

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 25th October, 2011

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

NOMINATION OF CHAIRPERSON/MEMBER OF NGENC

Mr. Speaker: Hon. Members, I have the following Communication to make.

Section 9 of the National Gender and Equality Commission Act, 2011, provides that the National Gender and Equality Commission shall consist of a Chairperson and four other members. Further, Section 11(6) provides: “Until after the first general election after the commencement of this Act, the President in consultation with the Prime Minister, shall within seven days of receipt of the names forwarded under subsection 5, nominate one person for appointment as chairperson and four persons for appointment as members of the Commission and shall forward the names of the persons nominated to the National Assembly.”

By a letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service, dated 19th October, 2011, the National Assembly has been advised that His Excellency the President has, in consultation with the Right Honorable Prime Minister, nominated the following persons to be considered for appointment as chairperson and member of the National Gender and Equality Commission:-

- | | | |
|---------------------------|---|-------------|
| 1. Ms. Winfred O. Lichuma | - | Chairperson |
| 2. Mr. Simon John Ndubai | - | Member |

Hon. Members may wish to note that only one name of a nominee for appointment as a member of the Commission has been forwarded as there are already three commissioners serving pursuant to the provisions of Section 58(2) of the National Gender and Equality Commission Act, 2011 which *inter alia* states: “Notwithstanding Section 9, the persons who are members of the former National Commission on Gender and Development who became members of the Kenya National Human Rights and Equality Commission pursuant to Section 26 of the Sixth Schedule to the Constitution shall become members of the Commission upon the commencement of this Act for their unexpired term.”

Upon receipt of the names of the nominees, the National Assembly is required under Section 11(7) and (10) to consider within 21 days of the day it next sits after receipt of the names of the nominees and to approve or reject any nomination and request for names of new nominees.

Hon. Members, I direct that the names and the accompanying Curriculum Vitae be forwarded to the Departmental Committee on Labour and Social Welfare for consideration. The Committee is hereby directed to table its Report thereon in the House on or before Tuesday, 8th November, 2011.

I thank you.

PAPERS LAID

The following Papers were laid on the Table:-

The Report of the Parliamentary Select Committee on the cost of living.

(By Mr. Namwamba)

Abstract of Accounts of the Municipal Council of Kitale for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Londiani for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the Municipal Council of Lodwar for the two years ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Financial Statements of the County Council of Masaku for the year ended 30th June, 2009 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Ukwala for the year ended 30th June, 2003 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Mbita Point for the two- year period ended 30th June, 2005 and the certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Bureti for the year ended 30th June, 2004 and the certificate thereon by the Controller and Auditor-General.

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

Abstract of Accounts of the County Council of Keiyo for the five-year period ended 30th June, 2003 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information
and Communications (Maj. Godhana) on behalf of the
Deputy Prime Minister and Minister for Local Government)*

Financial Statements of Machakos Water and Sewerage Company for the year ended 30th June, 2010 and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Information and
Communications (Maj. Godhana) on behalf of
the Minister for Water and Irrigation)*

NOTICE OF MOTION

ADOPTION OF REPORT OF SELECT COMMITTEE ON COST OF LIVING

Mr. Namwamba: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Parliamentary Select Committee on Cost of Living appointed by this House on 11th May, 2011.

QUESTIONS BY PRIVATE NOTICE

DETENTION OF MSF WORKERS BY UGANDA SECURITY AGENCIES

Mr. Affey: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that two Kenyans (Messrs Mussa Hassan Bulle and John Lodong), employees of MSF Switzerland, were detained by Ugandan security agencies on June 5, 2011?

(b) What reasons led to their detention?

(c) What measures has the Minister taken to secure their release?

Mr. Speaker: The Minister for Foreign Affairs is not here?

Mr. Midiwo: Mr. Speaker, Sir, I beg your indulgence because both the Minister and the Assistant Minister are out of the country on official duty. Could we, kindly, reschedule this Question to next week?

Mr. Speaker: Amb. Affey, could we do this next week?

Mr. Affey: Mr. Speaker, Sir, I have no problem. However, this Question has appeared on the Order Paper for the third time now and we have been rescheduling it. Perhaps, Tuesday, next week, will do. I have no objection, but it must be---

Mr. Speaker: I want to believe that it will be the last time that it will appear and, indeed, that it will be answered on Tuesday at 2.30 p.m. Chief Whip, please, ensure that the sentiments of the House are communicated to the Minister.

Mr. Midiwo: Thank you.

NUMBER OF BAGS OF MAIZE HARVESTED IN 2011

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

(a) How many bags of maize are estimated to be harvested during the 2011 long rains season?

(b) How many bags has the National Cereals and Produce Board (NCPB) projected to purchase during the period and how much money has been allocated for the purpose?

(c) What plans have been put in place to ensure that farmers are paid on the spot for deliveries to the Board and what action will the Ministry take to ensure that uncontrolled importation of maize does not create a glut in the local market?

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

(a) At least 29.3 million bags of 90-kilogrammes will be harvested over the 2011 long rains season.

(b) The NCPB has planned to purchase 1,053,000 bags of 90-kilogrammes of maize at the prevailing market price of Kshs3,000 per bag worth Kshs3.1 billion, of which 333,000 will be used for the Strategic Grain Reserve (SGR) and 720,000 bags will be for the NCPB's commercial stock.

(c) The NCPB has provided funds in advance to depots currently opened to purchase maize and ensure that farmers are paid cash on delivery. The country's maize balance sheet is being monitored on a monthly basis before expiry on 31st December, 2011.

Dr. Otichilo: Mr. Speaker, Sir, allow me, first of all, to thank the farmers of Kenya for doing a good job because we are expecting a harvest of over 29 million bags of maize. You have heard from the Assistant Minister that the Government has only allocated Kshs1 billion to buy the maize. They have only released Kshs500 million to the NCPB. Kshs500 million will only buy 330,000 bags of maize.

My question to the Assistant Minister and the Government is: What is going to happen to all the millions of bags of maize that farmers have harvested and want to sell? That is because we have no provision for the purchase of the maize.

Mr. Ndambuki: Mr. Speaker, Sir, the budget of the Ministry of State for Special Programmes for Strategic Grain Reserve (SGR) in this financial year is Kshs1 billion. The National Cereals and Produce Board (NCPB) has borrowed Kshs2 billion from banks to buy commercial maize for selling.

Dr. Otichilo: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to say that NCPB has gone to the banks to borrow money to buy maize for SGR when it is the responsibility of the Government to do that?

Mr. Ndambuki: Mr. Speaker, Sir, I did not say that they went to the bank to get money to buy maize for the Strategic Grain Reserve. They went to the banks to get money to buy maize to sell to those who want to buy from them. The Ministry of State for Special Programmes has only been allocated Kshs1 billion in this financial year to purchase SGR stocks.

Mr. Mwangi: Mr. Speaker, Sir, the Assistant Minister has told the House that Kenyans will harvest 29 million bags of maize during this season. But he has said that it is only Kshs3 billion that could be available to buy the maize. That money is not available now to buy the maize. Could the Assistant Minister tell us how much it would cost the Government to buy the 29 million bags of maize and, at the same time, tell this House how much the Government is spending by importing maize while we have maize in Kenya that is ready for purchase?

Mr. Ndambuki: Mr. Speaker, Sir, the Government cannot buy all the 29 million bags. This House allocated Kshs1 billion to the Ministry of State for Special Programmes. The Ministry has the mandate of buying SGR stocks. Already, the Ministry has given Kshs500 million to NCPB to buy maize. Once they finish that Kshs500,000,

they will be given the remaining Kshs500 million. That is what the House allocated to the Ministry of State for Special Programmes.

Mr. Gunda: Mr. Speaker, Sir, is it a deliberate effort by the Government not to purchase maize produced by farmers in Kenya, wait until the stocks have been exhausted and then come to this House to seek for approval to purchase maize from outside the country? Is it deliberate?

Mr. Ndambuki: Mr. Speaker, Sir, I am one person who is against the importation of maize. But the Ministry of State for Special Programmes has been allocated Kshs1 billion to buy 330,000 bags of maize for SGR.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. The hon. Member for Bahari has asked whether it is the official Government policy to do so. But I think the Assistant Minister is avoiding to answer the question by giving us his personal opinion. He has said that he is one individual who does not like the importation of maize. But he has not told us about the Government policy which seems to concur with what Mr. Gunda is saying.

Mr. Ndambuki: Mr. Speaker, Sir, I doubt whether it is the intention of the Government not to buy maize from the farmers. But the funds are not there. It is this House which passed the Budget. We should have taken that into account when we were passing the budget of the Ministry. There is nothing we can do now.

Mr. Lessonet: Mr. Speaker, Sir, I would like the Assistant Minister to tell us what efforts he has put in place to encourage millers and traders in cereals to buy maize from the local farmers and avoid importation.

Mr. Ndambuki: Mr. Speaker, Sir, at the moment, the NCPB has already bought over 100,000 bags of maize. But the problem is that the maize is not quite dry. The millers are also allowed to buy from the farmers. At the moment, the going price is Kshs3,000 per bag.

Mr. Lessonet: On a point of order, Mr. Speaker, Sir. The Assistant Minister did not hear my question well. I want to appreciate that he is not well considering that he is putting on a "helmet" on his neck. I asked him: What efforts is he putting in place to encourage millers and traders in cereals to buy maize from local farmers and avoid importation?

Mr. Ndambuki: Mr. Speaker, Sir, my answers have nothing to do with my neck. I am only giving you the answer to what you have asked. What I am telling you is that even yourself and everybody else in Kenya is allowed to go to the farmers and buy maize. So, it is open to everybody. I know that millers and traders are also doing that. That is because maize by farmers is cheaper than what is being imported.

Mr. Kombo: Mr. Speaker, Sir, I think the answers by the Assistant Minister are pathetic. The Government is ready to import maize. It will come to this House to seek for money to import maize and yet, it does not come to ask for sufficient funds to buy maize from local farmers. What is your policy, as a Government, on this issue? Is there a policy to encourage local farmers to grow sufficient maize so that you do not import?

Mr. Ndambuki: It is the policy of the Government to buy maize from our farmers. But I am telling hon. Members that we only allocated Kshs1 billion this financial year to buy SGR stocks.

Mr. Baiya: On a point of order, Mr. Speaker, Sir. The Assistant Minister is being asked what the Government policy is, and he keeps on repeating that this House only passed Kshs1 billion. Did the Government ask for more and this House refused? Is it in

order for the Assistant Minister not to respond and give us the priorities of the Government?

Mr. Ndambuki: Mr. Speaker, Sir, the priority of the Government is to feed its citizens. The issue which he is giving as a problem is the money. I am going to talk to the Minister of State for Special Programmes. I will ask her to come to this House and find out whether she can be given more money to buy the maize.

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to continue evading this very important question and also mislead the House that it is because of lack of money when, a while ago, when there was drought in this country, the Government somehow raised Kshs10 billion to deal with the situation? This same Government said that it was going to raise the SGR from four million bags to eight million bags. That was said by none other than the Head of State himself. Is the Assistant Minister saying that the Government does not intend to keep its word of raising the SGR to eight million bags of maize?

Mr. Ndambuki: Mr. Speaker, Sir, it is the intention of the Government to increase the SGR stocks from four million bags of maize to eight million but we are in the process. We cannot buy all the eight million bags at once. Already, there is Kshs1 billion which is going to buy over 330,000 bags of maize. That is geared towards achieving the eight million bags of maize that we require.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. The Assistant Minister seems to be stuck on the Kshs1 billion that is with the Ministry of State for Special Programmes. On an annual basis, NCPB keeps on getting money to buy cereals and sell them to Kenyans. Where has that money gone to over the last three years? It is supposed to be a revolving fund.

Mr. Speaker: That does not pass for a point of order.

Mr. Ogindo: The point of order is---

Mr. Speaker: Order, hon. Member for Rangwe! Since it seems to address a very key area, I will want the Assistant Minister to answer it.

Mr. Ndambuki: It is true that in the last financial year, NCPB did not buy any commercial maize. But this year, they are going to buy maize worth Kshs2 billion for commercial purposes.

Mr. Speaker: Mr. Assistant Minister, I will want this Question to rest with the final question from the hon. Member for Emuhaya. But even before he comes, from the Chair, I am concerned because I presided over proceedings in this House last year when there was a bumper harvest in the country. The Government did not purchase that maize from farmers. In fact, maize did rot in Bura and four months down the line, this Government was desperately looking for maize! These are matters that you must address.

Ms. Karua: On a point of order, Mr. Speaker, Sir. While fully agreeing with your sentiments, I am just wondering because this Question is directed to the Ministry of Agriculture. The SGR are under the Ministry of State for Special Programmes. Would it be in order to ask the Speaker to consider having the Question answered by the Prime Minister who is the coordinator of Government business, so that the answer to policy, which the Assistant Minister has been unable to give, can be addressed sufficiently? That way, the issue of buying every available food from our farmers will be sufficiently answered.

Mr. Speaker: Hon. Member for Gichugu, much as you may have a valid point, we have spent some 15 minutes on this Question because of its importance. We want to move to the last question by the hon. Member for Emuhaya. If hon. Members require more time on this matter, then they are at liberty to bring an appropriate request or move the House as necessary and I will accede.

Hon. Member for Emuhaya!

Dr. Otichilo: Mr. Speaker, Sir, as much as I am not satisfied with this Question, but I want the Assistant Minister---

Mr. Speaker: Order, hon. Member for Emuhaya! You are not satisfied with your own Question?

Dr. Otichilo: With the answer. Sorry. As much as I am not satisfied with the answer, I wish the Assistant Minister could state how the Kshs10 billion that was voted in this Parliament during the Supplementary Estimates was used, so that we can know how much was used to purchase maize.

Mr. Ndambuki: Mr. Speaker, Sir, the last time the issue of the Kshs10 billion came up, I went to look for the answer. I found out that the Kshs10 billion was allocated to several Ministries. The Ministry of State for Special Programmes got Kshs5.4 billion. The Ministry of Water and Irrigation got Kshs2 billion. The Ministry of Education got Kshs2 billion. The Ministry of Agriculture got Kshs496 million. We used that amount to buy fertilizer. The Ministry of Livestock Development got Kshs389 million. The Ministry of Public Health and Sanitation got Kshs392 million while the Ministry of State for the Development of Northern Kenya and Other Arid Lands got Kshs160 million. The total was Kshs10.9 billion.

Mr. Mwangi: On a point of order, Mr. Speaker, Sir. I agree with Dr. Otichilo that the answer given by the Assistant Minister cuts across several Ministries. Ms. Karua raised the question of whether the Assistant Minister was in a position to answer this Question adequately. Would I be in order, once again, to ask the Chair that the Question is deferred and referred to the Prime Minister, so that he can give an answer? That is because the Question cuts across several Ministries.

Mr. Speaker: Order, Mr. Mwangi! You will be out of order to once again ask Mr. Speaker to do that. That is because Mr. Speaker has given directions. Further, your Standing Orders tell you not to be repetitive particularly on a matter such as this, which I have already addressed not very long ago. I will just excuse you because, maybe, your constituents may not quite understand. But, otherwise, if you breach the Standing Orders in a manner that is so flagrant, we will, obviously, as a House, have to deal with you.

CREATION OF 80 NEW CONSTITUENCIES

Mr. Mungatana: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

Can the Minister confirm that the 80 new constituencies created by the Constitution will be available for contest during the 2012 General Elections and, if so, what preparations has the Government made in that regard?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I beg to reply.

