask the Minister when he would consider installing cameras along our highways, and we were promised that it would be done sometime in October. October is now long gone. We still have highways but we have not seen the cameras. We have the Thika Super Highway, where we are going to have road carnage, if things will not be put in place on time. You can actually see the behaviour of motorists along Thika Highway, there will be a crisis along that road, if something is not done urgently.

We already have *matatu* vehicles parking along the super highway despite the fact that there is a service lane. I do not know whether police officers are waiting for a bell to be rung for them to start enforcing the highway code. What is it that they are waiting for? Is it that there is total collapse of the management of this sector? What is it that we need?

Madam Temporary Deputy Speaker, I agree that our culture, as drivers, must change, but what is the Ministry doing to try and bring this thing to rescue the lives of people using our roads? It costs money but I remember a time when Kenol/Kobil sponsored advertisements in newspapers, on television and radio. Somehow, the culture of driving improved. If this effort or intervention is not undertaken by the Ministry, and by other players within the transport sector, we are going to have a lot of problems. We are going to lose our people every day. Covering burial expenses and coming to terms with the loss of life of loved ones is very painful.

These are not issues which should wait for a presidential directive. Every time people die, we wait for a presidential directive, so that police officers can swing into action. When the police swing into action, it becomes another thing - all they do is collect money. Three weeks ago, I went to my constituency at night. I would actually help police officers to inspect some vehicles for reasons of overloading. Every canter that we entered was overloaded, and they had all passed through police roadblocks. If you ask the police officers: What is the weight of a bag of potatoes that should have been allowed onto the canter? They are not aware. So, they do not even know the rules and regulations that have been passed by this House.

Madam Temporary Deputy Speaker, therefore, there is a lot of work that needs to be done. It is not something that is going to be a quick fix but we must have concerted efforts, and we must make that effort through and through, and not have a one-off thing. Everyone knows how to beat this one-off thing. All I need to do is withhold my *matatu* from the road for a week and then I come back with the same wreck and continue using Kenyans like bags of potatoes and doing business as usual. We need to see the Ministry of Transport and police officers really appreciate that there is a lot that is expected of them rather than just wearing on a white cap along the road. That is all that is happening as of now.

I want to thank the hon. Member who has brought this Motion for adjournment to discuss this matter. Our talking here should not just be for purposes of passing time. We would be happy to see the Ministry and other agencies involved. Other countries must have ways of dealing with the motor vehicle inspection units. In this country, the particular police unit is just a den of corruption. We have inspections along the road.

Madam Temporary Deputy Speaker, what we now have, for example, along the Naivasha-Gilgil Road is causing traffic jam. A long the way, you get to a place where you have a kilometre-long line of vehicles waiting to be weighed. Why would they not be put aside, so that traffic can run smoothly? We now see motorists driving on the wrong side of the road, because they are behind a kilometre-long of trucks yet they are not going through the weighing bridge. There is need for management that is completely lacking in this sector.

Thank you.

Mr. Ruteere: Madam Temporary Deputy Speaker, I thank you for giving me the opportunity to support this Motion. I also want to start by thanking hon. Mututho who was prompted to bring this Motion as a result of what happened in Naivasha over the weekend. It was a very regrettable accident that we witnessed and watched on television.

We have repeated time and again that whenever accidents happen, we see the police swinging into action by inspecting vehicles and stopping vehicles at random to see whether they are roadworthy. However, soon after such accidents are forgotten, we go back to our usual ways of operating unroadworthy vehicles and driving recklessly. What prompts these actions is failure by the police to implement the law. We have seen drivers create their own lanes, even in a city like Nairobi. Where a road has three lanes, we see four or five lanes created by motorists, yet police officers are there. No action is taken against those motorists who are not on the proper lanes.

Madam Temporary Deputy Speaker, we see motorists over-speeding in the presence of police officers. They just watch cars pass and nothing happens. I would want proper action taken. When I was in Great Britain, where I learnt driving, we were given stickers for every accident you caused. If you parked your vehicle in a wrong place, you were given a sticker. If you did not do the right thing, you were given a sticker. When you got five stickers, your driving licence was confiscated, and you had to start afresh. If your driving licence was confiscated, you waited for five years before you could apply for another driving licence.

