

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 24th November, 2011

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

APOLOGY /COMPENSATION FOR UNLAWFUL ARREST/ DETENTION OF MESSRS. SHIKUKU AND SERONY

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, on 12th May, 2011 I presented a petition on behalf of Martin Shikuku and Jean-Marie Seroney. The Chair ruled that we should have a response within 21 days. Now, 183 days later, there is no response. You, again, ruled that on the following Tuesday we must have a response from the Ministry of State for Provincial Administration and Internal Security. Today is 24th November, 2011, that is, another 21 days from the date you required that a response be given here, yet we still have not had a response.

Mr. Temporary Deputy Speaker, Sir, Jean-Marie Seroney died a very poor man following a ruling that was made from where you sit now. The forces then, in total brutality, arrested him and he was never the same again. It is also said that some of his properties were inherited by people who are still in Government or somewhere in power.

Mr. Martin Shikuku is still in very bad---

The Temporary Deputy Speaker (Mr. Mungatana): Order, Mr. Mututho! I think your issue has to do with when you will get the answer to the Petition. You have already repeated that in the Petition. Let us save time and listen to what the Minister has to say.

Mr. Ojode, your Ministry has not been able to respond to the Petition on behalf of Jean-Marie Seroney and Martin Shikuku despite the directions from the Chair.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, it looks like I am at a loss. Let me have some time and check on what we need to do as a Ministry. I want to promise this House that if we need to respond to it, I will definitely come up with something next week on Thursday.

The Temporary Deputy Speaker (Mr. Mungatana): Hon. Mututho, I am sure Thursday next week is not too far.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, Thursday is not very far, but I seek your indulgence to understand the pain that the families of the two people have gone through. I also want you to understand that what we are asking for basically is

something that the Assistant Minister can check this afternoon and tell us whether there has been any action or not.

Mr. Temporary Deputy Speaker, Sir, I will go by your directions, but I would have really wished he responds on Tuesday, afternoon.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Mututho, let us just go by what the Assistant Minister has proposed. It is only two days after the Tuesday you have suggested. It will be on Thursday. Please, Assistant Minister, acquaint yourself with what is required.

ILLEGAL ACQUISITION OF PUBLIC LAND IN BUSIA COUNTY

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, I wish to present a Petition on behalf of 20 residents of Busia County. I will read the Petition and then give a very brief background to the problem.

“We the undersigned sugar-cane farmers, stakeholders, and residents of Busia County in western Kenya draw the attention of the House to the following:

1. In August, 1996 the Government, vide Legal Notice No.4844/5, compulsorily acquired 843 acres of land belonging to peasant farmers in Busia County known as Bukhayo/Nasewa/1500 for purposes of establishing a sugar factory.

2. Subsequently, the said parcel of land was mysteriously, and without knowledge or consent of all stakeholders concerned, registered in the name of a private company known as Busia Sugar Company Limited.

3. We verily believe that the said transfer of compulsorily acquired public land using public funds which had public interest for purposes of establishment of a sugar factory to the said private company and individuals was illegal, fraudulent, unlawful and against public interest. Consequently, any dealings by the said private company and individuals were null *ab initio* and the same should revert to the public.

4. Petitioners are still desirous of having a sugar factory established on the said parcel of land, which is now in danger of being disposed of by a few selfish individuals. We would like the Government to intervene and have the land revert to the public to be used for its originally intended purpose for the benefit of all the people of Busia County and the general public.

Therefore, we humbly pray that the Government of the Republic of Kenya does the following:

1. Cancels all dealings relating to the land originally known as Bukhayo/Nasewa/1500 and have the same revert to the public and a new title deed issued in the name of Busia County;

2. Carry out thorough investigations on how public land acquired with taxpayers' money ended up in the hands of private owners with a view to understanding the proceedings involved in the said fraudulent dealings and protect the public interest;

3. Immediately facilitate the establishment of a sugar factory on the said land, Nasewa in Busia County as originally intended; your petitioners will ever pray”.

Mr. Temporary Deputy Speaker, Sir, I will give a very brief background that has led to this problem. In 1996, the Government compulsorily acquired 843 acres for a specific purpose of putting up a sugar factory. After that, somehow and mysteriously, the

land reverted to a private company. As you know, and you are a lawyer, when you have land compulsorily acquired for use by the public, it cannot revert to a private company.

Therefore, we would like to request that this matter be delved into expeditiously, because it now lies between the Ministry of Lands and the Ministry of Agriculture. We wrote to the Ministry of Lands and they replied saying that it was not their problem. They said that the matter arose as a result of a letter from the Ministry of Agriculture. I, therefore, would like to propose that the Ministry of Lands and the Ministry of Agriculture jointly deal with this problem. We would also like the matter to be dealt with by the Departmental Committee on Lands and Natural Resources and the Departmental Committee on Agriculture, Livestock and Cooperatives. I have a lot of evidence which I would like to present to the two committees. This is because as early as August, 2011 Mumias Sugar Company almost fraudulently transferred this same land to a private buyer, but a court stopped them. In the accounts they do not show any money owed to them by Busia Sugar Company.

I would like to pray that this House takes up this matter and the two Departmental Committees delve into it so that we can arrive at a conclusion.

The Temporary Deputy Speaker (Mr. Mungatana): This Petition being important and of national interest, I will allow one or two comments.

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I want to congratulate Mr. Okemo and the people of Busia County for fighting for the land in Nasewa. This Petition has come at a very important time in our history as a nation, when we are seeing the Government fighting to recover public land from individuals. For the first time we are seeing Kenyans fighting for public interest to override selfish interest. It is, therefore, necessary that this Petition be taken up with the seriousness that it deserves, so that this land that was procured compulsorily by the Government with taxpayers' money reverts to the people of Busia County. We know this Government has done it before. In Kitale we had a situation where the Mount Elgon Hospital was in the hands of a few private individuals. The Government revoked the title of the hospital and issued a new title deed to Kitale District Hospital. The hospital reverted to the public. We are asking that this Petition be taken up seriously and a new title deed be issued in the name of Busia County.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Mungatana): Please note that it is a Petition which has already been presented. The Presenter of the Petition, under our Standing Orders, had five minutes which he has already used. The rest of the Members, under Standing Order No.208, will have a total of five minutes. So, Dr. Khalwale, do one minute because I have seen two other hon. Members who want to comment.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I also want to support this Petition and kindly plead with this National Assembly that it is the last hope for the people of Nasewa in Busia on this matter. This is because some powerful people in this country, who come from the old school of Moi politics, have actually been fighting this community and aiding the illegal process of denying the locals a chance to enjoy this property. Our only hope is this House. I support.

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I stand to support this Petition. It is not only the people of Nasewa, you will find many other Nasewas in this country, where public land has been taken over by private individuals. This Petition has come at a time when even the Kenya Airports Authority and the Government are out to reclaim all

their land. The hon. Member for Nambale sought a Ministerial Statement from the Minister for Agriculture. This issue has been going round and round in this House. With your indulgence, we want this issue to be solved. A Parliamentary Committee must take up this matter and ensure that the people of Nasewa have their title deed as soon as possible.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I realize that under our Standing Orders we are supposed to respond within 21 days. The Departmental Committee on Lands and Natural Resources is involved in a very serious exercise. I have just conversed with the Chairman. However, the Departmental Committee on Agriculture, Livestock and Cooperatives has no difficulty in coming back to the House in 21 days to respond.

Mr. Temporary Deputy Speaker, Sir, if you so wish, you could direct the matter to the Departmental Committee on Agriculture, Livestock and Cooperatives and then we shall be able to dispose of it, otherwise, we will have to wait until January or February of next year.

Mr. Wamalwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. Apart from the Departmental Committee on Agriculture, Livestock and Cooperatives, this matter lies squarely in the province of the Ministry of Lands. Hon. James Orendo was already acting on the matter. Due to the gravity of the matter, it is important that we have a joint committee dealing with the matter.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, in my submission I said that there is an official letter from the Ministry of Lands, saying that they have absolutely nothing to do with it, and that we should check with the Ministry of Agriculture. I could table the letter from the Ministry of Lands saying that the matter lies with the Ministry of Agriculture.

The Temporary Deputy Speaker (Mr. Mungatana): I thought that in your prayers you had requested that the two Departmental Committees be involved.

Mr. Okemo: Mr. Temporary Deputy Speaker, Sir, I am not changing my prayers. I was just trying to correct the impression created by hon. Wamalwa. The two committees need to sit together.

The Temporary Deputy Speaker (Mr. Mungatana): That should not be a difficult matter. I wish to direct that that Petition, under our Standing Orders, be committed to the Departmental Committee of Agriculture, Livestock and Cooperatives and that of Lands and Natural Resources. The two committees will work jointly and report to the House within 21 days.

POINT OF ORDER

EXTENSION OF DURATION OF JOINT PARLIAMENTARY COMMITTEE ON DEMOLITIONS/EVICTIONS AROUND AIRPORTS

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, you may recall that on 15th November, 2011 and 16th November, 2011 the House, while debating an Adjournment Motion on demolition and evictions in Kyang'ombe/Maasai Villages, and Syokimau referred the matter to four Departmental Committees, namely the Departmental

Committee on Administration and National Security, the Departmental Committee on Lands and Natural Resources, the Departmental Committee on Local Authorities and the Departmental Committee on Transport, Public Works and Housing.

I wish to report that we are making progress. We have met a couple of times and appointed the Chair and Assistant Chairpersons. The joint Committee has already visited Kyang'ombe, KPA, Maasai Village and Syokimau. We have also had meetings with the leadership of Kenya Airports Authority (KAA), officials from Mavoko Municipal Council, evictees and victims, Nairobi City Council, the Attorney-General, Commissioner of Lands, Director of Survey and Physical Planning, hon. Waititu, hon. Ndeti, and hon. Yusuf Hassan from the affected constituencies.

We are yet to gather more evidence given the sensitivity of this matter. We have yet to meet Permanent Secretaries and Ministers from the Ministries concerned, that is, Ministry of State for Defence, Ministry of Lands, Ministry of Local Government and Ministry of State for Provincial Administration and Internal Secretary. We are also yet to meet the Registrar of the Judiciary, the Auditor-General and the professionals from the land sector. We are yet to tour Mitumba and Eastleigh Estates which have been affected. Therefore, I kindly request that you allow us an extra one week and give us the opportunity to table a report before this honourable House not later than 7th December, 2011.

The Temporary Deputy Speaker (Mr. Mungatana): Yes, indeed, I have heard your prayer and it is granted. So, the time for the joint committees as mentioned will be extended by one more week and we expect that report in the House expeditiously. Thank you.

Next Order!

QUESTIONS BY PRIVATE NOTICE

MEASURES TO REDUCE PRICE OF MAIZE FLOUR

Mr. Kiuna: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Trade the following Question by Private Notice.

(a) Why has the price of maize flour not reduced and yet the price of maize has gone down?

(b) What measures is the Minister taking to ensure that the price of the commodity is reduced?

Mr. Temporary Deputy Speaker, Sir, I would like to notify you that I do not have a written answer.

The Minister for Trade (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, may I mention here that this Question was presented to the Ministry of Trade but we wrote to the National Assembly to tell them that it is not within our mandate. Maybe it should be directed to the Ministry of State for National Heritage and Culture or the Ministry of Finance. The Ministry of Agriculture wrote to us saying that it is not in their mandate. So, we wrote to the National Assembly advising that it should be directed to the Ministry of Finance. I do not know what transpired in-between. Allow me to explain why it is not a Question for the Ministry of Trade.

The issue of the price of maize is very sensitive and the Ministry of Trade does not deal with any aspects relating to maize, either at the level of cultivating, harvesting, sale, storage, milling, packaging, distribution and even in the determination of price. The Ministry that deals with Price and Monopolies Act is the Ministry of Finance. Therefore, I beg that this Question be redirected even though we took the initiative to write to the Ministries and to the National Assembly.

The Temporary Deputy Speaker (Mr. Mungatana): Thank you, Minister! We have some communication from the Ministry of Agriculture and Ministry of Trade, all of them not wanting to respond to this Question. They say that it is not within their mandate. The Leader of Government business should help us here.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, allow the Government to write a note to the Clerk on whose docket this Question falls and who is going to answer it next week.

Mr. Kiuna: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Question is very sensitive because it is affecting the lives of many Kenyans. I asked it knowing very well that it is going to help many people but it seems that there is some conspiracy within the Government to run away from this sensitive Question. Would I be in order to request you as the Chair to instruct the Government to come up with a specific answer and particularly for the Ministry which is in charge because they keep on changing goal posts from one Ministry to the other?

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Ojode, who is standing in for the Leader of Government Business? You need to listen to one or two points of order then you can respond together.

Mr. Bahari: On a point of order, Mr. Temporary Deputy Speaker, Sir. The issue of price of maize is a sensitive matter. It is so key that I thought the Government would take up this matter seriously. Indeed, I can now understand why these prices have skyrocketed when the price of maize has gone down because this Government does not care for the poor Kenyans. Would I be in order to request you to defer this Question and refer it to the Prime Minister so that he can decide which Ministry is going to answer it?

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We see a very lax Government. This Question was forwarded to the Ministry on the understanding of the Clerk's Office that the Question belongs to that Ministry. So, when that Ministry received the Question and found that it was not meant to be answered by them, they did not have to wait for the time to lapse for it to come to the Order Paper. Instead, they should have redirected it as provided for under our Standing Orders. This is a situation where the Government avoids answering Questions and buys time by waiting for the Question to come to the Order Paper and then they revert it from the Floor of the House. If you make a ruling on this, let it be a standing rule that any Question that any Minister feels is wrongly referred should be redirected immediately.

The Minister for Trade (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I think Mr. Kabogo did not understand what I said or what you read. What he says should have been done was actually done. The Question was redirected in accordance with our procedures in Parliament. The Ministries that were supposed to respond, that is, the Ministry of Agriculture which deals with the planting and harvesting of maize, purchasing and storage was informed. The Ministry of Finance that is mandated with the

execution of the Price and Monopolies Act was also informed in very good time and there is nothing more we could do as the Ministry of Trade other than that. But we did the needful at the right time. May I mention here that what Mr. Kiuna has said that the Government is shifting goal posts and avoiding or delaying a response to this Question is not true. It is just a Question. A statement like that is totally uncalled for because the Government knows what it is doing.

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have said on the Floor of this House that four families are controlling 67 per cent of the *Unga* or Flour Industry. We have said in this House that the high cost of living in Kenya is induced by cartels. The calculation of the price of flour based on the price of maize is an open formula and even a class eight pupil would come up with an answer. We cannot sit here to wait for Kenyans to continue sleeping hungry because their salaries are fixed and the Executive cannot apply a simple formula.

A packet of *unga* should not be more than Kshs65. That is a fact. Even at Kshs2,500 we are using a very inefficient conversion rate of 72 per cent. Is the Minister in order to constantly defend his colleague and this Government that they are doing something whereas we know that they are in deep slumber awaiting Kenyans to exhaust all their savings on food? This is a situation that can be corrected?

The Temporary Deputy Speaker (Mr. Mungatana): I am going to listen to the Leader of Government Business. We must move on!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, this is a very sensitive matter and I wish to say the following: I want the Clerk to direct this Question to the Ministry of Finance so that it appears on the Order Paper on Wednesday afternoon.

The Temporary Deputy Speaker (Mr. Mungatana): This is the ruling of the Chair. I direct this Question to the Ministry of Finance because it seems both the Ministry of Agriculture and the Ministry of Trade are pointing in the direction of the Ministry of Finance. So, Ministry of Finance, please, get your facts and come ready on Wednesday afternoon. May this Question be on the Order Paper on Wednesday afternoon.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Is it on the same?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, it is not on the same. I seek your indulgence and I go by your direction but because this was a Question by Private Notice, I do not see the reason why the Minister would want to push it to Wednesday and yet Tuesday is a session of Parliament and we have a whole weekend including Friday and Monday to work on this. People are suffering and I think this Question can be answered on Tuesday, with your indulgence.

The Temporary Deputy Speaker (Mr. Mungatana): I have heard you, Dr. Nuh. I think it would be useful for the House to let the Government get its act in order. So, let us just give them one more day. Let the Question be on the Order Paper on Wednesday afternoon. I so rule.

(Question deferred)

The next Question is by Mr. Imanyara but I have communication that Question No.2 by Private Notice and Question No.3 by Private Notice shall stand deferred until---

Mr. Linturi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): You cannot rise on a point of order until the Speaker finishes. Please, take your seat.

Mr. Linturi: I stand guided but I will stand up later.

The Temporary Deputy Speaker (Mr. Mungatana): So, Question No.2 and Question No.3 will be deferred and should appear on the Order Paper next Thursday.

ILLEGAL LAND ALIENATION BY MERU
COUNTY COUNCIL CLERK

(Mr. Imanyara) to ask the Minister for Lands:-

(a) Is the Minister aware that the Clerk of the Meru North County Council has unlawfully alienated 1,000 hectares of public land to private developers, including himself?

(b) Could the Minister provide a list of beneficiaries (including the respective acreage) of the irregularly alienated land?