Yes, the 80 new constituencies created by the Constitution will be available for contest during the next General Election as per the provisions of Article 89(1) and Article 97(1)(a) of the Constitution. Preparation for ensuring that the constituencies are available for contest in the next General Election is a mandate conferred upon the Independent Electoral and Boundaries Commission (IEBC). The Government has facilitated the establishment of the Commission by providing administrative and logistical support to the selection panel charged with the recruitment of the members of the IEBC. The selection panel has completed the selection of nominees and forwarded names to the President and the Prime Minister. The President and the Prime Minister are considering the names before forwarding the preferred nominees to this House for approval. Upon approval and appointment, the Commission will be in a position to complete the delimitation exercise as provided for under the Constitution.

Thank you!

Mr. Mungatana: Mr. Speaker, Sir, I fail to understand the answer given to this Question. First of all, the Assistant Minister, himself, has been quoted in various public fora asserting that the 80 new constituencies shall not be available for the next General Election. I want the House to listen to what the Constitution is saying as of now. Article 89(2) says – with your permission, I could read so that we can go together.

Mr. Speaker: Be brief!

Mr. Mungatana: Mr. Speaker, Sir, it says that the IEBC shall review the names and boundaries of constituencies at intervals of not less than eight years and not more than 12 twelve years, but any review shall be completed, at least, 12 months before a General Election of Members of Parliament. If the elections are to be held in August, it makes it obvious that we are already caught up with time. It means that those new constituencies will not be considered. However, Section 27(3) on the Schedule reads that the requirement in Article 82(2) that a review of the constituency and boundaries shall be completed, at least, 12 months before a General Election does not apply to the review of boundaries preceding the first elections under this Constitution. Yet that same saving was not made for Article 89(4) which says that if a General Election is to be held within 12 months after the completion of a review by the Commission, the new boundaries shall not take effect for the purposes of that election. In view of what the Constitution is clearly saying that those constituencies are excluded – the 80 new constituencies – and in view of the public pronouncement by the Minister for Justice, National Cohesion and Constitutional Affairs himself, how is it that now, the Assistant Minister is telling us that the 80 new constituencies are going to be available? How are they going to be available when the Constitution clearly forbids their availability?

Mr. Cheptumo: Mr. Speaker, Sir, let me start by saying that what my learned colleague has attributed to the Minister for Justice, National Cohesion and Constitutional Affairs is, perhaps, a personal statement. But I, indeed, agree with him that Article 89(4) of the new Constitution actually contradicts Section 27(3) of the Schedule Six of the Constitution. What then it means is that, unless we save that provision again as it was done for Article 89(2), then any review of the 80 new constituencies shall not be available for contest in 2012. That, indeed, is true, and I would like to thank the hon. Member for bringing forth this very serious provision of the Constitution which, if not dealt with, can cause a lot of problems next year. Therefore, what we have done, and I would like to be very clear--- I have always said that I have a duty to this House to state

the truth so that we move together. The only way forward here is to exclude the same provisions of Article 89(4) the way we excluded Article 89(2). Shortly, there will be a Bill which will be tabled in the House – a constitutional amendment Bill – so that we are able to exclude that provision by amending Section 27(3) of Schedule Six of the Constitution. When that is done, I can assure my colleagues that we are going to be safe because we need the 80 new constituencies. Let me also say that when the Kenyan people were passing the Constitution, they - and even hon. Members - desired that we have the extra 80 constituencies. Every effort, therefore, must be made to ensure that we have those 80 constituencies available for contest in the 2012 elections.

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

(Several hon. Members stood up in their places)

Mr. Speaker: Allow other Members, Mr. Mungatana!

Mr. Warugongo: Mr. Speaker, Sir, is the Assistant Minister aware that there are several hon. Members who were not satisfied with the way the 80 new constituencies were arrived at, especially, in Kieni?

Mr. Cheptumo: Mr. Speaker, Sir, all I am aware of is that the Constitution is providing for extra 80 constituencies. I am not aware that there are hon. Members in this House who are not happy with the way they were arrived at.

(Applause)

Dr. Khalwale: Mr. Speaker, Sir, the Assistant Minister has told us that to provide an answer to the concerns of Mr. Mungatana, his Ministry intends to move a constitutional amendment Bill. Allow me to state that Kenyans---

Mr. Speaker: Order, Dr. Khalwale! I have not allowed you to proceed!

Dr. Khalwale: Mr. Speaker, Sir, I am building this because I am seeing a very serious danger. I want to state as follows: When we passed the new Constitution, Kenyans who understood what they were doing - and they were the majority - understood the date of the elections to be in August next year. Now the Assistant Minister wants to create an excuse of 80 new constituencies to move the date from what Kenyans expect; just like they have created an excuse in the issue of gender; just like they intend to turn everything possible to change that date. Could the Assistant Minister tell us whether there is any law, especially in the new Constitution, that provides that if we do not go for elections in August 2012, then we shall have contravened the Constitution? Article 97(1) of the new Constitution – allow me to refer the hon. Member to it – provides that the National Assembly consists of 290 Members, each elected by registered voters of single member constituencies. It does not say the National Assembly “shall consist of” which, therefore, means the attempt by the Government to try and amend the new Constitution for that excuse is still not in keeping with the new Constitution. You can still go to the elections in August 2012 and not have breached the Constitution. Could he respond: Which law?

Mr. Cheptumo: Mr. Speaker, Sir, whereas I appreciate what my colleague has raised, it is the same Kenyans who passed the Constitution who also desired to have the extra 80 constituencies. The same Constitution has provisions that can easily deny the

very Kenyans the right to have the 80 new constituencies. I want us to be very clear here. The intention of the Government is to ensure that what Kenyans wanted when they were passing the Constitution is achieved. Therefore, there is no mischief here because we want to avoid a situation where the very Kenyans who wanted the 80 new constituencies are being denied by the very provisions of the Constitution. This Constitution also allows us to amend it; to amend it not, for a bad intention, but for the betterment and the benefit of the Kenyan people.

(Applause)

Mr. Duale: Mr. Speaker, Sir, I want the Assistant Minister to confirm to this House and the nation that there are forces inside and outside the Government that want to deny this nation the 80 new constituencies and his Minister is the leader of those forces. Could he confirm?

(Laughter)

Mr. Cheptumo: Mr. Speaker, Sir, let me say that I am not aware that there are forces within or outside the Government and even the Minister for Justice, National Cohesion and Constitutional Affairs is one of them. I want to deny that. It is interesting that my good friend would say that and yet, it is the same Government and the same Minister who is attempting to introduce an amendment so that we could have the said 80 new constituencies. There is goodwill in this process!

(Applause)

Mr. Olago: On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that there is goodwill on the part of the Minister. How can there be goodwill on the part of the Minister when he is blowing hot and cold air? One moment, he says that it is illegal to have 80 new constituencies and the next moment, he says that we can have them. Is he in order?

(Applause)

Mr. Cheptumo: Mr. Speaker, Sir, without defending the Minister because I am not really aware of what he said, I want to say that those comments, perhaps, arise from the interpretation of the two Articles of 89(2) and 89(4) and Section 27(3) of the Sixth Schedule of the Constitution.

Ms. Karua: Mr. Speaker, Sir, we are all aware that the Ekuru led team provided the names to the Prime Minister and the President for the setting up of IEBC. To date, Parliament has not received the names from the two principals. Being the Ministry concerned, is he aware of the reasons for the delay or are they waiting for time to elapse so as to justify the amendment of the Constitution?

(Applause)

Mr. Cheptumo: Mr. Speaker, Sir, in my answer, I said that we know the names now. They are with the Prime Minister and the President for consultations. I really do not know the reasons why the names have not been forwarded to the House. But I want to believe that, that will be done at the time when both the Prime Minister and the President will have concluded their consultations. It will be difficult for me to give any undertaking to this House on that issue.

Mr. Mungatana: Mr. Speaker, Sir, I was trying to get your attention on the point of order.

Mr. Speaker: Now, you have got it!

Mr. Mungatana: Mr. Speaker, Sir, the answer the Assistant Minister has given this House says: "Yes, the 80 new constituencies created by the Constitution will be available for contest in the next General Elections." Then, in his explanation, he says: "No. We need to get the Constitution amended before the 80 new constituencies are available." Could we get a clear stance whether they are available now or after the amendment of the Constitution? If it be so, could the Assistant Minister confirm that he is going to bring a separate Constitutional Bill without mixing with other Bills? That is because we want to tell the Government that we shall not accept, as a Parliament, to be ridden roughshod; that you bring all the Bills because there is a gender requirement; there is this and that, and mix everything. Could he confirm that he will bring a separate Bill for those 80 new constituencies?

Mr. Speaker: Mr. Mungatana, you should note that you have been repetitive to some extent and, in future, please, be careful so that we use our time optimally.

Mr. Cheptumo: Mr. Speaker, Sir, there are two issues. On the first one, I would like to say that, as it is now, because of the provisions of Article 89(4), it is not possible to say that the 80 new constituencies will be available. Reading the mood, we, Kenyans, would like to have those 80 new constituencies. Knowing that all hon. Members passed the Constitution, I am sure that when the appropriate amendments to the Constitution are brought here, I want to believe that we will all support them. Therefore, I want to believe that we will have the 80 new constituencies. Whether there will be a separate Bill for this particular issue and a separate Bill for the other proposed amendments, I cannot confirm that to my colleague here. I have always said that I want to be truthful to my colleagues and to this House. That is because we are here to serve our nation. So, whether it comes separately or jointly, it will still be these hon. Members who will pass that law the way it is.

Thank you!

ORAL ANSWERS TO QUESTIONS

Question No.1189

ESTABLISHMENT OF LAW COURT AT WAMBA

Mr. Letimalo asked the Minister for Justice, National Cohesion and Constitutional Affairs what plans he has to establish Law Courts at Wamba, the Samburu East District Headquarters.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I beg to reply.

Wamba is currently served by Maralal Court that holds mobile visiting sessions on a monthly basis.

The Judiciary has approached and also paid the requisite fees to the relevant local authority to allocate a plot for a court. As soon as the local authority issues a letter of allotment, funds will be allocated to construct the court in Wamba.

Mr. Letimalo: Mr. Speaker, Sir, I thank the Assistant Minister for the answer. However, now that the Judiciary has paid fees for the plot - I believe the County Council of Samburu has no reason to deny you that plot, if all the conditions are met - when does the Ministry intend to construct a law court in Wamba?

Mr. Cheptumo: Mr. Speaker, Sir, we hope to allocate funds for this court in the next financial year.

Mr. Speaker: Is it the Assistant Minister to respond further or the Member is satisfied?

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

Mr. Speaker: Very well!

Next Question by Sheikh Dor!

Question No.733

ENFORCEMENT OF COURT ORDER IN CIVIL CASE NO.711

Mr. Yakub asked the Attorney-General:-

(a) whether he is aware of the judgment delivered in Civil Case No.711 of 1992 in the Principal Magistrate's Court at Mombasa on 11th October, 1994 and the court's ruling in favour of the plaintiff; and,

(b) what steps he has taken to ensure the court's directive is complied with.

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

(a) The Attorney-General is aware of the judgment delivered in Civil Case No.711 of 1992 in the Principal Magistrate's Court in Mombasa.

(b) On 23rd May, 2005, the Attorney-General forwarded to the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security the concerned judgment dated 28th April, 1994, the decree, the certificate of cost and the certificate of order against the Government dated 26th August, 2004 and advised the Permanent Secretary to settle the decretal amount.

On 2nd of May, 2011, the Attorney-General advised the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security to settle the decretal amount. The Attorney-General is also aware that by a letter dated 21st October, 2011 that the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security has sought authority from the Permanent Secretary, Office of the Deputy Prime Minister and Ministry of Finance to settle this decretal amount.

I thank you.

Mr. Yakub: Mr. Speaker, Sir, I would like to remind the Attorney-General that this is the 19th year. I would also like to thank him for his long answer. Unfortunately,

from all these answers, there is nothing which will help that Kenyan who has been suffering for 19 years. When can this Kenyan get his dues and where?

Prof. Muigai: Mr. Speaker, Sir, I want to concede that this matter has been outstanding for a very long time. I want to concede that justice delayed in this manner is justice denied. I have personally taken charge of this matter amongst other matters that the House has raised since I assumed office. I want to assure the hon. Member that within a very short time, something will be done about this.

Thank you.

Mr. Olago: Mr. Speaker, Sir, the hon. Attorney-General has been very candid in his answer and he has done the best he can to advise the Ministry concerned to discharge this decree. However, as you must be fully aware, the best he can do is to advise. He cannot compel the Ministry. To that extent, therefore, what steps is he taking to ensure that the Government Proceedings Act is amended in the relevant sections to authorize limited execution against the Government so that they can force the execution of these decrees?

Prof. Muigai: Mr. Speaker, Sir, the hon. Member has on a previous occasion advised me on the desirability of amending this statute to allow some limited form of attachment of Government assets. I have initiated the process of consultation and I believe that within the term of this Parliament, we will be able to arrive at some amicable solution.

In the meantime, I have instructed my officers to prepare a Cabinet Paper that will outline the nature of the debt that the Government faces in respect of all these pending judgments with a view to receiving the consent of the Cabinet and, indeed, of the Government, to arrive at solutions once and for all.

Mr. Njuguna: Mr. Speaker, Sir, while I appreciate the good answer that has been given by the Attorney-General, could he in addition consider paying some interest on the dues accrued for the 18 years this claimant has continued to suffer?

Prof. Muigai: Mr. Speaker, Sir, at the point of payment of this decree, all outstanding interests will be paid.

Mr. Yakub: Mr. Speaker, Sir, with all due respect to our new Attorney-General, he mentioned the words, "within a short time", could he, please, give us a specific time instead of a short time? Is it after a week, two weeks or one month?

Prof. Muigai: Mr. Speaker, Sir, I want to undertake, within a month from today's date, this amount will be settled in full.

Mr. Speaker: Next Question by Member for North Imenti!

Question No. 951

PROJECTS BY ENNDA IN NORTH IMENTI CONSTITUENCY

Mr. Ruteere asked the Minister for Regional Development Authorities:-

(a) whether he could provide a list of all the projects/programmes that have been undertaken or funded by the Ewaso Nyiro North Development Authority in North Imenti Constituency in 2008;

(b) whether he could further indicate the location of those projects/programmes as well as the budgetary allocations for each project; and,

(c) why the projects which were earmarked and provided with budgetary allocations were not started.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Speaker, Sir, this Question was on the Order Paper on 8th of last month and you directed that I visit the place with the hon. Member of Parliament, and then I give this House the progress.

I am happy to report that on 13th of last month, with a team of officers from my Ministry and the hon. Members for Imenti North and Imenti Central, I visited the two constituencies for two days. I can confirm that we were happy with some projects that were doing well. Others had not taken the right direction. However, with the two hon. Members on the ground, I directed my officers that the work be done as per the agreement we had with the hon. Members and things are now going on.

Mr. Speaker: Very well!

Member for North Imenti, are you satisfied with that?

Mr. Ruteere: Mr. Speaker, Sir, the Assistant Minister has reported correctly that we visited the areas. However, we were promised that some of the projects would be advertised for tendering by October. But to date, some of these projects have not been advertised for tendering. For example, the John Gatu Water Pan in Timau which costs Kshs19 million has not been advertised. It was a priority project and I would want the Assistant Minister to tell me when it will be advertized.

(Loud consultations)

Mr. Speaker: Order, hon. Members! Please note, I want you to revisit your Standing Orders again. Those of you who wish to consult with each other are at liberty to invite your colleague and we have room behind there where you can sit and discuss any matters that you want to. Even within the Chamber, if you want to talk to your colleague or two of them, please, invite them to places where there is space and you can consult them. It is against the Standing Orders for you to stand for any length of time in the passage ways. If you read your Standing Orders, they will tell you so!