We should have strict rules and regulations, so that drivers will fear breaking the law. We need to create lanes, particularly for heavy commercial vehicles. Lorries and trailers should have specific lanes on which to drive. When you drive along Kenyatta Avenue, you see buses overtake you all over. It is time we brought sanity in the driving of our vehicles on the road, so that cars can have their lanes, bicycles can have their place, motorcycles can have their place and other motor vehicles can have their own places. That way, we will reduce road carnage. Otherwise, if we fail to have road signs displayed on our roads, it will be unhelpful.

Madam Temporary Deputy Speaker, Sir, in some places, people throw stones at the windscreens of passing cars, thus causing accidents and then pretend to assist the victims yet they steal from them. There are places which are prone to accidents but if you investigate further, you will find that there are criminals who cause those accidents. In such places, accidents are not necessarily caused by the drivers, or because the vehicles are defective. Therefore, of road accidents should be investigated. We should even create a select committee to investigate and make recommendations to the Minister on how we can handle them. This problem is even worse than the poverty we talk about. All the hospitals, and particularly the Level Five Hospital in Meru, are full of accident victims.

Madam Temporary Deputy Speaker, therefore, I support this Motion.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, in supporting this Motion, I will be very brief.

The challenge we have is that of culture of impunity. Many times, when we talk about the culture of impunity, people think about it in terms of just corruption but we have inculcated a culture where you get away with anything. I just want to challenge the Minister for Transport, who is a young person compared to the former Minister for Transport, to bring order in the Ministry. The former Minister brought order. Order was brought because he used the stick approach. Right now, what we are using in the country is purely the carrot approach. We need to use both carrot and stick, but more the stick. I am not saying that the Minister should violate the law but he needs to punish people who disobey and violate the law. In Kenya, all the things we are saying are merely additional.

Madam Temporary Deputy Speaker, secondly, I would want to comment on the need to look at the issue of accidents alongside other factors. The Minister was challenged on the issue of design of roads.

I know Rachael Shebesh was being challenged about the issue of design of roads but that is a major issue. We need to look at it also in relation to planning of our cities. A lot of the rural areas are quickly turning into urban areas. However, the planning is coming up so haphazardly.

Madam Temporary Deputy Speaker, just the other day, I was in Homa Bay. We drove into a place where if it rains, the roads are in such a terrible state. We were basically knocking on people's gates with the car. That is also another major accident really waiting to happen. We will witness cars slamming into houses because we are not planning for the future. In this country, we need to also plan for the future. We are very accidental in our thinking. We need to be planning in our thinking. We have a very accident-prone culture in our minds, in the way we behave and the way we live.

Madam Temporary Deputy Speaker, finally, we have a very poor emergency response mechanism. There are things that we keep calling accidents. They are not accidents. I think we need to bring an amendment to our law and call an accident an accident and carelessness, carelessness.

So, what we are really calling road carnage here is the proper name. It is road carnage. It is road carelessness. There is no accident. Accident is when, for instance, a technical issue happens and it is completely unforeseen; what you would say is an act of God. But when you are driving a defective vehicle and you cause the death of a person, that should not be referred to as an accident. It is actually premeditated. We should actually have life sentences for people who drive defective vehicles and cause deaths.

In other countries, if you actually look at it, we are too sympathetic with people. Sometimes, when we are giving life sentences, people say that is too harsh; it is punitive. Unless we learn a culture of punishing, we will always have these people driving defective vehicles. People know they can get away with murder.

That is why in post-election violence, if we did not punish people, next year, people will come and kill other people because nothing happens.

With those few remarks, I support.

Mr. Njuguna: Thank you, Madam Temporary Deputy Speaker. Let me start by thanking the Mover of this Motion, Mr. Mututho and also take the opportunity to send

my condolences to the families affected by the accident that took place in Naivasha. It is very serious that road accidents still continue to be experienced on our roads.

