

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th May, 2011

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PETITION

ALLOCATION OF COMPULSORILY ACQUIRED LAND TO PRIVATE DEVELOPERS BY THE KISUMU MUNICIPAL COUNCIL

Mr. Olago: Mr. Deputy Speaker, Sir, in terms of Standing Order No.207(3) I rise to present a Petition by KIKACO Welfare Association to the Government of the Republic of Kenya on irregular allocation of compulsorily acquired land to private developers by the Kisumu Municipal Council.

Mr. Deputy Speaker, Sir, the Petition is signed by 100 Kenyans. The Petition from these citizens humbly draws the attention of the House to the following facts:-

1. KIKACO Welfare Association is a registered society under the Societies Act and that society's membership is drawn from three major locations in Kisumu Town East and Kisumu Town West Constituencies namely Kisumu East, Kajulu West, and Kolwa Central.

2. This society was founded with the sole objective of ensuring the welfare of its members and it is non-political and non-partisan.

3. By Legal Notice No.3400 of 19th November, 1976 the Government of Kenya acquired the ancestral land of KIKACO members under the Trust Land Act and The Compulsory Acquisition of Land Act for purposes of expansion of Kisumu Municipal Council and industrial and commercial purposes with an understanding that the members will be indirect beneficiaries of such development in terms of creation of wealth, employment and uplifting of living standards of the members.

Mr. Deputy Speaker, Sir, some members of KIKACO received monetary compensation for the acquisition of the land, but this compensation was nominal and inadequate and they were not offered alternative settlements. Therefore, many of them opted to vacate the ancestral land and live outside the acquired areas on the understanding that the acquired land would offer economic activities for development to them and their descendants.

Subsequent to this acquisition, the Ministry of Lands handed over the acquired land to the Municipal Council of Kisumu for allocation for purposes for which the land was acquired in terms of the relevant Gazette Notice that I have quoted. Contrary to the objectives of the acquisition of the land as set out in the relevant Kenya Gazette Notice, the Municipal Council of Kisumu has continued to allocate the acquired land for

development of private settlement thereby causing unrest and sense of unequal treatment to citizens.

The members of KIKACO have made several attempts to get this matter settled amicably, but their pleas to the Government have fallen on deaf ears while the Council continues to allocate the land for private development as late as March, 2011, hence the need for a thorough public inquiry into the manner in which the acquisition was conducted, the objectives as set out in the relevant gazette notice, the criteria for allocation of the acquired land; and, the welfare of KIKACO members who were evicted from their ancestral land.

Mr. Deputy Speaker, Sir, it is our humble prayer that this Petition be listened to.

(Mr. Olago laid the Petition on the Table)

Mr. Imanyara: Mr. Deputy Speaker, Sir, I rise to support this Petition. This is a proper case for intervention by way of a Petition. Where under the Land Acquisition Act the Government intends to acquire land for any purpose, there are always conditions set for acquisition. Where those conditions are not met or where the terms of acquisition are breached, or where land acquisition is done for purposes other than the public interest then it is proper and just that we revisit. The way of revisiting that is by way of Petition and so I support it.

Mr. Deputy Speaker: Hon. Members, the Petition is proper. I direct that it be referred to the Ministry of Lands which has to give a reply within 21 days.

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. It is the Ministry of Lands which is on the spot in this Petition. May I kindly propose that the matter be referred to the Departmental Committee on Lands and Natural Resources?

Mr. Deputy Speaker: In that case, by the traditions of the House, it can also be referred to the Departmental Committee on Lands and Natural Resources and I so direct.

PAPERS LAID

The following Papers were laid on the Table:

The Compliance Report in form of Quarterly Economic and Budgetary Review for the period ending 31st March, 2011.

*(By the Assistant Minister, Office of the Deputy
Prime Minister and Ministry of Finance (Dr. Oburu) on behalf of the Deputy
Prime Minister and Minister for Finance))*

Abstract of Accounts of the Town Council of Muhoroni for the years ended 30th June, 2004, 2005, and 2006 and the Certificates thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Ahero for the years ended 30th June, 2004, 2005, and 2006 and the Certificates thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Butere-Mumias for the four years ended 30th June, 2003 and the Certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Butere –Mumias for the years ended 30th June, 2005, 2006, and 2007 and the Certificate thereon by the Controller and Auditor-General.

Fiscal Statement of the Town Council of Bondo for the years ended 30th June, 2006, 2007, and 2008 and the Certificates thereon by the Controller and Auditor-General.

Abstract of Accounts of the Municipal Council of Nyahururu for the years ended 30th June, 2004 and 2005 and the Certificates thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Nyando for the four years ended 30th June, 2003 and the Certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Nyando for the year four years ended 30th June, 2004 and the Certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Eldama Ravine for the years ended 30th June, 2004, 2005 and 2006 and the Certificates thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Eldama Ravine for the 11 years ended 30th June, 2003 and the Certificate thereon by the Controller and Auditor-General.

(By the Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Mr. Oburu) on behalf of the Deputy Prime Minister and Minister for Local Government)

Financial Statement of the Town Council of Sagana for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Teso for the year ended 30th June, 2007 and the Certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the Town Council of Nyamira for the year ended 30th June, 2007 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Town Council of Kikuyu for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Municipal Council of Machakos for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Municipal Council of Mavoko for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Town Council of Karuri for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Financial Statement of the Town Council of Kajiado for the year ended 30th June, 2008 and the Certificate thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Kilifi for the years ended 30th June, 2006 and 2007 and the Certificates thereon by the Controller and Auditor-General.

Abstract of Accounts of the County Council of Butere-Mumias for the year ended 30th June, 2007 and the Certificate thereon by the Controller and Auditor-General.

(By the Minister of State for Development of Northern Kenya and Other Arid Lands (Mr. Elmi) on behalf of the Deputy Prime Minister and Minister for Local Government)

QUESTIONS BY PRIVATE NOTICE

DIVERSION OF DRAINAGE WATER TO NEW WOOD ESTATE BY SHENGLI CONSTRUCTION COMPANY

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

(a) Is the Minister aware that the on-going Thika Road construction by Shengli Construction Company has affected the residents of New Wood Estate by diverting drainage water into the estate, hence heightening the risk of water-borne diseases?

(b) What immediate measures is the Ministry taking to address the matter?

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

(a) I am not aware that the construction of Thika Road by Shengli Construction Company has affected residents of New Wood Estate by diverting drainage water into the estate.

However, I am aware that during the rainy season the area experiences flooding. This is as a result of the estate being constructed on a low swampy ground that has in the past served as a collection point for rainfall run-off from the surrounding elevated areas.

(b) My Ministry recently sent a team on the ground to assess the situation. The team established that the cause of the flooding is not as a result of the run-off from the road, but from the surrounding elevated areas and has continued to worsen over the years due to increased farming activities.

The team's preliminary assessment was that remedying the situation would require the natural flow of water to be reversed and channeled up to five meters below the ground level towards a stream that is about 1 kilometre away. The works are beyond the scope of the Ministry of Roads and that of the Thika Road construction project. I, therefore, urge the hon. Member to take up the matter with the Ministry of Local Government and other relevant Government bodies concerned with urban planning and environmental issues.

Mr. Kabogo: Mr. Deputy Speaker, Sir, you will realize that this Question was here two or three weeks ago. It was decided that the Ministry visits the site. I seek the indulgence of the Chair, more so, under Standing Order No.97(g) where an hon. Member gives false information to the House knowingly.

The Assistant Minister is aware that they have created a channel to divert water from one side of the road to the other side of the road and yet, they have not catered for that water.

Secondly, he has told the House that there is increased farming. There is absolutely no farming in this area. It is a residential area. So, he is deliberately telling the House things that are not true. I seek the indulgence of the Chair.

Mr. Deputy Speaker: Hon. Assistant Minister, are you sure that the facts you are giving here are actually the facts on the ground?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I have indicated that the area has been experiencing flooding long before the commencement of the Thika Road upgrading project. Therefore, when we sent our team that included qualified engineers, they were able to interview also the people who were there and the area engineer who is also the resident engineer. It was established that the farming, not in that particular area, but in the outlying areas, is the cause of the flooding.

Mr. Deputy Speaker, Sir, my Ministry has undertaken to do the drainage along the road. Anything outside the road will be completely beyond the mandate of this Ministry.

Mr. Manyara: Mr. Deputy Speaker, Sir, I appreciate that the Assistant Minister comes from the other part of the country and he hardly visits those sides. Those of us who travel on Thika Road towards our constituencies on a regular basis know that what Mr. Kabogo is talking about is the truth.

Secondly, it is also a known fact that every contract for road construction has provisions specifically to cater for the kind of situation raised by Mr. Kabogo. Why has this construction company not been required to comply with the terms of the contract which require that they drain all water along the roads?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, the construction company follows the design that is approved by the Ministry of Roads. In this particular area, there was no issue of water relocation or even piping for that particular matter. After we visited the area, we also established that within the area that you would call the road reserve for the Ministry, we will be able to do the necessary drainage.

However, the estate is beyond the area that falls under the Ministry of Roads. Once we do that drainage, therefore, it will still go back to the residential areas. That is why we are saying that, in our opinion, the matter is beyond the scope of the Ministry of Roads.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. I did request you to see that the Assistant Minister is telling the House information that is not correct. There is no farming on either side of this road. They have created a channel to bring water from higher levels under the road but they have done nothing to cater for that water. Would I be in order to request that he stops sending people? He should go with me to the site and see for himself. This Question came under Private Notice because it is important; it has to do with lives of Kenyans. May we undertake to visit the area then he will come back to the House and give the House a true position?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I would have no problem visiting that area which will, probably, be the second time this month. But I would also like to remind the House that when the hon. Member requested that my team visits the area, he himself was not there and we had to deal with his officers. So, really to be honest, we have done our part of the bargain.