I do not want to single out any one Member but I noticed a little while ago that four Members were doing exactly that. There is a way you can remedy that. Please, cooperate and let us remedy it.

In the meantime, let us hear the Assistant Minister!

Mr. Olago: On a point of order, Mr. Speaker, Sir. Thank you for clarifying the issue of standing on the passage ways and the corridors between the seats but what about hon. Members who incessantly consult with the Chair and thereby disturb the orientation of the Chair to the debate?

Mr. Speaker: Order! Member for Kisumu Town West, for the moment, I was dealing with the matter that I spoke to and the same Standing Orders that you obviously are very conversant with, tell you that you must be relevant to what is before the House. So, we will cross that bridge when we get to it.

Proceed, Assistant Minister!

Mr. ole Metito: Mr. Speaker, Sir, first of all, I would like to thank the two hon. Members for the time, the co-operation and the insight they gave us on the ground with respect to this development project. However, that was just on 13th and 14 of September. This is the fourth week. So, I would like to assure the hon. Member that I will check with my officers on the ground, and that things should go as we agreed when in the field. I will liaise with him and update him on the progress of this project. It is true that the project he has mentioned was one of their priorities and, therefore, we are going to do as we had agreed.

Mr. Speaker: Yes, hon. Olago!

(Mr. Ruteere stood in his place)

Mr. Speaker: Order, Member for North Imenti! That matter, really, must rest there.

Mr. Ruteere: Mr. Speaker, Sir, I am very satisfied with the answers.

Mr. Speaker: I knew that the matter must rest there.

Proceed, hon. Olago!

Question No.1027

REINSTATEMENT OF SAMUEL DANIEL WAFULA BY KU

Mr. Olago asked the Minister for Higher Education, Science and Technology:-

(a) why Mr. Samuel Daniel Wafula - a former employee of Kenyatta University who was dismissed from service on grounds that he was involved in the student unrest in 2009 – has not been reinstated to his job, contrary to the recommendations of the Departmental Committee on Education, Science and Technology;

(b) whether he is aware that Mr. Wafula was innocent of all allegations made against him; and,

(c) what steps the Ministry is taking to ensure that the university administration does not victimize staff, in compliance with the recommendations of the Report.

Mr. Olago: Mr. Speaker, Sir, before the Question is answered, may I raise an issue? The last time the matter came before the House, the Minister answered part (b) and (c) of the Question and said that he was going to consult in respect of part (a). I have now been given a copy of the answer, which purports to be in respect of part (a) of the Question. I notice that, again, this answer completely avoids answering that part of the Question. I do not know whether the Minister is aware of this fact.

Mr. Speaker: Yes, Minister for Higher Education. Is the Minister not here?

Hon. Members, I will defer this Question to Thursday this week for more than one reason – not just because the Minister is not here but so as to give the Minister time to consult with the Member for Kisumu Town West, and be aware that this answer is so far wanting, and so that he can bring an acceptable answer on Thursday afternoon.

Deputy Leader of Government Business, will you, please, communicate to the Minister?

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

Mr. Speaker: Thank you.

(Question deferred)

Mr. Speaker: Yes, Member for Molo.

Question No.1018

WILDLIFE MENACE IN LARE DIVISION

Mr. Kiuna asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that farmers in Lare Division of Njoro District have been losing livestock to stray wild animals from Lake Nakuru National Park in spite of the existence of an electric fence around the park;

(b) what steps he has taken to address the problem; and,

(c) when Mr. Samuel Kuria Gichu of Naishi-Game Location of Njoro District will be compensated for the loss of his cow and donkey, which were killed by a lion from the park on the night of 8th May, 2011.

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

(a) I am aware that even though Lake Nakuru National Park is completely fenced off by an electric fence and chain-link, there has been illegal fence vandalism in the parts that have led to some animals escaping and preying on the surrounding community's livestock, including Njoro District.

(b) My Ministry has taken the following measures with a view to arresting the menace:

(i) the number of Kenya Wildlife Service (KWS) rangers has been increased and the rangers have been strategically deployed along the perimeter electric fence so as to deter wildlife from escaping from the park's vicinity;

(ii) meetings have been held to sensitize the local community on the importance of the park electric fence, including urging them to stop fence vandalism and report those involved for appropriate legal action; and,

(iii) KWS rangers identified the lion that killed Mr. Samuel Gichu's livestock and neutralized it; and,

(c) as per the current Wild Conservation and Management Act, Cap. 376, the only compensation that the Government pays is for human injuries or deaths caused by wildlife. Therefore, my Ministry deeply regrets the loss of livestock but does not have any legal mechanisms yet to compensate Mr. Gichu for his most unfortunate loss.

Thank you, Mr. Speaker, Sir.

Dr. Eseli: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to use unspecific terms like "identifying a lion and neutralizing it"? That term is very ambiguous. It does not really say what he means.

Mr. Speaker: Assistant Minister, proceed.

Mr. Nanok: Mr. Speaker, Sir, that is the language we use in wildlife conservation. It means that the lion has been identified and killed.

Mr. Speaker: Very well; Member for Molo.

Mr. Kiuna: Mr. Speaker, Sir, whereas I appreciate the answer given by the Assistant Minister, this is not the first time wildlife have strayed from the national park. I would like the Assistant Minister to state what actions they have taken to make sure the area from which the wild animals escape is fenced off, so that no more wild animal can get out of that area?

Mr. Nanok: Mr. Speaker, Sir, as I have said, we have intensified patrols. Secondly, there are works for upgrading 10 kilometres of the fence, starting from the Baboon Cliff area to Nakuru South Cemetery, and from the lake's gate up to Free Area. I believe that this intensified effort and the consultations we have had with the community, particularly for members of the public to report those who vandalise the fence, will help deter the possibility of animals breaking off the national park in future.

Mr. Speaker: Last question, Mr. Kiuna.

Mr. Kiuna: Mr. Speaker, Sir, I agree with the Assistant Minister that they are going to take those actions but I would like to ask him whether he is aware that there is a pride of leopards which has already left the national park and is preying on domestic livestock in Njoro Division and Lare Division, and that residents of those areas are not able to go about their daily activities for fear of their lives since the leopards have been roaming around those areas even during day time?

Mr. Nanok: Mr. Speaker, Sir, we have already been alerted on that development and KWS rangers are going to work closely with the local communities to trace these animals, capture and take them back to the national park, or take them to a different place which is well protected. I want to assure the hon. Member that we will take action. Once I leave this House, I will follow up the matter and make sure that this is done.

Mr. Speaker: Next Question, Member for Turkana Central!

Question No.925

SCHEDULE OF ASSETS AND LIABILITIES OF CIVIC BODIES

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

(a) whether he could table a schedule of assets and liabilities of the County Council of Turkana and Lodwar Municipal Council in 1963, 1970, 1980, 1990, 2000 and 2011;

(b) whether he could table a schedule showing LATF and other Government grants/loans, all creditors and debtors, and amounts owed and used to service loans for the County Council of Turkana and Lodwar Municipal Council since 1963 to date; and,

(c) when the Ministry will undertake asset sharing between the County Council of Turkana and Lodwar Municipal Council.

Mr. Speaker: Yes, Deputy Prime Minister and Minister for Local Government.

Deputy Leader of Government Business, what is happening to your Minister?

Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Local Government and the Assistant Minister are not here. Could I ask for the indulgence of the House that this Question comes up on Thursday?

Mr. Speaker: Order, hon. Members! Until the Minister offers an explanation as to why he was not here in time to answer the next Question, he shall not, beginning now, transact any business in the House.

(Question deferred)

Next Question, the Member for North Horr!

Question No.955

STATUS OF MERILLE-MARSABIT/ISIOLO-
MARSABIT-MOYALE ROADS

Mr. Chachu asked the Minister for Roads:-

(a) what the current construction status of the Merille-Marsabit Road is,

(b) if he could clarify whether the funding for the construction of the road from Merille River to Marsabit Town has been secured; and,

(c) when Phase II of the larger Isiolo-Marsabit-Moyale road project will start.

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

(a) The tenders for construction for Merille-Marsabit have been advertised for prequalification of contractors and supervision consultants.

(b) The Merille River-Marsabit Road Project is to be financed jointly by the Government of Kenya and the European Union. The financing agreement was signed on 19th April, 2010.

(c)The corridor has been divided into three sections whose current status is as follows:-

(i) The Isiolo-Merille Section. The outstanding works, namely the construction of the Serolevi Bridge is expected to be completed in December, 2011 and then we will have achieved 100 per cent completion on this section of the road.

(ii) The other section is Merille River to Marsabit. The design for this section is ready. As I have indicated, we have already advertised.

(iii)The third section is Marsabit to Turbi. The construction of this section commenced on 5th April, 2011. The works are expected to be completed on 4th April, 2014.

(iv)The last section is Turbi to Moyale; that is Phase III. The designs for this section are also ready and the African Development Bank has expressed interest in funding the projects and the procurement process has now commenced.

Mr. Chachu: Mr. Speaker, Sir, I do thank the Assistant Minister for the response. People of Marsabit County have waited for over 50 years since we attained our

Independence to see a tarmac road with their eyes. We appreciate the Government's efforts whereby billions of shillings have already been invested to tarmac this road which stretches for about 500 kilometres.

We also appreciate the fact that funding for the second phase for the project has been secured. However, the third part of my question which is: "When will the Phase II of the larger Isiolo-Marsabit-Moyale Road start?" is yet to be answered by the Assistant Minister. Could he give an effective date when this road will start?

Mr. Kinyanjui: Mr. Speaker, Sir, I have indicated that the procurement process has already begun. At this stage, I have also indicated that the financing agreement has also already been signed. It is my hope that by the end of January, we will have the contractor already on site.

However, because this is a donor funded project, we sometimes have to go by their conditions which keep changing. I believe that we should be able to complete the project by 31st January, 2012.

Mr. Ethuro: Mr. Speaker, Sir, the Assistant Minister has confirmed that they have entered into agreement with the donor on how to finance this particular Phase II of the project. They have also started procurement. He also said that because it is a donor-funded project, conditions keep changing. I am just wondering, if an agreement has been entered into, how can conditions be changed? That means that the agreement has been violated. Is he in order to mislead the House that he can vary the terms of an agreement when it is still in force?

Mr. Kinyanjui: Mr. Speaker, Sir, I have not indicated that the agreement has been violated in any way. However, there were certain challenges that we faced when we started these projects. One of them had to do with availability of water. Hon. Members will agree that you need enough water to be able to construct this kind of a road. So, one of the things we had agreed with the donors is that before we go to procurement, we have boreholes across the entire section. Sometimes you plan to have a borehole here, but you do not get any water. There are no yields from the boreholes.

So, some of the conditions maybe beyond us, as a Ministry, but we are working closely together.

I also want to state to the hon. Members here that we also had a major challenge with security. You will recall that when we started the Isiolo-Merille River Road, we lost a young engineer from one of the construction companies. That also sent a very bad signal out there. So, some of the conditions may be beyond the Ministry and also the donors. But we will be working together to ensure that the projects take place on time.

Mr. Letimalo: Mr. Speaker, Sir, during the construction of the Isiolo-Merille Road, there was an agreement that was reached between the contractor and the community that the contractor harvests murrain in the community land and builds a school for them. However, that agreement has not been honoured up to today. What is the position, Mr. Assistant Minister?

Mr. Kinyanjui: Mr. Speaker, Sir, what the hon. Member has said is true. But I wish to say that any agreement between the contractor and the community would be purely on *ex-gratia* basis because it is not part of the contract signed between the Ministry and the contractor. However, we will prevail upon the contractor to ensure that he fulfils his obligations as agreed between him and the community.

Mr. M.M. Ali: Mr. Speaker, Sir, my name is Mahamud and not Hassan, for your information.

Mr. Speaker: Proceed and ask the question.

Mr. M.M. Ali: Mr. Speaker, Sir, I want to say that the people of upper eastern are generally very grateful for the Government efforts as concerns this great highway. We have waited for too long. It is like a dream that has come true. However, while we commend the Government efforts, I believe donor funded projects also do have Government components. While we are waiting for the donors to organize themselves and embark on the serious sections of the work, do you not think it is imperative that the Government component can as well begin, so that by the time the donors are ready with their funds, substantial works using Government funds will have already taken place and progress will have been made?

Mr. Kinyanjui: Mr. Speaker, Sir, there is no section of this road that has not taken off because of donors not being able to meet their side of the commitments. As I said earlier, the Isiolo-Merille Section, which is 136 kilometres, is about 99 per cent complete. Once the bridge that is currently under construction is completed in two months' time; that is, in December of this year, we expect that this road will be fully completed. The original contract sum for this road was Kshs4,875,409,000. However, owing to escalation of costs, it actually rose to Kshs6,318,000,000.

The second section of the road is Merille to Marsabit, which is 143 kilometres. As I have indicated, we have already advertised for procurement of both the consultants and the contractor. We require a total of Kshs14 billion and we are ready to start the project once the procurement has been fulfilled.

Thirdly, we have the Marsabit-Turbi section which is 121 kilometres. The construction of this section has already commenced and we are actually on schedule on this section of the road. The total contract sum will be Kshs13 billion under Jenxi Engineering Company. The financier is the African Development Bank together with the Government of Kenya. We are up to date on this section of the road.

Lastly, we have the Moyale-Turbi section which is 128 kilometres and the African Development Bank has expressed interest in funding this particular project. We are on the final stages to ensure that we already have a contractor and everything is on schedule.

Mr. Speaker: Member for North Horr, last question.

(Mr. M.M. Ali stood up in his place)

Member for, is it Mandera East?

Mr. M.M. Ali: Moyale.

Mr. Speaker: Member for Moyale, you will, obviously, have to understand the Chair's position. The name Mohammed and Mahamud appear in our list of hon. Members not less than six times.

Proceed, Member for North Horr!

Mr. Chachu: Mr. Speaker, Sir, as people of Marsabit County, we fully appreciate the Government's efforts in linking Marsabit County to the rest of the world. My last question is about the fourth phase which is Turbi-Moyale, the last segment of the road, linking us with Ethiopia. In his response, the Assistant Minister said the African

Development Bank has shown some interest. Just the word “interest” does not show much commitment. This is a major investment. I am sure the people of Marsabit County would like to see this road being concluded once and for all. Could he confirm that it is more than interest; that actually there is commitment for investing in this last phase of the road?

Mr. Kinyanjui: Mr. Speaker, Sir, this entire project is part of the Government’s project to link Kenya with Ethiopia. As hon. Members are aware, the Ethiopian section of the road is actually tarmacked up to the Kenya border. Therefore, I want to assure the hon. Member that we are committed and the African Development Bank is actually committed. We are actually at the final stages to be able to sign the financial agreement.

As I said earlier, by 31st of January, I am sure we will have reached a substantial level which I can announce to the Member. Nevertheless, I also want to take this opportunity to thank the community. As I said, security was a key issue but it has since been restored. I want to add that we have also undertaken to build police stations every 20 kilometres on that road. This will eventually be left to the community to ensure that they have both water and security. So, it is not just a road project. It is a development integrated project for the area and I hope that once it is completed, it will help the people from that area.

Mr. M.M. Ali: On a point of order, Mr. Speaker, Sir. While acknowledging all that the Assistant Minister has said, I had asked about the Government of Kenya’s contribution. I had in mind the section between Merile and Marsabit and the section between Turbi and Moyale. To rephrase that question, what is the Government---

Mr. Speaker: Order, Member for Moyale! If you have asked the question and the Assistant Minister has not answered your question, then all you do is to rise on a point of order and ask him to answer the question you have asked, which he has not answered. Alright! I know this is not familiar territory. So, now you have to get used to it.