(c) What steps has the Minister taken to revoke the illegal alienation?

(Question deferred)

MEDICAL ASSISTANCE FOR AILING HON. JOSEPH O. JOWI

(Mr. Shakeel) to ask the Minister for Medical Services:-

(a) Is the Minister aware that Hon. Joseph Odera Jowi, a former Cabinet Minister and Kenya's Permanent Representative to the United Nations, who was instrumental in the establishment of the United Nations Environmental Programme (UNEP) headquarters in Nairobi, is currently ailing and is in need of medical attention?

(b) Could the Government consider meeting his medical bills, given the distinguished service he rendered to the nation?

(Question deferred)

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I rise on a point of order on this particular matter because I am seeking your guidance.

The Temporary Deputy Speaker (Mr. Mungatana): Which one?

Mr. Linturi: The matter in regard to Question No.2 by Private Notice by Mr. Imanyara. This is because, as far as I am aware, we do not have a county council in this country by the name "Meru North". I am trying to assist so that the time of this House is not wasted. So, as we defer the Question, it should be directed either to the Ministry of Local Government or any other Ministry and also check the facts to clearly indicate which county council he is referring to.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Linturi, I think that is useful. I direct that the Clerks-at-the-Table get in touch with Mr. Imanyara to clarify the facts so that this Question is answered.

Next Question by Dr. Nuh!

NON-PAYMENT OF SALARIES TO POLICE
OFFICERS IN MADOGO/BANGALE

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

(a) Is the Minister aware that police officers based in Madogo and Bangale Police Stations have not been paid their salaries for October 2011 and, if so, why?

(b) When will they be paid?

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

(a) I am aware that 21 police officers of Bangale Police Station have not been paid their October salaries. However, all police officers at Madogo Police Station have been paid their salaries. This was occasioned by the payroll cleansing which was being undertaken by the Human Resource Section of the police department. The officers affected were initially under Garissa Police Division in North Eastern Province, but the two stations; Madogo and Bangale were reverted to Bura Police Division under Coast Province occasioning the need for the cleansing. Every officer was required to present himself or herself at the station where they work and physically collect his or her salary or payslip for accountability purposes. Those police officers who were affected never collected their October payslips. The same were returned to the Police Headquarters to ascertain the ownership and hence the salary delay. So far, they have been identified and the matter has been resolved.

(b) The 21 officers will be paid their October salary this month, November 2011.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the officers we are talking about are the same officers we were complaining about yesterday that they are still my constituents and deserve to be treated very well by this same Government. But Mr. Ojode says that these officers were supposed to report to their work stations; does it mean the 21 officers who were all serving under Bangale were not at the work station? Where were they because that is their work station? They were at Bangale; that is where they serve! So, which is this other work station that Mr. Ojode is talking about? Which is that station where they were supposed to report to physically?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the hon. Member knows that there are some sections of the stations which were taken back to the Coast Province. When the officers went there to pay salaries, their payroll was transferred to the Coast Province side. It was an error which we have since corrected. I must apologize for that particular error. Nevertheless, this time round, they will get their salaries on the November phase.

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, for the Assistant Minister to fail to pay salaries to these officers, how does he expect them to survive or is he suggesting that they survive through corrupt means?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I think I mentioned here that we wanted to identify the officers who were going to get the salaries otherwise you cannot just pay salaries to people who cannot identify themselves. It was an anomaly of which I have---

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister says they wanted to verify physically, is it the Minister himself who wanted to see these officers physically because they were at their work station? They are under an OCS and an OCPD who is at Bura and they are physically in their work stations. So, what does he mean by verification? Are they documentation that they are supposed to be carried to Nairobi?

The Temporary Deputy Speaker (Mr. Mungatana): So what is the point of order?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to mislead the House that these officers have not been physically identified when they are at their work station physically?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I mentioned that when we transferred the station to Coast Province, the payroll where their names were supposed to appear was not in the Garissa side. So, what happened is that we transferred the names to the Coast side. It was an anomaly, but since we have corrected the situation, I do not think there will be a problem. He should thank us for having done that immediately.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, this country should be really worried when they listen to this Assistant Minister because if the only way through which we can discover or be sure that our security officers are existing is through the payroll, then that is so serious. Even after realizing that these 21 police officers have not been paid, the Ministry has not made an attempt to pay them even before the end of November. Why must these police officers wait until the end of November to be paid their October salary together with the November salary? Why could the Government not pay them their salary immediately they discovered that there was an anomaly in their payroll?

(Applause)

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I had said that there was an error and it has since been corrected. The amount of money which was supposed to have been paid had already been brought in the payroll in this financial year.

Mr. Litole: On a point of order, Mr. Temporary Deputy Speaker, Sir. Where there is a problem of payment, the Government can pay these officers through a voucher. Is the Assistant Minister in order to cheat us that these people can only be paid at the end of this month?

The Temporary Deputy Speaker (Mr. Mungatana): Order, Mr. Litole! Please, withdraw the word “cheat”!

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, I withdraw that and say that Mr. Ojode is misleading the House and is he in order?

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Ojode, I think you need to address yourself to this: Why could you not, having discovered the anomaly, arrange for immediate payment or even pay them through vouchers as suggested?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, it looks like some of us do not know how salaries are paid. The Government pays police salaries through accounts.

(Mr. Litole stood up in his place)

The Temporary Deputy Speaker (Mr. Mungatana): Please, allow the Assistant Minister to speak!

Mr. Litole: On a point of information, Mr. Temporary Deputy Speaker, Sir. I want to inform the Assistant Minister that those of us who are over 60 years and I know many of them in the Government are being paid through a voucher. So, if he does not know that, I will give that information free of charge.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, unfortunately, the police officers who are working here or working at Bangale are not on contracts. It is also quite unfortunate that during his time they were given contracts and they were being paid through vouchers.

(Laughter)

These officers are not on contract; they are paid through bank accounts. When this error was detected, we had to put their names again afresh, so that they get their money through bank accounts.

The Temporary Deputy Speaker (Mr. Mungatana): Last question, Dr. Nuh!

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): I want you to put it as the last question.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Ojode in order to evade answering the question by Mr. Mbadi who asked the moment they discovered the anomaly, why did they not pay the money even for the last one week or today? Why has he to wait for the November salary because they are using bank accounts?

The Temporary Deputy Speaker (Mr. Mungatana): Indeed, the Chair has asked that you address that issue.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, those whose names were missing in the payroll did not come with their identification up to last week. That is why the thing was delayed. Otherwise, I would have paid them a long time ago. I need not wait until the end of the month! I would have paid them in the last two weeks so he should not worry. He should tell the officers to collect their money from their bank accounts.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has kept on repeating that they have not provided their identification or they have not been physically identified. I just called the OCS a few minutes ago and confirmed that they do not have any circular to the effect that they should report anywhere else or that they should provide any other documentation. So, could he be candid enough and tell us what documentation or identification these officers need so that they can be paid?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the letter which we wrote did not go to the OCS. We wrote letters directed to those who were affected.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Mungatana): Before you sit, Mr. Ojode, I think we need to get the undertaking from you that when they are receiving their next salary, they will be two salaries together.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I want to confirm to this august House that the officers who missed their October salaries will definitely get their salaries in their November payslips in their bank accounts. So, that means we are talking of two salaries in one month.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to say that Government communication can go to a junior officer without copy to his senior? If that is the case, could he table a specimen or a copy of the letter that he purports to have sent to the officers?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, if you do not get your salary, the personnel contacts you directly saying that they want you to come with specific documents for them to fast-track the payments. That does not necessarily have to go to your seniors because they are not affected by this or the OCS is not affected by this. It was just an anomaly.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Mungatana): Order, Hon. Members, we must move on!

Next Order!

ORAL ANSWERS TO QUESTIONS

Question No.747

FATE OF “PYRAMID SCHEMES” 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 schemes” victims will be refunded their money; and,

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

The Temporary Deputy Speaker (Mr. Mungatana): Yes, Mr. Attorney-General!

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am interested in part “c” which has been pending and not parts “a” and “b”.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Attorney-General, you will need to direct yourself to part “c”.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I must thank Mr. C. Kilonzo for saving me the task of answering parts “a” and “b”.

However, I beg to reply.

(c)The Director of Public Prosecutions (DPP) has confirmed that the Government has filed six cases against suspected directors/proprietors/officials of the pyramid schemes in various parts of the country. The DPP has further confirmed that of the six cases, one was withdrawn under Section 87(a) of the Criminal Procedure Code. The rest

of the cases were all scheduled for prosecution. I have set out the seven cases available. If you direct, Mr. Temporary Deputy Speaker, Sir, I will read them out.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, we have said that this matter has been in this House for the last one year. Has there been any intention by the Government to prosecute directors of these companies? The list provided only includes two directors. However, we are talking about 35 directors in the report by the task force led by Nyenze. You have only dealt with one director of one company which also has other directors. What happened? Why has the Government failed to take action on the directors of Clip Investments, Kenya Business Community SACCO Ltd, Sasanet Investment Co-operative, Sasanet Ltd, Jitegemee SACCO, Family in Need Organization, Global Enterprise, Spell Enterprise and others? Why is it that the Government has refused to investigate, leave alone taking to court all the directors and officials concerned?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I have brought to this House the information that I have received from the DPP, an independent officer under the Constitution of Kenya, duly mandated to act at his utmost discretion depending on law and the evidence available to him. I regret, I am not able to improve on that answer.

Mr. Duale: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no discretion of the DPP nor is it the discretion of the Attorney-General to be very selective in what to provide to this House and the nation. The information he has given is that he has brought what the DPP has given him. Is he in order to fail to understand that the answer that this House requires must be an answer that satisfies hon. Members and the nation at large?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, the DPP has informed me of the cases that he has prosecuted and of the steps he has taken in that regard. I am not, unfortunately, authorized by law to supervise his operations. As these Questions are increasing in this House, it may very well be the views of hon. Members that the Attorney-General should be empowered to supervise the DPP. I would be more than happy to assume those duties!

The Temporary Deputy Speaker (Mr. Mungatana): Prof. Muigai, you would help the House if you could tell us the directors of the other companies that Mr. C. Kilonzo has talked about, whether there are, in fact, any investigations going on and what the status is. Help the House! Help us with that information!

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, in fact, the last time I was here and this Question was raised by the hon. Member, the answer I gave then contained quite an amount of details about what has happened to the other directors who are known, including I recall from memory that some of them had passed on.

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am getting a bit disturbed because every time the Attorney-General stands up, he becomes very academic, acting like a university professor. Is he in order to tell us that he cannot supervise the DPP and, therefore, the information which is given by the DDP cannot be interrogated? Who can do so? What I am driving at is whether you could give directions on who would be representing the DPP if the Attorney-General himself cannot do so. Who would be doing that?

The Temporary Deputy Speaker (Mr. Mungatana): Prof. Muigai, please, note the points of order. I want to take two or three and then you respond.

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. A majority of the directors of these pyramid schemes are alive. The Attorney-General has said that the reason why they cannot investigate and institute criminal proceedings is because they have died. I have a list of directors. They are 35. If they are dead, could he table a list of death certificates of these directors here? He is misleading the House! Is he in order to purport that people we know have died yet they are alive?

The Temporary Deputy Speaker (Mr. Mungatana): Mr. C. Kilonzo, let us be fair! He did say that all the directors are dead. He talked about the one he recalled from memory when he was answering the last question.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, there are 35 directors. My question is why action is not being taken against the other directors. He cannot hide behind the death of one to cover the rest.

The Temporary Deputy Speaker (Mr. Mungatana): Prof. Muigai, please, note that.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, the Attorney-General has raised a very pertinent issue. If this House is to move forward in terms of issues that touch on the DPP, I think the House needs to come out clear on who the DPP can give information that is satisfactory to pass to this House because he does not appear in the House.

(Applause)

The Attorney-General rightly says that this is an independent Office, in that the DPP will answer what he thinks is fit and the Attorney-General cannot force him to do otherwise. So we need to find a mechanism in this House, probably, through an amendment or something, so that the DPP can answer Questions of this House through the Attorney-General to the satisfaction of the House.

The Temporary Deputy Speaker (Mr. Mungatana): But that is not a point of order; that is a suggestion. If you are rising for a question, let us ask a question. If it is a point of order, let us ask a point of order. Prof. Muigai, just deal with the points of order and then we will take the questions.

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I must say that I am a bit surprised that I am accused of being academic when what I have presented to the House is a factual list about the actions taken by the DPP. Nothing about it! I did not discuss theoretically or conceptually what the DPP ought to do in a well functioning democracy, with an independent Judiciary and other things that are academic. So, I want your protection, Mr. Temporary Deputy Speaker. I am a practical man. I have given a practical answer.

Mr. Temporary Deputy Speaker, Sir, let me come back to the issue that was raised by the hon. gentleman. First of all---

Hon. Members: Which gentleman?

The Temporary Deputy Speaker (Mr. Mungatana): Attorney-General, please, address the Chair.

Proceed.

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, through you, I am addressing myself to the hon. Members who raised the points of order. There seems to be a

misapprehension that the DPP, whether independent or answering to the Attorney-General, is required to prosecute each and every person against whom a complaint is made. That is not the law. It has never been the law. Every prosecutor enjoys prosecutorial discretion. Upon a complaint being made, every prosecutor must ask himself or herself: Do I have the evidence? Do I have the documents? Do I have the witnesses? Ultimately, he must ask himself: Am I looking at a case with reasonable chances of success?

Therefore, the prosecutor does not prosecute every case. I do not want to second-guess for the DPP. I would, however, imagine that the DPP---

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): You are out of order, hon. K. Kilonzo! Let the Attorney-General finish!

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I need to remind hon. K. Kilonzo that it is the Kenyan people and this House that decided that after 40 years of the Attorney-General being a prosecutor, they were unhappy with that position and they wanted an independent Director of Public Prosecutions. If the Kenyan people or this House have changed their mind on that point, since we are in the mood of cleaning up the Constitution, this would be a good opportunity to re-visit the issue but until we do so, we must respect the independence of the DPP. This Government has no reason to protect any person who has committed a criminal offence. If these 35 directors, or any of them, have committed a criminal offence, the DPP will prosecute them.

Thank you.

The Temporary Deputy Speaker (Mr. Mungatana): Hon. Members, let us have questions now, starting with the Member for Ikolomani. He has really been standing up. We will then have the Member for Lari.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. The Attorney-General has a lot of respect for the judicial arm of this Government, and he knows that this is not a banana republic. The task force, which cost the taxpayer a lot of money to come up with this report realised that there was room in which the Attorney-General would move on the properties that were purchased with the proceeds of the investments of the people who were conned in these pyramid schemes. The task force, on page 18 of its report, tells the Attorney-General the name of the company, the name of the director and what property this person has.

Mr. Temporary Deputy Speaker, Sir, just allow me to bring the Attorney-General to speed. For instance, there is the company called Sasanet Investments. The Director is Mr. Michael Chege. The task force found that he owns 30 housing units worth Kshs60 million in Sunrise Estate and 11 acres of land in Nyari. He has Kshs40 million deposited for purchase of land and four flats along Chaka Road, and so on. The task force also found that a man in Kakamega called Patrick Ayitsi Ongoi owns vehicles he bought from these schemes.

The task force also found out that DECI was not only operating under George Donde, but he was supported by people on the ground, including powerful politicians in Vihiga and other politicians in Ikolomani. Why has he not moved to ensure that he secures these properties with the eventual view of restitution to those innocent Kenyans who were conned, including *mama mbogas* and *boda boda* boys? Some people sold their cows. These include my own watchman, Protus Mutamba, who sold his cow.

(Laughter)

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I want to start by commiserating with the hon. Member's watchman and all those others who lost their money in this very tragic and unfortunate scam. Unfortunately, the Attorney-General's Office is a fairly small office. We do not have the resources to help private individuals to recover losses from this sort of scam. Our job is made even more difficult by the fact that we must track the prosecution. It is a succession prosecution that establishes the facts upon which a civil remedy can be granted. In this House, there is pending a Bill, which I hope we shall enact soon, on consumer protection. My Office has sought to make amendments to that Bill in order to strengthen the hand of the Attorney-General to protect the public interest in consumer sort of related situations. So, I would like to assure the House that I am as concerned as it is. We should never have a repeat of this sort of scam.

The Temporary Deputy Speaker (Mr. Mungatana): Attorney-General, apart from all these good explanations, I think the House would be really helped if you can tell us what you can do, as the Government. There is a practical case that has been given here. A Committee of this House has found so-and-so has collected money. He has enriched himself. He has property, and there are people who have lost. That person is just living in Kenya, enjoying himself. What is the Government able to do? You will help us a lot if you tell us what you can do; that is the concern of the House.