It is important that we have the traffic police retrained. They should be retrained and vetted. Those who are to serve on this very important sector must be people of good character. It is just the other day when we saw very strong demonstrations in central Kenya where matatu operators were complaining of being requested by the police to give out bribes of Kshs50 and Kshs100, respectively. This should not happen.

The drivers must be retrained. We have not seen good discipline on our roads exhibited by the drivers. At times, some drive when they are not sober. This should not happen. We need to have drivers who are judicious on the road, so that certain accidents could be avoided.

We have seen a lot of recklessness on our roads. This must be avoided again. Overloading of these matatus and lorries transporting sand must be discouraged. We have seen vehicles that are being driven with fake driving licences and fake insurance covers. This should not happen. It is through this fake driving licences and fake driving insurance covers that accidents have been noted on our roads.

We have noted that even the Ministry of Roads has been lax. It has not been active. Road inspectors must be on the roads checking the conditions of our roads. Roads have already developed gaping potholes. These potholes need to be repaired because many people have lost their lives on these roads. I recall one section in my constituency, Mathore area, where ten people lost their lives. Not until the Member of Parliament voiced that concern that the pothole was repaired. Where are the road inspectors? They should wake up and do their jobs properly.

Madam Temporary Deputy Speaker, it is high time that proper implementation of the traffic rules was done. Currently, we are upgrading our roads. These roads must bring economic growth and joy to the commuting public and not desperation and deaths. It is now that action must be taken to save lives of innocent Kenyans. We should be able to avoid unnecessary deaths and taking a lot of bodies to the mortuaries. We have already traumatized the mortuary attendants. It is now time to stop that flow of incidents.

With those few remarks, I fully support the Motion and make a fresh start.

Mr. M.H. Ali: Thank you, Madam Temporary Deputy Speaker. I wish to support this Motion by Mr. Mututho. This has come at the right time. I would like also to commend the former Minister for Transport, Mr. Michuki. He brought sanity on our roads. In fact, traffic accidents reduced for some time. I would urge my good friend, the Minister for Transport, who is seated here to make sure that he applies the same rules that Mr. Michuki applied. I am sure the same police officers who were working then with the Minister Michuki are still working, and the same officers in the Ministry of Transport who have had to reduce the road carnage are still working in the Ministry of Transport. So, we will ask the Minister to ensure that sanity comes back to our traffic system.

Many Kenyans have lost their lives and many breadwinners have either been killed or maimed on our roads. People who normally travel are people who are able-bodied; those who are working. They are the breadwinners for their families. These are the people who are dying every other time on our roads. They are not children. They are not old people. We are losing a lot of human capital. We should do something to reduce this road carnage. We are also losing a lot of properties. How many cars, trucks and other vehicles are we losing every day? When you calculate the number of spare parts and

vehicles that we have to buy, again, it will go into billions of shillings. So, who are the beneficiaries of these road accidents? The beneficiaries are the suppliers of spare parts, used or new vehicles, wheelchairs because those who are maimed must use them. Also beneficiaries are hospitals, particularly private hospitals.

We have to contain this problem. These things happen because of laxity by the traffic police officers and also the drivers. Sometimes the members of the public are to blame because when they see that the driver is not sober, they just let him drive. They wait for anything to happen. We have heard people saying that the driver was drunk, or that they tried to stop him but they could not. They still board the vehicle. They then complain that 30 or 20 people have been killed. Why do the members of the public allow themselves to be taken for a ride? Why do they board vehicles that are driven by drunk drivers?

Madam Temporary Deputy Speaker, we also know that in some areas particularly in North Eastern, drivers work for long hours. A driver will drive a bus from Nairobi, all the way to Mandera and then back in three days. Will you expect that driver to be very careful? Most of the times, they chew *miraa* to keep them awake. Just the other day, there was a terrible accident in Mwingi and we were told that the driver had not slept for three days. He was chewing *miraa* so that he could be awake. The reason why that bus got into an accident was because the driver slept while driving.