Mr. M.M. Ali: Thank you, Mr. Speaker, Sir. It is my maiden Question on the Floor of the House and thank you for your indulgence. Please, my question with regard to the Government’s contribution was not answered.

Mr. Speaker: Very well! Assistant Minister, will you, please, accommodate the Member for Moyale?

Mr. Kinyanjui: Sure, Mr. Speaker, Sir. The Member is asking why we cannot start using the funding that is supposed to come from the Government of Kenya as we wait for the other funding. I have clearly said that we have not reached that stage where we are asking for money. We are at the procurement stage. The Government of Kenya has honoured all its obligations with regard to this project. Therefore, when we have completed the procurement, we will start immediately and we will be on course.

Question No.1156

HIGH COST OF TEA PRODUCTION

Dr. Khalwale asked the Minister for Agriculture:-

(a) whether he is aware that tea export has overtaken the tourism sector as the leading source of foreign exchange to the country;

(b) whether he is also aware that small-scale farmers are not benefitting from tea farming due to high cost of production; and,

(c) what measures he will take to cushion tea farmers from the high cost of production to make tea farming viable.

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

(a) I am aware that tea export has overtaken tourism as the leading foreign exchange earner for the country. In 2010, earnings from tea export amounted to Kshs97 billion, compared to Kshs73.6 billion earned from the tourism sector over the same period.

(b) I am aware that despite the high cost of production occasioned by rising cost of energy, farm inputs and labour, the farmers have continued to earn reasonable returns from the tea farming.

(c) My Ministry in consultation with other stakeholders is undertaking the following measures to ensure that tea farming remains viable.

(i) Encouraging the use of cheaper sources of energy such as own factory generated hydro-electricity and increased tree plantation for wood fuel.

(ii) Undertaking promotions with particular focus on high value markets such as Europe.

(iii) Encouraging product diversification away from CTC Tea.

(iv) Promoting planting of high yielding tea varieties to improve on productivity.

(v) Undertaking policy reviews to enhance the level of tea value addition which currently stands at less than 10 per cent of the total export volume.

(vi) Exploring the possibility of ensuring that wage increases within the subsector are based on productivity.

I wish to table the growers payment, bonus pay out per factory.

(Mr. Ndambuki laid the document on the Table)

Dr. Khalwale: Mr. Speaker, Sir, there are two factories in the community that I come from, namely, Mudete and Kapsara tea factories. With regard to the bonus that is being paid this year, farmers of Kapsara Tea Factory are being paid Kshs25 per kilogramme and those of Mudete Tea factory are being paid Kshs27 per kilogramme yet other factories in Kenya are being paid as high as Kshs59 per kilogramme.

Could the Assistant Minister tell us the reason for this huge differential? At the end of the day, the people of Kapsara and Mudete incur a loss instead of any benefit from tea farming.

Mr. Ndambuki: Mr. Speaker, Sir, it is true that those tea factories are the only ones which are getting less than Kshs30 per kilogramme. This is because of the efficiency of the factory and the cost involved in the factories. I would like to request the Member to visit the factories and see what exactly is being done. If you look at what is being paid, you will find that majority of the factories are being paid over 80 per cent bonuses of their tea.

Dr. Kones: Mr. Speaker, Sir, I have listened to the Assistant Minister on the steps the Ministry is taking to improve the farmers' earnings. One of them is to encourage factories to generate their own hydro power. I do not know whether the Assistant

Minister is also aware that some of these projects are used as conduits of exploiting the farmers.

Mr. Speaker: Order, Member for Konoin! You know it is Question Time! You have asked whether or not the Assistant Minister is aware that something is used as a conduit. That is a question!

Dr. Kones: It was a remark. Let me ask the question, Mr. Speaker, Sir.

Mr. Speaker: Very well. Proceed to the question then.

Dr. Kones: Mr. Speaker, Sir, what is the Ministry doing with the amended Act which was passed in this House last year and to date, it has not been gazetted? This Act was meant to bring some of these benefits to the farmers. It has taken over one year for the Act to come into operation. What is the Ministry doing with that Act?

Mr. Ndambuki: Mr. Speaker, Sir, I am not aware that the Act was not gazetted. I will follow it up and make sure that it is gazetted.

Mr. Baiya: Mr. Speaker, Sir, in my constituency, we have only one tea factory, namely, Kabati Tea Factory. Recent trends indicate that tea collection from the members has gone down from a high of about 20,000 kilogrammes per day to about 12,000. This loss is arising from diversion of the members' produce to other neighbouring factories mainly run by multi-nationals and other private factories which due to non-enforcement of the law, are enticing farmers to move out of the factories. This is endangering the input procurement process and assurances for payments and other loans. So, what is the Ministry doing to protect this industry, which is doing quite well, from this decline, because that is exactly what is going to happen?

Mr. Ndambuki: Mr. Speaker, Sir, all the tea farmers belong to a particular factory and they are not supposed to move out of that region and go to another one. If that is what is happening in that factory, I am going to request the Kenya Tea Development Agency (KTDA) to check why it is happening like that; if multinationals take tea from the ordinary factories, we will take action.

Ms. Karua: Mr. Speaker, Sir, I have heard the Assistant Minister trying to say why there are disparities; I think he very well knows that there are two issues. One is the husbandry which goes to quality and the other is governance. Poor governance leads to heavy recurrent expenditure. Could he inform the House what he is doing to ensure that governance is improved, not just at the factories but also at the KTDA which is the agency that manages all the farms, and that they support services to the farmers to reduce the costs, the same way the Government does for maize and coffee? Why is there no support for tea farmers?

Mr. Ndambuki: Mr. Speaker, Sir, a few months ago, we tried to get KTDA to import fertilizer the way we import fertiliser for maize, but we ended up not succeeding because farmers did not want it to work. I support what the hon. Member is saying. If the fertilizer used by tea farmers is imported in bulk the farmers will enjoy a relief on the cost of the fertilizer. We are still talking with KTDA to do that, because at the moment they are the ones who take care of the inputs.

Mr. Chanzu: Mr. Speaker, Sir, when the Assistant Minister was talking about the variance and the rates that are paid as bonuses, he did not address the issue of quality; I have heard the hon. Members talking about quality. At Mudete Tea Factory and other factories nearby, there is a lot of room for us to increase tea production. Considering that it is one of the top foreign exchange earners for the country, what is the Government, or

Ministry, doing in terms of incentives to ensure that there is increased output of tea in those areas and also its improvement in quality?

Mr. Ndambuki: Mr. Speaker, Sir, at the moment, we do not have any incentives that we can give to tea farmers, but the Ministry is looking at ways of improving the growing of tea. But we have a major problem which is sub-division of the land. Land is becoming smaller and smaller; the majority of the 75 farmers we are talking about are small-scale farmers and grow their tea on one or half an acre. I would appeal to the hon. Members to discourage farmers from sub-dividing their land into small portions, which are not going to be of any use; they will not produce anything substantial, yet tea is a leading foreign exchange earner for this country.

Ms. Karua: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to discourage sub-division of land in tea growing areas while knowing very well that small-scale tea growing is a success story in this country beyond the large farms? Is he in order to mislead the House?

Mr. Ndambuki: Mr. Speaker, Sir, I am not misleading. It is the truth. If you look at some of the areas, tea growing has been reduced to a quarter of an acre. How many bushes of tea can you grow on a quarter of an acre? The only thing I can ask is that we try as much as possible not to sub-divide the land on which we plant our tea.

Dr. Khalwale: Mr. Speaker, Sir, for tourism to earn this country Kshs73 billion, the Government ploughed in and still ploughs in billions of shillings. The Kshs97 billion that we earn from tea is earned without any support. Could the Assistant Minister undertake to take over the loans of Kapsara, Mudete and Kimunyi tea factories, so that farmers do not lose their earnings by way of servicing the loans that were procured to build those factories?

Mr. Ndambuki: Mr. Speaker, Sir, I am not really in a position to assure the House that we are in a position to take over those loans; I can only ask the hon. Member to make sure that the factories are run efficiently, they produce quality, and not quantity, tea and I am sure they will be able to service the loans.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Of course, I know the hon. Assistant Minister cannot give that kind of decree. All that I am asking is that he gives an undertaking that he is going to prevail upon the President and the Prime Minister, so that they issue an executive order. After all, they do it for coffee and tourism. Why can they not do it for tea farmers in this country, the number one foreign exchange earner? No wonder the shilling is going down!

Mr. Speaker: Mr. Assistant Minister, all that the hon. Member wants you to do is to indicate that you will consider, or think about, it.

Mr. Ndambuki: Mr. Speaker, Sir, as you say, as a Ministry we will think about it, and will let him know. Thank you.

Mr. Speaker: Next Question by hon. Hassan.

Question No.1279

INSECURITY IN KAMUKUNJI CONSTITUENCY

Mr. Hassan asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that cases of armed robberies, violent attacks, gang activities and muggings have doubled in Kamukunji Constituency in the recent past;

(b) what the police are doing to deal with the escalating crime and protect residents of the constituency; and,

(c) whether he could consider increasing police posts, police patrols and visibility in the constituency, especially in the most affected areas of Eastleigh, Pumwani and Muthurwa.

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

(a) I am aware that cases of armed robberies, violent attacks and gang activities have been reported in Kamukunji in the recent past, but the trend is declining and has not doubled. The data that I have on robberies shows a decreasing trend with 12, eight and three robberies which have been reported in the months of August, September and October, respectively.

(b) The police have intensified foot and mobile patrols within the region during the day and night. Community policing committees have been revitalized, and are working hand in hand with the law enforcement officers to fight crime. Regular raids and ambushes have been undertaken in suspected criminal raids and the same will be intensified. For the last three months, a total of 13 gangsters have been killed in shootouts with the police, and seven guns and 21 rounds of assorted ammunition recovered within Kamukunji Constituency.

We have increased the number of security personnel at the Muthurwa and Eastleigh police posts and the Government is considering opening other police posts within the area to enhance the security of our citizens living in Eastleigh.

Mr. Hassan: Mr. Speaker, Sir, I am really astounded by the information given by the Assistant Minister. It is as astounding as, perhaps, the information he gave to this House last week suggesting that the head of *Al Shabaab* was in my constituency. In fact, I know of daily cases of attacks in Eastleigh and Gikomba. In fact, last week ago, the traders in Gikomba closed down the market because of the high and dangerous level of attacks that they have experienced on a daily basis. On a number of occasions, when I am visiting the constituency, there have been two or three armed robberies reported to me. So, I find these figures rather fictitious. Furthermore, I would like to ask the hon. Assistant Minister: Where are the Eastleigh Police Post and Muthurwa Police Post located? That is because I believe that those two posts do not exist.

Mr. Ojode: Mr. Speaker, Sir, that is a good question. We did order that the Eastleigh Police Post be operationalized. According to the records I have, I was told that the police post is now in existence. But, that notwithstanding, I have also directed that the---

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

Mr. Speaker: Order! Order! Even before the Member for Kamukunji pushes you further, he has asked you a simple question; to indicate where the two police stations are located; the one that you call Eastleigh Police Station and Muthurwa Police Station.

Mr. Ojode: Mr. Speaker, Sir, they are not police stations but police posts. The Eastleigh Police Post, I believe, must be within the Chief's Camp. But I am yet to check

that because I have not been to the ground. I will go there with the Member of Parliament for the area to check where they are.

Mr. Hassan: On a point of order, Mr. Speaker, Sir. There is no Chief's Camp. The Chief's Camp was sold and now there is a shopping mall built where it was. Also, there are no police posts in Muthurwa and Eastleigh. Is the Assistant Minister in order to mislead the House?

Mr. Ojode: Mr. Speaker, Sir, I want to undertake that I will go to the ground with the Member of Parliament and police officers to show us where we have the posts.

Mr. Speaker: Order, Mr. Assistant Minister! Since we have actually run out of time for Questions, and given the manner in which you are proceeding to answer this Question, I am not satisfied that you will be able to dispose of it satisfactorily this afternoon. So, I want to defer this Question to Tuesday afternoon at 2.30 p.m. In the meantime, Mr. Assistant Minister, please, co-operate with the hon. Member to ascertain your facts very well.

Mr. Ojode: Mr. Speaker, Sir, most obliged. I agree to that.

(Question deferred)

(Mr. Mudavadi stood up in his place)

Mr. Speaker: Very well! We have now come to the end of Question Time, but I see the Deputy Prime Minister and Minister for Local Government on his feet. Minister, please, learn to say "point of order!"

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I was being cautious because you were speaking, but I want to say: Point of order!

Mr. Speaker: If I would have then called the next Order, what would happen to you?

Question No.925

SCHEDULE OF ASSETS AND LIABILITIES OF CIVIC BODIES

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): On a point of order, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker, Sir, I want to, first of all, apologize that I walked in after hon. Ethuro had raised Question No.925. I have an answer ready and most of it requires tabling of documents. So, I may want to seek the indulgence of the House that I table the documents that I have on record and then, perhaps, with leave of the House, the hon. Member can have time to look at the answer and be willing to tackle it.

Mr. Speaker: Order! Deputy Prime Minister, as a matter of fact, we had already dealt with that Question. We called it and you were not present in time to answer it. I then directed that you will transact no further business in this House until you give a reason

for your absence; a reason that will be satisfactory to the House through Mr. Speaker. So, if you are able to explain why you were not here on time, then, maybe, I can purge the sanctions. Otherwise, they will stand.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, let me give an explanation. I was caught up in another meeting and I tried to dispense of it. While on transit here, unfortunately, I was caught up in a traffic jam. But, I really sincerely apologize and have given a very candid position as to why I was caught up late. You will notice that I missed the Question by just a few minutes. But, nevertheless, I was not here on time and I apologize for that.

Mr. Speaker: Very well! Are you able to answer this Question on Thursday afternoon?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Yes, Mr. Speaker, Sir. I can answer it on Thursday afternoon.

Mr. Speaker: Very well! We will defer it to Thursday afternoon.

(Question deferred)

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I notice that the Chair is engaging only one part of this business. The Question is mine and I have been here.

Mr. Speaker: Order, Member for Turkana Central! Please, resume your seat. I know that you sit on the Speaker's Panel, but that is the more reason you should know that when a Question appears on the Order Paper, it becomes the property of the House; it ceases to be yours. But let me hear you. Are you not satisfied with anything that the Deputy Prime Minister and Minister for Local Government has said?

Mr. Ethuro: Mr. Speaker, Sir, in fact, I just wanted also to indicate that I have a right to be heard because I proposed the Question to the House and, indeed, it is now the property of the House. But if the one asking the Question is not in the House, why do you always keep on dropping the Questions? I appreciate that the Deputy Prime Minister and Minister for Local Government has apologized. I just wanted you to record my presence from the very beginning of the Sitting. So, I will be available on Thursday to ask the Question.

Mr. Speaker: Very well! Member for Turkana Central, your sentiments are taken on board and recorded in the HANSARD.

Next Order!

MINISTERIAL STATEMENT

Mr. Speaker: First, we will take any Statement which may be due. How long is your Statement, Mr. Assistant Minister?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, it is about five pages.

Mr. Speaker: Five pages will take you 20 minutes. Can you do it in ten minutes?

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

Mr. Speaker: Very well! Proceed.

INSECURITY IN ISIOLO, SAMBURU AND MARSABIT TRIANGLE

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, on Wednesday 7th September, 2011, hon. Bahari, the Member of Parliament for Isiolo South Constituency sought a Ministerial Statement on the upsurge of insecurity in the Isiolo, Samburu and Marsabit Triangle.