Mr. Deputy Speaker: Did you officers communicate to him and tell him that they were going to come at a given time?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I personally spoke to him.

Mr. Deputy Speaker: Did you give him the designated time that your officers would be there?

Mr. Kinyanjui: I did so, Mr. Deputy Speaker, Sir.

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is taking this matter very lightly. He did not inform me when the team was

going there. As a matter of fact, they met the Chief and the local Councillor. They were telling them that this water is there, because of the road. Why can he not make an undertaking to get the road drainage? I am not asking them to drain the estate. I want them to drain the water from the road and take it to the river. Could we visit with him and not with his engineers?

Mr. Deputy Speaker: Mr. Assistant Minister, are you willing to go and visit the site? This time give an undertaking in the presence of the Chair and the House for any one of you not to make a claim or a counter-claim that he was there or he was not there.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, we have no problem with that undertaking.

Mr. Deputy Speaker: When can you give an indication on that?

Mr. Kinyanjui: Thursday, next week at 10.00 a.m.

Mr. Deputy Speaker: Under the circumstances, the Chair now directs that this Question be deferred to a date as soon as possible to Thursday, which is Tuesday, the week after.

(Question deferred)

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. I am concerned at the number of times that Ministers, when answering questions, refer to other Ministers and then refer hon. Members to follow up with the other Ministries. There is collective responsibility on the part of the Government. Is it in order for one Minister while answering questions and admitting that the issues raised demand an answer, to refer an hon. Member to another Ministry when there is collective responsibility on the part of all Ministers to ensure that questions are answered on behalf of the Government? Ministers do not answer questions on behalf of Ministries. They answer questions on behalf of the Government.

Mr. Deputy Speaker: Indeed, collective responsibility is there for all. This was a matter for roads and the Assistant Minister is here. I think that matter has been put to rest now. Indeed, they will visit the site on Thursday, next week at 10.00 p.m. The Question will be listed on the Order Paper on the Tuesday that follows on that Thursday.

Next Question!

NON-COMPLIANCE WITH ARTICLE 229(4)
OF CONSTITUTION BY CONTROLLER AND AUDITOR-GENERAL

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

(a) Why has the Controller and Auditor-General not complied with Article 229(4) of the Constitution which requires the Auditor-General to audit and report on various accounts within six months after the end of each financial year?

(b) When will he comply?

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

(a) The position of Controller and Auditor-General as referred to in hon. Ogindo's Question does not exist under the Constitution. Article 229(4), referred to by the hon. Ogindo on the functions of the Auditor-General states as follows:-

“Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year.”

The departments that are supposed to be audited are listed as follows:-

- (i) The accounts of the national and country governments;
- (ii) The accounts of all funds and authorities of the national and county governments;
- (iii) The accounts of all courts;
- (iv) The accounts of every commission and independent office established by this Constitution;
- (v) The accounts of the National Assembly, the Senate and the county assemblies;
- (vi) The accounts of political parties funded from public funds;
- (vii) The public debt; and,
- (viii) The accounts of any other entity that legislation requires the Auditor-General to audit.”

That provision is contained in the current Constitution that came into effect on 27th August, 2010, when the new Constitution was promulgated. The Section gives new powers and responsibilities to the Auditor-General. The position of Controller and Auditor-General ceased to exist, as the post has been separated into Controller of Budget and Auditor-General.

(b) In view of the answer already given, the Auditor-General will comply upon the completion of the current financial year.

Mr. Ogindo: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer. I am glad that the Chair always has two ears – one for consultation and the other for the proceedings. Having said that, the Article being referred to by the hon. Assistant Minister is very accurate. But I want to persuade the Assistant Minister to take this Question seriously. That is because when you look at the transitional and consequential clauses, Article 31 talks of existing offices. Part 1 says:-

“Unless this schedule provides otherwise, a person who immediately before the effective date, held or was acting in an office established by the former Constitution, shall on the effective date, continue to hold or act in that office under this Constitution for the unexpired period, if any, of the term of the person.”

Part 6 of that Article says:-

“The function of Controller of Budget shall be performed by the Auditor-General until a Controller of Budget is appointed under this Constitution.”

Mr. Deputy Speaker, Sir, if I had asked a question to the Controller of Budget, it is still covered under this Constitution. But what I was asking was about the Auditor-General. Today, we have a Controller and Auditor-General. That requirement is not suspended. Could the Assistant Minister come out and give a better explanation as to why that Section has not been complied with, and give a timeline when it is going to be complied with?

Dr. Oburu: Mr. Deputy Speaker, Sir, the financial year ended in June last year. The Constitution was enacted on 27th of August, 2010, after the financial year had ended.

The Controller and Auditor-General, as I have stated here in my answer, is going to comply. As soon as we end this June, we are going to strictly comply and six months thereafter, the Controller and Auditor-General will---

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

Dr. Oburu: Mr. Deputy Speaker, Sir, maybe, I can conclude my answer and then he can raise his point of order. Our understanding is that the Constitution was not applying retrospectively. It is applying from the date it was promulgated.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that he has a different understanding of the Constitution from the rest of Kenyans? This Article was effective from the promulgation date, which was the 27th August, 2010. Is he in order to mislead this House that the last financial year is exempted from this Article?

Dr. Oburu: Mr. Deputy Speaker, Sir, if we were to count six months, are we going to count them from the time the Constitution was enacted or from the time the financial year ended? The financial year ended on 30th June and the Constitution was promulgated in August. Now, do we count six months from August or from June? Our understanding was that because of this confusion, we are going to comply. In any case, the accounts for 2009 and 2010 have already been tabled in the House.

Mr. Ogindo: On a point of order, Deputy Speaker, Sir. The Article I referred to is very clear. Part IV of it says:-

“Within six months after the end of each financial year, the Auditor-General shall audit and report in respect of that financial year.”

Mr. Deputy Speaker, Sir, what I have in mind here is the financial year 2010/2011. That financial year ended on 30th June. So, there is no question of counting from August. You count from 30th June. Six months later is January this year. We should have a report from the Auditor-General.

Dr. Oburu: Mr. Deputy Speaker, Sir, I did not really get the point the Member is making because the Constitution was promulgated in August last year and we are now in May. We are just about to reach the first financial year since the Constitution was promulgated. Now, from June this year, six months thereafter, we shall have to comply. In any case, the 2009/2010 accounts are already with the Public Accounts Committee (PAC).

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. I want to be very slow on this. I am referring to the Financial Year 2010/2011.

Mr. Lang’at: On a point of information, Mr. Deputy Speaker, Sir. I think with due respect to the Member, I think this financial year has not ended. So, I do not understand what hon. Ogindo is saying.

Mr. Ogindo: Mr. Deputy Speaker, Sir, what I am saying is that the financial year that ended in June last year was 2009/2010. The report of the Auditor-General should be in this House by January this year. The Constitution was promulgated in August last year.

Mr. Deputy Speaker: What does the Constitution say on that transitional clause?

Mr. Ogindo: Mr. Deputy Speaker, Sir, it says: “Within six months after the end of each financial year.”

Mr. Deputy Speaker: Yes. When does that financial year end?

Mr. Ogindo: 30th June, 2010, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: No! The only effective financial year as per this Constitution which was promulgated in 2010 is June of this year.

Mr. Ogindo: Mr. Deputy Speaker, Sir, this part says “each financial year.”

Mr. Deputy Speaker: No! Unless you have a transitional clause which says that this thing goes retrospectively, and which you do not have in there.

Mr. Ogindo: Mr. Deputy Speaker, Sir, similarly, we do not have a clause that exempts the next financial year.

Mr. Deputy Speaker: Order! Just because the Constitution does not have a clause that exempts the last financial year, it does not mean that the interpretation of the clause itself should be taken retrospectively. Order! You are out of order. Is there anyone with any other question? Let us have the final supplementary question on the same.

Mr. Ogindo: Mr. Deputy Speaker, Sir, in terms of time line---

Mr. Deputy Speaker: Nobody doubts your own financial credentials but I think as far as the interpretation of the law is concerned, you are not right!

Mr. Ogindo: Mr. Deputy Speaker, Sir, I am guided.

Mr. Deputy Speaker: Please, proceed.

Mr. Ogindo: Mr. Deputy Speaker, Sir, when is the Assistant Minister going to comply?

Dr. Oburu: Mr. Deputy Speaker, Sir, as soon as the financial year ends, we have put in place sufficient measures and we shall comply.

Mr. Deputy Speaker: Next Question by Jeremiah Kioni!

ORAL ANSWERS TO QUESTIONS

Question No.908

NON-PAYMENT OF PENSION BENEFITS TO RETIREES BY KNH

Mr. Deputy Speaker: Is Mr. Kioni here? Is Mr. Kioni out of the country or the Chamber on any official parliamentary business? The Question is dropped!

(Question dropped)

Next Question by Mr. Mututho!

Question No.708

EXPENSES INCURRED BY GOVERNMENT/DONORS ON IDPS

Mr. Mututho asked the Minister of State for Special Programmes:-

(a) whether she could table details of all the expenses incurred by the Government on Internally Displaced Persons (IDPs) to date, and also provide details of persons who have received the Kshs10,000 and Kshs25,000 that the Government has been giving out to IDPs;

(b) whether she could provide a list of all IDPs still awaiting resettlement and also state the area/camps they are currently living in; and,

(c) whether she could also table a list of donors and well wishers who contributed towards resettlement of IDPs, and how much more money is required to resettle all the IDPs still in the camps.