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I wish I had good news on this matter. I wish I was able to say that the Government will restore to these persons the monies lost by them. Unfortunately, the money available to the Government is the money that this House has voted for the Government to use in various schemes. You will recall that just last week and the week before, I answered Questions relating to Government Ministries that have failed to pay court-ordered payments, and hon. Members wanted to know what we, in my Office, would be able to do about this. Unfortunately, at this moment, I do not know of any method that I can use to compensate persons who have suffered in this way. I can only say that it is open to this House, and it is open to my informants---

Mr. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Right from the beginning, the Attorney-General misunderstood this matter. Is he in order to tell the House that the Government is supposed to pay anyone? There are people who are supposed to be charged and then the Government would use--- Is he in order to protect the people about whom a report has been brought here by the Committee? Is he in order?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, all the Government is saying is that private citizens are also obliged to take all reasonable precautions in their commercial dealings. I think it is highly unreasonable for members of the public to expect that they may speculate in whatever manner they may wish, in fact, even without any due diligence on the basis that the Government is a sort of insurer of last resort. What we can do and what I want to promise---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Mungatana): I will give you an opportunity, but let me hear what the Attorney-General says he can do. Hon. Attorney-General, what can you do? You were at the point of saying what you can do.

Prof. Muigai: Thank you, Mr. Temporary Deputy Speaker, Sir. What I can undertake to this House to do is to try to co-ordinate a concerted effort from my Chambers that would find a civil remedy for these individuals under some umbrella body of some sort. They must be able---

Mrs. Odhiambo-Mabona: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Who do you want to inform, Mrs. Odhiambo-Mabona?

Mrs. Odhiambo-Mabona: The Attorney-General, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Hon. Attorney-General, do you want to be informed?

Prof. Muigai: Yes, Mr. Temporary Deputy Speaker, Sir. It is a lady.

(Laughter)

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir. Not only am I a lady, but he taught me jurisprudence in first year and I want to use that knowledge to inform the Attorney-General that we have a living Constitution and, therefore, under that living Constitution, he can use Article 23 (3) (e) that a court can give an order for compensation.

If you are talking about rights – and these people’s rights were denied - as read together with Article 22(c) it says that a person acting in the public interest can do that. As read together with Article 20 it says:-

“(3) In applying a provision of the Bill of Rights, a court shall—

(a) develop the law to the extent that it does not give effect to a right or fundamental freedom;”

So, the Attorney-General can wiggle around and ensure that these innocent Kenyans who were denied their rights in one way or the other--- I know the difficulties that the Attorney-General is getting legally, but this Constitution gives him room to wiggle out and help them.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Thank you. Yes, the Member for Ikolomani!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, my point of order is only to insist that I wanted the Attorney-General to respond to the issue of restitution, and he says he is helpless. Is he in order to hide behind issues of faith about being helpless and so on, when we know that this House passed the Organized Crimes Act which, amongst other things, provides that proceeds from organized crime can actually be secured by this Government so as to reconstitute these people?

(Applause)

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Mungatana): Please, hon. Attorney-General, take down one or two more because I can see there is a bit of interest. So, take down that point on organized crime.

Yes, hon. Duale?

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, it is very sad that the Attorney-General of the Republic of Kenya looks at--- He already has problems with the Government that he serves. However, coming to the point, there are 35 companies and directors involved in the loss of Kshs8 billion by the Kenyan people. Out of these, only six cases of the same person, one George Odinga Donde; I do not know whether he is related to the Prime Minister, has been---

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

Mr. Duale: I said I do not know whether he is related to the Prime Minister or not.

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

The Temporary Deputy Speaker (Mr. Mungatana): There is a point of order by hon. Mbadi.

Mr. Duale: I am on a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Duale, allow Mr. Mbadi to raise his point of order!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, is it in order for hon. Duale to imply that any name "Odinga" is related to the Prime Minister of the Republic of Kenya when we know very well that the Odinga Donde we are talking about is totally different? The names "Odinga" are very many, including even in South Nyanza where I come from. I have Odinga with no relationship. Actually, "Odinga" is now an institution and very many of us who are not related to the Prime Minister name our children "Odinga," including people from Central Province.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Proceed, hon. Duale!

Mr. Duale: Thank you, Mr. Temporary Deputy Speaker, Sir. At least one of the key lieutenants of the Prime Minister has confirmed that he is not related---

The Temporary Deputy Speaker (Mr. Mungatana): Order! What is your point?

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I want the Attorney-General to take this matter very seriously; that Kshs8 billion of poor Kenyans has been lost. The directors of the 35 companies involved in the loss of the Kshs8 billion are known. We have a functioning criminal system; we have a functioning police; we have a functioning and independent Director of Public Prosecutor (DPP).

Mr. Temporary Deputy Speaker, Sir, it is very shameful for the Attorney-General to tell us that today, under the new Constitution, he cannot prosecute. The Attorney-General owes this country an answer. First, we want to know who these directors are. Some of the 37 directors are well connected politicians. The report we want the Attorney-General to implement is the report of the same Government done by the Minister for Co-operative Development and Marketing. Is the Attorney-General in order to say that he cannot prosecute those people?

Further, I will request that this matter be taken up by a parliamentary Committee.

The Temporary Deputy Speaker (Mr. Mungatana): Hon. Attorney-General, I hope you are noting down those points of order. Those are two points of order.

I will give hon. Kabogo this opportunity. We must conclude now.

Mr. Kabogo: Thank you, Mr. Temporary Deputy Speaker, Sir. This House serves the Republic of Kenya and many issues will be brought to this House that pertains to the Office of the DPP. I want to seek the indulgence of the Chair on how, in the future, this House will be able to interrogate matters that are before the DPP so that we avoid a situation in future where the Attorney-General tells the House that the people of Kenya decided to have an independent office of the DPP. In future, the House should be able to know from a ruling, maybe from the Chair how we can make progress in this country in as far as the office of the DPP and the presentation in this House is concerned. This is because we will now put the Attorney-General to task and yet all he will say is that the DPP is an independent Office. We need to create a mechanism through the Chair on how to deal with the issue of the DPP as far as this country is concerned, especially now in the transition period.

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to know whether the Attorney-General is in order. When the Government did not know what to do, it formed a task force on pyramid schemes to tell it what to do. The Attorney-General says he does not know or he has no idea what to do. The recommendations of the task force said the following:-

“Judicial Commission: The task force observes that the Government has a duty to safeguard the interests of the citizens.”

(Applause)

Mr. Temporary Deputy Speaker, Sir, the citizens are *wananchi*.

“We, therefore, recommend the formation of a judicial commission to undertake further investigations aimed at tracing funds and assets for restitution to investors.”

Another recommendation, Mr. Temporary Deputy Speaker, Sir, was on investigations and not even on prosecution. As we have been saying before, no investigations have been carried out. Out of the ten schemes which were investigated by this task force, only two were investigated by the police, leave alone prosecution. So, it had the following to say:-

“(1) The CID to undertake immediate investigations on bank accounts involved and complete within six months---”

This was never done.

The taskforce further recommended:-

“(2) The CID to undertake and complete tracing of assets acquired from proceeds of pyramid schemes operations within one year with a view of recovery and restitution.”

That was also never done.

The taskforce also recommended:-

“(3) The Government to enlist the assistance of foreign missions and governments where the perpetrators may have invested proceedings from pyramid schemes outside.”

Mr. Temporary Deputy Speaker, Sir, another recommendation on the bit of Parliament, which Parliament has fulfilled says:-

“Parliament to fast-track the enactment of Mutual Legal Assistance Bill.”

That was published in 2009. Parliament has done its bit.

Finally, on frozen accounts, this is what the report recommended:

“The Central Bank of Kenya to issue a public statement on the current status of all frozen accounts related to pyramid schemes.”

So, is the Attorney-General in order to tell us his hands are tied and that he does not know which way to go while there is a report by a task force of the same Government which they have failed to implement?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, as hon. Members know this matter is not new in this House. This matter came to this House long before I came here. You will remember that on the 29th of April, 2008, Dr. Oburu, the Assistant Minister for Finance answered this Question at some length.

Mr. Temporary Deputy Speaker, Sir, you will remember that on 12th August, 2010, two years later, Dr. Oburu, again, answered this Question at length. On 5th May, 2011, Dr. Oburu, again, answered this Question at great length. This history is important. I craved the indulgence of the Chair to refresh Hon. Members’ memory on that point. Where we have reached now is that we do have a Director of Public Prosecutions (DPP). This Report and other investigative materials were placed before him. He made certain decisions as to how he intended to proceed. However, I cannot interfere with those decisions. This House cannot interfere and even a court of law may not interfere with those decisions.

Mr. Temporary Deputy Speaker, Sir, we must remember the independence of the DPP is as important as the independence of the court. If we wanted to call the DPP before a Parliamentary Committee, it would raise the same level of concern as if we summoned judges to explain how they make their decisions. Unfortunately, this is the price we have to pay for the rule of law in the manner that we have drafted it in our Constitution.

However, I want to concede that these poor Kenyans were swindled of their money in very tragic circumstances. We owe them an effort to assist them to recover this money. That effort is not an effort on the part of the Attorney-General alone, but it includes an effort by this House. This House has many tools at its disposal to do so.

I want to undertake this, hopefully, we will be able to bring this matter to rest. I commit to the House to set up a taskforce in my Chambers to co-ordinate this effort. I believe we need to have a body that will co-ordinate the independent effort being made by the victims and victim associations to recovery this money. I will put at their disposal any resources that they may require from my Chambers, including the services of my State Counsels.

The Temporary Deputy Speaker (Mr. Mungatana): We must move on. However, that was very useful information. I want to inform the House that I have noticed that there is more useful information on the same matter from the Chair of the Committee on Agriculture, Livestock and Cooperatives. Please, inform the House what you are doing, so that hon. Members may know what is going on.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, for the purpose of the record and so that we seem to read from the same script with the Attorney-General, there are procedures that we follow in this House. These procedures are popularly known as

Standing Orders. Article 124 of our Constitution allows us to do the rules and procedures that we follow here. Under those procedures, Departmental Committees of this House operate under Standing Order No.198. Standing Order No.198(3) specifies what we can do and the extent we can go. According to Article 125 of the Constitution, the Committee of the House and this Parliament has the same powers as the High Court to summon anyone. The operational word is “anyone”---

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Mututho, please, tell us what you are doing. I have given a lot of leeway in this Question. We need to move on.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, I seek your further indulgence because the closing remarks by the Attorney-General seem to imply that the DPP cannot be summoned by any of the Committees of this House. It is important that I get some guidance from the Chair on the same because we do not want to gag any Departmental Committee of this House. As the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives I have summoned Mr. Nyenze and I hope he will come with all the supporting information. I am inviting any hon. Member with any information to look at the notices. We are proceeding on well and we will deliver a report to this House for adoption or rejection within four weeks.

The Temporary Deputy Speaker (Mr. Mungatana): We have spent 30 minutes on this Question. We will give the last chance to Mr. C. Kilonzo then we close.

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, this Government is being accused of being a Government without a heart. It is a Government of the rich, for the rich and by the rich. That is evident with what is happening in Eastleigh and Syokimau demolitions. Now that the Attorney-General has committed himself that he will form a taskforce, we hope it will be a formal legal taskforce, but not just a table taskforce. If the Government cannot change, then the people must change it. Could he assure us that he will inform the House when the taskforce is formed and when its report will be ready? In any case, there is a report by another taskforce.

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I am not forming a taskforce to further investigate this matter. I intend to form a taskforce to assist the victims and their victim organizations to bring court action for recovery of this money. That is what I have undertaken to do. I welcome the assurance by Mr. Mututho that his Committee will share with us whatever information they have, so that we can all help the victims together.

The Temporary Deputy Speaker (Mr. Mungatana): Just to conclude that matter, there was a matter pending raised by Mr. Kabogo as to whether the Attorney-General could answer on behalf of the DPP. I think we do not need to debate that matter. He will be answering in the House within the law to the best of his ability within the law for the DPP because there is no other office which can answer.

Next Question!

Question No.1031

CRITERIA FOR APPOINTMENT OF RECEIVER MANAGERS

Mr. Mbadi, on behalf of **Mr. James Maina Kamau**, asked the Attorney-General:-

(a) what criteria is used in appointing receiver managers and whether he could provide a list of companies placed under receivership since 1986 and indicate which ones have recovered and are making profits,

(b) how much money the Government has lost through companies that have closed down after being placed under receivership over the same period; and,

(c) whether he could confirm or deny that there are receivers who upon appointment have ended up starting businesses similar in nature with the companies they were appointed to rescue, and if so, what steps the Ministry is taking to ensure receivers help such companies to recover.

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

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, unfortunately the Attorney-General has not supplied me with a written answer. Anyway, he could proceed, if he does not have another copy.

The Temporary Deputy Speaker (Mr. Mungatana): Do you want us to come back to it later? Maybe, you can digest the information.

Mr. Mbadi: Yes, Mr. Temporary Deputy Speaker, Sir. Let it be the last Question.

The Temporary Deputy Speaker (Mr. Mungatana): Next Question. The hon. Member for Juja!

Question No.1074

PAYMENT OF TERMINAL DUES TO M/S KTEC LTD. WORKERS

Mr. Kabogo asked the Minister for Labour:-

(a) whether he is aware that M/s. Kenya Tanning Extract Company Limited terminated the services of 21 workers with effect from 31st December 2008 but had declined to pay them gratuity, redundancy or other dues;

(b) when the former employees will be paid their dues; and,

(c) what measures the Ministry will take to ensure that in the event of closure of the company, the former employees are paid all their dues.

The Temporary Deputy Speaker (Mr. Mungatana): Is the Minister for Labour here?

Leader of Government Business!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I would request that you revert to the Question in the second round. I will try and get hold of the Minister. If there is no second round, I would request that we defer this Question to Tuesday next week. I undertake to look for the Minister.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, this Question was on the Order Paper on Tuesday last week. The Minister requested the Chair to allow this matter to be put on the Order Paper today. I have another Question by Private Notice which could not come today because of this Question. So, it would be wrong for a Minister to

state a particular day to come and answer a Question then not even appear in the House. I know that the office has a Minister and an Assistant Minister. I have an answer here and under collective responsibility, I demand---

If you say that it comes again on Tuesday, my Question by Private Notice will not appear on the Order Paper. Therefore, if you could allow, I could give this to Mr. Ojode and he can attempt to answer this Question.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, a matter related to labour is not just a question of reading an answer. If you want me to do something useful to this country, I have to be briefed in order for me to articulate this to the best of my knowledge.

I would request the Clerk of the National Assembly to allow the Question by Private Notice as well as the Ordinary Question to come.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Kabogo, are you happy to come on Tuesday?

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I would prefer the Question by Private Notice to come on Tuesday and you probably give me this Question on Wednesday. This is because the other Question affects the lives of Kenyans.

However, Mr. Temporary Deputy Speaker, Sir, it is important for punishment to be meted on this Minister. When Members do not appear in the House, you drop their Questions. Equal punishment should be given to a Minister who does not appear because it is disorderly on the part of the Minister.

The Temporary Deputy Speaker (Mr. Mungatana): Yes, I am just hesitant because the punishment I would give will mean he cannot talk and so, that Question will be delayed further. Let us give him the last chance. This Question will be on the Order Paper on Wednesday. I have no notice of the other one you are talking about. So, follow it up with the Clerks-at-the-Table.

(Question deferred)

Next Question by the Member for Isiolo!

Question No.767

PERCENTAGE OF ADULT LITERACY IN ASAL AREAS

Mr. Bahari asked the Minister for Education:-

(a) what the percentage of adult literacy in the 28 districts of Arid and Semi Arid (ASAL) is and how the statistics compare with the national average; and,

(b) what immediate steps the Ministry will take to increase the percentage of adult literacy in the ASAL areas.

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

(a)The percentage of adult illiteracy in the 28 districts of the ASAL is 44 per cent. This rate is far much lower than the national average which is 61.5 per cent.

(b)The Ministry has put the following strategies in place in order to increase the percentage of adult literacy in the ASAL:-

(i) Setting up men-only classes to encourage men who due to cultural barriers feel uncomfortable learning in the same classroom with women.

(ii) Development of Primers. These are basic literacy reading materials written in local languages to make learning friendlier to the adult learners.

(iii) My Ministry recruited adult education teachers on full time basis. Most of them have been deployed to ASAL regions.

(iv) Funding of the adult education centres in ASAL regions through the Kenya Education Centre Support Programme (KECSP).

(v) We have established 49 community learning resource centres in many ASAL areas.

(vi) As part of the endeavour to encourage adults and out of school youth pursue higher education, the Ministry is establishing continuing education centres in many parts of the country. For instance, as part of the Ministry's performance contract for the year 2011/2012, the Ministry will establish at least 20 Continuing Education Centres (CEC) in 20 counties. Other 27 centres or more will be established during the financial year 2012/2013.

(vii)The Ministry has employed part-time voluntary teachers who hail from the nomadic communities. It encourages these teachers to move along with the communities as they migrate in search of pasture so that continuity in learning is maintained. Out of the total part-time 3,000 teachers nationally, 1,074 are working in ASAL regions.