Mr. Speaker, Sir, in the Statement, he wanted to know the details of all the incidences that have occurred, why they had occurred unabated despite the presence of numerous security personnel in the area and why the District Security Committee of Samburu is unable to arrest the situation. He also wanted to know how the Government had assisted those people who had lost their livelihoods.

Mr. Speaker, Sir, on Wednesday 19th 2011, he sought the same Statement, but I was unable to deliver the earlier one because Parliament went on recess. It was noted by the Chair on that day that hon. Martha Karua, the Member for Gichugu Constituency, had sought a similar Statement on Tuesday 18th October and the Chair, thereby, ruled that I combine the two Statements and give one Ministerial Statement today.

Mr. Speaker, Sir, I wish to reply as follows: On 25th June, 2011, at Kom Area, an estimated 250 raiders believed to be from the Samburu Clan invaded the area, killed four men and attempted to steal 5,000 goats. Security personnel pursued the raiders, overpowered them and managed to recover 3,000 goats. During the incident, eight raiders were shot dead.

On 10th July, at Loruko Mlango area, suspected Samburu raiders stole a total of 200 goats and in the process shot dead one person and injured another. The security personnel pursued them as far as Samburu District and managed to recover the stolen animals but in different incidences.

On the same day, 10th July, an unknown number of raiders attacked Manyatta Salama in Nyiru Division and shot dead nine persons and injured another three. Security personnel pursued the raiders and recovered 68 goats and eight camels within Mt. Nyiru Forest.

On 16th July, at Burat area, a total of 270 goats were stolen and one Aden Noor Abdi beaten up and left unconscious. A patrol team of security officers were deployed in the area and managed to recover 199 goats and arrested two suspects who were later charged in a court of law.

On 7th September, 2011 at Damicha Manyatta which falls under Samburu East District, an unknown number of raiders believed to be Samburu Morans struck and shot dead five people, injured several others and made away with an unknown number of animals. The survivors of the incident together with their families were provided with security back to Kulamawe and Kina where they had come from. The patrol team pursued the raiders. However, no recovery or arrests were made.

On 14th October, 2011, at Tractor Village within Ndaremara Location, about 23 kilometers north of Isiolo Police Station, an unknown number of armed bandits believed to be from the Borana Tribe raided the village, killed seven people and left without stealing anything. As a result of the incident, Turkana tribesmen demonstrated, barricading the Isiolo-Marsabit Road.

On 21st October, 2011, it was reported by one, Buru Omar, a Somali male adult that he received a phone call from one person known to him as Amack who is a driver,

that they were on their way to Isiolo and on reaching Alamach area, they were ambushed by armed bandits believed to be Turkanas. Security personnel visited the scene where they found two bodies of one Imbuya Lopalmayei, a male adult aged 65 years and Lobaya Ekira, a male adult aged 55 years. Both are Turkanas and had bullet wounds on their heads. It is suspected that they were murdered in a retaliatory attack.

On the same day at Kambi Gabra, a fierce exchange of fire believed to be between Somali, Borana and Turkana ensued killing three people namely, Lomalo Lushike, a Turkana male aged 50 years, Hassan Noor, a Somali male adult aged 30 years and an unknown male aged 25 years. One Samuel Lokwa, a Turkana male aged 38 years was injured on the head by a bullet. Several houses were also set on fire where one unidentified child perished.

Mr. Speaker, Sir, on the clarification sought by hon. Martha Karua on Ngarimara, I wish to state as follows: Ngarimara lies under Igembe Police Division, Igembe District but geographically it is near Isiolo District. Administratively, it falls under Igembe South District. However, any crimes and incidences which occur in that area are initially attended to by officers drawn from Isiolo Police Division and later referred to Igembe.

It is also important to note that police officers from Isiolo are not, in any way disabled from responding to incidences of insecurity in the area. Joint operations have always been done by officers drawn from the districts neighbouring Isiolo, including Igembe.

To curb insecurity and protect the citizens, the following measures have been put in place:-

- (i) Peace meetings held between the Ministry led by the Minister, the PS, the local leaders and the communities have been held to come up with amicable solutions to the conflicts in the region.
- (ii) A camp has been opened at Shaba Gate manned by several officers comprising of the GSU and regular police officers who normally respond to any cases of insecurity in the area, besides conducting regular patrols.
- (iii) Joint District Peace Security Intelligence Committees of the affected areas have been conducting regular meetings in Isiolo to promote reconciliation of the pastoralist communities in the area to avoid retaliatory attacks.
- (iv) All the recovered animals have been handed over to their respective owners upon proper identification.
- (v) A change of deployment strategy of Security Officers to include patrolling the affected areas during day and night has been adopted. It should be noted that the response by our security personnel has also been prompt and has, in the instances highlighted, led to recovery of stolen stock, arrests or killing of suspected raiders.
- (vi) Finally, the recent spate of murders committed by Turkanas and Boranas or Somalis has brought about a number of issues in focus including, incitement, land and the craving for political supremacy among some politicians. Police are investigating individuals who might be involved in these acts and appropriate action will be taken against them.

Ms. Karua: Mr. Speaker, Sir, while thanking the Assistant Minister for the answer, he has said that Ngarimara lies in Igembe. I want him to confirm to the House whether this has been the case since the Boundaries Review Commission which took

place a year ago. He should also confirm that councilors from Ngarimara are councilors of Isiolo Municipality and not of Igembe or Maua.

He should also state whether the Government is unable to keep security in Isiolo, noting that as of the time I asked for the Ministerial Statement, 39 people had died and since I asked for the Statement, as if to show impunity, close to 30 people have died in a spate of just one week.

Is the Government totally unable to keep peace among the Samburu, Borana, Somali and the Turkana who inhabit this area? What is the Assistant Minister doing to ensure that these people are assisted to live in peace and the bandits among them are brought to book?

Mr. Affey: Mr. Speaker, Sir, the issue regarding the crisis in Isiolo is a grave matter in this country. It is unfortunate that within the last few months, we have lost the lives of very many Kenyans who live in that part of the country. Many people in Isiolo are today living in fear. The Assistant Minister has said that a number of animals have been driven away by bandits. How many of those animals have been recovered by police officers in Isiolo and have since been returned to the rightful owners?

Mr. Bahari: Mr. Speaker, Sir, the situation in Isiolo is extremely worrying. In this House, on Thursday, 10th September, 2009, more than a year ago, I raised the same issue of insecurity in Isiolo. In a span of three months, from June to September, the Minister confirmed that there were five incidences of highway banditry on the Isiolo-Modogashe Road. Since that time, the situation has not changed in spite of the assurances given by the Assistant Minister, similar to the ones he is giving now. This is a clear indication that this matter cannot be managed by the security forces.

I would like to seek a clarification on what the Ministry has done to assist--- First, how many people have been affected by this insecurity in Isiolo, and what has the Ministry done to assist those people by way of compensation and any other assistance that they may have been given?

Mr. M. M. Ali: Mr. Speaker, Sir, the situation in Isiolo is, indeed, worrying. I recall that in 2009, the Ministry of State for Provincial Administration and Internal Security entered into an agreement with members of the pastoral communities so that a disarmament programme would be commenced in all pastoral areas. I would like to confirm that in some parts, the disarmament has been done while in some areas, the process has not been carried out. As I gathered and confirmed at the meeting yesterday with the Minister of State for Provincial Administration and internal Security, part of the problem we have is that the disarmament process has not been completed. Legal firearms were not given to those who had been disarmed as pledged by the Government. When will the Government complete the disarmament programme and provide legal firearms to communities which have been disarmed?

Mr. Litole: Mr. Speaker, Sir, this problem of cattle rustling is everywhere. Last year, I was in the Committee that investigated the cattle rustling menace and how it could be gotten rid of off.

Mr. Speaker, Sir, we went to Isiolo. What was shocking was that the Government - I am happy the Assistant Minister is here - decided to give 700 guns to one community, leaving this other community vulnerable. What will the Government do so that these other communities in Isiolo are also given some Kenya Police Reservists (KPR) to defend themselves?

Mr. Letimalo: Mr. Speaker, Sir, for now we have over 30,000 Turkana who have sought refuge in Samburu East. I would like to know from the Assistant Minister what plans--- because they are actually staying in a school and we are worried about the sanitation situation in that school. What plans does the Ministry have to return them back to their homestead and also feed them?

Dr. Nuh: Mr. Speaker, Sir, the Assistant Minister's reassurance that they are doing something about the case in Isiolo is not enough, because of the recent coverage and footages on televisions and newspapers. More importantly, what I want to ask him is in terms of capacitating the personnel that they have deployed in Isiolo to try and put off the fire. How well equipped are these officers? Have they deployed any police chopper to assist in the combat operation, or they are using it for other purposes?

Mr. Ethuro: Mr. Speaker, Sir, I would like the Assistant to confirm the effectiveness of the policing arrangements they have in place. When these incidents took place, the police officers were only about three kilometres away when Mr. Romanio Losgey was killed. Further, what will he do to ensure that what appears to be ethnic cleansing of a minority community known as Turkana in Isiolo County will not be entertained by this Government?

Mr. Speaker: Now we must take the last one!

Member for Kandara!

Mr. James M. Kamau: Mr. Speaker, Sir, I think it amuses me to hear that some communities are given weapons, especially in those areas that are affected such as Isiolo and North Eastern.

Mr. Speaker, Sir, I would like to know the criteria that is used to give guns to some communities and not the others. At the same time, I would like to know whether these communities are trained in gun handling. There are standards on how to handle a gun. A gun is not a panga or an arrow!

Mr. Speaker: Very well. Assistant Minister, you may now respond to all those requests!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I can see there is a big concern with regard to what is happening in Isiolo. However, as I mentioned, my Minister was in Isiolo together with the Permanent Secretary, regarding the same problems. Fortunately, he is also here with me. If I miss out something which they ordered there, he could stand on a point of information as usual to inform me of what I may have missed out.

Mr. Speaker, Sir, hon. Karua sought to know whether the Government is able to control the bandits. Yes. We are able to control the bandits. The presence of the Government in that particular region is why we are not having occurrences on a daily basis. They come after, maybe, four weeks, a month and half and so on. I want to assure the hon. Members from that particular area that the Government is controlling the bandits within that area. The Government's presence is and will be felt within that area.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I do not know whether you clearly heard the Assistant Minister saying the reason as to why the spate of violence is coming every after one week or two weeks which is a very normal thing, according to him, is because of the security presence. Is he confirming to this House that this is something that we should expect every other day whether the Government is there or not?

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

Mr. Speaker: Is it a related matter?

Mr. Ethuro: Yes, on a related matter, Mr. Speaker, Sir.

Mr. Speaker, Sir, you heard the Assistant Minister say that these incidents are not taking place on a daily basis, but maybe, on a monthly basis. First, that should not be the case. But in terms of facts, on 28th September, 16 donkeys were taken away from Kipsin Location. On 30th September, which was just two days later, three camels were shot and left dead in Kipsin Location. On 2nd October, a school in Kipsin Location was vandalized.

Mr. Speaker, Sir, is that a frequency of a monthly basis or every other two days?

Mr. Speaker: Mr. Assistant Minister, proceed! Be careful. This is a very sensitive matter.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, this is a very sensitive matter.

Mr. Speaker, Sir, the reasons why I have quite a number of GSU officers stationed in those insecurity prone areas is as a result of what has been happening.

Mr. Speaker, Sir, allow me to reply to the concern of hon. Affey. He said people in Isiolo are living in fear. He wanted also to know how many animals have been recovered. I did mention in my statement, that yes, some raid was done and we recovered the stolen animals. If I may give him the date, I mentioned that on 16th July at Burat area, a total of 270 goats were stolen. We recovered 199 goats and arrested two suspects who were later charged in the court of law.

Mr. Speaker, Sir, this is a grave matter. However, we have instructed the police officers to go out there to guard those who have their animals. If there is anything which is stolen from these herders, they must recover the animals. My officers are doing this very well.

Mr. Speaker, Sir, hon. Bahari was asking how many people have been affected by these raiders and what assistance have been given. A number of these fellows have been affected, because their animals are being stolen. The question of what kind of assistance we have given can only be answered, when we have something substantive that we want the Government to assist them on. As at now, we have not received any kind of request---

Mr. Bahari: On a point of order, Mr. Speaker, Sir. This issue did not happen yesterday or this month. I can even produce a record of last year when I raised the same issue in September, in this House, where I have the answer from the Assistant Minister. Is he in order to tell us right now, he has no adequate information to be able to respond to the IDPs in Isiolo and give them the requisite assistance, one year down the line? Some of these incidents occurred yesterday, but these incidents have been there for a long time.

(Dr. Nuh stood up in his place)

Mr. Speaker: Order, Member for Bura. Let us try and calm down a bit. Let us hear the Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, as far as we are concerned, in fact, I have just consulted even with the substantive Minister, we have never received any requests on what they want the Government to assist them with. Maybe, if he has any request, he can bring it along so that it can be considered, along with others.

Mr. Speaker, Sir, hon. M.M. Ali asked about the disarmament which is being done in some areas, while leaving out other areas. We are not discriminating on disarmament. The operation had been ordered and then later on you saw what was happening. We had to remove some of our officers from the operation in order to tackle some emerging issues.

Mr. Speaker, Sir, I want to assure the hon. Member, who is a good friend---

(Mr. Letimalo stood up in his place)

Mr. Speaker: What is it, Member for Samburu East!

Mr. Letimalo: On a point of order, Mr. Speaker, Sir. If the Assistant Minister truly says that he does not discriminate when they carry out the disarmament exercise, could he produce records to show how many firearms and ammunitions were recovered in every given district within that particular region?

Mr. Speaker: Order! Order! That now is not a valid point of order. I have been going out of my way to accommodate Members, beginning earlier on in the day, this afternoon.

The Assistant Minister has made an assertion that they are not discriminating in the disarmament exercise. Now, Member for Samburu East, if you want to challenge that assertion, because you have information to the contrary, then you must come forward with that information, and say: "Why is the Assistant Minister misleading the House that they are not discriminating, when, in fact, I have evidence, which I hereby table, that during the disarmament exercise carried out six months ago, they only took guns from the Samburu, and no guns from the Turkana?" That is the way to go, really!

Proceed, Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, just as I mentioned, we are not discriminating. By 31st October, 2011, which is next Monday, we are going to have a meeting with all members from that area in Nanyuki, to discuss the way forward and how we are going to disarm those who have not been disarmed.

Equally, we had also agreed in many other forums that those areas where disarmament had already been effected, we vet the Kenya Police Reservists (KPRs) and appoint them to safeguard the interests of those who are there. I have not lost sight of that. I will continue vetting the KPR in order for these people to have security where it is required.

Mr. Speaker, Sir, hon. Litole was saying that the other communities will also be vetted and given KPRs or legal arms; yes. That is exactly what we are saying. We are going to vet the people who have not been appointed as KPRs and then provide the KPRs with legal guns.

My friend Dr. Nuh was asking whether we can provide a chopper. Ordinarily, because of the terrain, once the raiders steal cattle, we normally hire a chopper from the Army and supplement with what we have here. We also have our own police choppers which we use to follow the raiders until we recover what they have taken. That will still continue.

Mr. Ekwee Ethuro was asking the criteria of giving out firearms. We do not have any criteria. What we normally do is that, once disarmament is done in an area or once

any other person who is Kenyan wants to have a firearm, we vet the Kenyan and provide the firearm if we feel that the reasons he has given us for having the firearm are valid. Otherwise, we cannot just give firearms to any Tom, Dick and Harry. It will be an exercise in futility.