Mr. Deputy Speaker: Is the Minister of State for Special Programmes there?.

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Deputy Speaker, Sir, I am here.

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. I seek your indulgence in that I had discussed with the Minister that she needs to take me through the sites and the people involved here. To my calculation, that will require between three weeks and five weeks, so that I can familiarize myself with the people mentioned here.

Mr. Deputy Speaker: Can you wait until the Minister has indicated whether she will be ready to answer the Question or not, and then you rise on a point of order?

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Deputy Speaker, Sir, we have already agreed---

Mr. Deputy Speaker: Are you ready to answer?

The Minister for State for Special Programmes (Ms. Mathenge): I have already tabled what he had requested. He said that the Question would come back again so that he could interrogate me.

Mr. Deputy Speaker: You are asking the indulgence of the Chair to allow this Question to be listed on the Order Paper five weeks or four weeks from now?

Mr. Mututho: Yes, Mr. Deputy Speaker, Sir. This is because the matter is very sensitive. We would like to give this House a very clear answer and interrogation.

Mr. Deputy Speaker: Fair enough, the Chair directs so. But are you sure you are going to be here in another five weeks time, and you will not ask for some more time?

The Minister of State for Special Programmes (Ms. Mathenge): *Inshallah*; I shall be alive and will be here, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper five weeks from today.

(Question deferred)

Next Question by Mr. Yakub!

Question No.728

TABLING OF REPORT ON PRESIDENTIAL COMMITTEE ON
SPECIFIC MUSLIM CONCERNS

Mr. Yakub asked the Minister of State for Provincial Administration and Internal Security whether he could table the Report of the Special Presidential Committee chaired by Eng. Abdullahi Sharawe on the Specific Concerns of the Muslim Community, which was submitted to the President in July, 2009.

Mr. Yakub: Mr. Deputy Speaker, Sir, I do not have a written reply!

Mr. Deputy Speaker: I am informed that the Speaker was supposed to give a direction or ruling on this Question.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, we actually had answered this Question. The Speaker had ruled on this particular Report, or a Report similar to this one. He said he was going to check on what his ruling was and then give directions.

Mr. Deputy Speaker: The Chair will give a communication on the same on Tuesday next week. The Chair directs that the Question be listed on the Order Paper on Tuesday next week

(Question deferred)

Question No.850

DISTRICT CIVIL REGISTRAR FOR EMUHAYA DISTRICT

Dr. Otichilo asked the Minister of State for Immigration and Registration of Persons:-

(a) whether he is aware that residents of Emuhaya District have to travel to either Mbale or Kakamega (over 30 kilometres away) to apply for birth certificates and that they are made to pay for application forms;

(b) whether he is further aware that it takes at least three months after application to get the document; and,

(c) when the Government will post a District Civil Registrar to the district, and what measures he will take to speed up issuance of the document.

Mr. Deputy Speaker: Minister of State for Immigration and Registration of Persons?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Deputy Speaker, Sir, I apologize again.

Mr. Deputy Speaker: You just had sanctions on you lifted. Can you apologize to the House for not being in the House to answer this Question?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Deputy Speaker, Sir, I want to apologize several times; first because I was away when I was supposed to answer this Question. Secondly, I came into the House before the sanction was removed. Now I am glad to report that I can respond after the Chair lifted the burden from my shoulders.

Mr. Deputy Speaker: Please, proceed!

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that my Ministry has not established a births and deaths registration office in Emuhaya District, and the application forms are issued free of charge.

(b) The average number of days for processing births and death registration certificates should be about three days. However, a recent upsurge in the volume of

applicants occasioned by a mandatory requirement for birth certificates for national examinations has led to some intermittent delays.

(c) The Ministry shall establish a birth and deaths registration office in Emuhaya when we get authority to hire additional staff for all the newly created districts.

Dr. Otichilo: Mr. Deputy Speaker, Sir, I want to thank the Minister for the answer he has given. However, I want to note that on the issue of application forms, we still have a problem in Vihiga, particularly in the Mbale office where these forms are actually sold. I would like to know what steps the Minister is taking to ensure that these forms are availed free. I also would like the Minister to consider the possibility of giving us a temporary officer in Emuhaya, so that the people of Emuhaya can have the registration of births and deaths at Emuhaya probably once in a week or so.

Mr. Kajwang: Mr. Deputy Speaker, Sir, first, I am shocked that these forms are being sold. They are supposed to be free. I may just share with you the fees for registration, so that we can guide our people accordingly. If you are registering a birth without any amendment to names, it is only Kshs50. If you are registering a death with some amendments, then it is Kshs130. But if you are registering a late registration, which means applying for registration after the first six months, you pay Kshs150. I hear that in some places, it is a little more expensive than this. I want to use this forum to state clearly that those are the fees.

We do not have sufficient officers, and we are begging the Treasury to give us authority to hire more staff. In the meantime, I can ask my officers in Mbale to be going to Emuhaya may be once or twice a week to register people. However, this will be a thing of the past. We are going to carry out some registration in Kitui in a pilot scheme. We are giving all the teachers in the larger Kitui County in primary and secondary schools materials, so that headteachers, with the help of assistant chiefs, can complete the forms, put the necessary stamps and signatures. Our officers will then collect the forms and, within the shortest time possible, hand over back the certificates. I think this will wipe out some of the delays in Standard Seven to Standard One. For very many years after this, Kitui will not have this problem. However, we will replicate that in every county, if this comes out successful. I can assure you that this problem will not be with us for too long.

Mr. Yakub: Mr. Deputy Speaker, Sir, I would like to thank the Minister for giving us those three categories of payment. However, I would like to know from about the issue of replacement. Are there any charges? If there are, how long does it take a Kenyan to get an ID card replaced?

Mr. Kajwang: Mr. Deputy Speaker, Sir, the answer was meant for birth certificates. We replace them for the same fees. For ID cards, we are just about to publish – I think I have signed the publication for the Kenya Gazette – a notice for replacement of an ID. In order that people do not lose their IDs too often - we want people to be more protective of their IDs - it will be very expensive to replace them. We have said that to replace an ID card now, you will need to pay Kshs300. This is just to discourage people from handling their IDs in a careless way.

Mr. Mwathi: Mr. Deputy Speaker, Sir, I also want to thank the Minister for the answer. However, I want him to clarify one fact which I can raise without any fear of contradiction, that most students who want to register for exams are undergoing many problems. They wait for a long time before they can get birth certificates. Has that been

brought to your attention? If it has, what is your Ministry doing to address that major problem to allow those students to register?

Mr. Kajwang: Mr. Deputy Speaker, Sir, immediately we roll out to all schools so that the schools become the centers for registration, we will have solved a big problem. The head teacher will register all students. We will give the head teacher the forms and our job will merely to check that he has done them properly. The Assistant Chief will have to confirm the parents of the child who has been registered. The headmaster will also have to confirm that the pupil belongs to that school. Our officers will then collect the forms and produce IDs. The only limitation we will experience is lack of a little more money to make us mobile. Otherwise, we can produce enough forms and send them to all the school heads. In fact, we will send them to DEOs so that they can take them down to the schools. If we can register all the children who are likely to sit for their exams next year, we will not have this problem for the next six years.

Mr. Imanyara: Thank you, Mr. Minister, because you appear to be seriously addressing this issue. From your answer, it is like you are anticipating that this would be a thing of the past in a few months after the Kitui Pilot Project. This entails, obviously, legislative intervention in form of amending the law so as to appoint teachers and assistant chiefs to be registrars and, perhaps, assistant registrars. Could you assure this House that when the Miscellaneous (Amendment) Bill comes to the House later in the year, these provisions of the amendment for the relevant laws will be there, so that we can be assured that what you are telling this House will, indeed, happen?

Mr. Kajwang: Mr. Deputy Speaker, Sir, the registrars will still remain as registrars. However, the chiefs, the principals and the head teachers will be agents. When you are an agent, then it is the principal who is responsible for what you do. So, the registrars will still remain registrars. However, we will appoint the head teachers with the help of the Ministry of Education. We will also seek the help of the Provincial Administration so that we can appoint the assistant chiefs to be our agents. The assistant chiefs have been helping us, anyway. They are our primary source of our information. We give them forms to complete and send back to us. But because people do not go to them a lot, especially in cases of births which take place at home, we want to capture everybody who has gone to Standard I. Our main aim is to mop up.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Perhaps, the hon. Minister did not get what I was asking. I wanted to know whether those people will be volunteers or they will be required to perform those functions. There is a difference between voluntary work by teachers and assistant chiefs and statutory works that relates to registration and issuance of birth certificates. Are they going to be volunteers and if they will not be volunteers, what will be your legal basis upon which you will be appointing them? That is the question I am asking him.

Mr. Kajwang: Mr. Deputy Speaker, Sir, I agree that that is a grey area. We are trying to sort it out. In fact, I might need a lot of assistance from our Members. The grey area is this: If they are appointed as registrars, then my officers will have no job to do. The headmaster will be the registrar or even the assistant chief. However, if we appoint them to help the Registrar, then the registrar will be primarily responsible and I will supervise him. So, we need a chain in which my office can discipline and supervise the registrar. However, the primary information must come from somewhere. We want it to come from schools and from the assistant chiefs.