Thank you.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer. However, I regret that most of the steps this Ministry has taken as outlined here do not exist on the ground. For example, if you asked the Assistant Minister to show me where men only classes are in Bura, they are not there. They are not there in Isiolo South and even Garsen. This includes all the other steps including the resource centres. Since these measures have been put in place, could the Assistant Minister illustrate how adult literacy has improved district by district?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the hon. Member wanted me to give the level of adult illiteracy. All the same if he wants it per district, I will read it out. I have several of them here and can read it for them.

The Temporary Deputy Speaker (Mr. Mungatana): Is it very long? Do you want to table it?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I hereby table the list.

(Prof. Olweny laid the document on the Table)

Mr. Olago: Mr. Temporary Deputy Speaker, Sir, it is good enough for the Ministry to say that they are making learning more friendly to the older persons. Of course, I assume that it is also the policy of the Ministry to make learning friendly to the young. What is the policy of the Ministry in mixing 60 year-olds going to class with 45 year-olds? How does it make learning friendly for the young and the old when you mix them like that?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, we do not mix them like that because we are dealing with adults.

Mr. Olago: On a point of order, Mr. Temporary Deputy Speaker, Sir. Maybe I need to make myself clear. What is the policy of the Ministry in mixing both the young and the old in one class? Does it help?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the youth have an opportunity for education by going through the normal education system. That is from Standard I all the way to Standard VIII and then from Form I to Form IV in the regular schools. However, adult literacy takes care of those people who missed out and they are already adults.

Mr. Duale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Olago has asked a fundamental question. How do you mix an 80-year old student with class one children? We have the case of the late Maruge. I have cases in my constituency where there are ladies between 70 and 80 years old in the same class with five or six year old children. That is the question we are asking. Could the Assistant Minister answer that question? That is what we are asking. Why does he mix those pupils? Why does he allow his teachers and DEOs to mix those pupils?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member is misleading the House and the country. Have you ever seen a 5-year old kid in a classroom? That one belongs to a kindergarten. An 8-year old child is still a nursery school chap.

The Temporary Deputy Speaker (Mr. Mungatana): Order, Mr. Assistant Minister.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the hon. Member should not mislead us.

The Temporary Deputy Speaker (Mr. Mungatana): Order, Mr. Assistant Minister. I request you to just calm down. What we want to know, and what the hon. Member is saying is that it has been clear from the media and everywhere that there are some older people who have been sitting in primary schools. He even quoted the case of the late Maruge. What is the policy of the Ministry? Could you elaborate on that? Do not just get on---

Mr. Mwangi: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Let him answer that.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, that is a better way of putting it. Those were unique cases which caught everyone by surprise when we brought in the Free Primary Education (FPE). However, the policy of the Ministry of Education is that adults who missed out in education belong to the adult literacy class. Those are very rare cases and we are trying to do away with them so that they go to the adult literacy class. In fact, we have a good example in this town. At Saint Peter Clavers, adult literacy classes start from class one all the way to Form Four. Some of them even join universities.

Mr. Njuguna: Thank you Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has just informed the House that the Ministry has a commitment to start 49 resource centres. Could he clarify to this House when they will start the programme and the funds already allocated for the same?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, we already have community learning resource centres. In Wajir we have two; Garrissa – 2; Mandera -1; Isiolo - 4;

Moyale - 1; Meru - 3; Tharaka - 1; Mwingi - 2; Kitui - 3; Nyeri – 2; Baringo - 2; Laikipia -2; Kajiado - 2; Narok – 4; Transmara - 4---

The Temporary Deputy Speaker (Mr. Mungatana): Order, Mr. Assistant Minister! If the list is long, you can---

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I am just about to finish. In Taita Taveta we have three; Kwale – 3; Kilifi – 3; Malindi -2; Tana River - 3 and Lamu - 1. The 49 community learning centres---

An hon. Member: What about the funding?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I want to give an example because I do not have the latest. Since the 2006/2010 Financial Year up to today, they have received a total of Kshs10.62 million funding.

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, in several places he has mentioned, the population is predominately Muslim. I wonder whether the Assistant Minister is aware that by virtue of attending Madrasa which is the Muslim equivalent of a Sunday school, many of those people he has referred to as illiterate can actually read and write Arabic. I wonder whether while compiling the statistics he takes this into account. You cannot just declare someone illiterate just because he cannot read and write in English and yet he can read and write in other languages. Does the Assistant Minister take that into account?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the hon. Member was a little bit fast. Could he speak slowly?

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, I will speak slowly in the manner that the hon. Chair is speaking. I am saying that some ASAL areas are predominantly occupied by Islamic Communities. By virtue of attending the Madrasa which is the Muslim equivalent of a Sunday school, these people can read and write in Arabic, which is the language in which the Quran is written. When the Assistant Minister compiles his data and says that 44 per cent are illiterate, does he take this into account or does illiteracy mean not being able to read and write in English?

Prof. Olweny: Mr. Temporary Deputy Speaker, Speaker, Sir that is part of literacy. For us, we have our adult literacy programmes and I have just said that we also have primers where we have learning materials which we use to teach these people in their respective languages. So, Madrasa belongs to the Muslims as a faith-based group and not to the Ministry of Education.

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I have heard the Assistant Minister state that they have men only classes because the men do not feel comfortable studying with women. I would like to ask him whether they also have women only classes. I am just wondering. Who is more uncomfortable learning with the other? Is it the women or the men?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I would like to thank the hon. Member. We do not mix them in those communities. Women have their classrooms while men have theirs. Otherwise, they are not comfortable. We are trying to sort out issues related to culture while bringing literacy to these people.

Dr. Nuh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House because in his own answer, he says: “Setting up men only classes - and not women only - to encourage men who, due to

cultural barriers, feel uncomfortable learning in the same classroom with women?" Dr. Laboso is asking why the Ministry has segregated and left women behind.

Prof. Olweny: Mr. Temporary Deputy Speaker Sir, this relates to these communities. The hon. Member knows, culturally, some of those adults are uncomfortable sitting with their wives, learning together. So, in the adult education centres, we put women in their classrooms and men in their classrooms. That sorts out the problem.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Bahari, ask the last question!

Mr. Bahari: Thank you, Mr. Temporary Deputy Speaker, Sir. I had asked a Question on 28th on the Arid and Semi-Arid Lands Districts. If we really analyzed the ten arid districts, you will be surprised to know that the percentage is lower than this and this is a matter of concern. Since the Ministry has attempted to put in place some of these measures, I want to know from the Assistant Minister how much they pay the part time teachers so that they can effectively carry out teaching.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, part time teachers are paid Kshs2000 per month.

The Temporary Deputy Speaker (Mr. Mungatana): Next Question, hon. Millie. Sorry, we had skipped one Question. Hon. Mbadi, you were to get the answer. That is Questions No.1031. Please, proceed!

Question No. 1031

CRITERIA FOR APPOINTMENT
OF RECEIVER MANAGERS

Mr. Mbadi, on behalf of, **Mr. James Maina Kamau**, asked the Attorney General:-

(a) what criteria is used in appointing receivers and if he could provide a list of companies placed under receivership since 1986 and indicate which ones have recovered and are making profits,

(b) how much money the Government has lost through companies that have closed down after being placed under receivership over the same period, and,

(c) whether he could confirm or deny that there are receivers who, upon appointment, have ended up starting businesses similar in nature with the companies they were appointed to rescue, and if so, what steps the Ministry is taking to ensure receivers help such companies to recover.

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

(a) Under Section 212 of the Companies Act, which is Cap.486 of the laws of Kenya, the receiver maybe appointed under the following conditions:-

1. Maybe appointed by the court whenever a winding up process is commenced under the supervision of the court. In most cases, the official receiver would be appointed by the court as the provisional liquidator subject to confirmation, or otherwise, at the first creditors' meeting.

2. An appointment by debenture holders. This will usually be banks, pursuant to powers vested in them under the debentures.

3. Appointment by statutory bodies pursuant to powers vested in them by statute. These examples would include the Deposit Protection Fund under the Banking Act, or the Commissioner of Insurance under the Insurance Act.

4. Finally, where there is a voluntary winding up and the shareholders of a company opt to wind up the company.

Mr. Temporary Deputy Speaker, Sir, as a general rule, any person maybe appointed a receiver so long as they are not un-discharged bankrupts or they are not a body corporate. In fact, most receivers will be accountants or lawyers, or professionals knowledgeable in the management of companies.

According to records at the Official Receiver's Office, 216 companies have been placed under receivership since 1986. The Attorney General is not in a position to ascertain, which, if any of these companies is making a profit.

(b) It is not possible to assign a precise figure of the amount of money that the Government may have lost through companies that have closed down after being placed under receivership. Most of the recent receiverships have been handled by private receivers, and under the Deposit Protection Fund, which is under the Central Bank of Kenya.

A total of 26 companies where the Government of Kenya held shares have been placed under receiverships since 1986. Twenty two of them have been sold, while under receivership. One is still in the last stages of liquidation while two are still under receivership. The last one is Uchumi Supermarket Limited. The receivership has been lifted and the company has recovered. It has been readmitted to trading in the Nairobi Stock Exchange. I am happy to confirm that it is making a profit.

The following are the companies I have referred to. They are 26 of them. If you direct me to read them, I shall do so.

The Temporary Deputy Speaker (Mr. Mungatana): Please, table the list instead of reading them. We are running short of time.

The Attorney-General (Prof. Muigai): Yes, I table this as you have directed.

(Prof. Muigai laid the document on the Table)

(c) Finally, the Attorney General is not aware of any receivers who, upon appointment, have ended up starting business similar in nature with the companies they were appointed to manage, while under receivership.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, actually I did not want to interrupt the Attorney General as he was going through the answer.

Mr. Temporary Deputy Speaker, Sir, I would like to seek your guidance on this, because part (b) of the Question asked how much money the Government lost through companies that have closed down after being placed under receivership over the same period. In his answer, he has stated that it is not easy to assign a precise figure of the amount of money.

Mr. Temporary Deputy Speaker, Sir, he has gone ahead to enumerate 26 of these companies since 1986. I do not see really why he is finding it difficult to work through

the 26 companies and give a figure of how much the Government could have lost through these companies. He says these 22 companies have been sold.

So, Mr. Temporary Deputy Speaker, Sir, I would like to seek your guidance, because I see he is evading answering part (b) of the Question which was very specific about how much money the Government could have lost. He has already stated the companies they sold. Therefore, he should be in a position to get the information to me. I thought he could have done much better by providing that information.

Mr. Temporary Deputy Speaker, Sir, before I ask my first question, I would like to seek your guidance.

The Temporary Deputy Speaker (Mr. Mungatana): Prof. Muigai, do you have the figures or do you want to come back next week?

Prof. Muigai: Mr. Temporary Deputy Speaker, Sir, I do not have them here. In the very nature of receiverships, I venture to suggest with respect to the hon. Member that this is the sort of answer that is impossible to give. This is because he asks how much the Government has lost through companies that were placed under receivership. What we can provide is how much the Government sold these companies for after the receivership. As to the loss, a loss would be a complex calculus of many things. It is difficult to ascertain that. However, I am quite happy if you direct me to bring information on how and when each company was sold. Maybe the hon. Member will be satisfied with that response.

The Temporary Deputy Speaker (Mr. Mungatana): Maybe, just to save time on that, hon. Mbadi. We might want to give the Attorney General up to Thursday, next Thursday to furnish the House with that information.

I direct that this Question be put on the Order Paper on Thursday, next week. I also direct the Attorney General to come with the necessary information to assist the House.

We will skip Question No.968 for now, and call out Question No.1190, Member for Samburu East!

Question No.1190

STATUS OF KESSP-FUNDED PROJECTS IN SAMBURU EAST

Mr. Letimalo asked the Minister for Education:-

(a) whether he could provide a list of the projects undertaken under the Kenya Education Sector Support Programme (KESSP) for infrastructural development in Samburu East Constituency and indicate their respective status; and,

(b) what measures the Minister will take to ensure all the incomplete KESSP-funded projects are completed?

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

(a) There are 21 primary schools under the Kenya Education Sector Support Programme (KESSP) in Samburu East constituency. The status of their infrastructure development is as follows: 17 primary schools completed their projects, three primary schools have uncompleted projects, one primary school did not receive the funds, which

is Kshs600,000 that had been allocated to it due to technical errors, which are being sorted out. More details are given in the table which I hope the member has.

(b) The KESSP programme was a joint funded project between the Government of Kenya and external development partners. The programme was halted in 2008 when the development partners pulled out leaving the Government with some uncompleted projects. The budgetary allocation for infrastructure development in the Ministry of Education is inadequate to complete all the stalled projects at once. Therefore, they will be prioritized with the others throughout the country, and completed in phases. It is in this connection that I request the hon. Members to assist the Ministry in completing some of the stalled KESSEP projects in their respective constituencies using CDF and other resources.

Mr. Letimalo: Mr. Temporary Deputy Speaker, I really acknowledge this noble Government initiative to undertake development projects in our schools. I wish the Government had actually put measures in place to ensure that they supervise and monitor these development projects to ensure that quality work is done without misappropriation of funds.

My question is from the projects that have been undertaken by the Government. The Assistant Minister says that Kshs600,000 which was meant for Kalama Primary School, which is a very need school, has not been credited to their account up to to date. I would like to know from him, whether that money is available. When will this money be availed to the school?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, according to the answer I have given, he should realize the money is available; we are sorting it out and it will be availed to the school as soon as possible.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Assistant Minister, maybe you should help the House by indicating when the money will be availed to the school.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, let me give you a deadline of end of December. You will get the money in the school, so that they can use it in the next academic year. In the next calendar year they will sort out the projects.

Mr. Njuguna: Mr. Temporary Deputy Speaker, the Assistant Minister has stated clearly that external development partners withdrew from these crucial projects. Could he, therefore, inform the House why they decided to withdraw their funding to these projects?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the House that I should not get involved in those details, because they involve other things within the Government. So, please, I do not have adequate information to give in that regard.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Assistant Minister, would you like to get more time so that you can give us more information?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, but this Question is related to our projects, and I have given an undertaking that we are going to do our projects. So, the issue of development partners concerns other things that I do not want to get involved in at the moment. So, can we leave it out because it involves other Government ministries? Please, I beg that you leave me out of that.

Mr. Njuguna: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is supposed to be accountable to this House. Is he in order then to decline giving that information to this House? It is crucial information that we and the whole country need!

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Assistant Minister, on the issue of the donors, is it not you who mentioned it in the answer?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, may I request the Chair that if you want more information, you commit this matter to the relevant departmental committee of Parliament?

The Temporary Deputy Speaker (Mr. Mungatana): What I was asking is--- The Chair wishes to know whether you mentioned the question of donor money or whatever in your answer to this Question. I thought that it is from your statement that the hon. Member is seeking further information. Did you mention the question of donor funds?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, yes, I said the donors withdrew, and it is this further information that I do not want to get involved in. If the House wants it, then I request the Chair to hand over this issue to the relevant departmental committee which will go into more details.

The Temporary Deputy Speaker (Mr. Mungatana): No, Mr. Assistant Minister! I think you are obliged to give information to the House; even if you say you will give information to the committee, that is also giving information to the House. So, if you have the information you are obliged to give it to the House.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, if it was easy for me to get all those details, I would have told you; I have suggested that we get the other---

The Temporary Deputy Speaker (Mr. Mungatana): So, you do not have the information?

Prof. Olweny: I do not have it, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Then this Question is deferred. It will come back on Thursday afternoon. Please, you will provide the relevant information.

(Question deferred)

The Temporary Deputy Speaker (Mr. Mungatana): Last Question by hon. Odhiambo-Mabona.

Question No.968

RATIFICATION OF HAGUE CONVENTION
ON CHILD ADOPTION

Mrs. Odhiambo-Mabona asked the Minister for Gender, Children and Social Development:-

(a) whether Kenya has ratified the Hague Convention on the Civil Aspects of International Child Adoption of 25th October, 1980;

(b) how many Kenyan children have been adopted by foreign nationals from 2008 to date; and,

(c) what the Government is doing to protect children against possible trafficking through the International Adoption Process.

The Minister for Gender, Children and Social Development (Dr. Shaban): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I wish to begin by making a correction regarding the title of the convention. What we have is known as “the Hague Convention of 25th October, 1980 on the Civil Aspects of International Child Abduction” and not adoption. This notwithstanding, Kenya has not ratified the convention in question.

(b) Between the years 2008 and 2010, 197 Kenyan children have been adopted by foreigners. Figures for the year 2011 will be available at the end of the year.

(c) To protect children against possible trafficking, several measures have been put in place, which include one, the National Adoption Committee approves the registration of local and foreign adoption societies to conduct adoption. This registration is valid for 12 months and it is renewable. Two, the local adoption societies declare children free for adoption and place them with their adopters as per Section 156(1) of our Children’s Act. They also receive quarterly post-adoption reports from affiliated registered foreign adoption agencies of the receiving countries for the first three years. Three, at the same time, the Government has put in place strict vetting mechanisms for anybody seeking to adopt a child. For example, the Immigration Department demands a letter of no objection from the Director of Children Services before issuing passports to adopt the children. Four, moreover, applicants have to produce authenticated adoption certificates from the Registrar-General accompanied by a High Court adoption order bearing a court seal

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for bringing to my attention that my Question has “adoption” instead of “abduction”.