Those are some of the areas we go into. We have to check why you need the firearm and see whether it is really a good reason for you to acquire one.

Mr. Speaker, Sir, I want to assure the House that in areas where they need some security assistance, we normally go for ordinary citizens of that firearms for purposes of security within that particular area.

Thank you, my colleagues, and if there is any question, you can go ahead.

Ms. Karua: On a point of order, Mr. Speaker, Sir. You realize that the Assistant Minister did not clarify the issues I raised. One of the issues was where Ngarimara lies and to confirm that the councilor for Ngarimara is a councilor for Isiolo County Council.

I also asked what the Government is doing. Having admitted that they are going all the way to Igembe, I would have expected that he would tell us that they are setting up a police station at Ngarimara. All these raids are centered around Isiolo/Ngarimara area. I think the Assistant Minister has a responsibility to tell us what they are doing about the disruption of economic activities. Women, mainly widows selling camel milk can no longer eke out a living because of this insecurity.

It is also the Government's responsibility to ensure that communities live in peace. It seems like the Government is allowing inter-community fighting and a total of over 20,000 animals have been stolen and not recovered up to this time. Is the Assistant Minister in order to avoid answering these very serious issues including the issue of disarming all the communities involved, not selectively?

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

Mr. Speaker: Let the Assistant Minister respond to the point of order by the Member for Gichugu first.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I did mention in my Statement that Ngarimara lies under Igembe Police Division which is Igembe District but geographically it is near Isiolo District. Therefore, administratively it falls under Igembe South District.

We had a delegation recently asking the same question on where they belong. I want to say here that administratively, it falls under Igembe South District.

Mr. Speaker, Sir, right now, we have taken the Rapid Deployment Unit (RDUs) to Ngarimara. I think what was happening there has gone down because of the presence of the RDUs in that particular area.

Mr. Letimalo: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to avoid answering my question? I had informed the Assistant Minister that there are displaced people who are camping in a school in my constituency. What is the Assistant Minister doing to ensure that these people are returned to their homesteads so that they do not disrupt learning in that school?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, it is true I did not capture that. He was asking whether we should return those people to where they came from. Yes, that is exactly what we will do. In order for us to have peace, we are going to return those

people to their original homes. We will also agree on the modalities and the way forward when we meet in Nanyuki on the 31st.

Thank you.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. The Member for Gichugu asked the issue of administrative boundaries of Isiolo and Tigania East and particularly the issue of where the councilor for Ngarimara falls. Is it within Isiolo County Council or elsewhere?

Mr. Speaker, Sir, is the Assistant Minister in order to avoid answering that aspect of the question?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the Deputy Prime Minister and Minister for Local Government is here. That question squarely lies with him. I am talking from the security point of view.

Mr. Farah: On a point of order, Mr. Speaker, Sir. We cannot take the security of this nation so lightly. There is no way a place can fall under the county council of a district and then administratively fall under another district. Ngarimara has always been part of Isiolo District. Have you done the work of the Electoral Commission yourself now to create a boundary to put it as part of Tigania?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Ojode, I am being told that there has been a boundary problem which will be sorted out by the Commission. It is until such a time that it is sorted out by the Commission that we will come out clearly with where the councilors will be reporting to.

That notwithstanding, the police can---

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Ms. Martha Karua has raised a very practical question and whether the Assistant Minister brings the Anti-Stock Theft Unit, the GSU or the Army, they will come and go. The question she asked was whether the Assistant Minister was considering putting up a police station at Ngarimara so that continuously there is security there to divide these two communities? Can he respond to that?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I was consulting. Can you, please, just repeat the question?

Dr. Khalwale: Mr. Speaker, Sir, I was asking about the possibility of establishing a police station at Ngarimara to separate the communities. You said that you are taking there the Anti-Stock Theft Unit (ASTU), the army, the regular police and the General Service Unit (GSU). The security personnel from those units will go there and eventually leave. In order to address the security situation of that area, you need to have a permanent security force in the form of a permanent police station. When are you putting it there? Since you are taking tutelage from the professor, who by now should have resigned since he has failed---

Mr. Speaker: Order! Order, Member for Ikolomani! You cannot do that!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, if I were Dr. Khalwale, I would have congratulated the Minister for having done a good job for Kenyans.

That notwithstanding, I have been informed that when my substantive Minister visited the area yesterday, he agreed with the area leaders, with whom he met, that they were going to come up with a police station within Ngarimara.

I will leave the issue of the boundary of the county councils to the electoral and boundaries review commission to determine. In the meantime, I will consult with the Minister in charge of local authorities to tell us where the councillors belong to.

Mr. M.H. Ali: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House by saying that the Government is committed to solving this problem, which has taken decades, when he is actually telling us that the problem is the boundary, which is the responsibility of the Government, and not the local people there?

Ms. Karua: On a point of order, Mr. Speaker, Sir. It relates to the one raised by hon. M.H. Ali.

(Mr. Ojode stood up in his place)

Mr. Speaker: Order! Order, Assistant Minister! I understand that there is another point of order related to the same matter.

Carry on, Member for Gichugu.

Ms. Karua: Mr. Speaker, Sir, you may have noticed that the Assistant Minister, who is normally very direct, has become evasive. It is a fact that the councillor for Ngarimara is a councillor in Isiolo County Council. That does not stop the Government from solving the boundary dispute. Is he in order to fail to respond to a direct question and confirm the obvious – that the councillor for Ngarimara reports to Isiolo County Council?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, on this particular one, you will agree with me that boundaries do not fall under my docket. Councillors also do not fall under my docket. Let them come up with anything to do with security. I am dealing with security issues, and not whether the councillor comes from one side or the other, or whether the boundary is on one side or the other. That is not within my docket.

Mr. Farah: On a point of order, Mr. Speaker, Sir. I am a seriously worried person for this country and our people. We have an Assistant Minister who is unable to tell where the administrative centre of a small location is and keeps on prevaricating and saying that the matter is going to be dealt with by somebody else. That is part of the Provincial Administration. Is the Assistant Minister in order not to be able to tell us where Ngarimara is, administratively? These are district and provincial boundaries, which were fixed a long time ago, and which he has no powers to change.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I did say, and I want to repeat, that Ngarimara falls under Igembe Police Division. I am talking about the police. I would not know about the councillor, unless I check with the Minister in charge of councillors. However, geographically, Ngarimara is near Isiolo District.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order, hon. Members! This matter is not a question of winning points. We are dealing with a real situation. So, you must allow the Assistant Minister to address himself to it as best as he can. Where he has no information, then he will have to be allowed to go back and sort out his difficulties. He may not be able to correct it now on the Floor of the House.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, can I conclude by saying---

(Mrs. Odhiambo-Mabona stood up in her place)

Mr. Speaker: What is it, Millie?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I wanted to ask that this Ministerial Statement be deferred because of what hon. Members are saying – that the boundary issue is part of the cause of insecurity in that area. So, if we have the Assistant Minister not responding to the issue that is causing the conflict, it means that he is not well versed in what the problem of insecurity in that area is. So, my request is that this matter should be deferred to give the Assistant Minister time to get more information and consult with the other Minister.

Mr. Speaker: Hon. Members, I am, obviously, not about to defer a matter on which we have spent the last 20 minutes because I know that we were doing some work. I may, perhaps, defer just one aspect of this matter.

Assistant Minister, I want you to come to the House in two weeks' time and, among other things, indicate in what local authority the councillor for that area falls, what you are going to do, as Government, to resolve the boundary dispute in that area and, therefore, address the matter of insecurity in the area. It is only on those grounds that I will defer the Ministerial Statement. You will come to speak to those aspects.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I want to confirm to this House that I will consult with my counterpart in the Office of the Deputy Prime Minister and Ministry of Local Government and bring an elaborate Statement on those two issues.

Mr. Speaker: Very well. The matter must now rest there.

(Ministerial Statement deferred)

Let us have the next Ministerial Statement, if it is available. I know that the Deputy Leader of Government Business has a Ministerial Statement to give, which is awaited anxiously. Do you have the Ministerial Statement, Mr. Kimunya?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, is the Ministerial Statement due today?

Mr. Speaker: I was prompted that it is due today.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am not aware of the request.

Mr. Speaker: The Ministerial Statement was sought by the Member for Chepalungu, and indications were that it would come today.

Very well. You may want to go back and check.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, my apologies. I need to double-check again, so that we can have it tomorrow.

Mr. Speaker: Please, let me know when it is available because Mr. Ruto is waiting for it.

The Minister for Transport (Mr. Kimunya): Okay, Mr. Speaker, Sir.

Mr. Speaker: We will now take requests for Ministerial Statements, beginning with the Member for Saboti.

POINTS OF ORDER

ALLEGED LOSS OF KKV PROGRAMME FUNDS

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. I have requests for two Ministerial Statements.

The first one is to the Prime Minister, with regard to an issue of great public concern, particularly to the young people of this country, involving the alleged loss of *Kazi Kwa Vijana* (KKV) Programme funds. I would like the Prime Minister, in his Ministerial Statement, to tell this House how much is involved, in terms of funding of the KKV Programme, from inception to date; how much money has been lost through alleged corruption; who is responsible for the alleged loss of the funds, and whether the Prime Minister will be prepared to take political responsibility as he has advised other Ministers in similar circumstances in the past to do.

INSECURITY IN TRANS NZOIA WEST DISTRICT

Mr. Speaker, Sir, the second Statement is to the Minister of State for Provincial Administration and Internal Security with regard to rising insecurity in Trans Nzoia West District. Particularly, I wish the Minister to address the issue of an invasion that took place on Sunday on 23rd October, this year in Mengo Farm in Saboti Division of Trans Nzoia West District that resulted in the shooting and killing of a young man, Davis Natembeya Wambilyanga, and which matter has raised a lot of tension in the area.

In his Statement, may he indicate and confirm to the House under whose authority the police officers and persons accompanying them entered the said farm. Under what circumstances was the said Davis Natembeya Wambilyanga shot dead and who was the police officer responsible?

Thirdly, what action has been taken against the said police officer and other persons accompanying them in the invasion on the said day?

Lastly, I would like him, in his Statement, to confirm to this House what he is doing to ensure that police officers are not misused in civil disputes involving land such as this, that are being handled by civil courts.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Could the Minister of State for Provincial Administration and Internal Security indicate when the Statement sought by the Member for Saboti will be brought, with respect to the rising insecurity in Trans Nzoia area?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, since I have one of the Statements

which he asked for last week, I am supposed to deliver tomorrow morning, I can deliver this other one on Wednesday, next week, or you will allow me to deliver it on Thursday.

Mr. Speaker: Thursday afternoon this week. Very well!

Leader of Government Business, with respect to the request to the Prime Minister on the *Kazi kwa Vijana* programme, you are the only one who can indicate when the Prime Minister can make that Statement on *Kazi kwa Vijana* issue available.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, would Thursday be appropriate?

Mr. Speaker: The Prime Minister normally has Wednesday set aside for his statements.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): I am also aware that the Prime Minister may be out of the country tomorrow. So, perhaps, we could schedule this for Tuesday next week?

Mr. Speaker: Wednesday, next week.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Wednesday next week. I think that would be appropriate.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Purely on a question of procedure, you have directed before that parliamentary business takes precedence over any other business. Now that the House remembers that the Prime Minister owes us a Statement in respect of the admission into Cabinet of Ministers who had not been cleared and this Question has been outstanding for so many weeks; now that another equally important issue on corruption has arisen, could the Leader of Government business consider approaching the President, so that the Prime Minister is asked to come and respond tomorrow before he proceeds to his other important business wherever he is going?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, the Prime Minister is scheduled to address the UNESCO conference in Paris. I am not even so sure whether he may not have travelled. It would be clearly a serious misapplication of funds to get him to come from Paris and then go back to Paris. I think that the best option may be for Wednesday, next week, so that we are all sure he will have come back.

Mr. Speaker: Very well. I think we will let it rest there.

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

Mr. Speaker: Member for Turkana Central, do you want to really revisit that matter?

Mr. Ethuro: Mr. Speaker, Sir, I am not revisiting the matter, but there is fundamental issue raised by Dr. Khalwale in terms of what takes precedence over any other national duty, if not parliamentary business. That question is yet to be determined. We do appreciate the Prime Minister is a very busy man, but that is why the Standing Orders have also provided for Deputy Prime Ministers, although in this particular matter, we would appreciate the Prime Minister himself.

Mr. Speaker: Hon. Vice-President, do you really want to respond to that?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, there is no doubt that all of us take parliamentary business with the seriousness it deserves. The Member for Turkana Central has actually concluded by

saying he wishes the Prime Minister himself to deal with it. I cannot think of a better day of doing it than next Wednesday.

Mr. Speaker: Very well. Let us take the next request; Member for Garsen.

SAFETY OF THE KENYAN TROOPS IN SOMALIA

Mr. Mungatana: Mr. Speaker, Sir, I also have a request to the Prime Minister. The Prime Minister and the Minister for Foreign Affairs asserted before this House that the Transitional Federal Government (TFG) of Somalia was working hand in hand with the Kenyan Government in their bid to deal with the *Al Shabaab* challenge. While the Prime Minister gave those assertions with the Minister for Foreign Affairs, it is now a matter of public knowledge that the president of the Transitional Federal Government of Somalia has stated that, in fact, that may not be the situation.

Mr. Speaker, Sir, we would want the Prime Minister to clarify the situation; what is the factual situation that is on the ground? What we want to know very briefly is, for the troops that are already in Somalia, will they face hostile fire from both the *Al Shabaab* and the Transitional Federal Government because now it is clear that there is a problem here and Kenyans need to know what the situation is?

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. That will go to the Leader of Government Business.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, in view of the seriousness of this matter involving national security and even regional security, I would want to urge that we all try the much we can to restrain ourselves. I would even have thought that the Minister of State for Defence might want to deal with this issue in a manner that is clearly not subject to serious debate because our men and women in uniform are engaged in a very just cause. I, therefore, think that the best way is to give it about a week. The Minister of State for Defence, in the absence of the Prime Minister, can deal with this matter.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. If you look at the way I have framed my request, I have thought about it very clearly. The issue is just one specific worry that the Kenyans have. We have been given this assertion. There is now this other conflicting assertion. So, are our troops being exposed to potential hostile fire from two areas, the *Al Shabaab* and the Transitional Federal Government?

Mr. Speaker: Order. Member for Garsen, actually the point is made.

Mr. Mungatana: Mr. Speaker, Sir, the matter is very urgent. We would want to request if it is a matter that the Minister of State for Defence can deal with, he should deal with it tomorrow so that we finalize this.

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

Mr. Speaker: Is it on the same matter? Is it related?

Mr. Farah: Mr. Speaker, Sir, we are in a state of war. Our forces are engaged in battles. The practice of parliaments all over the world is that such matters are never brought to the plenary of the House because of their security nature. The relevant Committee can sit in camera with the relevant Ministers to explore that, but we cannot discuss such a sensitive matter that touches on our own national security and as our Vice-President has said, our regional security, in the plenary of the House because we do not know how careless that discussion and debate can be.

Mr. Speaker: Order! Member for Lagdera, maybe you needed to take time to acquaint yourself with how we have conducted this business while you were away and you will know that we respected all the rules of parliamentary practice and the importance that the nation must be given against all other considerations.

Mr. Affey: On a point of order, Mr. Speaker, Sir. Of course, the matter we discussed is serious and the Member for Garsen referred to a statement from a friendly President. He has no evidence apart from media speculation that the Somalia President has stated that as a fact. So, in the absence of that, is it useful to pursue the matter? That is just media speculation and we do not have evidence. It is not---

Mr. Speaker: Order! I do not think that is the way I want us to go. I will direct that if the Minister of State for Defence can deal with this matter, then he brings the Statement, as much as possible, by Thursday this week. That means that we are leaving room for any other possibilities depending on how developments take shape. That is what we will do.