Mr. Litole: Thank you Mr. Deputy Speaker, Sir. I want the Minister to clarify how his officers look at children and give them age without taking into consideration what the chief has written. In some areas, for instance, where I come from, people travel for 100 kilometers. By the time they get to Kapenguria, they are emaciated. The officers there then look at the emaciated people and just give them arbitrary ages. Could the Minister instruct his officers to follow the instructions of the head teachers and chiefs?

Mr. Kajwang: Mr. Deputy Speaker, Sir, I want to plead and direct my officers that they have no business fixing ages for children. The person who knows when a child was born is the assistant chief and the teacher, mostly because they communicate with their mothers. But to just put an arbitrary age can cause a problem because, eventually, when they grow up, they will want to take travel documents. I have such problems in my office. Those people have a problem with the age that was placed on them arbitrary. Therefore, I would like to urge my officers that the primary information comes from the assistant chiefs who should be assisted by the school heads and the principals. That way, we can have a uniform way of determining the ages.

Mr. Deputy Speaker: Next supplementary question by Dr. Otichilo

(Mr. Ruto moved to the Dispatch Box)

Mr. Deputy Speaker: What do you want, Mr. Ruto? Do not come late and then insist so hard!

Mr. Ruto: Mr. Deputy Speaker, Sir, because of technology, I was able to follow the proceedings. I heard the Minister say that to replace an identity card; one would have to pay Kshs300, which he is going to gazette. The Minister is very well aware that the poverty levels in this country are such that many Kenyans are living below a dollar a day. How can he decide to put a replacement fee for such an important document, which is mandatory, at Kshs300? Kenyans cannot afford that. How did he come up with the figure? This is a very callous decision by the Ministry, which has even failed to register Kenyans. It has failed to give them identity cards. Having an identity card is not a privilege but a right. But now, they are being denied that right.

Mr. Kajwang: Mr. Deputy Speaker, Sir, this is a very expensive right. It costs Kshs1,000 to produce one identity card. The third generation identity cards will cost Kshs3,000 to produce one. It is a very precious document and we want you to keep your identity card very safely. However, if you lose it, and we ask you to pay only a fraction of what it is worth to discourage you from losing it, I do not think that is arbitrary. This is not about poverty. It is about taking care of your documents.

Mr. Otichilo: Mr. Deputy Speaker, Sir, I would like the Minister to consider whether we could have the district commissioners offices being part and parcel of the process. They should be given the registration forms. In Emuhaya, the forms can be accessed through the DC's office and your office.

Mr. Kajwang: As a matter of fact, I have already said that the forms will be distributed to the Emuhaya Office. If you do not have an officer there, we will ask the DC to have the forms. We want the forms to be as widespread as possible so that there is no need of selling them. The only problem we have is the budgetary allocation for forms per year. That is why we cannot produce too many. I will urge my officers to produce more

forms so that they do not become a currency. That is because they are becoming a currency.

Question No.926

LIST OF TENDERS FOR CONSTRUCTION OF FRESH PRODUCE MARKETS

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

(a) whether he could provide a list of all the tenders signed for the construction of fresh produce markets countrywide to date and indicate the status of completion of each project; and,

(b) why the works on the project in Limuru have not commenced and when the works will commence.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I am speaking on behalf of the Office of the Deputy Prime Minister and Ministry of Local Government. We would like to request the indulgence of the House to allow us to postpone this Question because the answer we have got is not satisfactory to us. We have discussed with the Questioner and agreed on this request. So, we are asking the House to give us two weeks to complete compiling the answer, because the amount of information that is required is massive.

Mr. Deputy Speaker: Hon. Mwathi, is that acceptable to you?

Mr. Mwathi: Yes, Mr. Deputy Speaker, Sir. Due to the interest the Question has generated and importance of the information required, I accept.

Mr. Deputy Speaker: Assistant Minister, can you give the Questioner a copy of the written answer well in advance, so that he does not come back and say that the answer is bulky and that he needs to study it to be able to interrogate it? How many days earlier will you give him the written answer?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I will give it to him four days earlier.

Mr. Deputy Speaker: Fair enough. The Chair directs that this Question appears on the Order Paper two weeks from today.

(Question deferred)

Next Question, hon. John Pesa!

Question No.876

NON-RESOLUTION OF LAND OWNERSHIP DISPUTE IN SUNA EAST

Mr. Pesa asked the Minister for Lands:-

(a) who the current owners of land parcel numbers Suna East/Kakrao 685 and Kanyamkago/Kajulu 550 are and what their respective sheet numbers are; and,

(b) why the Ministry has not availed the two sheet numbers from 1994 to date and when the numbers will be availed so that the dispute between the two claimants can be resolved.

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

(a) The current owner of land parcel number Suna East/Kakrao 685 is Tobias Ramogi Oden. The sheet number of Land Reference Suna East/Kakrao 685 is 26. Land parcel number Kanyamkago/Kajulu 550 is currently registered in the name of Okumu Ochieng. The land is on sheet number 75.

(b) The Registry Index Map Sheet Nos. 26 and 75 are available. They can be obtained from the District Survey Office in Kisii.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Pesa: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for attempting to answer this Question. My main concern is why the Ministry has not availed these sheet numbers since 1994 to date. Now that I have asked the Question, he is telling me that the sheets are in Kisii. Why were they not availed before?

Mr. Rai: Mr. Deputy Speaker, Sir, there is no evidence of requests to my Ministry to avail the index map. If the hon. Member writes to me, I will avail those index maps tomorrow.

Mr. Deputy Speaker: Hon. Pesa, are you satisfied?

Mr. Pesa: Mr. Deputy Speaker, Sir, 1994 is a long time. I come from that area, and I know what problems people have. There is a court case pending on this issue because of none availability of these sheets. So, can I ask him, through the Chair, that he either promises to avail them to me in person or he tables them in this House?

Mr. Rai: Mr. Deputy Speaker, Sir, the Question did not say that I should actually table them today. If that is the request, I will oblige and let him have the index maps.

Mr. Deputy Speaker: Fair enough. You can give an undertaking to give them to the Member of Parliament. The Question has been disposed of. There is no need of bringing back this Question to the House.

Mr. Rai: Mr. Deputy Speaker, Sir, I had even discussed the matter with the Questioner. I had advised him to write a small note saying that he wants those maps here in Nairobi. The maps are available in the Land Registry in Kisii, but if he writes to me, I will not mind assisting him, because we have already discussed the matter.

Mr. Deputy Speaker: Hon. Questioner, you can do that.

Mr. Pesa: Mr. Deputy Speaker, Sir, I am satisfied but I thought that, through the Chair, he could table them in this House. Alternatively, he can give an undertaking to give them to me.

Mr. Deputy Speaker: He has given you an undertaking.

Mr. Pesa: Mr. Deputy Speaker, Sir, his undertaking is conditional. I have to write a letter to him.

Mr. Deputy Speaker: Why do you not write the letter then?

Mr. Pesa: Mr. Deputy Speaker, Sir, I will do so at your direction.

Mr. Deputy Speaker: There are so many reference sheets in this country. We are talking about a country of close to 40 million people. There must be references. Therefore, correspondence has to be there.

Next Question, hon. Joseph Kiuna.

Question No.892

OPERATION OF TWO CESS COLLECTION CENTRES
ON MENENGAI CRATER ROAD

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

(a) whether he is aware that there are two cess/collecting points on the road leading to Menengai Crater in Nakuru County and, if so, whether both are authorized by the Ministry; and,

(b) whether he could apply part of the levies to maintain the roads, which are used by tourists.

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

(a) There is only one entry fee collection point authorized by my Ministry, and not two as alleged by the hon. Member. This is at the road barrier located at the Menengai Forest Station Office along the Crater Climb Road linking Nakuru Town and the crater. Although the crater can be accessed through four other roads, none of these has cess or entry fee collection points, since these roads are seldom used due to their poor condition. People prefer the Crater Climb Road, which is more direct. In addition, the Kenya Forest Service (KFS) officers patrol the forest to ensure that all persons found inside have receipts indicating that they have paid the requisite entry fee.

(b) The KFS has a Road Unit, which maintains the roads within the forest reserves, funded from revenues accrued by KFS, of which gate collections form a component. In February this year, the KFS graded three kilometers of the Crater Climb Road. This will be extended to the remaining portion of the road and other safe roads in due course, depending on availability of funds.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Kiuna: Mr. Deputy Speaker, Sir, while I appreciate and thank the Minister for answering my Question, I do not agree with his answer to part (b) of the Question. Therefore, I request that he goes to the ground and verifies whether the area he has referred to has, indeed, been murrammed. Nothing has been done on the ground.

Dr. Wekesa: I am sorry, Mr. Deputy Speaker, Sir. There is a lot of consultation behind me. So, I did not hear what the Questioner asked. Could he, please, repeat it?

Mr. Kiuna: Mr. Deputy Speaker, Sir, I was saying that I appreciate the answer given by the Minister to part (a) but, on part (b), there is nothing on the ground which has been done by his Ministry. So, I request that he accompanies me, so that we can go there and verify that fact. Nothing has been done on that road, and it is in a deplorable condition. There is no vehicle which can go beyond the gate.

Dr. Wekesa: Mr. Deputy Speaker, Sir, I am surprised because we allocated Kshs500,000 for those three kilometers. I am not sure whether the bad condition is due to the heavy rains that we received in the months of March and April. We actually graded three kilometers of the road, but since my colleague would like me to accompany him to that place, I may do that and we assess the situation on the ground.

Mr. Imanyara: Mr. Deputy Speaker, Sir, the Minister is not usually present when the Minister for Roads is answering Questions regarding the cost of doing one kilometer

of road. Is he satisfied that Kshs500,000 can construct three kilometre of a road anywhere in this country?