What I would want to tell her is that in this country, a lot of children are trafficked through several processes, one of which is through abduction, especially by divorced parents; two, through adoptions; three, through stealing and four, through miracle babies. I have dealt with a lot of cases of trafficking, including a case where the Ministry was involved and the Government of Kenya (GOK) was represented in a case in the United Kingdom (UK); one child’s name was changed severally. At one time she was Anyango and another time she was Muthoni. She was given all manner of Kenyan names to hide her identity. Noting that the two conventions really go together in relation to the issue of trafficking, the Convention of 29th May on Protection of Children and Co-operation in respect of inter-country adoption, and the one the Minister has referred to as child abduction; could the Minister inform the House when the Government intends to ratify and domesticate the treaty on child abduction to protect the children of Kenya?

Dr. Shaban: Mr. Temporary Deputy Speaker, Sir, the ratification of the convention will be done in line with Article 94(5) of the new Constitution, which requires Parliament to play a role in the process, unlike in the past when this was a preserve of the Cabinet. The Ministry sought the advice of the Attorney-General’s office and was advised that the latter was drafting the Ratification of International Treaties Bill.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, what I would like the Minister to clarify is that we have cases where the adoption societies use homes that are not regulated. You find a lot of Kenyan children in homes that are not regulated;

people come in and actually adopt children that are not available for adoption. I was actually consulted by an American lawyer who wanted to adopt a Kenyan child, who by coincidence happened to be a child that we were supporting as an orphan. The child was from Central Province, whose parents had died. We were also providing school fees of the elder brother. Could the Minister inform the House what she is doing to ensure that we do not have children declared free for adoption when they are not free for adoption?

Dr. Shaban: Mr. Temporary Deputy Speaker, Sir, as of last year October, we had been able to come up with a certificate of conformity under Article 23 of the Convention, which is given to all foreigners who are adopting children; that is the only way in which we can be sure that the child who is being adopted, and the people who are adopting them, have undergone full vetting by the Adoption Committee.

The Temporary Deputy Speaker (Mr. Mungatana): The Chair notes its appreciation of how orderly the House has become when the fairer hon. Members were speaking. Thank you very much. That is encouraged.

(Applause)

Ask the last Question the Member for Sigor!

Question No.1263

STALLING OF LOMUT-CHEMALEI
WATER PROJECT

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

(a) whether she is aware that the construction of Lomut-Chemalei water project stalled;

(b) how much money was allocated to the water project and how much has been spent so far; and,

(c) whether she could confirm that the project stalled as a result of misappropriation of funds and, if so, what disciplinary action the Ministry has taken against the officials involved.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Lomut-Chemalei Water Project which is being funded by UNICEF, one of our development partners, has stalled. All I am aware of is that the construction commenced in December, 2010 and the project is ongoing.

(b) My Ministry has not allocated any funds to Lomut-Chemalei Water Project. However, our development partner, UNICEF, is funding the project at a cost of Kshs18 million.

(c) I cannot confirm that the project stalled as a result of misappropriation of funds, as the project is being executed outside our Ministry programme. Therefore, the issue of disciplinary action does not apply as none of our Ministry officers is directly involved in the execution of the works. I have been assured by our development partner that 15 per cent of the outstanding works will be completed by the end of February, 2012.

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, maybe the Assistant Minister is not aware that the supplementary information given to him by his Ministry reads in part:-
“However, the contractor failed to complete the works on time.”

What does that mean? It means that it stalled.

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to talk about supplementary information that is only supposed to be in the hands of the Minister? How did he get the supplementary answer because we do not provide them? Supplementary information is only for the Minister. How did he get it? Could the Member stop using it and use what we have given him?

The Temporary Deputy Speaker (Mr. Mungatana): The Minister is absolutely right, hon. Litole! Please, ask your question without referring to that information.

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, I will follow your direction. Initially, there was a company called “Ring Road Engineering Company”. That is my home location and I know whatever was happening there. Ring Road Engineering Company failed to complete the works and that is why the UNICEF decided to allocate the project to Red Cross to complete the works.

The Temporary Deputy Speaker (Mr. Mungatana): Please, ask the question!

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, in that case, is it not true, therefore, that the project stalled because it changed hands from Ring Road Engineering Company back to Red Cross?

Mr. Waititu: Mr. Temporary Deputy Speaker, Sir, the Ministry was not part of the project. We can, therefore, not account for what happened. Even though, there was a complication with the residents because they were demanding to be connected with water before the project was complete. The residents were the ones who were stalling the project.

The Temporary Deputy Speaker (Mr. Mungatana): Is there any other hon. Member who is interested?

Mr. Litole, ask the last question!

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, Ring Road Engineering Company disappeared without paying some of the suppliers. What will the Ministry do to compensate or pay those people who supplied materials to Ring Road Engineering Company which disappeared without paying them? Could the Government, therefore, assure the House or the people of that area that they will be paid by the Red Cross, who have taken over the task, for the things they supplied?

Mr. Waititu: Mr. Temporary Deputy Speaker, Sir, Red Cross which is undertaking the project is not under our Ministry. We can, therefore, not take their debts.

The Temporary Deputy Speaker (Mr. Mungatana): Next Order!

MINISTERIAL STATEMENTS

The Temporary Deputy Speaker (Mr. Mungatana): We will move in this manner. The Government, if you have any Statements, please, first issue them, and then we will take requests.

INSECURITY IN RIFT VALLEY REGION

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I wish to give a Statement which was sought by hon. Cheruiyot, who is around.

The hon. Member wanted a Statement to be issued on the state of insecurity in the Rift Valley region and in particular, the attacks and killings of prominent business people which occurred on 30th October, 1st November and 2nd November in Uasin Gishu, Kuresoi and Chebilat respectively. He, therefore, sought clarification on what the Government was doing to bring to book the perpetrators of these crimes and whether the Ministry is aware of the potential threats on our national security and the high risk of rising ethnic tensions in the region. Further, he sought clarification on the strategies being put in place to disarm individuals in possession of arms in the region and the action being taken to improve the performance of the security officers in the area.

Mr. Temporary Deputy Speaker, Sir, I wish to state as follows. On 1st November, 2011, at around 2.00 a.m., one Isaac Maiyo was driving his motor vehicle registration number KAL 117P Suzuki saloon from Eldoret Town to his residence in Yamumbi Area. He was stopped by an unknown number of people. He defied the order and sped off. This prompted the assailants to shoot at him and as a result, he was shot on the hand and chest and died instantly. On receiving the information, police officers rushed to the scene but found that the attackers had already escaped. Investigations commenced immediately and on 18th November, 2011, police officers intercepted a motor vehicle, registration number, KBG 019V, a Toyota Vitz within Waiganjo Street in Eldoret Town after an attempted robbery at Matharu Area and arrested five suspects who were in that vehicle. The five suspects are:-

1. Stephen Maina Kiarie
2. Juma Makela, popularly known as David Ngaruiya Mugi who had earlier escaped from the GK Prison, Eldoret and was on the wanted list.
3. Peter Gitahi Karanja
4. James Njenga Karanja
5. George Gachoka Nyakinyua

Mr. Temporary Deputy Speaker, Sir, on searching the vehicle and the suspects, police recovered the following items; one AK 47 rifle with 12 rounds of ammunition, two jungle uniforms and five different mobile phones. One phone was identified to be that of a complainant in an attempted robbery at Matharu. The suspects were arraigned in Eldoret Court on 21st November, 2011 and charged with a series of robberies and murder, including that of the late Isaac Maiyo.

The second incident occurred in Kuresoi on 1st November, at around midday, where David Talam was murdered along Keringet-Molo Road. You will agree with me that on Wednesday, 25th November, I did provide details and circumstances of this incident, while responding to a Question by Private Notice from the Member for Molo, hon. Kiuna.

Mr. Temporary Deputy Speaker, Sir, the third incident occurred at Chebilat on 31st October, 2011, when two thugs, one armed with an AK 47 rifle, stormed into a supermarket owned by Alfayo Ngereza, situated on the border between Sotik and Nyamira. They robbed him of Kshs350,000 and goods estimated at Kshs200,000. While fleeing from the scene, the thugs shot at two brothers, namely, Gerald Mauti and Dominic

Mauti, as they were coming from a hotel, injuring them seriously. They were rushed to Keroka Level 5 Hospital where Gerald Mauti was pronounced dead on arrival. The businessman man was not wounded in the incident.

The police commenced investigations immediately and the following three suspects were arrested within Nyamira District: Cosmos Osieko Momanyi, John Owiro and Geoffrey Wamalwa. They were arraigned in Kisumu Court on 18th November, 2011, for a series of robberies and murder in Nyamira District vide Nyamira Criminal Case No.653/134/2011. The case is set for hearing on 2nd May, 2012.

Further, when the main suspects were arrested in Nyamira, they were found in possession of a mobile phone which was identified to be that of Alphayo Gereza who had been robbed at the supermarket. The police in Sotik have, therefore, applied for a production order to have the suspect taken to Sotik to face other charges before the Kericho Court in relation to the robbery at the Chebilat Supermarket vide the Sotik Police Criminal Case File No.801/440/2011. It is also worth noting that in all the incidences that I have mentioned, suspects have been arrested and arraigned in court except for the case of the murder of Daniel Talam. I mentioned this yesterday that we are zeroing on some suspects who will be arrested as soon as the investigation is over.

Mr. Temporary Deputy Speaker, Sir, however, one of the suspects was lynched. The members of the public as I earlier intimated while responding to the Question by Private Notice, are not willing to volunteer information to link other suspects with the murder. We are calling upon them to volunteer in order for us to avert further incidences of armed robberies and murders. I am also aware of the potential threat the murders have on our security considering the high risk of ethnic tensions in the area. However, the Government is taking the cases seriously and we are doing everything possible to deter any serious incident. On this, continuous disarmament exercise will still be there since no individual is allowed to possess an illegal firearm. For the last one month, five assorted firearms have been recovered within the region and police will continue with efforts to recover illicit firearms in the hands of criminals.

On improving the performance of the officers, senior officers are undergoing training at the Kenya Education Staff Institute (KESI) while junior officers are being retrained in their respective provincial training centres. Additional vehicles have been allocated to various stations and AP camps. Further, the police are working in close relation with the members of public through community policing to enhance their performance. The implementation of Rapid Result Initiative (RRI) has also contributed to the improvement of performance levels of these police officers.

The Temporary Deputy Speaker (Mr. Mungatana): Do any Members want to seek clarifications? Assistant Minister, please, take note. We will take three, starting with Dr. Laboso.

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer that he has given. I would like him to clarify that these are incidents of thuggery. There is no issue of ethnic tension involved and thugs, particularly the case of Sotik which I understand clearly, are thugs and it is not a question of which tribe they are coming from. This is very important because we have a lot of tension and it is usually insinuated that these are ethnic tensions. I want him to clarify that this is thuggery, plain and simple and no ethnic tensions are involved in the matter.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, while thanking the Assistant Minister for the Statement, could he be kind enough to name the specific vehicles that he has assigned to strengthen the patrol in that area? The Member has asked whether these are criminal incidents associated far and wide with other things and not necessarily related to ethnic tensions.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has emphasized that the police are doing everything to curb any further criminal activities of this nature. In Waseges in my constituency, a man was shot dead in his house by about nine criminals about a month ago. It has been very difficult to know which police station the matter is supposed to be reported to because we are dealing with the OCPD, Subukia, and the OCPD, Nakuru. All of them are supposed to be taking care of matters touching on security in Rongai. What is he doing to ensure that we have an OCPD to man those areas?

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for that very elaborate answer. However, it is almost evident that there is a very serious degree of insecurity in that area. Criminal acts like murder and rampant robberies are taking place in that area. What deterrent steps is the Government taking to stem out fear in that area?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that residents in the area are not willing to co-operate with the police to give information. He needs to tell us why residents in an area where there is insecurity would not trust the police. Could he tell us whether the police are part of the problem in terms of the way they have treated the residents of these areas when crimes are committed?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I want to start with the latest one from hon. Shebesh. There are incidences where the residents fear the thugs. They fear to name so and so as being one of the criminals. They fear for their lives. We have also indicated to them that we will protect them. We will give them security. That is why I have mobilized vehicles from Nairobi to patrol that area. In fact, the reason why I got some of the suspects is because of the work the detectives from Nairobi did in that area. It will be a futile exercise if we allow the police from the local station, who are known, to investigate. The locals also fear that if they give the names, they will be interfered with or the thugs will come for them.

The OCPD will be posted especially to areas where we have not posted one. We are buying vehicles for the police. The tenders---

Mr. Kigen: On a point of order, Mr. Temporary Deputy Speaker, Sir. Seven months ago, I stood here to ask for an OCPD. The commitment that the Assistant Minister is making today is the same one that he made seven months ago that he was making arrangements to deploy OCPDs to various areas which did not have OCPDs then. He is saying the same thing without telling us specifically when he is going to do that for Rongai.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) Mr. Temporary Deputy Speaker, Sir, posting an OCPD is not a big problem. I have said, and I am on record, that in areas where we do not have OCPDs, there are certain things which we require. First, we wanted to have housing and secondly, any type of houses which we can convert to offices. I also said that we have

taken some officers for a course, so that when these officers are posted, they will know the kind of work they are going to do. It is not just the Member's place. There are several other places which are still waiting for the posting of the OCPDs. We will do that when the officers have already done their course.

The other bit is the issue of vehicles, which my friend, hon. Mututho, cited. There are instances where a particular area does not have a vehicle. We normally do what we call a stop-gap measure where we get whatever we have in Nairobi, take to that particular area with the detectives from Nairobi and we apprehend suspects. In fact, that is what has really helped us even to get these suspects who were arrested recently. We are going to zero-in on the suspect who killed Talam. I also want to congratulate the work of the police because we managed to get the suspects immediately.

So, I want to encourage my colleagues also to ask their constituents to give us information. That is why we introduced community policing. In fact, it is good that we introduced community policing with very good ideas from the former Permanent Secretary (PS) of the Ministry in charge of internal security, hon. Cheruiyot. You have done a good job. Keep it up.

The Temporary Deputy Speaker (Mr. Mungatana): Is there any other Ministerial Statement?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, Mr. Temporary Deputy Speaker, Sir. I wanted to seek your indulgence for a Ministerial Statement which was sought in this House with regard to a matter aired by Kenya Television Network (KTN) during their programme *Jicho Pevu*. My hands are tied because it is a *sub judice* matter. So, we have to wait until the determination of the case. The case is Civil Suit No.511 of 2011.

The Temporary Deputy Speaker (Mr. Mungatana): I will now take requests for Ministerial Statements. I am trying to---

Dr. Laboso: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not answered my question.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I am sorry. She asked about thugs who are terrorising people, causing people to say that there are ethnic tensions.

I want to say that we arrest thugs. Whether you are a Kisii, a Kalenjin, a Luo or a Kikuyu, as long as you are a thug, we will arrest you. Last time, I asked why one should worry if one is not *Al Shabaab*. We are looking for *Al Shabaab* in Nairobi and its environs or within Kenya. So, if you are not *Al Shabaab*, you should not worry. Similarly, if you are a thug, irrespective of the tribe you belong to, we will arrest you and take you to court.

Mr. Njuguna: On a point of order, Mr. Temporary Deputy Speaker, Sir. Even my question has not been responded to by the Assistant Minister. Mine is about the immediate concern in arresting insecurity in that area.

The Temporary Deputy Speaker (Mr. Mungatana): Sorry, we have now moved from that matter. We are taking requests for Ministerial Statements.

Hon. Members, please, note that I am trying to get to the business of the next Order. So, every person I am going to give a chance, please, take two minutes, so that we can take all the requests. We will start with hon. Mututho.

POINTS OF ORDER

SETTLEMENT OF IDPS ON INHABITABLE LAND

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to seek a Ministerial Statement from the Minister for Lands with regard to the intended purchase of the piece of land generally referred to as “*Wiyumiririe*”, ecologically classified as a cold desert, and a wildlife route of Solio Ranch, both located in Laikipia County, for Internally Displaced Persons (IDPs) based in Naivasha and the adjacent IDP camps. In the Ministerial Statement, the Minister should:-

(a) clarify what informed the decision by the Ministry in purchasing the two pieces of land, and indicate the bona fide owners of the “*Wiyumiririe*”, piece of land;

(b) explain why the IDPs are forced to settle on the said pieces of land, their unsuitability for human habitation notwithstanding, and confirm whether those who are already settled there will be relocated to a suitable land; and,

(c) explain the action being taken, if any, against those persons who advised the Government to procure the said land.

The Temporary Deputy Speaker (Mr. Mungatana): Hon. Ojode, please, give an undertaking. When can we get the Ministerial Statement from the Ministry of Lands?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I will prevail upon my colleague to issue the Ministerial Statement on Wednesday, next week.

The Temporary Deputy Speaker (Mr. Mungatana): So be it.

Yes, Member for Kamukunji.