As other Members have said there are many traffic officers. What do they do when they stop these vehicles? Do they not check whether the drivers are sober, whether they are able to drive and whether they are awake? Also, it is good to enforce to the owners of the buses and the trucks to ensure that vehicles that are going long distances, for example, from Nairobi to Busia and from Nairobi to Mandera have more than one driver per vehicle so that when one driver gets tired, the other one takes over. It will be difficult for a driver to drive more than eight hours particularly on roads that are very rough and long like from Nairobi to North Eastern.

I would like the Minister to ensure that there are speed cameras on our highways. We must ensure that our traffic officers are re-trained properly. Also, the drivers need to be re-trained. Even if a driver has been on the road for 15, 20 or 30 years, it is good to give them refresher courses on the new rules and regulations that they are supposed to follow. The Ministry of Transport must work hand in hand with the Ministry of State for Provincial Administration and Internal Security so that the officers from both Ministries ensure that compliance is upheld. I would also ask the Minister for Transport to ensure that there are awareness campaigns in the media, in *barazas* and market places. The public must demand for the rules to be applied by the drivers and the traffic officers, so that we do not lose innocent lives carelessly.

With those few remarks, I support.

Mr. Ethuro: Thank you, Madam Temporary Deputy Speaker, for this opportunity. I also want to thank hon. Mututho for bringing this Motion. My heart grieves with the loved ones of those Kenyans and tourists who lost their lives.

If there is one thing that should make my good friend, hon. Kimunya, spring to action, it should be such things. If you look at the report which has been given on the black spots in Kenya, two of my areas which are black spots are not included. This is an argument that I have always advanced in this House that where some of us come from, even the police do not realize that we are part of this Kenya to the extent that they can

demonstrate the black spots. We have always lost lives along the road from Lodwar to Kalokol. We have been losing lives on the road from Lodwar to Kakuma at a place known as Nasiger where recently an Eldoret Express lorry overturned. We have asked Government officers to erect bumps on the road, but they never seem to listen. I do not know for how long they want such things to happen. At the time, we lost Prof. Wangari Maathai, we had also lost another Kenyan on the road to Mandera, namely, Edeka Ibrahim, a peacemaker of international repute. I do not know what the Minister for Transport would want to see for him to spring to action, so that we do not keep on talking about Michuki when he exited the Ministry ages ago. His Excellency the President Mwai Kibaki, in his wisdom, thought that he was going to get a more agile, younger, handsome fellow, who was just going to be a Mr. Fix It. We are extremely disappointed because even as early as 8th April, 2010, this Government promised to erect soft bumps on the section along which we lost 16 lives.

The Minister has heard us talk about Kenyans demonstrating. Let us not appeal to Kenyans. This House should not appeal but must demand action from the Government. These are the people we entrust with our taxpayers' money. I can assure you the moment the Minister moves as hon. Michuki did, Kenyans came in their droves and supported the Government. We do not need any plea. All we are looking for is leadership, direction and the Government to spring into action. We lost the former Member for Yatta through floods on a bridge. I have one bridge in Lodwar known as Kawalase on which we lose people including Government officers. In other countries, you can erect a few things that determine the level of water at any one particular time. This Government is just irresponsible, simple and plain. This Government has no time for the issues that matter to Kenyans.

I want to appeal to my good friend, hon. Kimunya; he is a good man; he is able and I really like him, but on this one, I want to tell him that today, we have spoken as a House. We have adjourned our business. Let our pleading not be vain. Maybe hon. Kimunya might become a Senator like me and he might not be a Cabinet Minister again, what would be his legacy to his nation? Is it that titles are like pieces of paper in the Ministry of Lands? Is it the Grand Regency in the Ministry of Finance? He should save Kenyans so that we will not be talking about Michuki, but about what Michuki started and hon. Kimunya accomplished. We have every reason to believe he can do even better than what the old tired good man, hon. Michuki, did. For him, he has everything going! Why are you not doing it, Mr. Minister? You cannot tell me that it is because the traffic police officers are in a different force. We are talking of one Government. If it is a problem for the Minister to deal with them, he should bring them to his department. In other countries, they call it road safety department. Then we get the police officers out of our roads. Do something. He is able. Why are you sitting on opportunities while Kenyans are dying, Mr. Minister?