Dr. Wekesa: Mr. Deputy Speaker, Sir, I am always here and I share information with my colleague in the Ministry of Roads since the Kenya Forest Service and the Kenya Wildlife Service have road networks all over the country. The money was not meant for murraming the road, but just to grade it. It was not to be used to widen the road, but for grading alone. So, the Kshs500,000 is enough.

Mr. Kiuna: Mr. Deputy Speaker, Sir, the Ministry collects a lot of revenue from that gate. At the same time, many visitors are unable to get to the peak of the Menengai Crater. Could the Minister consider allocating more funds to construct that road, so that visitors can access the forest with ease thus raising more revenue?

Dr. Wekesa: Mr. Deputy Speaker, Sir, this is an ongoing process. We always allocate Recurrent Expenditure in the Lodiani area, which also covers Menengai. During the last and the current financial years, we allocated Kshs4 million to do roads in this area. But as I have said, we are looking at the possibility of getting more funds. We will continue grading, not only this road, but the other four roads that I mentioned.

Question No.898

DELAY IN DISBURSEMENT OF AFC LOANS TO FARMERS

Mr. Washiali asked the Minister for Agriculture:-

(a) whether she is aware that money meant for loans to sugar-cane farmers by the Agricultural Finance Corporation (AFC), through Equity Bank, has not reached the farmers;

(b) what urgent measures the Ministry is taking to ensure timely access by farmers to these loans; and,

(c) whether she could consider reviewing the interest rates as an incentive to the farmers.

Mr. Washiali: Mr. Deputy Speaker, Sir, the content of this Question has been changed. I do not know at what stage, but I have talked to the Assistant Minister and he has accepted to answer the Question with amendments. The Agricultural Finance Corporation (AFC) was not in the initial Question. It was supposed to be the Kenya Sugar Board (KSB), which the Assistant Minister accepted to incorporate into his answer.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, it is true that the Question was not properly placed, but I am going to answer it with regard to the correct institution.

Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that in 2006, the KSB disbursed a total of Kshs500 million to the AFC to be loaned to farmers on a revolving fund basis. To date, the KSB has not released any funds to Equity Bank. However, Kshs500 million will be released by the KSB to Equity Bank for onward lending to farmers, once the ongoing contract negotiations between the two organizations are completed.

(b) The KSB and the Equity Bank are finalizing negotiations over the release of Kshs500 million to the sugarcane farmers. Meanwhile, the KSB has rolled back Kshs180 million recovered from farmers, which is available now through the AFC.

(c) The Ministry has no immediate plans to review the current 5 per cent interest rate on the KSB loans lent to farmers because it is the lowest offered in the market and we are convinced that it is sustainable.

Mr. Washiali: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer although it is like a photocopy of an answer to a Question I asked last year. The Ministry keeps on talking of negotiations with the Equity Bank. For how long will these negotiations take place? Farmers want this money to develop their crop.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the Equity Bank wants to lend this money to the farmers at 10 per cent interest rate and the Ministry has refused. We want the money to be lent to the farmers at 5 per cent interest rate and the bank is saying that it cannot do that. We are also negotiating as to who will take the full responsibility of the risk involved in the loans. These are the two items which are being negotiated and they are on the table. In the next two weeks, this will be sorted out and we will either agree or we give the money to the AFC for onward lending to the farmers.

Mr. Washiali: Mr. Deputy Speaker, Sir, I want to ask the Assistant Minister to get his facts correct. The figure we are talking about of Kshs500 million was not in the 2006 Budget. In fact, in the 2008/2009 Budget, the Minister for Finance announced in this House that sugarcane farmers would be loaned Kshs1 billion to develop their crop. The Kshs500 million was given in the 2009 Budget. Up to date, the other Kshs500 million has not been given. Could he, please, get his facts right, otherwise, we will defer this Question until the Assistant Minister gets the facts correct.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I agree that it was Kshs1 billion. The Kshs500 million has already been given and we are negotiating for the other Kshs500 million with the bank which is supposed to give the loans to the farmers. Until we agree, we cannot release the money.

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

Mr. Deputy Speaker: Order, hon. Pesa! Allow the Assistant Minister to finish what he is saying and then you can enrich your point of order.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, this money is supposed to go to the farmers, but before we release the other Kshs500 million, we need to agree. We have already given about Kshs200 million which is currently being loaned to the farmers. I am only asking the Member to give us time to negotiate with this bank. If we do not agree, the loan will be given to the farmers through the AFC.

Mr. Pesa: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Questioner explain here very clearly that we are talking about the 2008/2009 Budget. The Assistant Minister is talking about 2006. How does he bring in 2006? Is he in order to mislead the House by confusing 2008/2009 with 2006?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, the total amount which is supposed to go to the farmers is Kshs1 billion. The Kshs500 million has already been given out and the Kshs500 million is waiting to be given out once negotiations are completed.

Mr. Washiali: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has kept on saying that the Equity Bank has a problem agreeing with them. Is it the only institution that is supposed to lend this money to the farmers?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, when we did a survey and held a stakeholders' meeting with the growers and millers, they wanted another bank apart from the Agricultural Finance Corporation (AFC). We went to the market and tendered and

three institutions were picked. They were National Bank of Kenya, AFC and Equity Bank. Equity Bank won the tender and we are negotiating with them at the moment.

Mr. Deputy Speaker: Last question, Mr. Washiali!

Mr. Washiali: Mr. Deputy Speaker, Sir, I would want the Minister to give us a time frame. This is because last time we asked the same Question, he talked of one month. This time he is talking of two weeks. Could we, as the representatives of farmers in this House, take it that in the next two weeks the money will be with Equity Bank?

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I do not want to give assurance on something that I am not going to deliver. But I said that negotiation will be completed in two weeks. If we do not agree, we will look for another avenue of giving out the loans.

Mr. Deputy Speaker: Fair enough. Hon. Questioner, much as the Minister has very graciously accepted to answer the Question that, indeed, you wanted answered, the Question you filed is exactly the way it is in the Order Paper. This is the Question with your signature and so, do not feign any shock. The Chair has got a copy of that. The Question that you signed is: "Is the Minister aware that money meant for sugarcane farmers' loans by the Agricultural Finance Corporation (AFC), through Equity Bank, has not reached the farmers?" This is exactly the same text as you put it in the first place. So, the mistake was by and large yours and not the Clerk's Department.

Mr. Washiali: Mr. Deputy Speaker, Sir, while I appreciate that, you know that the office of a Member of Parliament is an institution and not of an individual. So, chances are that one of my members would have---

Mr. Deputy Speaker: Order! Order! Hon. Washiali, this is your signature and so, take responsibility for your mistakes. Do not play around and say that it is an institution. You are not an institution. Parliament is an institution, but you are an individual. You do not have an institutional responsibility for your mistake. You have an individual responsibility in the name of hon. Benjamin Washiali!

Mr. Washiali: Most obliged, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Question by hon. Litole!

Question No.917

PROVISION OF WATER TO ORTUM
HOSPITAL/TRADING CENTRE

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

(a) what plans the Ministry has to provide water to Ortum Trading Centre which has several learning institutions; and,

(b) whether she could take urgent steps to provide water to Ortum Mission Hospital within the trading centre.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) My Ministry, through the Rift Valley Water Services Board, will extend the distribution network to cover the whole of Ortum Trading Centre at an estimated cost of Kshs2 million. This has been factored in, in the district work plans for the next Financial Year, 2011/2012.

(b) Currently, Ortum Mission Hospital is supplied with water from Ortum Water Supply which was constructed and completed in 1987. A storage water tank of 90 metres cubed is constructed at Ortum Girls Boarding Primary School compound which supplies both the lower part of the centre and Ortum Mission Hospital.

Mr. Litole: Mr. Deputy Speaker, Sir, I want to thank the Minister for trying to answer the Question. However, the tank was built in 1987 when there were about 1,000 or 2,000 people. The population of Ortum now is going to about 20,000 people. There is a river called River Muruny which is permanent and hardly two kilometres from Ortum Mission Hospital and the centre. Could the Ministry construct a real water supply system from this river instead of relying on a spring that dries up during the dry season, hence causing a lot of problems to these institutions? The institutions that are there are so many. Apart from the hospital, there are two big secondary schools, two boarding schools, a big trading centre and a polytechnic. The water supply of 1987 is not enough. Could the Minister, therefore, consider using this permanent river, River Muruny, to give us more water for the Ortum people?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I think that is a reasonable request to make. What I am going to do is to get back and get these works redesigned, and see how much more it will cost. It is true that there is river Kererua which is within Ortum Trading Centre. If we were to do redesigns and get water from this river, it is possible that we can now supply water to the whole trading centre, all the schools and the hospital that is around this market.

Mr. Koech: Mr. Deputy Speaker, Sir, the Minister relies heavily on the water service boards to determine and decide on the projects, and sometimes their decision is so skewed that when I raised a Question on Lake Victoria North Water Services Board, I discovered that out of the Kshs100 million that they distributed, they only gave Kshs500,000 to the upper part of our region, that is, Eldoret North side. What is the Minister doing to ensure that these water service boards serve the entire region that they are expected to serve?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the water service boards work very closely with district water offices and officers. They are the ones who actually give them the works that need to be funded and done, so that the designs are done. So, that is how they have got to be connected. There has got to be proper co-ordination between the constituencies, district water offices, our offices and the water service boards, to ensure that services get closer to the people. So, although the water services could be closer to the people, we only have eight water services boards that serve the whole country. We are now changing this to ensure that water service boards can be put together according to the counties, and this is already being worked out.