Mr. Hassan: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to follow up yesterday’s request for a Ministerial Statement on the demolitions in Eastleigh, which Mr. Speaker instructed the Government to provide to this House. The Minister for Justice---

The Temporary Deputy Speaker (Mr. Mungatana): Hon. Hassan, did the Chair direct that the Ministerial Statement comes today?

Mr. Hassan: Yes, Mr. Temporary Deputy Speaker, Sir. In fact, the Minister for Justice, National Cohesion and Constitutional Affairs promised to come with an answer today.

The Temporary Deputy Speaker (Mr. Mungatana): Okay, let us take that one later. For now, I want to take the actual requests for Ministerial Statements.

SHOOTING OF IBRAHIM ONDEGO AND JOSEPH NYABERI

Mrs. Shebesh: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to request a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to the fatal shooting of Messrs. Ibrahim Oketch Ondego and Joseph Nyaberi, who were shot on Wednesday, 23rd November, 2011 in Kawangware, Nairobi. In the Statement, the Minister should:-

(a) confirm whether the deceased persons were executed by police officers on their way to Gikomba Market, Nairobi, and whether their shooting was a case of mistaken identity;

(b) confirm whether a car belonging to the Criminal Investigations Department (CID) was seen at the scene of crime, and whether the officer was trying to interfere with the scene; and,

(c) explain the action being taken by the Ministry to apprehend the culprits and compensate the bereaved family.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, can I respond to it now?

The Temporary Deputy Speaker (Mr. Mungatana): No; there is no time now.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I will take about five minutes.

The Temporary Deputy Speaker (Mr. Mungatana): No, no! We must get to the business of the day. Do you want to do it on Tuesday?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I can issue the Ministerial Statement on Wednesday. However, I would like to indicate that we have arrested three police officers, and charged them with murder. We have also interdicted them. We have taken their firearms to ballistic experts for them to give us information as to who killed those two people. So, I will issue the Ministerial Statement on Wednesday morning.

The Temporary Deputy Speaker (Mr. Mungatana): Thank you.
Yes, hon. Wamalwa.

MEASURES TO ADDRESS POLITICAL VIOLENCE

Mr. Wamalwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. I must congratulate the Assistant Minister for the prompt action he has taken against his officers and the hard work that he is doing.

My Ministerial Statement request is directed to his Ministry also. I would like the Minister to tell the country, in a Ministerial Statement, what he is doing on the growing culture of violence that is creeping back into our politics on the eve of another general election. In the Statement, I would like the Minister in particular to address the violence that occurred on 4th October, 2011, when hon. Raphael Tuju's convoy was stoned in Kisumu and his tour of Nyanza region disrupted by a violent mob.

On 14th November, 2011, again, Justin Shikanda Kongo, a New Ford Kenya supporter, was attacked on his way home from Port Victoria to Mundere, and was seriously injured. On 20th November, 2011, Patrick Shikuku, another New Ford Kenya supporter was assaulted after a meeting at Matayos, and he is nursing very serious injuries.

Hanington Odairo Mukudi, who was the ODM Secretary for Funyula Branch, and who defected to New Ford Kenya on 20th November, 2011, had been receiving death threats, and this morning he was found dead in his house.

Mr. Temporary Deputy Speaker, Sir, I would like the Minister to say, in his Statement, what he is doing to nip in the bud this worrying trend to ensure that the country does not relapse into violence in the coming general election. Finally, let him state what specific action has been taken against the perpetrators of violence in the various parts of the country I have mentioned.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I would like to request the Assistant Minister while he is responding to the same issue of growing violence as we move towards the general elections, if he could also clarify what the Ministry has done in relation to supporters of ODM who were attacked in the Ikolomani by-election and, to date, there is no information about what was done to arrest the persons who attacked the ODM supporters in Ikolomani.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I will issue a Statement with regard to areas which the Questioner has raised on Thursday afternoon, because on Wednesday, I have the question of hon. Shebesh.

The Temporary Deputy Speaker (Mr. Mungatana): It is so ordered!
Yes, Mr. ole Lankas?

ARBITRARY TRANSFERS IN NAROK COUNTY COUNCIL

Mr. ole Lankas: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the current sudden transfers taking place in Narok County Council.

Mr. Temporary Deputy Speaker, Sir, on Tuesday, 22nd November, 2011, I raised a Question in this House related to revenue collection by Equity Bank to Narok County Council. As a result of this Question, the chief officers of Narok County Council have resorted into intimidating junior officers. As I stand here now, they have started transferring them arbitrarily. This has raised a lot of concern.

In the Statement, I would like the Minister to clarify what necessitated these sudden transfers. He should also indicate the ranks and stations of the affected officers. Further, he should clarify whether the quick action by the chief officers of the county council will not, in any way, prejudice the work of the House Committee.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Yes, Mr. Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I undertake to prevail upon my colleague and he will be able to release this Statement on Thursday, next week.

The Temporary Deputy Speaker (Mr. Mungatana): Yes, we now proceed to the business of the House. I wish to give the following direction on Order No.8.

Before Order No.8, please, could the Leader of Government Business give the Statement for next week?

MINISTERIAL STATEMENT

HOUSE BUSINESS FOR THE WEEK COMMENCING

28TH NOVEMBER, 2011

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, on behalf of the Leader of Government Business, I wish to take this opportunity to make the following Statement with regard to the business for next week.

We expect the House to deliberate on the following Bills currently at the Second Reading stage:

1. The Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011
2. The Ratification of Treaties Bill, Bill No.28 of 2011.
3. The Partnerships Bill, Bill No.26 of 2010.
4. The Labour Institutions (Amendment) Bill, Bill No.26 of 2011.
5. The Micro and Small Enterprises Bill, Bill No.54 of 2011.

Mr. Temporary Deputy Speaker, Sir, the following two Bills will also be considered at the Committee of the Whole House. They are The Engineers Bill (Bill No.25 of 2011) and The Finance Bill (Bill No.12 of 2011).

The House will also consider the following Motions. The Motion by Dr. Wilberforce Ottichilo to the Ministry of State for Planning, National Development and Vision 2030 urging the Government to allocate adequate financial resources for conducting the said survey at both constituency and county levels before the end of 2011/2012 Financial Year. The Motion by hon. Ababu Namwamba to the Ministry of Co-operative Development and Marketing urging the Government to stop the planned privatization of the New KCC and immediately constitute a seven-member rights reconciliation team composed of representatives from the Ministry of Co-operative Development and Marketing and the Kenya Farmers Association to interrogate and conclusively determine the shareholding rights of farmers in KCC as converted into New KCC, which are to be guaranteed protection and duly awarded to the rightful farmers in the planned privatization.

Mr. Temporary Deputy Speaker, Sir, the House will also consider the Memorandum by His Excellency the President on the Indemnity Repeal Bill (Bill No.2010).

Finally, the House Business Committee will meet on Tuesday, 29th November, 2011, to consider business for the rest of the week.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Mungatana): Thank you. Is there any clarification on that?

POINTS OF ORDER

RESETTLEMENT OF SQUATTERS FROM KIBOROA FOREST

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, last week, I did raise concerns about a certain Motion for adoption of a report by the Lands and Natural Resources Committee of hon. Mutava Musyimi about the squatters of Kiboroo Forest in Kitale that has been pending before this House since August last year, when the Committee visited Trans Nzoia. The other squatters in Chebyuk and other parts of the

country have been settled. Those squatters are beginning to feel that, perhaps, the House is not taking their plight seriously. The Leader of Government Business did indicate that, that Motion alongside other Motions will be considered this week but I have not heard him mention it. I am a bit concerned.

(Mr. Ojode stood up in his place)

The Temporary Deputy Speaker (Mr. Mungatana): Just wait, Assistant Minister! Let us take the next one by Mrs. Odhiambo-Mabona.

Mr. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I would just like the Assistant Minister to clarify, from the Bills that he has indicated, I do not see any of the Bills that are in the Fifth Schedule of the Constitution, especially the ones that have one year to 19 months time frame.

Mr. Temporary Deputy Speaker, Sir, this is because we do not want to fall into the trap which we fell into, which is to rush things when there is time. When does he intend to bring those Bills so that we can start working on them before the House goes on recess?

The Temporary Deputy Speaker (Mr. Mungatana): Yes, the Leader of Government Business!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, you will agree with me that I am just acting and I do not attend the House Business Committee. However, I will raise these concerns to the Leader of Government Business so that when they sit on Tuesday, they should consider some of the areas which my colleagues have talked about. I want to assure my colleagues that some of these Bills will be considered in next week's programme.

The Temporary Deputy Speaker (Mr. Mungatana): Yes, the Member for Kamukunji!

DEMOLITION OF HOUSES IN EASTLEIGH

Mr. Hassan: Thank you, Mr. Temporary Deputy Speaker, Sir. I wanted to raise the issue relating to a Statement that I had requested from the Government on the demolitions that are taking place in my constituency. It was raised first on Tuesday and yesterday, it was also raised by the Speaker. At that moment, the Minister of Justice, National Cohesion and Constitutional Affairs had agreed that the Government will come back with the Statement today. I just wanted to know about the status of that Statement.

The Temporary Deputy Speaker (Mr. Mungatana): Yes, the Leader of Government Business!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I do agree with his request except that we were supposed to give the Statement today. I thought what was supposed to be given today was the confirmation of which Ministry will give the Statement.

We have since agreed that the hon. Attorney-General will issue this Statement on Thursday, next week. We will get information from the Ministry of Transport and

Ministry of Lands. We are yet to get information from the Ministry of Local Government. You know this issue was passed in the Cabinet and it forces us now to own what was passed in the Cabinet. The hon. Attorney-General will issue an elaborate Statement on Thursday, next week.

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, I regret the statement, given the fact that this is a matter of urgency. Demolitions are taking place, people are being displaced and made homeless, the suffering and the pain of the people of Kamukunji continues. I think Thursday is just too far. We will be presenting with a *fait accompli* of the report of how many houses have been demolished rather than addressing the humanitarian crisis that has been created by the demolitions the Government is undertaking at the moment.

The Temporary Deputy Speaker (Mr. Mungatana): The Leader of Government Business, since this matter was passed in the Cabinet and you own it, the facts must be there. So, Tuesday should be a good time for you. The whole of Monday, you will be working on it and on Tuesday afternoon, the Statement should be here. I so direct!

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

The Temporary Deputy Speaker (Mr. Mungatana): No! No! We are not arguing on that. We have already ruled on that.

Let us move to the next Order!

MOTION

ESTABLISHMENT OF CATERING AND HEALTH SERVICES COMMITTEE

Whereas the provisions of Section 45B(5) (c) of the former Constitution as saved by Section 3(2) of the Sixth Schedule to the Constitution provides that the Parliamentary Service Commission (PSC) shall have power to provide such services and facilities as are necessary to ensure efficient and effective functioning of the Parliament, and noting that the PSC during its meeting held on 15th November, 2011 resolved that in order to streamline provision of catering and health services, a Committee be formed to take over and be responsible for provision of effective and efficient catering and health club facilities to Members of Parliament; and whereas the National Assembly on 14th March, 1967 established a Catering Fund and a Catering Committee with powers to hold and manage the Catering Fund among other functions; this House resolves to establish a Catering and Health Services Committee to take over the functions of the Catering Committee set up on 14th March 1967 and the health club facilities and that the following are appointed to serve in the Committee:

1. Hon. Cyprian Omollo, MP.
2. Hon. Rachel Shebesh, MP.
3. Hon. (Dr.) Wilbur Otichilo, MP.
4. Hon. Elijah Lagat, MP.

5. Hon. Ekwere Ethuro, MP.
6. Hon. Danson Mungatana, MP.
7. Hon. Shakila Abdalla, MP.
8. The Joint Government Chief Whips
9. The Chairman of the Parliamentary Service Commission
Committee on Member's Welfare
10. The Speaker of the National Assembly.
11. The Clerk of the National Assembly to be the secretary.

The Temporary Deputy Speaker (Mr. Mungatana): I will give the following directions on Order No.8. I have been given some information here that it would be better to defer this Motion and, for those reasons, we defer it to Tuesday, next week. Order No. 8 is so deferred.

(Motion deferred)

Let us move on to Order No.9.

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

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

BILL

Second Reading

THE PARTNERSHIP BILL

The Attorney-General (Prof. Muigai): Madam Temporary Deputy, Speaker, I beg to move the Partnership Bill, 2010.

Partnerships are in this country currently governed by the Partnership Act, Cap.29, of the Laws of Kenya. Unlike part companies---

Mr. Wamalwa: On a point of order, Madam Temporary Deputy Speaker. I am afraid I did not hear the hon. Attorney-General move.

The Temporary Deputy Speaker (Dr. Laboso): Could you move that the Bill be read a Second Time?

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Speaker, I beg to move that the Partnership Bill, 2010 be now read a Second Time.

Madam Temporary Deputy Speaker, I am grateful for the intervention of my hon. colleague.

This Bill was developed as a result of the recommendations of the taskforce on companies, insolvencies and partnerships that was formed in 1992. The Bill is intended to provide clarity with regard to partnerships, particularly with regard to the manner in which partnerships break up or are wound up.

In addition to this, this Bill has elaborate provisions with regard to limited partners in a partnership and the role and duties to be performed by such limited partners. The Bill makes a distinction between general partnerships and limited partnerships. Hon. Members may recall that several weeks ago, we already enacted the Limited Partnership Act.

Madam Temporary Deputy Speaker, Part 1 of this Bill relates to preliminary provisions, essentially bodies that are excluded from the scope of the Act. Part II consists of provisions relating to general partnerships. Part III which essentially touches on clauses 21 and 25 deals with the liabilities of the partners in a partnership. Clauses 26 to 28 provide for the manner in which a person may join an existing partnership as well as the circumstances under which a person may cease to be a partner in or resign from a firm.

Clauses 35 to 37 deal with the break-up of a partnership and the effect of that break-up on the partnership.

Clauses 43 to 55 provide for court powers in relation to partnership outlining essentially situations in which the court can intervene to save partners' interests in the partnership, *et cetera*.

Part III of the Bill deals with the special category of limited partnerships in the context of the Bill. This is limited to mean in addition to the general partners who have unlimited liability.

Clauses 68 to 70 deal with the registration of partnerships and imposes a duty and an obligation on all persons intending to register a partnership to deposit documents with the registrar of partnerships.

Madam Temporary Deputy Speaker, Part IV contains miscellaneous provisions and empowers the Minister to make rules and regulations for the registration of limited partnerships and for the better carrying into effect of the provisions of the Bill.

The First Schedule to the Bill qualifies the circumstances where a person cannot be said to carry on a business with another person in partnership.

The Second Schedule provides for the winding up of a partnership.

Third Schedule outlines the functions of a provisional liquidator which includes the preservation of the assets of the company.

The Fourth Schedule outlines the activities that may be undertaken by limited partners in relation to the partnership which include the taking of decisions with regard to the matters outlined there. The Fifth Schedule contains special provisions on limited partnerships. Finally, it provides for the lodging of documents with the registrar, empowering the registrar to designate persons who may receive documents on that behalf.

Madam Temporary Deputy Speaker, I beg to move.

The Minister for Gender, Children and Social Development (Dr. Shaban):
Madam Temporary Deputy Speaker, Sir, I second.

(Question proposed)

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I want to thank the Attorney-General for moving this Bill. I want to thank the Attorney-General for bringing this Bill.

While appreciating the efforts of the Attorney-General, however, for purposes of records and for information of the public, I would have loved to know why we are bringing a new Partnership Bill when there is already an existing one. What was the mischief or what is the mischief that we intend to cure by bringing up a whole new piece of legislation? I hope that in his response, he will address himself to some of those issues, especially for purposes of record. However, I would request him just to bring the Bill in conformity with the current Constitution to use terminology and wording that is in conformity with the Constitution; such wording as “Minister”. We should use wording that is more in tune with the current Constitution.

I also want to note that this is a good initiative, especially in relation to members of the public. I would want to speak, especially in the legal sector that we know that a lot of lawyers get into partnerships and when the partnerships break which is often very acrimonious, you find that the interests of the clients are not taken into account.

Only very recently, we saw a case of a lady who had been taken back and forth by lawyers for a period of over 10 years simply because a partnership had collapsed. It is only until the matter came before a Parliamentary Committee that we intervened and the lady was paid. The only reason she was not being paid is because of the acrimonious nature that the partnership was dissolved.

I would, therefore, want to encourage him that as much as he is putting a lot of emphasis on the partnership and the relationship between the partners, he should also put a lot of emphasis on third parties that are likely to be affected by the actions of the partners.

Again, I want to talk on the issue of trust in Clause 18. I am happy that we are talking about the issue of partners owning property in trust on behalf of the others. However, I would want to say that speaking, especially in relation to women who may be affected when their husbands are in partnerships, sometimes it happens to men, but in the majority of cases, it happens to women. That, when your husband dies and he was in a partnership, most of the partner get quiet and they do not inform the families and spouses of the other partners about the benefits that they may be having in the partnership.