DELAYS BY SCHEDULED KENYA AIRWAYS FLIGHTS

Mr. Magwanga: Mr. Speaker, Sir, I wish to seek a Ministerial Statement from the Minister for Transport in regard to the delays by the scheduled Kenya Airways Flights on departure time.

In the Statement, the Minister should clarify the following:-

(i) The causes of these perennial delays and indicate whether these causes are mechanical, administrative or lack of capacity by the airline.

(ii) The cost incurred by the national flag carrier in accommodating stranded passengers and legal suits against the company occasioned by these delays over the last two years.

(ii) Whether 200 domestic and international passengers aboard KQ 611 and KQ 622 from Mombasa to Nairobi on 22nd October, 2011, were delayed for over ten hours without explanation from the airline management. He should further explain why there is no lounge at the check-in area of the Moi International Airport, Mombasa.

(iv) The impact of these delays on the image of the Kenya Airways and the country at large and the economic implication on our tourism industry.

(v) The Minister should explain to this House the steps being taken to ensure that the delays are avoided and do not recur in future.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, the matters referred to in the request are quite extensive and bearing in mind that the Kenya Airways is a private company and not under the direct control of the Government, I will need some time to extract the information that has been requested. That may take a minimum of two weeks.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Earlier, the Minister said that the Kenya Airways is a national airline. Is he in order now to say that the Kenya Airways is not a national airline and that it is a private airline?

Mr. Speaker: Member for Kisumu Town East, those are issues that we will actually speak to as the Statement is brought. Minister, you said you will do that on Tuesday next week?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I requested for two weeks because of the nature of the company. I need to get that information from the company, including the costs they have been incurring, which will be within the last two years.

Mr. Speaker: Member for Kasipul Kabondo, two weeks away from today.

Mr. Magwanga: Most obliged.

Mr. Speaker: So directed!

DEATH OF FLORENCE N. ABUNGU

Mr. Namwamba: Mr. Speaker, Sir, I wish to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security. On Saturday, 15th October, 2011, one Ms. Florence Nagwire Abungu, a young lady aged 38 years was shot dead by police officers during a gun fire exchange between the police and suspected thugs at the Kangundo Road Caltex Gas Station in the City's Eastlands suburbs.

From the report of the autopsy conducted on 19th October, it is clear that the deceased died from two fatal bullet wounds to her neck and arm. I, therefore, seek a Ministerial Statement in which the Minister should clarify the following:-

- (i) Confirm exactly in what circumstances Ms. Abungu was killed in cold blood.
- (ii) How far the police have gone with the investigations into this senseless killing.
- (iii) What assistance the Government is extending to the family of the deceased as they make funeral arrangements.
- (iv) Whether the Government will compensate the family of the deceased.
- (v) Why the Government is attempting to evade responsibility in this very serious matter.

DEATH OF KENYANS ON SIGULU ISLAND

Mr. Speaker, Sir, please indulge me while I am still on my feet, to indicate that I sought a Ministerial Statement from the Minister for Foreign Affairs in respect of killings of three Kenyans on Sigulu Island in Uganda just before we went on recess the last time.

That Statement was supposed to have been delivered the following Tuesday which coincided with the recess. That Statement has not been delivered to date. If I could also get an indication as to when that Statement could also be delivered, I would appreciate.

Mr. Speaker: Very well. Minister of State for Provincial Administration and Internal Security!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I will have the Statement ready on Wednesday morning next week. As for the one to the Minister for Foreign Affairs, I want to undertake to inform him to come up with the Statement. Unfortunately he is not here, but let me undertake to inform him to issue the Statement on Thursday.

Mr. Speaker: Thursday afternoon and it is so directed!

DELAY IN DISBURSEMENT OF FUNDS
TO CDF BOARD ACCOUNT

Mr. Ethuro: Mr. Speaker, Sir, I also rise to seek a Ministerial Statement from the Minister of State for Planning, National Development and Vision 2030 on the delay in the disbursement of the Constituencies Development Funds to the CDF Board account.

Section 47(2) of the CDF (Amendment) Act, 2007, provides as follows:-

“The disbursement of funds to the Constituencies Fund Account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to 25 per cent of the annual allocation to the constituency and, thereafter, the constituency fund account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year”.

I was emphasizing the word “shall” and the “beginning”.

We are in the second quarter and the beginning of the first quarter and the second quarter has already lapsed. The Minister should explain why he is breaching the law and why we should not consider him a criminal. When is he going to release the money?

Mr. Speaker: Very well. Minister of State for Planning, National Development and Vision 2030, what do you have to say?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I am not sure we want to brand the Minister a criminal in the House. I believe that is a matter for the courts; but in terms of the request by the Chairman of the Constituencies Development Fund (CDF) Committee, I will communicate and we can get an answer on Thursday this week.

Mr. Speaker: Very well. On Thursday this week; hon. Ethuro, please note that if you describe the Minister as being criminal in his absence then that is wrongful. There should be a finding by a court of law before you can describe somebody as criminal, or as having criminal tendencies. I think you have noted that.

Mr. Ethuro: I have noted that, Mr. Speaker, Sir.

COMMUNICATION FROM THE CHAIR

REFERRAL OF IEBC NOMINEES TO CIOC

Mr. Speaker: Very well. Hon. Members, before we move to the next Order which is Order No.8, I wish to communicate as follows:-

Hon. Members, Section 5(1) of the Independent Electoral and Boundaries Commission Act, 2011 provides for the composition and appointment of the Independent Electoral and Boundaries Commission. Section 5(1) *inter-alia* states:

“The Commission shall consist of a Chairperson and eight other members appointed in accordance with Article 250(4) of the Constitution and the provisions of this Act.”

Further Section 5(2) provides that subject to Section 35, the Chairperson and members of the Commission shall be appointed in accordance with the procedure set out in the First Schedule pursuant to Section 3 of the First Schedule.

Hon. Members, note that we are referring to sections of both the Independent Electoral and Boundaries Commission Act and sections of the schedule to the Constitution. So, you must follow the communication accordingly.

Pursuant to Paragraph 3 of the First Schedule, the selection of nominees is dealt with as provided under the following sub-paragraphs:-

“ 4) After carrying out the interviews, the Selection Panel shall select three persons qualified to be appointed as Chairperson and 13 persons qualified to be appointed as members of the Commission and shall forward these names to the President for nomination of one person for appointment as the Chairperson and eight persons for appointment as members.

(5) The President shall forward the list of nominees to the National Assembly for vetting and approval.

(6) For purposes of the appointment of the first Selection Panel and the first Commission, the President shall act in consultation with the Prime Minister in accordance with the Constitution”.

Accordingly, and by a letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service dated 24th October, 2011, the National Assembly has been advised that His Excellency the President has, in consultation with the Rt. Hon. Prime Minister, nominated the following persons to be considered for appointment as Chairperson and members of the Independent Electoral and Boundaries Commission:

- | | | |
|--------------------------------------|---|-------------|
| (1) Mr. Ahmed Isaac Hassan | - | Chairperson |
| (2) Mr. Yusuf Abdulrahman Nzibo | - | Member |
| (3) Mr. Mohammed Alawi Hassan | - | Member |
| (4) Mr. Abdullahi M. Sharawe | - | Member |
| (5) Ms. Lilian Bokeeye Mahiri - Zaja | - | Member |
| (6) Mr. Thomas Letangule | - | Member; |
| (7) Ms. Muthoni Wangai | - | Member; |
| (8) Mr. Albert C.O. Bwire | - | Member; |
| (9) Ms. Kule Galma Godana | - | Member. |

Upon receipt of the names of the nominees, the National Assembly is required under Paragraphs 4,5 and 6 of the First Schedule of the Independent Electoral and Boundaries Commission Act, 2011 to consider all nominations within 14 days from the date when it next sits after receipt of the names of the nominees and may approve or reject any or all nominees and request names of new nominees.

Hon. Members, in view of the urgency of this matter, I direct that the names and Curriculum Vitae of the nominees for appointment to the Independent Electoral and Boundaries Commission be forwarded to the Constitutional Implementation Oversight Committee (CIOC) for due consideration.

Hon. Members, in giving these directions, I am guided by the precedents of directions previously given from the Chair and in particular the rulings made on 2nd June 2011 and 20th July 2011, referring the names of the nominees of persons to serve as Chief Justice, Deputy Chief Justice and Director of Public Prosecutions and those to serve on the Selection Panel for the Independent Electoral and Boundaries Commission, to this Committee for its consideration prior to approval by the House. I direct further that the

CIOC deliberates on the nominees and tables its report on or before Thursday, 3rd November, 2011. Thank you.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

The Temporary Deputy Chairlady (Dr. Laboso): Order, hon. Members! We are now in the Committee of the whole House to consider the following Bills:

- (i) The Mutual Legal Assistance Bill (Bill No. 5 of 2009);
- (ii) The Limited Liability Partnership Bill (Bill No. 21 of 2010);
- (iii) The Insolvency Bill (Bill No. 22 of 2010). Consultations are being carried out on this Bill.
- (iv) The Independent Policing Oversight Authority Bill (Bill No. 33 of 2011).
- (v) The Unclaimed Financial Assets Bill (Bill No. 7 of 2011). If the hon. Member arrives on time, this Bill will be considered. We start with the first one.

THE MUTUAL LEGAL ASSISTANCE BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
15, 16, 17, 18, 19 and 20 agreed to)*

*(Clauses 21,22,23,24,25,26, 27, 28, 29, 30,
31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 agreed to)*

(Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 agreed to)

New Clause

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I beg to move:-

THAT, the Bill be amended by inserting a new clause immediately after Clause 49 as follows:-

Principles of Mutuality and

Reciprocity 49A. for the purposes of this Act, the principles of mutuality and reciprocity shall at all times be recognized.

Madam Temporary Deputy Chairlady, the reason for this slight amendment is to align the Bill with the principles of international co-operation in legal matters, which require that there be mutuality and reciprocity.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read
a Second Time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be
added to the Bill, put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, all the three Bills will be reported at the end. So, we now move to the next Bill, which is, the Limited Liability Partnership Bill, Bill No. 21 of 2010.

THE LIMITED LIABILITY PARTNERSHIP BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24,
25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35,
36, 37 and 38 agreed to)*

(First Schedule agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Fourth Schedule agreed to)

(Fifth Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Mr. Attorney-General, would you like to make a comment on the next Bill, which is, The Insolvency Bill, Bill No.22 of 2010?

THE INSOLVENCY BILL

The Attorney General (Prof. Muigai): Madam Temporary Deputy Chairlady, I would like to withdraw this Bill for today pending further consultations. I would like to re-introduce it together with the Companies Bill at a later stage.

(Bill withdrawn)

THE INDEPENDENT POLICING OVERSIGHT AUTHORITY BILL

(Clauses 2, 3, 4, 5, 6, 7 and 8 agreed to)

Clause 9

Mr. Kapondi: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 9 of the Bill be amended in paragraph (b) of sub-clause (1) by deleting the word “fifteen” and substituting therefor the word “ten.”

Madam Temporary Deputy Chairlady, the reason for this amendment is that the 15 years of experience required are many and we shall lock out many serious professionals who are capable. So, it makes a lot of sense to reduce the years to ten.

(Question of the amendment proposed)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Madam Temporary Deputy Chairlady, I do not have any objection to that. We have agreed unanimously with the hon. Member that we will amend as per the Order Paper.

*(Question, that the word to be left out be left out,
put and agreed to)*

*(Question, that the word to be inserted in place
thereof be inserted, put and agreed to)*

Mr. Shakeel: Madam Temporary Deputy Chairlady, I beg to move:-
THAT, Clause 9(1) be amended in paragraph (b) by deleting the word “seven” appearing at the beginning of the paragraph and substituting therefor the word “five”

The Temporary Deputy Chairlady (Dr. Laboso): Just expound on it!

Mr. Shakeel: Madam Temporary Deputy Speaker, I have suggested that the number of members of the board be reduced from seven to five. We have over 1,000 members of boards and commissions and the budget for the year will not suffice. We

must start now cutting down the number and five is a very capable figure and most appropriate for that particular board.

(Question of the further amendment proposed)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Madam Temporary Deputy Chairlady, the reason why we had agreed with the Chairman of the Committee on Administration and National Security that we retain ten members is because we had considered a number of things. You know very well that we have to consider the issue of gender, disability and a number of other issues.

Mr. Shakeel: On a point of order, Madam Temporary Deputy Chairlady. We are not reducing the number to five. Clause 5(a) says the seven should be reduced to five.

The Temporary Deputy Chairlady (Dr. Laboso): The seven what? Explain that a little.

Mr. Shakeel: Madam Temporary Deputy Chairlady, I am saying that we should reduce the number from seven members to five. Clause 9(1) states that there will be other seven members apart from the Chair. I was suggesting that we reduce these members from seven to five. So, the total number will not reduce from ten to five but from ten to eight.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Madam Temporary Deputy Chairlady that is the same thing. He is reducing the number of those who will be sitting in the board. We have to take care of gender and other interested groups. That is why I am opposed to the amendment of hon. Shakeel.

Mr. Affey: Madam Temporary Deputy Chairlady, I would like to oppose this amendment by hon. Shakeel and allow the number to be retained as it is in the current Bill because of the obvious reasons that the Assistant Minister has given and also because in such appointments, we need to reflect the diversity of the country. Many other issues will also come up. So we should give the appointing authority an opportunity to reconcile the country and make it more united. Otherwise, it may be difficult to work in the manner in which hon. Shakeel is suggesting.

Mr. Njuguna: Madam Temporary Deputy Chairlady, reducing the numbers in this very important Authority is tantamount to weakening its functions. Therefore, I very strongly oppose the amendment and allow the current membership to remain.

*(Question, that the word to be left out
be left out, put and negated)*

(Clause 9 as amended agreed to)

QUORUM

Mr. Shakeel: On a point of order, Madam Temporary Deputy Chairlady. This is a very important issue and we cannot allow it to be discussed when there is no quorum.

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Shakeel, you are out of order!

Mr. Shakeel: Madam Temporary Deputy Chairlady, there is no quorum.

The Temporary Deputy Chairlady (Dr. Laboso): We are at the Committee Stage and there is no issue of quorum at this stage. Hon. Shakeel, please, be informed. Read you Standing Orders!

*(The Temporary Deputy Chairlady (Dr. Laboso)
consulted the Clerks-at-the-Table)*

I have been further guided that, yes, there can be a quorum issue even at the Committee Stage. Therefore, I order that the quorum bell be rung.

(The Division Bell was rung)

Hon. Members, there is now quorum. We will then proceed with our business.

Clause 10

The Temporary Deputy Chairlady (Dr. Laboso): We have an amendment by hon. Affey.

Mr. Affey: Madam Temporary Deputy Chairlady, I am very passionate about this matter. However, I have been advised by colleagues that they might be quite happy if I withdraw my amendment.

As I withdraw it, I want to bring to the attention that there are very many qualified Kenyans who are not necessarily degree holders who can serve in a commission like this. So, in future, let us be very careful and be sensitive to them. Otherwise, it will be seen as if we are discriminating against them. But I withdraw the amendment.

(Proposed amendment to Clause 10 withdrawn)

(Clause 10 agreed to)

(Clauses 11 and 12 agreed)

Clause 13

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Shakeel, you have an amendment.

Mr. Shakeel: Madam Temporary Chairlady, I wish to withdraw that amendment.