Mr. Murgor: Mr. Deputy Speaker, Sir, the Minister tried to answer the Question by mentioning a tank which is already under-serving the community that is there. West Pokot County, like many other counties in the north, is still undergoing a drought that needs immediate attention. What measures will the Minister take to ensure that these institutions are provided with water, especially the mission hospital and the schools that really need water? What immediate measures is the Minister taking to cater for this problem?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, it is true that some of these areas are going through very serious and severe drought. What the Ministry is doing currently is to

provide water by taking it to the people using water bowsers. That is what we will continue to do until we get rains.

Mr. Litole: Mr. Deputy Speaker, Sir, having enumerated the number of institutions that surround Ortum, the Minister will agree with me that this area also needs a sewerage system. Instead of the sewage being poured into River Muruny which is causing some problems to the people living on the lower side, could the Ministry consider installing a sewerage system as they consider the water supply for that area?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, is the River Muruny that the hon. Member is talking about the same as River Kererua? Is it the same river?

Mr. Litole: Mr. Deputy Speaker, Sir, it is not the same river. River Kererua is a seasonal river. Sometimes farmers in the area who plant onions use its water. That is why Ortum Trading Centre does not get enough water.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. A very interesting precedent is being set in the House. Is it in order for the Minister to ask a Backbencher a question and then he goes ahead to answer the question from the Minister?

Mr. Deputy Speaker: Order. What is your point of order?

Mr. Mbadi: I was on a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What are the hon. Members saying behind you there?

Mr. Mbadi: Mr. Deputy Speaker, Sir, I was just raising a very interesting point of order. Is it in order for the Minister to ask a question to the Member of Parliament and then the hon. Member goes ahead to answer the Minister yet it should be the other way round? It was a very interesting development. Probably you missed it.

Mr. Deputy Speaker: This occurred while the Chair was consulting with another hon. Member. Is it true that you reversed your roles? You changed roles?

Mr. Litole: Mr. Deputy Speaker, Sir, I would not mind doing that. She sought clarification. I was a very good geography teacher. Therefore, I could give her a free lesson. River Kererua is not part of Ortum. It is a seasonal river that dries more often than not. However, River Muruny is permanent and is the major tributary of River Tukwell, which is permanent. That is the river which I am referring to. It is a permanent river. If she wants to visit the area, she is welcome to come and see the river properly.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I accept the invitation and thank you for the information. However, I will get designs done and I will share them with the hon. Member.

Mr. Deputy Speaker: Fair enough.

POINTS OF ORDER

FAILURE TO LIST QUESTION NO.14 ON ORDER PAPER

Mr. Kabogo: On a point of order, Mr. Deputy Speaker, Sir. On Wednesday I had a question---

Mr. Deputy Speaker: Order! Is it on the same matter we have been consulting?

Mr. Kabogo: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Okay, fair enough. What is your point of order?

Mr. Kabogo: Mr. Deputy Speaker, Sir, on Wednesday, the Speaker then did order my Question No.14 to appear today on the Order Paper. I realize it is, probably,

because I had another Question that it never appeared on the Order Paper. I was just seeking the indulgence of the Chair for the Question to be brought on Tuesday or Wednesday afternoon.

Mr. Deputy Speaker: The Chair directs that that Question be given priority. The Chair can only assume that the hon. Member although, I have not checked on the HANSARD---

(Mr. Kabogo stood up in his place)

Order! It is the assumption of the Chair that an hon. Member will always say something that is factual. So, under the circumstances, I direct that that Question be given priority on Tuesday or at the very latest on Wednesday.

REMOVAL OF MOI TEACHING AND REFERRAL HOSPITAL CEO

Mr. Koech: Mr. Deputy Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Medical Services on the removal of the Moi Teaching and Referral Hospital Chief Executive Officer.

In the Statement the Minister should clarify the following:-

(a) the circumstances that led to the removal of the CEO of the Eldoret-based hospital,

(b) to explain---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. I just needed your direction because I can hear the hon. Member requesting for a Ministerial Statement and I was expecting a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security.

Mr. Deputy Speaker: What has that got to do with the Ministerial Statement sought by Mr. Koech?

Mrs. Odhiambo-Mabona: Because ordinarily the order is that we start with the other side then this way.

Mr. Deputy Speaker: Order! That “ordinarily” is not that factually ordinarily. Proceed, Mr. Koech.

Mr. Koech: Thank you, Mr. Deputy Speaker, Sir. I would have been surprised if there was anything out of order in my seeking for a Ministerial Statement.

Mr. Deputy Speaker, Sir, I wish to seek the following Ministerial Statement regarding the removal of the Chief Executive Officer of the Moi Teaching and Referral Hospital from the Minister of Medical Services.

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

(a) the circumstances that led to the removal of the CEO of the Eldoret-based hospital,

(b) to explain what became of the advertisement of the position done in the year 2010 of the CEO and the interviews that were conducted,

(c) to table the report of the interviews together with the minutes done by the Moi Teaching and Referral Hospital board during the recruiting of a new CEO,

(d) to provide the final list of successful short-listed candidates that the board forwarded to the Minister for appointment,

(e) The Minister should also explain why a new advertisement on the recruitment of the CEO was placed in *The Standard* newspaper of May 15th, 2011, yet the board had finalized the recruitment,

(f) the Minister should table minutes of the board if any, that recommended for the same, and;

(g) the Minister should further update this House and the nation on the current status of the referral hospital.

Mr. Deputy Speaker: Deputy Leader of Government Business, I do not see the Minister for Medical Services here so you have to give an undertaking on his behalf.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, we will communicate to the Minister for Medical Services and we expect a Statement by Thursday next week.

Mr. Deputy Speaker: Fair enough. It is so directed.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. I come from that area. This case is very serious. What I am asking for is what is readily available to the Minister at a call. Would I be in order to request that this is done or delivered by Wednesday, otherwise I was going to request for Tuesday?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, as the hon. Member is aware, Wednesday is reserved for Prime Minister's Time. Between Wednesday and Thursday, it is only half a morning. So, I would request that we stick to Thursday.

Mr. Deputy Speaker: The Chair so directs that the Ministerial Statement be availed on Thursday, next week.

(Mr. Langat stood up in his place)

Mr. Langat, are you seeking a Ministerial Statement?

Mr. Langat: Yes, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Proceed!

CRITERIA FOR UPGRADING SECONDARY SCHOOLS

Mr. Langat: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Education regarding the proposed upgrading of 30 secondary schools from provincial to national status. In particular, the Minister should:-

- (1) name all the schools that are proposed to be upgraded,
- (2) state the existing policy and/or legal framework for upgrading of schools to national status,
- (3) Indicate the criteria followed in selecting the said 30 schools for upgrading,
- (4) state whether there was any stakeholder consultations and identify the various stakeholders that were consulted if any, and;
- (5) in particular, state who was consulted in selecting Kipsigis Girls High School in Kericho County. Where and when did the consultations take place in Kericho?

Thank you.

Mr. Deputy Speaker: Order! Deputy Leader of Government Business, can you give an undertaking?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, we will communicate that. Can we ask for the same; Thursday afternoon?

Mr. Deputy Speaker: Thursday afternoon next week. It is so directed.

MINISTERIAL STATEMENTS

IMPORTATION OF 25,000 METRIC TONNES OF SUGAR

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I would like to issue a Ministerial Statement which was requested by hon. Washiali on the importation of 25,000 metric tonnes of sugar. I want to make some correction. It is not 25,000 tonnes. What was imported into this country was 2,350 metric tones of sugar.

An Egyptian company, United Sugar Company, has been contracted to import 25,000 metric tonnes of white refined sugar with a consignee being Kenya Breweries Limited. Already, 2,350 metric tonnes of white refined sugar were delivered on January, 2011, leaving a balance of 22,650. The above consignment was shipped in from Egypt and, hence, not subject to Import Duty as Egypt is a member of the Common Market for Eastern and Southern Africa (COMESA) trading block. Thus, it is granted zero tariffs on a product manufactured within COMESA region. The presentation of the COMESA certificate of origin by the United Sugar Company marked "White Refined Sugar", whereas it should have been marked "Egypt White Sugar", raised suspicion on the true origin of the sugar consignment. At the same time, the shipper who is a private company was granted the COMESA certificate of origin, a case reserved for integrated transporters only. The Ministry, through the Kenya Sugar Board (KSB), has also received communication from the Kenya Embassy in Egypt vide a letter referenced KE/COM/VOL/ Vol.IV/ 19 dated 5th April, 2011 questioning the origin of the imported sugar. Initial investigations have indicated that the sugar originated from Brazil. Since Brazil is not among the COMESA countries, the importer intended to re-export the consignment to Kenya as Egypt sugar in order to evade Custom Duty. KSB surveillance officers and Kenya Revenue Authority (KRA) are still carrying out a further investigation to determine the true origin of the sugar to ensure that all the due legal procedures are followed and all statutory payments are made by the importer as may be required.

Mr. Deputy Speaker, Sir, sugar imports manufactured and imported within the COMESA block are not subject to duty charges while sugar imports manufactured outside the trade block are subjected to a 10 per cent duty charge. Should the sugar be determined to have originated from Brazil, then the importer will pay the Kenya Government Kshs13,774,760 as Import Duty.

Thank you, Mr. Deputy Speaker.

Mr. Washiali: Thank you very much, Mr. Deputy Speaker, Sir. I want to take this opportunity to thank the Assistant Minister for a honest Statement. However I want to draw his attention to the Sugar Act of 2001 which reads in Part V, Section 27 as follows:-

"Safeguard measures subject to such regional and international trade agreements which Kenya is a party: All sugar imports into the country shall be subject to the

prevailing import duties, taxes and other tariffs, and such imports shall be controlled by the board.”