So, in order to protect this, the law presumes that all Kenyans have information about the law. We need to have laws that are self-executing and where you do not put the onus on ensuring the law is executed on the public, but on the law itself. Let us put the onus on the law and not on the poor innocent Kenyans who it will take a while to understand that we have come up with a new Partnership Bill that will be regulating partnerships.

I would also like to say that the same manner and the same approach that has been taken by the other new laws like the Sexual Offences Act and the Counter-Trafficking in Persons Act, you need to have a section on implementing this law. The Constitution provides for it. The Sexual Offences Act provides for it. The Counter-Trafficking in Persons Act also provides for it. Can we just as a matter of practice have every law having an implementation clause so that Kenyans are protected?

With those few remarks, I beg to support.

Mr. Wamalwa: Madam Temporary Deputy Speaker, I also wish to support this Bill.

Mrs. Odhiambo-Mabona had mentioned earlier that she was privileged to be taught by the good professor, the Attorney-General. I also want to go on record by saying

that I was also his student. I heard one gentleman here saying that he was behaving like a professor when answering one of the Questions. I want to put it on record that he is, indeed, a professor. We are very privileged to have been his students.

Madam Temporary Deputy Speaker, on the Bill before the House, we are very happy that the era of reforms is here with us. Looking at the history of this particular Bill, it goes way back to 1992 when the former Attorney-General, who was one of the longest serving in our history, formed a task force to review the Companies, Investments, Partnerships and Insolvency Acts. Even as we look at reforms in other institutions; the Judiciary, the police and others, we must look at how these reforms can also improve the way we do business in this country and how we can encourage investors who come to this country and wish to do business. They will do so through legal relationships either through partnerships or legal liability companies and so on and so forth. It has been a wish of many investors in this country that we have more put in by way of legislation to make it easier for them to incorporate companies and register partnerships to do business in this country. We have lost many investors to Rwanda and other countries that have, through legislations and proper policies been friendly to investors, made it very easy to have a one-stop kind of stop where people can get a partnership registered in a day or a company. They are able to invest.

Looking at this Bill, it is true that for many people, because of the issue of the unlimited nature of partnerships, the growth of partnerships has been affected in this country. Therefore, the aspect of having limited partnerships and providing proper legal framework is something that will go a long way in encouraging people to form partnerships to do business with a clear legal framework, how they can resolve their disputes and how they can move this country forward. I only urge that in the areas where they have provided for registration, particularly Sections 68 and 69 which give the Registrar powers of registration, perhaps should not have been left open ended.

Madam Temporary Deputy Speaker, upon receiving an application for registration of a limited partnership under Section 68, the Registrar shall, if satisfied that Section 65 has been complied with, register the limited partnership. It is general in terms, although they are empowered to make the rules. I would have urged that we should have specific time-bound provisions that can make it very clear that when you go to have a partnership registered, upon meeting the requirements within this period of time, you should have this registration done and completed.

We also want to encourage young people in this country who have been tarmacking and looking for jobs all over and have been frustrated over time because they have not been able to get the employment they have been looking for, to also form partnerships. We need to look at a way of making this legislation and requirements not too prohibitive so that we can find young graduates who have come out of colleges and want to register partnerships to be able to do so in a more easy and friendly manner. We do urge that these considerations be made even as we make this legislation.

With those few remarks, I beg to support.

Mr. Muthama: Madam Temporary Deputy Speaker, I also stand to support this Bill which has been brought by my brother, the Attorney-General.

I want to make my contribution on the basis of my profession as a businessman. The purpose of this Bill is partnership and making laws in terms of partnerships, according to my understanding is that, it should be based on protecting the interest of

Kenyans. The experience I want to share with this House is that in a small country like the United Arab Emirates (UAE) today, no foreigner can move there to set up a business, operate it and be licensed by the Government without involving the people of Dubai. If you go to Dubai today, you will see that there are partners who never leave their homes. They work with foreign partners and pay them salaries. They also pay dividends at the end of the year. That has contributed to reducing poverty in Dubai.

Madam Temporary Deputy Speaker, the law here should be strengthened to make sure that Kenyans are protected. We have seen multi-national companies which come into our county, go to a place like Kwale where titanium mining was to take place, the first thing that will be done by the Government is to mobilize poor Kenyans, take them into one area and start offering them compensation of a few thousand shillings. A titanium mining industry in Kwale was to cost billions of shillings in investment. You will find the owners of the land there being given a few shillings as compensation and then they are thrown out. This happens, yet no Kenyan is offered an opportunity to have shares in that company.

I even want to talk about investors in Maasai Mara, South Coast, North Coast, farming in Rift Valley and all parts of this country, including within the city of Nairobi. The country has gone into the hands of foreigners in preference of foreign investments.

Madam Temporary Deputy Speaker, my suggestion is - if the Attorney-General will take note - to make sure that as we go to county governments, any investor who goes to any county to invest automatically the residents of that area are given a certain number of shares in that company so that they could be players and participate fully. We have business people who are so shrewd that by using the name of foreign investors, they come here and have exemption from paying taxes for two years. They make profits and take the profits away. After they work for ten years, they use 20 per cent of their profits to employ local Kenyans whereas 80 per cent of the profit is taken out of the country. Kenyans are watching and are not happy with what is happening. I suggest that in this Bill, we make sure that nobody comes here as a foreign investor and is licensed to run the business without involving Kenyans.

Share contribution is mentioned in this Bill. That is a big predicament. Expecting Kenyans to be players in joining those companies as partners with the amount invested would be next to impossible. I believe that a private investor should be allowed to invest without interference. At the same time, the consideration of the ownership of the same business that is being operated in Kenya should be considered seriously and Kenyans should be allowed to own shares in those companies.

With those very few remarks, I beg to support.

Mr. Njuguna: Thank you, Madam Temporary Deputy Speaker. I also take the opportunity to thank the Attorney General for moving this very critical Bill. Partnerships have broken down in the past thus creating unnecessary environment in terms of investment. Sharing of assets has caused havoc between the partners and in-fighting in the boardrooms. This has been very detrimental in terms of our economic performance.

We have also seen ugly scenes, for instance, the Mboi-Kamiti people murdering one another. Innocent blood has been shed because of misunderstandings because of this critical role. The new Partnership Bill will create the necessary environment in our country. Jobs will be created for the tarmacking youths from secondary schools and universities and this will create peace and stability in the country.

Concerning the registration of these partnerships, our people have been attracted where the partnership law has been better. The newest state, South Sudan, has this law and our people have gone there to start businesses. They have also gone to Rwanda where a lot of resources have been taken. It is our people who have gone with our resources there. We will have more Kenyans invest in this country with the introduction of the partnership law. We will also get external investors taking up the chances to invest in this country.

The other critical observation is about the disappearance of partnership files at the Attorney-General's Office. This has been a permanent feature. I think with the new broom at the Chambers, this serious development will be controlled. This will bring sanity and sobriety at the registration office. The issue of files disappearing has affected investors in this country and that should be controlled.

Madam Temporary Deputy Speaker, this is a very critical role and once formulated will allow the country to breath like the developing countries and enable it emerge as a strong nation.

With those few remarks, I fully support the legislation.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Madam Temporary Deputy Speaker. I would like to join my colleagues in thanking the hon. Attorney-General for brining this Motion to this House which I support.

(Mrs. Kones consulted with the Chair)

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

The Temporary Deputy Speaker (Dr. Laboso): What is out of order?

Mr. Ruto: Madam Temporary Deputy Speaker, I am just wondering whether you are sure that Madam Beatrice is not destructing your attention because you have consulted for too long.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Isaac, I am fully in control of the business that is going on.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Madam Temporary Deputy Speaker. You are right because you even saw me and yet I was standing at the corner. I do not think there is any obstruction.

I just want to thank the Attorney-General for---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I think hon. Isaac is a little bit confused because he has just come back from the ODM Party Elections.

The Temporary Deputy Speaker (Dr. Laboso): I hope he got a good position. Hon. Isaac, did you get a good position in the ODM elections?

Mr. Ruto: Madam Temporary Deputy Speaker, in fact, we were helping our voters to move because the only elections going on are in Kisumu. So, it took me a lot of time ferrying them there.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Prof. Kamar, continue!

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Madam Temporary Deputy Speaker. I think these Members are bent on distracting me.

I would like to support this Motion, because the issue of partnership has created a lot of acrimony among Kenyans. We have heard enmity arising out of how partnerships are formed. Sometimes people are taken advantage of. People have entered into partnerships only to discover that their liabilities have been generated without them knowing.

I have seen cases personally, where members of a partnership are employees of the same partnership and there has not been a very clear way of trying to sort them out. I know, as Members of Parliament, we come across this on a daily basis. We come across conflicts between youth who have formed companies and are in debt even before they realise. These are things that need to be clarified. As the custodian of this law, could the Attorney-General tell us how this information could be passed on to Kenyans? As it was mentioned by a Member earlier on, we have also found out that women have been great victims of these situations where spouses die without declaring which companies they were in and there has been a lot of silence. Their rights have been stepped on and their benefits have not been surrendered either to them or to their children. I am wondering how Kenyans can be educated on this. I would like the Attorney-General to look for a way in which this law, which will protect Kenyans from partners who may be calculating on making profits which they do not deserve, could be stopped. This is because not everybody knows how to look for redress in the courts or elsewhere. There seems to be dire need for education.

I have come across several members of my constituency who have asked me questions on how they can get out of a partnership or get their dues out of a partnership that has gone sour. It seems as if Kenyans do not know much about this. We know that we are encouraging our youth to go into youth groups and some of them have moved, even beyond youth groups because of the existence of the Youth Enterprise Development Fund to form small companies that can enable them to do things for themselves. How can this information be passed on to them? This is the only question I have.

Otherwise, I really support this Bill because it is very timely.

The Temporary Deputy Speaker (Dr. Laboso): As there seems to be no further interest from Members, I would like to call the Attorney-General to respond.

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Speaker, I would like to respond. I want to start by thanking very much those Members who have contributed to this Bill, especially the two distinguished Members who made reference to previous association between me and them. They have more than vindicated that it was a good career move to be involved in molding future lawyers.

(Applause)

The matters raised by the distinguished Members have been noted. I think partly the reason this Bill is slightly out of sync with the new Constitution is because we published it before the effective date. I think we will have an opportunity to clarify those references to the Cabinet Secretary at a later stage.

It is useful for me to point that this Bill has become necessary because we intend to update the laws of this country continuously. The old Act is more than 50 years old. We hope that by this Act, we will bring the law in conformity with international best practices.

Madam Temporary Deputy Speaker, secondly, we intend to improve the business environment in this country. It is one of the undertakings I gave when this House acceded to my nomination to this Office. I said then I would like to see the Attorney General's Office support the business community in a more robust manner. We will be bringing to this House more legislation supporting the environment in which Kenyans and foreign investors do business.

Madam Temporary Deputy Speaker, you are aware that for the last couple of years, we have tried to improve our standing in the indices on doing business in the world. This is one of the ways that we hope to do so. We hope that by this legislation and by others, Kenya will become what it truly deserves to be; the premier location to do business in East and Central Africa.

Madam Temporary Deputy Speaker, I am very conscious of the fact that as hon. Wamalwa has pointed out, we have a large group of our young people who are trying to do business in various areas such as Information Technology (IT). They require from us a simple regulatory framework in which they can do this business. This Partnership Bill is an excellent opportunity to answer to those demands. It is simple; it is clear. The reporting provisions are very straight forward. We hope that the majority of our people, especially our young people will be able to regulate their business in this way. Indeed, I am conscious of the references made to special circumstances of women and who, as you know, are the majority of the participants in the *chamas* as we call them. This law is a wonderful opportunity for the *chamas* to regulate their affairs in a simple, but clearly effective manner. We, in the Attorney General's Office, would like to be supportive of those initiatives.

I have noted, therefore, all the comments made, all of them very valuable and all of them very positive. I thank Members again.

With those remarks, I beg to move.

(Question put and agreed to)

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

Second Reading

THE PUBLIC PROCUREMENT AND
DISPOSAL (AMENDMENT) BILL

(Mr. Wamalwa on 17.11.2011)

(Resumption of Debate interrupted on 17.11.2011)

The Temporary Deputy Speaker (Dr. Laboso): Okay, the hon. Wamalwa had just started moving this Bill. You have 59 minutes.

Mr. Wamalwa: Madam Temporary Deputy Speaker, Sir, I had just made my opening remarks by indicating that the constitutional basis for this Bill is Article 55 of

our Constitution. It requires that the State take measures including affirmative action programmes to ensure that the youth, not only access training and education, but also have opportunities to associate to be represented and to participate, not only in the social and political, but also the economic life of this nation.

Madam Temporary Deputy Speaker, in defining affirmative action, Article 260 of the Constitution makes it very clear that affirmative action includes measures designed to overcome or to ameliorate an inequity or the systematic denial or infringement of a right or fundamental freedom. This particular Bill has the main objective of ensuring that young people in this country are able to participate in the public procurement that has been a preserve of those who are wealthy, those who hold important positions in Government and those who are politically-correct and connected in this Government. Whether they are the Ministers, CEOs of the various parastatals, Directors, and those who are connected in all these areas that have money to access to be able to secure lucrative tenders to supply and do business with Government. For an ordinary youth in this country, who has been to school or college, it is like trying to swim with the sharks for them to access these share of procurement because of the many disadvantages that they suffer. So, the principle object of this Bill is to amend the Public Procurement and Disposal Act of 2005 so as to ensure that at least 25 per cent of the annual procurement by public entities is allocated to the youth in accordance with conditions as the Minister may prescribe.

We are also proposing that the Minister will have powers to prescribe conditions upon which the procurement shall be allocated to the youth so as to make it accessible to this very disadvantaged group. This proposed amendment will go a long way in empowering the youth and will help reduce the high level of unemployment in this country.

Madam Temporary Deputy Speaker, our proposal also finds bases in Article 227 of the Constitution which provides for procurement of public goods and services. Under that Article, the State organ that contracts for any goods or services shall do so, in accordance with a system that is fair, equitable, transparent and competitive; that is cost effective.

Before the passing of this new Constitution, we did not have any specific provisions for the youth of this country. We did not have any specific provisions that would make the system of procurement fair in terms of access, particularly by this disadvantaged group of, not just young people, but also women, and disabled. So, under Article 227, our own Constitution allows under Article 227(2) for an Act of Parliament to prescribe a framework within which these policies relating to procurement can actually be made.

Madam Temporary Deputy Speaker, Sir, under Article 227(2)(b), the Constitution allows for provisions to be made, particularly for the protection or advancement of persons, categories of persons, or groups previously disadvantaged by unfair completion or discrimination. So, this particular provision in the Constitution actually envisages a situation where there are groups that cannot access these share of public procurement because of obvious disadvantages. It does empower this House to make laws that can make specific provisions for the protection and advancement of the interest of such persons, or categories of persons, or groups of persons that have previously been disadvantaged.

Madam Temporary Deputy Speaker, one of these groups is this group called the youth. We are urging that through affirmation envisioned in Article 55 of the Constitution, the time has come for this country to take affirmative action to ensure that the youth of this country are empowered through access and provisions to allow them participate in our economic life. We do all know that we live in a country whose 70 per cent of its population is below the age of 40.

Madam Temporary Deputy Speaker, a country where the unemployment rate is at an all time high, over 40 per cent. We live in a country where 50 per cent of its population is living below the poverty line; of those 50 per cent, the majority are the young people. They are the most disadvantaged. So, we are saying that the time has come. It is not just a favour. It is now a constitutional requirement that this state organ starts putting in place affirmative action and measures that will empower these disadvantaged groups, including the young people of this country.

Madam Temporary Deputy Speaker, we know that this will go a long way in decreasing the vulnerability of the young people by providing them with new opportunities that have hitherto not been available to them. We are saying that in this amendment, we wish to propose to introduce an amendment to Section 3 of the Public Procurement and Disposal Act 2005. It does not provide the aspect of the youth participating in public procurement. We are proposing that we amend Section 3(1) by inserting a new definition under the definition of the original act of “youth.” We are saying that “youth” means a person who has attained the age of 18 years and has not attained the age of 35 years, and includes a company, association or body of persons corporate or unincorporated in which all of its directors or proprietors are persons who have attained the age of 18 years and have not attained the age of 35 years.

Madam Temporary Deputy Speaker, I am happy that this afternoon, we have been dealing with the Partnership Bill. We are also in the process of dealing with the Companies Bill to ensure that we make it possible for young people to do business through simplified forms of incorporation of companies and registration of limited liability firms; there is to be recognition of the youth of this country in our procurement laws in addition to the recognition in our Constitution. We are bringing them on the table through this proposed amendment and allow them to be able to access public procurement.

Madam Temporary Deputy Speaker, we are proposing another amendment to Section 39 of the principal Act. We are proposing that this Section 39 be amended by inserting the following the new sub-section immediately after sub-section 8: “despite the provisions of sub-section (2) or any other provisions of this Act, the Minister shall, pursuant to Article 55, which requires affirmative action to ensure empowerment of our youth---” Article 227 allows for preference and affirmative action to be put in place to allow for disadvantaged groups to now participate in public procurement.