(Proposed amendment to Clause 13 withdrawn)

(Clause 13 agreed to)

*(Clauses 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
26, 27 and 28 agreed to)*

Clause 29

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Kapondi, you have an amendment.

Mr. Kapondi: Madam Temporary Deputy Chairlady, I beg to move:-

THAT Clause 29 of the Bill be amended –

(a) By deleting sub-clause (2);

(b) By deleting sub-clause (5);

The rationale here is the fact that prosecution powers should be left entirely to the Director of Public Prosecutions (DPP) and not the oversight authority. So, there is need for that consistency.

The Temporary Deputy Chairlady (Dr. Laboso): The hon. Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Madam Temporary Deputy Chairlady, I totally agree with the Chair of the Departmental Committee on Administration and National Security that we accept this amendment.

(Question of the amendment proposed)

*(Question that the words to be left out be left out,
put and agreed to)*

(Clause 29 as amended agreed to)

*(Clauses 30, 31, 32, 33, 34, 35,
36, 37, 38 and 39 agreed to)*

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): Hon. Members, I call upon the Attorney-General to move the Mutual Legal Assistance Bill.

THE MUTUAL LEGAL ASSISTANCE BILL

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Mutual Legal Assistance Bill, Bill No.5 of 2009 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): The Attorney-General, do report on the Limited Liability Partnership Bill.

THE LIMITED LIABILITY PARTNERSHIP BILL

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Limited Liability Partnership Bill, Bill No.21 of 2010 and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Dr. Laboso): The Minister, do report on the Independent Policing Oversight Authority Bill, Bill No.33 of 2011.

THE INDEPENDENT POLICING OVERSIGHT AUTHORITY BILL

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Madam Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of The Independent Policing Oversight Authority Bill, Bill No.33 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker

(Mr. Ethuro) in the Chair

**REPORTS, CONSIDERATION OF REPORTS
AND THIRD READINGS**

THE MUTUAL LEGAL ASSISTANCE BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Mutual Legal Assistance Bill and approved the same with amendments.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) seconded.

(Question proposed)

(Question put and agreed to)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Mutual Legal Assistance Bill be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

THE LIMITED LIABILITY PARTNERSHIP BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Limited Liability Partnership Bill and approved the same without amendments.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode) seconded.

(Question proposed)

(Question put and agreed to)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Limited Liability Partnership Bill be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

THE INDEPENDENT POLICING OVERSIGHT AUTHORITY BILL

Dr. Laboso: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Independent Policing Oversight Authority Bill (Bill No.33 of 2011) and approved the same with amendments.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Independent Policing Oversight Authority Bill (Bill No.33 of 2011) be now read the Third Time.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

BILL

Second Reading

THE LABOUR INSTITUTIONS (AMENDMENT) BILL

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, debate on this Bill will be deferred because the hon. Member is out of the country on parliamentary business.

(Bill deferred)

MOTIONS

ADOPTION OF REPORT OF COMMITTEE ON DEFENCE AND FOREIGN RELATIONS ON FAMILIARIZATION TOUR OF KENYA EMBASSY IN SOMALIA

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its Familiarization Visit to Kenya Embassy in Somalia laid on the Table of the House on Tuesday May 3, 2011.

(Mr. Keynan on 19.10.2011)

(Resumption of Debate interrupted)

on 19.10.2011)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Duale was on the Floor! If he is not here, we can have any other hon. Member wishing to contribute to the Motion. If there is no interest, I will call upon the Mover to reply.

(Mr. Chanzu stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Chanzu, are you the Mover or would you like to contribute?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I want to contribute to the Motion.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Chanzu, you should be alert next time.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to also support the Report of the Departmental Committee on Defence and Foreign Relations on its familiarisation visit to Kenya Embassy in Somalia.

The reason as to why I want to contribute to this debate is what is going on now. I want to commend the Government for what it is doing so far to get the *Al Shabaab* militia out of the way. The Government is doing a commendable job in this regard. What I would like to appeal for is support from the international community, so that we can get terrorist activities out of our midst. Terrorist activities are causing a lot of harm to our tourism sector. It is for this reason that I support the endeavours that were made by the Committee in visiting the embassy, in order to improve the relationship between the two governments.

As we have heard, Kenya is not at war with Somalia. It is only that we have to defend our borders---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Chanzu! Those are matters which were deliberated on in-camera. So, do not bring them to the open. Just restrict yourself to the Report.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, it is a good effort made by the country. For that reason, I beg to support.

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I stand to support this Report. When I was here last week---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Duale. Apparently, the Floor was actually yours at the very beginning and you should have known this matter was there. So, once it moves to another speaker, then you will be breaching Standing Orders; it is like contributing twice to the same Motion.

So, we will invite other hon. Members. If there are no hon. Members interested, then we will call upon the Mover to reply.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I will also be very brief because we talked a lot about this particular Report last week. We also discussed the same in camera last week on Wednesday when the Prime Minister came to brief Parliament on the evolving security situation along the Kenya-Somali border.

The emphasis on our foreign policy as a country today is anchored on economic diplomacy. Economic diplomacy is the only pillar of our diplomacy that can contribute immensely to the social, economic, cultural and political development of the Republic of Kenya.

Mr. Temporary Deputy Speaker, Sir, in the past and in particular during the Cold War, emphasis on diplomatic representation was on political representation. Since the collapse of the Berlin Wall and the Soviet Union, many countries have redrafted their foreign policies to emphasize on economic diplomacy.

As a country, our emphasis on economic diplomacy must inculcate concepts like regional economic groupings. To that extent, since today Uganda which is our next door neighbour remains our most important trading partner, it is in our interest that we strengthen our diplomatic engagements and activities around this region, so that we benefit from the ever-growing trade interest among these nations.

This country occupies a unique position in east, central and southern Africa. If you look at the facilities we have as a country in terms of infrastructure, communication technology and humanitarian facilities, it is unique. Because of that unique role we play, it is high time that those who are tasked with propagating our foreign policy took cognizance of the fact that those days when the Ministry of Foreign Affairs was just a propaganda wing of one institution, is long gone. This Ministry's policies must project, promote and protect the unity of the country. In trying to articulate the image of Kenya, those policies must reflect the aspirations of the 40 million Kenyans. This is the only way we can have an accountable institution. This is the only way, truly, we can have a Ministry and a mission that represents the interests of Kenya.

Mr. Temporary Deputy Speaker, Sir, I have had the privilege of visiting our missions. Because of the drastic decline in the foreign exchange, many of our diplomats today are suffering. Recently, I visited Switzerland and I was shocked that 80 per cent of the budget provision to that mission is gone because of the foreign exchange fluctuations. Therefore, our mission there is just left to utilize 20 per cent of the original budgetary allocation. This is the scenario across the board. What is required is for Parliament and the Ministry of Finance to urgently put in place measures that will compensate our different missions so that they can undertake their day to day activities. Unless this is done, then we will have just skeleton missions and we will be expecting them to perform but truly, without budgetary provisions, it will be very difficult for them to engage in any meaningful diplomatic activities. This must be addressed as a matter of urgency. It is just across the board in all our missions.

Finally, our diplomatic engagement in Somalia as a frontline State is something that we have done. Since Somalia plunged into a civil war in 1991, as a country, we have suffered. We have accepted so many Somali refugees. Our coastline and our tourism industry have been affected. Therefore, it is in Kenya's interest that we have a stable and functioning Somalia Government. Because of this, over the years, we have used a lot of our resources and time to engage and bring together all the warring groups in Somalia to sit down and agree and reconcile and have a functioning Government. To this end, I want to applaud the people of Kenya and the Government of Kenya because if your neighbour is not well, you are also not well. Therefore, all the resources directed towards that initiative are not resources wasted. Since our Kenya mission to Somalia is based in Nairobi here, we want them also to lead by example. Right now, Mogadishu is safe. It has

been secured by the African Union Mission for Somalia (AMISOM) and we want the mission to move to Mogadishu and provide leadership.

Over the last 20 years, Kenya was among the few countries, because of our unique position, to happen to have renewed its diplomatic commitment with the people of Somalia. Again, we want to demonstrate our goodwill. Since now we have AMISOM which has completely taken charge of different parts of Mogadishu, our mission representative should have the courage to move to Mogadishu.

In conclusion, one of the things that we are trying to inculcate as a country is the concept of parliamentary diplomacy. In the past, Parliament was taken as a necessary irritant in the management of the affairs of the Republic of Kenya. I want to tell my colleagues here that the concept of parliamentary diplomacy is a critical component of the management of any country that wants to develop. Therefore, I want to urge my colleagues here to get involved in familiarizing ourselves with the tenets of our foreign policy, so that we can critique and understand how this unique country is projected, promoted and articulated as far as our friends across are concerned, so that parliamentarians can position themselves and appreciate the unique role our foreign policy is supposed to play.

Mr. Temporary Deputy Speaker, Sir, I say this because some time back - and you will appreciate this - it was very difficult for a Member of Parliament to interrogate the foreign policy because we were always told that it reflects the whims and the aspirations of the President. That time is long gone. Our foreign policy today is a reflection of our constitutional mechanisms. Therefore, we have moved away from that culture of one man's aspirations to the aspirations of 40 million Kenyans. We need to thank those who have given us the new constitutional dispensation. I want to urge you, so that when you go out of this country, you should be familiar with our foreign policy. If for example, Prof. Olweny visits any of our missions abroad, in discharging his functions as an Assistant Minister, he should also be familiar with the intrigues of our foreign policy, so that as he promotes our country as an Assistant Minister in the line of education, he is also familiar with other aspects. He can market our country. So that every Kenyan is multi-skilled and multi-tasked and always prepared to project our country in whichever area he moves to. This is the only way we can proudly say anywhere we go that "I am a Kenyan, you can read my face, you can watch my lips, you can look at my hair and you can even see the way I walk. This is the way I want to project Kenya". This is one thing that we really need, so that you do not look upon that particular diplomat in the field for guidance.

Again, because of this uniqueness of foreign policy, I want to urge the Government to introduce curriculum, in particular in primary and secondary schools, so that our children are familiar with our policy. Right now, they are only taught at the level of civic education. That is not enough.

Mr. Temporary Deputy Speaker, Sir, this must be appreciated because it is the only way of inculcating patriotism and nationalism, so that we appreciate which role we are expected to play. Every Kenyan is a potential diplomat of the Republic of Kenya. We are all potential diplomats in the sense that as we act culturally; as we engage in cultural, economic, military, parliamentary and political diplomacy, which is still relevant--- We are not trying to shirk completely parliamentary diplomacy because it will still play a fundamental role.

Mr. Temporary Deputy Speaker, Sir, in all this environmental and cultural diplomacy, we must prepare our youth. Today the best people we have as our diplomats are our sportsmen and women. I am sure that many of you will appreciate the kind of job that they have done for the Republic of Kenya. One marathon race that we win, whether in Japan or anywhere else, hoists the map of Kenya permanently, as a picture, before the eyes of the whole world. Therefore, that group cannot be ignored. This is why we need to invest in sports. This is why we need to invest in education and in every aspect of the Republic of Kenya. Therefore, I want to again applaud those young men and women who have represented this country in all major sporting events, and who have given us a number of gold medals. I want to urge those who are tasked with managing important institutions and organs, in particular the youth, to take this aspect very seriously, and ensure that those who are practising outside this country in different fields are comfortable in their day-to-day activities.

Mr. Temporary Deputy Speaker, Sir, in conclusion I want to say that this particular mission to Somalia is a unique aspect of our diplomatic role. Again, I want to applaud our Government, in particular, His Excellency the President, for the bold decision to have diplomatic representation in Somalia. This is one thing that clearly presents Kenya as a premier nation, and a country that clearly leads from the front regardless of the circumstances. It is because of this, again, that Kenya aspires to make sure that our borders and coastlines are safe, and that Kenyans live in peace and harmony, and without fear. It is because of this that we must unite, or rally, behind our gallant sons and daughters who are in the armed forces. This is something that will give us a true sense of relief and being at home. This must not be politicized, trivialized, tribalised or regionalized. It is a national call that all of us are expected to participate in. I hope we will all lend them support, so that they will be able to perform the task that we have entrusted them with.

With this, I beg to move that this Report be adopted. Thank you.

(Question put and agreed to)

ADOPTION OF REPORT ON APPOINTMENT
OF CEO OF MOI TEACHING AND
REFERRAL HOSPITAL

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the report of the Departmental Committee on Health on the appointment of Chief Executive Officer, Moi Teaching and Referral Hospital laid on the Table of the House on Thursday, 4th August, 2011.

Mr. Temporary Deputy Speaker, Sir, allow me to indicate that Moi Teaching and Referral Hospital is the second largest referral hospital after Kenyatta National Hospital. That hospital serves almost a half of the western region of Kenya. It has served to relieve Kenyatta National Hospital of the pressures of referrals and specialized medical attention required in this country.

Mr. Temporary Deputy Speaker, Sir, the appointment of the Chief Executive Officer of that hospital is a matter that was referred to the Committee on 19th May, 2011, when the Member for Mosop, hon. Koech, sought a Ministerial Statement from the Minister for Medical Services regarding the removal of the Chief Executive Officer of (CEO) of Moi Teaching and Referral Hospital and the process of replacement. Even though the response to the Statement was due the following week, the response was made by the Minister on 7th June, 2011. The House was not satisfied with the Minister's response and the Temporary Deputy Speaker referred the matter to the Committee for consideration. This is the response that the Committee is bringing before the House.

Mr. Temporary Deputy Speaker, Sir, allow me to observe that reading from the direction given by the Chair and the substance of the Question, the Committee was of the view that the task ahead of them was not one of determining the suitability, merit or otherwise of the candidates of the applicants for the job, but that of inquiring into the appropriateness and totality of the process followed in the appointment. With that in mind, therefore, the Committee immediately embarked on the inquiry and heard the evidence from the Member for Mosop who had sought the Ministerial Statement, the Board of the hospital, itself, and the Minister for Medical Services, Prof. Anyang'o-Nyong'o.

Mr. Temporary Deputy Speaker, Sir, the Committee was guided by the law that constitutes State corporations and also Legal Notice No.78 that constituted the Moi Teaching and Referral Hospital. We took evidence from the various institutions that I have mentioned, starting with hon. Koech and the Chair of the Board. The Committee, on taking evidence from the Chair of Moi Teaching and Referral Hospital, was able to realize that there was – and I want to mention this clearly – a flaw. The legal notice creating Moi Teaching and Referral Hospital was flawed. The process of appointment of the CEO was flawed from the outset.

Mr. Temporary Deputy Speaker, Sir, on listening and taking evidence, the Board informed the Committee that the advertisement for that position initially had an age limit of 45 to 55 years for any candidate who was qualified to take that position. The first advertisement that was meant for the public in the following paper was changed and the age limit withdrawn. That was an indication that the Board had already started shifting goal posts and gave the Committee an impression that the change in the age limit in the advertisement for that position was a manipulation of the advertisement to suit certain candidates. When we went further, as a Committee, we realized that as the Chair, Prof. Oniang'o, made representation before the Committee, it became clear that the Chair of the Board had, in her own capacity as a person, advised Prof. Mengich, who was then the outgoing CEO, not to apply for that position, citing the long period he had served in that hospital, as being one reason. She also indicated that he may have run out of good ideas to make the hospital grow further. As we delved further into the matter, we were told by the Chair that, despite that advice, the then CEO, Prof. Mengich, went ahead and applied, which---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Dr. Monda! You have a balance of 53 minutes to proceed with the Motion when it next appears on the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, it is now time to interrupt the business of the House. The House is, therefore, adjourned until tomorrow Wednesday, 26th October, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.