Mr. Assistant Minister, are you aware that on 3rd December, 2010, there was a letter that originated from your ministry written by your Permanent Secretary directing the Chief Executive Officer (CEO) of Kenya Sugar Board that should there be any imports into this country, the limit should be controlled? Why are you going against the Sugar Act, 2001?

Two, I want to table a list of sugar importers who have been importing sugar into this country. You have mentioned one sugar importer. My question was very specific. I want to find out the names of companies and individuals who are importing sugar into this country. But this list, which I am sure you have with your answer, has more than one name of importers. We have Roosevelt Enterprise, Tuk Investments and Commodity Sorting House. The figures are too small and I cannot read them.

Mr. Deputy Speaker, Sir, the question of one importer importing sugar does not arise. That is because in your answer, you have a list of many sugar importers. I wish to table this list.

(Mr. Washiali laid the document on the Table)

Mr. Deputy Speaker: Can you seek clarifications? This is a Ministerial Statement; it is not a question and answer time. Seek clarifications on the basis of the Statement made by the Assistant Minister.

Mr. Washiali: Yes, Mr. Deputy Speaker, Sir. I would like to ask the Assistant Minister: Are you aware that you have acted in contravention of Sugar Act, 2001 by wanting to control the imports of sugar into this country, when you are well aware that the Sugar Act of 2001 has given the mandate to KSB to be the one to control the importation of sugar?

Mr. Deputy Speaker: Order! Hon. Assistant Minister, it is not a question and answer time. We will have to see whether there are further clarifications and then dispose the question once and for all. Under the circumstances, since there are no other clarifications sought, you can proceed. Proceed, Mr. Assistant Minister. Nobody is seeking any other further clarification on the matter.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I do not see how the Ministry has violated the Act. It is the KSB which controls imports and not the Ministry.

Mr. Washiali: On a point of order, Mr. Deputy Speaker, Sir. I have made a statement here and, maybe, I will be subjected to substantiation. That is because there is a letter that was written to the Acting CEO.

Mr. Deputy Speaker: If you have it, you can table it!

Mr. Washiali: Mr. Deputy Speaker, Sir, I do not have it right now but, given time, I can table it.

Mr. Deputy Speaker: Substantiation is not just verbal. Substantiation is evidence. When you are asked to substantiate--- You must be lucky. Nobody has asked you to substantiate anyway.

Mr. Washiali: Mr. Deputy Speaker, Sir, could I then, with your permission, be given time to substantiate this allegation?

Mr. Deputy Speaker: This is a Ministerial Statement and so, you must come prepared. By now, you should be well versed with the practice in the House here. The hon. Assistant Minister, Ministry of State for Provincial Administration and Internal Security, could you deliver your Ministerial Statement? Who had sought it?

CIRCUMSTANCES SURROUNDING THE DEATH OF SAMUEL WANJIRU

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, hon. Mrs. Odhiambo-Mabona stood on a point of order and requested me to issue a Ministerial Statement on the circumstances leading to the death of Samuel Wanjiru, the renowned international athlete on Monday 16th May, 2011.

Mr. Deputy Speaker, Sir, she sought clarification on the circumstances that led to the death of Samuel Wanjiru and the number of domestic violence cases that had been reported to the police from January 2010 to date. She further wanted an update of the status of the Domestic Violence and Family Protection Bill and, finally, what the Government is doing to help couples proactively deal with marital problems in light of an increase in cases of domestic violence, including the one of Mrs. Wambui Kabiru.

Mr. Deputy Speaker, Sir, on the circumstances under which the international athlete passed on, police immediately commenced investigations and established that on 15th May, 2011, a few minutes past 11.00 pm., Samuel Wanjiru arrived at his Muthaiga home in Nyahururu Town and inquired from the watchman, Stephen Munyua Kamau, whether his wife, Triza Njeri, was at home. After being informed that she was not there, he drove into the compound, parked his vehicle next to the main door of his house and went inside.

Mr. Deputy Speaker, Sir, on investigations, the police established that on the same day, Mr. Wanjiru's wife had left their driver's home, Mr. Augustine Gatimu Ndirangu at around 11.30 p.m., where she had joined the family for supper. The driver, Mr. Ndirangu, then took her home in their family car and dropped her there, after she confirmed from the same watchman that her husband was at home.

On entering the bedroom, she found the deceased and a woman in their bed. The deceased was asleep but the woman woke up on seeing the wife. She asked the woman who she was and she told her that she was a close friend of the deceased. A bitter exchange of words ensued, leading to a near scuffle between the two women. The wife then walked out and locked the grill door on the staircase, leaving the two in the bedroom.

Mr. Deputy Speaker, Sir, as the wife was walking towards the main gate, the deceased came out of the bedroom to the balcony and shouted to her to go back and open the grill door. The two exchanged bitter words briefly, and she walked out of the compound, leaving him standing on the balcony. It was during this time that she called the police, informed them of the situation and requested help as she feared for her life.

The deceased asked the watchman, Stephen Munyao Kamau, to look for the keys and open for him. The watchman informed him that he did not have the keys. He then ordered him to look for spare keys. No sooner had he made the order than the deceased jumped from the balcony and fell on the concrete surface down stairs. Police officers who had already been called by the wife arrived almost immediately and found about five

relatives and the night watchman within the compound. On enquiring what had happened, they were informed that Samuel Kamau Wanjiru had jumped from the balcony of his House and sustained serious injuries. The police rushed him to Nyahururu District Hospital, where he was attended to and admitted to the Male Ward No.4, where he succumbed to the injuries.

Meanwhile, the wife had proceeded to Nyahururu Police Station to report the incident, where she later learnt that the husband had fallen from the balcony and had been rushed to the hospital. She remained at the police station where she was subjected to questioning on what had transpired. After the tragic death of Samuel Wanjiru, the body was later transferred to Lee Funeral Home, Nairobi, to await a postmortem, which has not been conducted yet. Investigations are ongoing.

Further, it was established that on the fateful day, before going home, the deceased had passed through Kawa Falls Restaurant where he picked an employee of the restaurant by the name Jane Nduta Wanjiku, aged 21 years, some minutes after 11.00 p.m., after close of business, and proceeded to a local bar called Jimrock, where the two had some beer before proceeding home with her. The police questioned Jane Nduta and she had to make a statement. The following is the statement of Jane Nduta.

Jane Wanjiku Nduta, or Jane Nduta Wanjiku, confirmed that the deceased talked with the watchman before driving into the compound, and that the wife to the deceased found her in the bedroom with the deceased, who was already a sleep and a bitter exchange of words ensued, with the wife wanting to know whom she was and what she was doing in her bedroom. She also stated that the wife left in protest and locked the staircase steel door. She then woke up the deceased and informed him that his wife had arrived. He tried to follow the wife but found the steel door locked.

He then took her to another bedroom and told her to stay there while he went to the balcony. While in there, she heard him shouting to the wife to open the door, after which she heard the watchman raise an alarm. That was when she went to the balcony and saw the deceased lying on the concrete ground downstairs. The police, assisted by the relatives who arrived at the scene, broke the padlock and escorted her to the police station for interrogation.

Mr. Deputy Speaker, Sir, that is how we lost Samuel Wanjiru. The investigations are still ongoing, and I will give an update of what has been found out after the postmortem is done.

Mr. Deputy Speaker, Sir, I would rather give the circumstances leading to the death of Sarah Wambui also in order for my colleagues to ask questions once.

Mr. Deputy Speaker: Who is Sarah Wambui?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, on the circumstances leading to the death of Sarah Wambui Kabiru, the late and the husband, Moses Dola Otieno, were working with the Nation Media Group until May 2010 when they both lost their jobs and thereafter---

Mr. Deputy Speaker: Order! Were these two Statements on deaths sought by the same person?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, Mr. Deputy Speaker, Sir. They were sought by the same person.

Mr. Deputy Speaker: Okay; please, proceed.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, they were working with the Nation Media Group until May 2010, when they both lost their jobs and thereafter, moved to Umoja Innercore Estate from Buruburu Phase V, since they were then both jobless. They were blessed with one son, Legron James Dola.

However, Sarah Wambui managed to get a job with the United Nations (UN). On 1st May 2011 at about 7.30 a.m. the two picked a quarrel, leading to a fight which left her with serious injuries that led to her death. Police were called in by the neighbours and investigations commenced. Moses Dola Otieno, the husband to the deceased, who had run away after the fight later surrendered to the police in Naivasha, where he was arrested and handed over to the Criminal Investigation Department (CID) Buruburu Police Station for investigations. The suspect was charged with murder in court vide Criminal Case No.134/174/2011, and court file No. HCCC 40/2011, before the High Court in Nairobi.

Mr. Deputy Speaker, Sir, the hearing dates are 21st to 23rd November 2011. Since the matter is in court, it is *sub judice* and I do not want to disclose the details, or circumstances, leading to the murder at this particular stage.

Mr. Deputy Speaker, Sir, on the other issues requested in the Statement, as I had earlier stated, require some time as they involve collecting data countrywide. Further, the matter is subject to a Parliamentary Question No. 963, which has already been filed by the same hon. Member, Mrs. Milly Odhiambo-Mabona, and which is due to come before this House.

Those are the circumstances leading to the death of good Kenyans. I rest my case there.

Thank you.

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

Mr. Deputy Speaker: What is your point of order? Are you seeking clarification or you are on a point of order?