Madam Temporary Deputy Speaker, those two particular articles of the Constitution will be invoked; that upon amending Section 39, the Minister will be able to prescribe preferences requiring every procuring entity to ensure that at least 25 per cent of its procurement in every financial year is allocated to the youth in accordance with this section in such manner and subject to such conditions as the Minister may prescribe .

Madam Temporary Deputy Speaker, we are giving the Minister the powers, and through the amendment of the principal Act, we are setting a policy that seeks to

implement what the Constitution has provided for and give basis for affirmative action in this very important area of our public lives, where billions go into business through public procurement. If you look at the 42 Ministries, the number of parastatals under them and the amount of money that goes into public procurement, you will see billions. This is an area which ordinarily young people in this country cannot access. Through this proposed amendment, we are saying that it is now possible.

In the past, the biggest handicap for young people in this country to access tenders and to participate in this area that has been a preserve of the wealthy, the connected and the powerful has been clear hurdles in the way of young people, most of whom are job seekers with little or no experience. Most of the requirements, when you look at public tenders, will be experience of ten years. For a young man who has left college, and who has been tarmacking for several months or years, to ask them for experience of ten years is a hurdle in itself. It would put a young fellow out of play.

Madam Temporary Deputy Speaker, there are requirements of financial capacity, and all young people would not access a particular procurement. If you are asked to provide audited accounts for the last ten years and bank or financial statement that will show the financial capacity of a particular company--- For young fellows who are coming into a field will not have established businesses that will have the financial capacity required by most of our public entities in their procurement business.

Madam Temporary Deputy Speaker, performance bonds are also asked for; many other requirements put procurement business beyond young people. So, what do we do? We are saying that it is possible that in the spirit of affirmative action to put in place necessary rules and regulations that can remove the hurdles, the inhibitive, prohibitive and punitive requirements that have been put in place by many public procurement entities, that the young people of this country cannot access.

Madam Temporary Deputy Speaker, it is possible. We are saying so because other countries have done this; in the spirit of empowerment of their populations that have for various historical reasons been disadvantaged and been left out of the public and economic life of their nations--- One of the nations that have done very well is South Africa. This is a nation, whose black population, most of which is youthful and had been left out of business because of the apartheid policies---Through an Act of Parliament, they were able to put in place the Preferential Procurement Policy Framework Act. This particular Act was targeted at empowerment of the black population, particularly the youthful population of that nation. They introduced amendments to the procurement laws and allowed for all organs of state to determine preferential procurement policies, and make rules and regulations for the implementation of such policies. This has gone a long way in empowering the black population in South Africa. However, you find one of the young leaders in that great nation, Mr. Malema, still fighting. They are saying that the black population, years after Mandela and Mbeki, is still not able to access the wealth of South Africa, or to meaningfully participate in the economic life of this economic superpower of the African continent.

However, we are saying that it is not different in Kenya. This is because Kenya being a youthful country with a youthful population that has been excluded from the mainstream of our economic life, it is in the same place as the black youthful population of South Africa, that through legislation and affirmative action, has now been empowered and enabled to participate and access that cake. This is one of the areas where we are

saying that we do not need to re-invent the wheel. We can borrow from other nations that have similarly come from a past where large parts of the population have been excluded.

Madam Temporary Deputy Speaker, using our new Constitution as the basis, we want to say that time has come for us to have a paradigm shift in our politics. It is now time to have politics of empowerment, laws and policies that are youth friendly and centered that can empower the young people of this country. We know that as a nation, it has taken us over 40 years to even come up with a youth policy. It is just the other day that we were able to develop a National Youth Policy in this country. It is only the other day, after 40 years, that we were able to come up with a Ministry that is supposed to deal with matters touching on the youth of this country. It is just the other day after we had the Ministry of Youth Affairs and Sports in place that we developed the Youth Enterprise Development Fund to try and help the young people of this country, whose impact is still limited in view of the limited resources. It is only the other day that we had the Women Enterprise Development Fund put in place to help the women of this nation and particularly the young women, whose impact is similarly limited.

Madam Temporary Deputy Speaker, we also know that it is just the other day that we were able to come up with the initiative called “*Kazi Kwa Vijana* (KKV)” where we were trying to empower the young people of this country. The HANSARD will bear me out that time and again, issues have come up in this House over that initiative and its success. The current situation is that Kshs4.3 billion has been returned to the World Bank due to issues that came up in the management of this Fund. Overall, we have not done much as a nation to empower the young people of this country. We know that it falls upon the State, according to the provisions of Article 55 to come up with these measures, but we know that as young leaders in this country, particularly in the Tenth Parliament, we must show by example that, indeed, there are new ideas we can come up with that can ensure that we change tact and show that the Government has tried. We have seen the interventions of the Government since 2003, when they promised to provide 500,000 jobs for the youth of this country and the limitations in terms of success that we have had over the years. We are saying that it is possible that apart from the KKV initiative and the Youth Enterprise Development Fund with the limited funds we allocate it during our Budget, we can borrow a leaf from other nations in the African continent and beyond. We can come up with new ideas that can empower the young people of this country and give them hope; that, indeed, it might not be possible to give them 500,000 jobs, but it is possible to come up with new ideas that can empower them. We can make laws that will be friendly to them. The youth can go to the Companies Registry and register their partnership or companies. There can also be funds that can be accessed by the youth and they do not have to know the Minister, Managing Director of a corporation or to be a director in that corporation. However, through our laws that are friendly, they can access a share of public procurement and recognize the disability and hurdles that they have suffered over the years. That is what we are trying to do through this proposed Bill.

Madam Temporary Deputy Speaker, we know that if it has worked in South Africa, it is possible that it can work here in Kenya. We do know that, as a nation, we have invested a lot in our young population. We have developed a human resource that is the envy of not just the region, but the continent and beyond. But just like we have had problems in agriculture, where we have lacked a post-harvest policy that would bring in this crop and ensure that we are able to attain our national food security, we equally do

have a poor post-harvest policy in terms of after investing too much in the training and the education of our young population, how do we maximize on the training, their talents and abilities beyond the universities, schools and colleges. We have a problem where young people after tarmacking and when you go to all the jobless corners of this country, what you hear is frustration. You will hear young people getting frustrated and giving up. Many turn to drugs and join illegal gangs because of the frustration that they have after tarmacking year in, year out, looking for jobs. However, time has come through this amendment and other ideas that are coming up before this House where we can tell them that hope and help is on the way. There is hope and there is a new way that we can do things in this country.

Madam Temporary Deputy Speaker, I know that after this amendment, we will require the Minister to put in place regulations. There would be the possibility of attempts to abuse this particular provision once it is passed. They know that there is a share of public procurement that is preserved for the youth of this country. There are still those who will want to use the same youth to beat rules and steal in order to get a share of that, although they are not young people. We can borrow a leaf from other countries and come up with rules. That is why through this proposed amendment, we are actually telling the Minister that he has the powers, first of all, to put in place specific preferences in terms of procurement, but most importantly, to put in place the necessary rules that will allow those who fall under this bracket not to be used or abused. These are the rules that we have proposed in this amendment. If we can through this amendment allow the young people to access our public procurement, let us do so. Let us also know that unless we turn this great human resource that we have on earth, the majority of which is below the age of 35 or 40, it can very quickly turn into a menace.

Madam Temporary Deputy Speaker, I will close by remembering what one great author Isabel Allende once said in her book *The House of Spirits*. She did say that from the time Adam and Eve were thrown out of the Garden of Eden, the work ethic amongst the human beings started. From the time a child is born, the child begs for education. After education, a child begs for work. After not finding work, a child begs for alms. It is only after the almsgivers stop giving alms that this child turns to crime. She did say that all is not well unless the child is well. I will say that all is not well unless the youth of this nation are well. We must come up with policies to try and ensure that they are given a meaningful opportunity to participate in our economic life as a nation. In line with Agenda Four, we do know that one of the areas where we have not done very well is the area of youth unemployment.

Madam Temporary Deputy Speaker, we know that in all the other areas, we have tried and we have done well when it comes to the constitutional reforms, institutional reforms; whether it is in the police and the land reforms. All the Agenda Four items, we have dealt with them very well and they are on course. I believe that most of the Bills are coming before this House. The area that we have done very little about is the area of youth unemployment. This was recognized by the Serena Team as one of the areas of concern and unless it is addressed, it will turn into a time bomb. We are seeing this happening in other nations on this continent and beyond; whether it is in Syria or Egypt, there are young people out there who are hungry and angry and out on the streets. Unless we do something to give them hope and empower them, what is happening in Egypt can very easily happen here. What is happening in Syria and other parts can easily happen

here. So, part of this Agenda Four item is what we are trying to address through this proposed amendment. It is possible that this matter can be addressed not just through this Bill, but through many other Bills that are coming before this House that would seek to empower the youth.

If we were to look at the public procurement that goes on even just in terms of beautifying our public offices and Ministries, the flowers that are supplied run into hundreds of millions. The stationery that we use ordinarily in our offices, if it was possible to let the youth supply these stationery, these are millions and billions of shillings, even the groceries and the tea that we have in our offices. But for the youth to compete or even to have a chance to supply stationery is an uphill task. You find that those who get those tenders to supply would be one way or the other connected and politically-correct, but we can say “no, let us also give a share of this to our young people”. We can do so through this amendment. One day when the young people of this country feel appreciated, involved and empowered, they can also say like Alfred Mutua says: “*Ninajivunia kuwa Mkenya*”. Many of them right now are saying “*Navumilia kuwa Mkenya*”. They are so stressed. They cannot afford a kilogram of sugar. Many have turned to *boda bodas* because that is the only business they can do after school if they can manage to get a motorbike somewhere or get employed.

We should allow them to access our public offices and public procurement entities and tell them that: “You too have a share in this; you are not just observers; you can participate, you can stop whining and start winning some tenders because we care and we are making friendly policies and laws that will make it easier for the youth than it has been”. It is their constitutional right under the new Constitution. I wish not to take a lot of time and I want to invite hon. Odhiambo-Mabona to second this Motion.

I beg to move.

Mrs. Odhiambo-Mabona: Thank you, Madam Temporary Deputy Speaker. I want to laud hon. Wamalwa for bringing this notable amendment. I want to indicate that he has by this amendment given life to Article 227 of the Constitution. I am a human rights defender and this is one of the areas where we are implementing the human rights based approach. I am saying that because it looks at the marginalized and excluded in the society.

As hon. Wamalwa has indicated, the youth form the majority of the population of this country and they are the ones who do not have access to resources and services in this country. That is why when you look at the Constitution, it acknowledges that and in very many areas, tries to redress this. Indeed, the Constitution is very revolutionary and I do not know whether the Attorney-General knows that. I would want to ask him as the advisor of the Government to inform the Government that it needs to pull up its socks because the youth and the women of this country are going to get their fair share. There are many principles that we put in this Constitution and I have heard many people erroneously saying that principles are not alive and that principles cannot be put into effect. If that is the case, then why were we putting them in the Constitution? We could not have run out of things to be writing. I do not think we only wanted a voluminous document. Really, many people wanted a small document. So, for any word to have gone into this document, there was an import and a reason.

I want to go to the preamble, the sixth paragraph that starts with “recognizing the aspirations of all Kenyans for a Government based on the essential values of human

dignity, rights, equality, freedom and social justice”. The Government must start to interrogate what social justice means. It means inclusion of the youth, the marginalized and the women. We have said we adopt an Act and give this Constitution to ourselves and to our future generations. Who are our future generations? I consider myself young, but I am not part of the future generation. The future generation is those behind me. We must be giving them a country that they are proud of, where they are not poor and where they can have decent meals three times in a day.

I want to also refer to Article 6(3) of the Constitution that says:-

“The national State organs shall ensure reasonable access to its services in all parts of the Republic”.

The equity and equality that we are talking to, first goes regionally and then to categories of groupings. I speak to this principle all the time I stand here. I want to give an example. When I was a human rights activist in the real sense, running in the streets, one time I met the former Chairman of the Electoral Commission, Mr. Kivuitu, when he was still very exalted. He found me in a T-shirt jumping outside the High Court when we were agitating for a new Constitution. I used to be with him in one of the electoral petition courts when it was one court as a very young girl. He told me: “Young girl, it does not matter how long you agitate for reforms in this country and how hard you try, the Constitution will not come because I have been here and I have seen the way things go”. I am happy that today, I can stand here to prove him wrong. I said then that it does not matter even if I only manage to scratch the wall and a little bit of the dust comes out because it will be contributing towards change. The fact that we have the Constitution is testimony to that.

This initiative by hon. Wamalwa is another testimony to the great changes that we are going to see. I do not know if we actually understand the import of what we are doing and what hon. Wamalwa is doing. It means that every time there is procurement in this country, 25 per cent must go to the youth. This is one of the ways we must deal with the issue of youth unemployment. We have so many youths who are jobless. We have so many young people who have been forced to turn into crime as a matter of survival. Nobody wants to go into crime because it is fashionable because it is not. It is risky and many young people lose their lives in the process of engaging in crimes. But when young people get alternatives, then they are able to engage meaningfully and to change their lifestyles and, therefore, they do not need to be engaged in crime.

The only thing that I want to encourage hon. Wamalwa to do is that if you read the wording of the Constitution, it also includes women. So, I am going to move an amendment to include women because those of us who agitated for the inclusion of this, were thinking of the young people, women, minorities and persons with disabilities. I would want to then say women, but put the amendment in such a way as part of the youth and women, there will be those of them that are marginalized and those of them who are persons with disabilities, so that we are talking about 50 per cent, but it will be 50 per cent that will include the women, the youth, persons with disabilities and the marginalized. If you look at Article 10(1) of the Constitution, which talks about national values and principles of the Constitution, it says:-

“The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them applies or interprets this Constitution.”

Then I will go to (c) which says:-

“(c) Makes or implements public policy decisions”.

Some of those principles found in Sub-Article (2)(b) include human dignity, equity, social justice, inclusiveness, equality and human rights.

Madam Temporary Deputy Speaker, if you notice, some of the reasons that were given for our fight are equality and equity for areas that have been marginalised over the years. We must include them. Unless we actually realise that, as a country, we will never solve the problems that bedevil us. I like giving the example that I have given before. I actually laud the principals even though we attack them on the Floor of the House, that in the appointment of the Chair of the Gender and Equality Commission, they jumped all the candidates on the list that was presented to them and appointed candidate number four.

For the sake of inclusiveness, sometimes we must do something like that. Otherwise, we will always have people from four tribes reigning over the rest Kenyans. That was why we almost went to war. It does not matter if only people from the four tribes are the ones who are educated. It does not matter if they are the ones who are the brightest in this country. Everybody has a share in this country. For the sake of peace and inclusion of everybody in this country, we must take the marginalised or the excluded into account.

A person who is satisfied will not even be interested in politics. If you tell them that hon. Odhiambo-Mabona is standing for the presidency, they will ask: So what? Let her go ahead. They will not be bothered. However, if you tell a person who is hungry that hon. Wamalwa is standing for the presidency, they will ask: Does he come from my neighbourhood? Is he my brother? Why? It is because we all want to fill up our stomachs because we are hungry.

Madam Temporary Deputy Speaker, Sir, I want to mention some Articles, which I will not read out because of limitation of time, but which speak to the same principle. Article 24(1)(a) and Article 27(3), (4), (5), (6) and (7) talk of the rights of women. I want to go to the Article that we were referring to, which is Article 227. It talks about the same principles that I am talking about. It says:

“227(1) When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.”

If you look at Sub-Article (2), you will see that it talks about inclusion of categories of preference in the allocation of contracts and the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination.

Madam Temporary Deputy Speaker, I wish to inform the Attorney-General that I was very actively involved in a programme that was sponsored by several development partners, including SIDA, which is called “Mainstreaming in Action”. What we were doing was mainstreaming the human rights of women, children and other marginalised groups. When you now see a woman involved in the construction of roads, it is not accidental. We fought for it to ensure that a woman can also be involved in the construction of roads, even if it means doing light work. We increasingly see that happening, and we think that it has always been there. It has not always been there.

In the same vein, I would want to encourage us that we must mainstream in action in every Ministry. One day, when I finally become a Member of the Executive in the next Parliament--- First, I will seek to be a Member of Parliament. If I do not become a Member of Parliament, I will be part of the Executive, to be on the safe side. However, I would not want to be in a Ministry of Gender and Children. I like mainstreaming the rights of the youth, women and children in unconventional Ministries, like the Ministry of Roads and the Office of the Attorney-General. So, I will take over from my able teacher.

With those few remarks, I beg to second.

(Question proposed)

Mr. Njuguna: Mr. Temporary Deputy Speaker, I thank you for giving me the opportunity to contribute to this very critical Bill. Let me start by thanking the Mover of this debate, hon. Wamalwa, because he has come out to think about the plight of our youth.

The youth of this country are the biggest segment of our population and, therefore, they need to be given due attention, so that they can participate effectively in the social, economic and political life of this country. The youth---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Njuguna, you will have 19 minutes when debate on this Bill resumes.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time for interruption of business. Therefore, the House stands adjourned until Tuesday, 29th November, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.