With those remarks, I support the Motion.

Mr. Kaino: Madam Temporary Deputy Speaker, thank you very much for giving me this opportunity to contribute to this very important Motion.

It is regrettable that we have lost lives. Most of these people are professionals. We have lost doctors, nurses, engineers and other professionals of this country that this nation has invested in, but in one day, they are dead. Everybody is counting black spots. So, when you are approaching a black spot, you pray to your God that "please, God, help me.

Let me pass this one". Before you finish the prayers, there is another black spot. How many times are you going to pray before you reach your destination for God to answer your prayers?

The answer is in Mr. Kimunya's hands.

Hon. Members: Yes! Yes!

Mr. Kaino: This Minister is energetic and brainy unless he is cheating this House or he is reluctant to do the job. Otherwise, the man is able.

Hon. Members: *Anatasha!*

Mr. Kaino: Madam Temporary Deputy Speaker, we have talked about various places, but I do not see the one of Iten, where we have lost many lives. Four or five months ago, we lost 14 people. We lost ten people at the same place and, again, we lost four people.

Madam Temporary Deputy Speaker, the Minister must do some research because he has the people and money to find out what is the problem with these roads. Is it the corners? What is it? We want to know exactly what is there that leads to the many accidents. Is it hilly or what?

Madam Temporary Deputy Speaker, we talked about Mr. Michuki today. Malariaquin is not a very sweet tablet. It is very bitter but after swallowing it, you will get relieved. So, we want this Minister to apply very tough rules on the roads. Even if they are painful, Kenyans will remember him later on.

With those few words, I beg to support this Motion.

Mr. Chanzu: Madam Temporary Deputy Speaker, I rise to support the Motion of Adjournment and congratulate the Mover, Mr. Mututho.

Madam Temporary Deputy Speaker, the people who have been given responsibilities really need to stand up and act. We had a *Kamukunji* in this Parliament last week and we came up with a few rules, and today in the morning, Parliament had changed! *Bw Waziri*, what my colleagues and I are saying is that you leave the responsibility you have been given in this House of being the Deputy Leader of Government Business once in a while, go out there and get some of these things working. In fact, this is an era of reforms.

If you look at the Ministry of Water and Irrigation, you will realise that when Ms. Karua became the Minister, she instituted some changes and now you can see that some work is going on in that Ministry. However, the most unfortunate thing in this Ministry is that Mr. Michuki tried but the process was run down. I do not want to blame the current Minister very much because there was somebody after Mr. Michuki. When we called that Minister and told him as a Committee of Parliament that if something is happening in his Ministry and it is supposed to be handed over to the other Ministry, he cannot even pick up a phone and call his colleague and ask what is the feedback about this. He said that once he has dealt with a document in his Ministry, he puts it on the Out Tray and his business is over. This is the case and yet he is a Minister with a flag and enjoying all the benefits that one can enjoy in this country.

I think the Minister must be himself. If he can run the Ministry the way I remember he ran a club somewhere, and this eventually made the President recognise and appoint him a Minister, it can be good.

Madam Temporary Deputy Speaker, I think the biggest problem here is indiscipline in this country. This is not only in the highways. Even here in town where

bumps have been erected, somebody drives very fast across them. I have seen somebody hit a lamp post over bumps because he comes and breaks on the bumps, and the car gets off the road. I think there are concerted efforts to be done in three Ministries namely the Ministry of Roads, Ministry of Transport and the Ministry of State for Provincial Administration and Internal Security. The high handedness in the Ministry of Transport is the one that is creating a problem because even the policeman on the road, whatever he does, he cannot make a decision until he has passed over the information to the boss for the matter to be decided.

However, I think if we had a way of just charging people on the spot, so that the moment somebody is caught, his vehicle is taken away, then this thing would not happen. The reason why we need a combination is because of the road markings. I think the responsibility is for the Minister; the carnage is a matter for the Ministry of Transport.

Madam Temporary Deputy Speaker, on the issue of road signs and road markings, which I think his colleagues should be doing in the other Ministries, he will find that they are doing them. They do roads up to 50 kilometers and on some places you have potholes. You drive on a highway and you reach somewhere you find the road is in a very pathetic condition. So, I think it should be a combination. Going by the requirement that there is collective responsibility, I think the onus is on the Minister for Transport to be able to get the other sectors working.

Madam Temporary Deputy Speaker, the speed governors and safety belts were here but I think because of corruption--- I heard a colleague saying here that they were meant to enrich some people. They did not serve the purpose. I think we need to have speed governors in trucks so that their speed can be controlled.

Madam Temporary Deputy Speaker, Sir, the same thing is happening to *boda bodas*. I think we are forgetting this sector. I think we are forgetting this sector; although the Motion came because of the road carnage in Naivasha. In our constituencies, there are very many people who have been buried. My place is an example and it is because of lack of discipline and control by the police and the Ministry in the *boda boda* sector. So, we are saying that training, retraining and re-examination must become a policy of the Government. These drivers must be re-examined. Why should the ones who have caused accidents drive? I think they should be tested again, maybe, after five years, so that the others can learn a lesson out of that.

Madam Temporary Deputy Speaker, thank you for the opportunity and with those few remarks, I beg to support.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Muthama and that will be the last before we allow the Minister to respond, unless, of course, the Minister is magnanimous enough to give everyone a minute.

Mr. Muthama: Naibu Spika wa Muda, nashukuru kwa nafasi hii. Nasimama kuunga mkono Hoja ya Mhe Mututho, ambayo ni ya maana sana. Ni Hoja ambayo inahusu nchi nzima na wananchi wa juu, katikati na chini. Hapa sisi, kama viongozi, bali na kuwa tunalalamika na kusema kila jambo, tuna jukumu moja laa kilazima ambalo tunataka tuliangalie.

Naibu Spika wa Muda, barabara zetu zimekuwa za hatari ile haijaonekana. Kila mara sisi wanasiasa tukisimama, tunalalamikia waziri, polisi na sijui barabara, lakini hakuna mtu analalamikia waendeshaji wa magari wenyewe. Polisi wakiweka vikwazo katika barabara na kujaribu kuona magari ambayo hayafai barabarani, madereva hao

huja kwetu sisi tu viongozi. Tunaandamana nao kwenda barabarani. Tunasema watu wetu wananyanyaswa. Hakuna polisi leo anaweza kushika dereva wa matatu, lori ama basi na huyo polisi akose kulaumiwa kwamba anaitisha kiinuamgongo.

Naibu Spika wa Muda, sisi kama viongozi tunafaa tuongeze watu na kuwafunza; tuwaambie dhahiri ni lazima watii sheria za nchi, lakini hiyo hatufanyi. Kwa kufanya hivyo, tunawasaidia wananchi kuvunja sheria, na tukifika Bungeni tunasema: “Waziri, angalia jambo hili.” Ataangalia jambo gani kama yuko ofisini na polisi haruhusiwi kufanya kazi yake? Tunaomba kuwe na nidhamu miwongoni mwa watu wetu hasa madereva. Ningetaka kumhimiza Waziri ajaribu kuangalia namna ya kufanya kazi hii. Sisi viongozi tujitoe na tuwaambie watu wetu ni wakati wa kutii sheria za nchi. Kama gari ni mbovu, likamatwe na litolewe barabarani, na tusitafute sababu ya kutafuta kura kwa kuhimiza kwamba---

Mr. Ethuro: Jambo la Nidhamu, Naibu Spika wa Muda. Je, kazi ya Mhe Muthama ni kuleta mambo kwetu; hata ametaja kwamba sisi viongozi ndio tunatafuta kura kwa kuachilia lori litembee kutoka Rarieda kuja Nairobi au Naivasha kuua watu!

Mr. Muthama: Naibu Spika wa Muda, polisi wakiwashika watu, wanaenda kulalamika kwa viongozi. Wanapoenda kwa viongozi, tunawachukua na kuandamana nao barabarani. Tunafunga barabara na kusema kwamba polisi wanatafuta kiinuamgongo. Tukifanya hivyo, tunaleta kasheshe kwa akili za watu hao. Hawako tayari kubadilika na kutii sheria za barabarani. Wangeambiwa wafanye kazi kwa kutii sheria hatungekuwa na shida hii. Namwomba Waziri aangalie mambo haya. Lakini ni lazima kama viongozi tuwaambie watu wetu watii sheria. Tusipofanya hivyo, hakuna pahali tutaenda.

Bi Naibu Spika wa Muda, hili si jambo la idara hii au ile. Ni jambo linalohusu nchi nzima. Vile vile, tungependa barabara zetu zitengenezwe vizuri ili magari yaweze kwenda sawa sawa. Mbali na hayo, naomba tena tutii sheria katika nchi yetu ili tusiwe na wizi na ulaji rushwa.

Naibu Spika wa Muda, naunga mkono.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I realize that I have ten minutes and there are two hon. Members who have been my very good supporters in this struggle for bringing order in the Public Service Vehicles (PSVs) sector. I would like to just get their voice, at least, for the record. They are hon. Kathuri and hon. Gaichuhie. I could give them one-and-a-half minutes each just to address their constituents.

Mr. Kathuri: I would like to thank Madam Temporary Deputy Speaker and hon. Kimunya for donating a minute, so that I can voice my concern.

Madam Temporary Deputy Speaker, let me start by declaring my interest in this sector. I am a product of the PSV industry. As much as I may not be there now, I have a lot of sentimental attachment to that category of Kenyans. It is very important for us to realize that there are things that are not working well. I would want to state categorically – and I have the experience and expertise - that it is good to let this House know that the problem does not wholly lie with the Ministry of Transport. I would like to make it very clear that, even when hon. Michuki was the Minister for Transport, after he crossed over to the Ministry of State for Provincial Administration and Internal Security, which was the enforcing Ministry, it never became business as usual. That is because this whole process has been firefighting. All the time, we only react because there are accidents. All the time, the police do not want to involve the stakeholders to realize sustainable

enforcement. There is no way you would expect the Minister to do everything without involving those stakeholders, who are supposed to know exactly where the problem lies.

Madam Temporary Deputy Speaker, I would expect to see improvement even on the Nithi Bridge or its relocation, so that we can also improve road safety.

Thank you, Madam Temporary Deputy Speaker.

Mr. Gaichuhie: Madam Temporary Deputy Speaker, I want to thank the Minister for giving me that one minute.

Madam Temporary Deputy Speaker, the problems on our roads are brought by the Government. The Government has only concentrated on taxation. It does not care about anything else. When you cause an accident, you are fined and on the same afternoon, you are on the road again. They do not care what you have done. When they take your vehicles for inspection, it does not matter if your car is un-roadworthy or not, so long as you are able to pay that tax. You can drive your vehicle with all those stickers. So, I want to urge the Government to take drastic measures and not just give out the stickers. The Government should make sure that the vehicles are in good condition. If somebody causes an accident, there should be more punitive measures, other than just asking for fines. We only see policemen concentrating on conductors. You will see them early in the morning with a load van of conductors, who do not even drive. Drivers will be taken to court in the morning and, in the afternoon, they will be driving. If the Government is serious, it should make sure that drivers who are causing accidents are banned from the roads. If your car is un-roadworthy, it should not even be taken for inspection. It should be banned from the roads completely.

Thank you, Madam Temporary Deputy Speaker.

The Minister for Transport: I wish to thank the Members for their contribution on this matter and, particularly, the Member for Naivasha. May I take this opportunity to send my condolences and sympathy to the people who were affected in that accident because it falls within the category that you can classify as an accident rather than the other ones that were described earlier on as self-inflicted.

It is, obviously, very clear that carnage on our roads has been a challenge and not just in Kenya. Using our statistics, we are talking about 2,500 and 3,000 deaths per year. On a global basis, we are talking about 1.3 million people dying on roads. This is something which is expected to double because of people buying more vehicles, the stress levels increasing and many other factors unless we can do something together.

If you look at the causes, it is important for this House to appreciate one thing that 85 per cent of these accidents are caused by human behavior. Another 10 or 11 per cent are caused by the conditions of the vehicles. The issue in Naivasha falls within the 11 per cent, which is the condition of that vehicle. Another 4 per cent is the condition of our roads. We have done everything possible in terms of roads and the 4 per cent is gradually reducing. So, we know the causes. What we need to work on together is the human behavior.

Human behavior can be done, first of all, through awareness creation so that people know it is wrong to do it and also through rules, regulations, laws and enforcement. That is the challenge we have now. We have had the issue of HIV/AIDs in this country and we identified human behavior as a major contributor. The reason we are seeing success in HIV/AIDS prevalence rates going down is because people are willing to change their behavior because they can see what will happen to them. This is

something that has to be done using everyone, including ourselves, as leaders, going out there and telling people that if they do not change their behavior, they will die. This is the same approach we need to use. We need to have awareness creation. We should put in place rules, right from the 2003 Michuki Rules and the 2007 and 2009 rules. As late as three weeks ago, I gazetted some more rules.

It does not really matter how many policemen we put on the roads to enforce those rules until we have 85 per cent of our drivers changing their behavior. In a civilized society, people obey rules. In a society that is not civilized, people wait for the foreman to come with a whip to force them to obey the rules.

I was in Ethiopia yesterday and we drove round the city. I noticed that I did not see a single policeman in Addis Ababa. I asked the Minister for Transport; "What is happening? I can see vehicles moving?" He told me, courtesy was part of the Ethiopian DNA. People know that if they do not give way, they will all be stuck. Try that in Nairobi. You know what happens whenever there are rains. This is something we need to work on. It does not matter how many Ministers come to the Ministry of Transport or the Ministry of State for Provincial Administration and Internal Security or how many policemen you put on our roads. You can put a policeman in every vehicle but as long as Kenyans continue behaving as they are, we will not get anywhere.

However, we are not giving up. I want to give you hope. I am very happy that Members were confident that we can deliver. I want to assure you that we will be putting measures in place. I will be sharing these measures in detail with the House. We have agreed with the Departmental Committee on Transport, Public Works and Housing that we will be taking them through all these measures. I will share them with the rest of the House so that you can see what we are doing. Some of them will come through the framework of a Bill that we will be introducing in this House to enhance the traffic fines and bring some changes to the Traffic Act. We also want to bring a National Transport and Safety Authority that will be looking at these matters and remove some of the issues that we have had conflict with between vehicle inspections and registration of vehicles. We will do this by bringing all these departments under one holistic department so that we can address all these things together.

Those are some of the issues we have been working on and it is unfortunate that they had to take a back burner because of the constitutional issues. The Bill has been at the Attorney-General's Office for the last one year and I have been pushing and waiting for it so that I can bring it to this House. We have done our bit and we will continue doing what we need to do.

We will look at the input that Members have given in this House today. However, I can guarantee you that all those issues have been raised by the stakeholders. We brought them on board by putting them in the Bill and we are waiting for the right moment to bring it before this House. In the meantime, let us ask Kenyans to remember that Kenya is a civilized society. If people take it from that angle and start behaving in a civil manner, we will not find people dying on our roads or need to be told that by a policemen.

I know that time is short but let me tell you that we have 94,000 public service vehicles on our roads and over 2 million vehicles in total on our roads and about 600, 000 *boda bodas* but less than 3,000 policemen dedicated to oversee these vehicles. Even if

you allocated, how many policemen and policewomen would you allocate to the three million vehicles to ensure safety?

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we have come to the end of today's sitting. Therefore, the House stands adjourned until tomorrow, Wednesday, 9th November, 2011, at 9.00 am.

The House rose at 6.30 p.m.