Mrs. Odhiambo-Mabona: No! No! I want to seek clarification, but I want to raise a point of order first, Mr. Deputy Speaker, Sir.

The point of order is; even though the Assistant Minister has given a comprehensive Statement, he has not responded to some of the issues I had raised. One of them is when he is bringing to the House, the Domestic Violence (Family Protection) Bill, and what the Government is doing to proactively deal with cases of domestic violence. He has not responded to that.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I said that we are working on that issue. The hon. Member has filed a Question on the same. I said that we are working on those issues and I will bring a comprehensive answer on the same.

Mr. Deputy Speaker: Could you seek a clarification now on both, if you so wish?

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, I will be seeking a clarification on both because they relate to the same issue. Listening to the first case, even though from your preliminary investigations, you seem to exonerate the wife and yet, the death is as a consequence of issues relating to domestic violence. The other issue appears to be the same. In the first case, we are dealing with a case of a young man who

suddenly found himself with a lot of money. In the latter case, we are dealing with young people who had suddenly lost their jobs and do not know how to deal with it. Your mandate as a Ministry is not just to punish crime, but also to prevent the crime. What are you doing to prevent instances like those by helping the young people to cope either with too much, too little or even none?

Mr. Mureithi: Thank you Mr. Deputy Speaker, Sir. I would like to, first of all, pass my condolences to Wanjiru's wife and the other lady, considering that although Wanjiru stayed in Nyahururu which is a different constituency, he came from my constituency. I pass my condolences to the family as a Member of Parliament from that constituency. I would like to seek a clarification from the Assistant Minister. What the Assistant Minister has indicated is that, maybe, Kamau fell from the balcony. However, there is conflicting information from his mother that probably, he was hit on the head and could have died from that injury. Could the Assistant Minister finalize the investigations soon, so that the postmortem is done to establish the cause of the death and see how they can reconcile the two groups? There is a group that is saying that he fell from the balcony and there is another one which is saying that there was foul play. Right now, we have a major problem. Groups have formed themselves, some from Kiambu County, Nyahururu itself and even in my Constituency, Ol Kalau. I would like to request the Assistant Minister to hasten the investigations, considering that Kamau was also a member of the Police Force. Those matters must be dealt with very quickly, so that the funeral arrangements can also be done within my own constituency. He is my neighbour. Actually, he borders my farm and I think it is important that we do that.

Mr. Deputy Speaker: Are you seeking to know how soon that post mortem report will be ready.

Mr. Mureithi: Yes, Mr. Deputy Speaker, Sir.

Mr. Imanyara: Mr. Deputy Speaker, Sir, as my colleagues have spoken, I too want to express my condolences to the families of those two deceased persons. In the case of Wanjiru, you will realize that there is a child that has lost a father, and the wife is being subjected to all manner of pressures. What steps is the Kenya Police taking to preserve the estate and, particularly, the properties of the deceased, given the kind of pressures we are reading about in the Press, with a view to ensuring that, that child develops into adulthood and the wealth of the deceased is secure? Have you ensured that, indeed, the estate of the deceased is being taken care of?

Mr. Ogindo: Thank you Mr. Deputy Speaker, Sir. Similarly, I give my condolences to the two families. I want the Assistant Minister to clarify whether his preliminary investigations have determined how many women are claiming to be wives of Mr. Wanjiru, and whether the one who was in the House is being treated as a potential suspect.

Mr. Njuguna: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm whether on the material night, there could have been a scuffle between the girlfriend of Wanjiru and his wife Njeri, which could have triggered some bodily harm resulting to some blood that was seen in the bedroom?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, indeed, this is a very sad case. My officers are still on the ground investigating this matter. I will start with the question

by hon. Mrs. Odhiambo-Mabona. She wanted to know how the Government will control the spread of domestic quarrels.

We are aware that my docket provides security. Domestic problems can be dealt with by the Minister for Gender, Children and Social Development. After dealing with the domestic quarrels, they will ask me to provide security.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Assistant Minister in order to mislead the House by indicating that I asked about domestic quarrels? I talked about domestic violence which is a crime. It is in your docket to deal with domestic violence, which is a crime under the Penal Code.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, you are aware that if there is a report made to the police showing that there is a problem in a household, that is how the police come in. It would be very difficult for the police to know whether hon. Mrs. Odhiambo-Mabona has a problem with her husband, unless they report to the police for assistance. The police will assist both hon. Mrs. Odhiambo-Mabona and her husband.

Hon. Mureithi said that the mother had alleged that Samuel Wanjiru was killed. He also asked whether we can fast-track the investigations. Those are allegations. When you lose a son like Wanjiru, it is quite tormenting. So, we are fast-tracking the investigations and if, indeed, there is any clue to the effect that Samuel Wanjiru was killed, the law is very clear on that. However, as of now, let us stop speculating. In fact, I would like to tell the family members not to speculate. Instead, they should go and report anything that they may be aware of, so that the police officers can investigate the matter thoroughly.

Hon. G.I - those who do not know what G.I stands for, it is Gitobu Imanyara - asked what steps the police are taking to ensure that the properties are safe. These are some of the issues that are in our Constitution. There are provisions on ownership of property, how it can be transferred and who will administer the estate. This is a matter of law. That, notwithstanding, because he was one of our officers, we will assist the family, should they want assistance from the police.

Hon. Ogindo also asked how many women are claiming to be associated to Wanjiru. Ordinarily, it becomes very difficult for the police to know how many women are claiming Wanjiru to be their husband. However, we will leave that to the family. They are the ones to tell us whether they married through the customary way or from the bar. We will leave that to the family members.

Hon. Njuguna asked whether there was a scuffle. In my statement, I mentioned that there was no scuffle at all. However, there were bitter exchanges between Nduta and Triza. Triza is the wife of Wanjiru.

Ms. Nduta is the one who was picked last from Jingwo (?) Restaurant. The wife was not in the house, but she came in later. The wife asked Nduta what she was doing in her bedroom. So, as at now, we have no evidence at all to show that there was a scuffle within the bedroom.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has not responded to the question by hon. Ogindo as to whether they are treating Miss Nduta as a suspect.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, the reason as to why Miss

Nduta was asked to record a statement was because she was a suspect. So, all suspects will be called to record statements. It is their statements which will later on bail them out. As of now, we are still recording statements from even those who were in the bar with the late Wanjiru. There are those who were drinking with him at the same table. We are also looking for those people to record statements on what they know about the late Wanjiru.

Eng. Maina: Mr. Deputy Speaker, Sir, first of all, I wish to record my personal condolences to this family.

Mr. Deputy Speaker, Sir, the person we are talking about is a celebrity. The Assistant Minister said that the police arrived at the scene after some five relatives had arrived. I do not believe that there are relatives who live in the vicinity of this late man's home. The late Wanjiru was a celebrity. Is this not another case of the casual manner in which the police respond when they are called upon to attend to an incident? We have been told that some relatives arrived before the police. How long did the police take to respond to this call from the wife of the late Wanjiru? Prompt arrival of the police could have saved the life of the boy. I believe that some of those relatives were from a distance. The fact that some relatives arrived, some hullabaloo must already have developed. How long did the police officers take to arrive at the house of Wanjiru?

Secondly, Nduta has been quoted in today's newspapers as having said that when the wife came, in the first instance, they were in the sitting room. The wife left and returned to the house. However, in your Ministerial Statement, you do not seem to cover this aspect at all, yet you have quoted Nduta as your source of evidence. So, could you clarify the circumstances under which that boy died? Let us not see the laxity that we all witness. When the police are called to respond to an emergency, they say that their vehicles do not have fuel, or that they will come. However, they turn up after three hours.

Mr. Gaichuhie: Mr. Deputy Speaker, Sir, first of all, I send my condolences to the boy's family.

In the case of the late Wanjiru, I want to ask the Assistant Minister, in case they do not establish the cause of his death, could they open an inquest, so that the court can listen to more witnesses with a view to establishing the cause of death?

Mr. Konchella: Mr. Deputy Speaker, Sir, the deceased person was a police officer. As such, he might have had a firearm in the house. Could the Assistant Minister confirm whether, indeed, there was a firearm in the house, and whether the wife of the deceased could have accessed that particular weapon? If so, has the weapon been checked for any ballistic discharge, for it might have been used to cause the death?

Mr. Deputy Speaker: Let us have the last clarification from the Member for Kandara.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, in this country, we have very young men and women making a lot of money. The late Samuel Wanjiru happened to be one of them. There are others who are in the field of football. I am sure that so many others are going to come up. Our young people are getting educated on sports and they know that there is a lot of money in this field. So, they go out to the field hoping to make money on the international scene. Could the Assistant Minister tell us whether the Government has a programme to educate these people on their social responsibility and how to manage the huge amounts of money they get when they are so young?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I have been asked a lot of

questions, including how the Government can come in and help those who have a lot of money to managed it. I will give you an example. I went to school in the United States of America (USA). Suppose you win a lottery, which is the equivalent of the Kenya Charity Sweepstake, the Government in the USA will hire for you an accountant and a manager. That goes to the concerns raised by the hon. Member. It is, indeed, important for the Government to assist those who make money, maybe, through the National Sports Management Committee. We can look into that matter. I will also ask the Minister in charge of sports to bring a Bill to allow the Government to have a hand in managing the resources of such young people.

Eng. Maina asked whether the police arrived at the scene immediately. In my Statement, I mentioned that after having a bitter exchange with her late husband, Triza left and started calling both relatives and the police. In fact, the police arrived immediately. This man's house has a gate. It is not a house where you can just walk in and walk out. So, those who arrived first had to seek permission for the gate to be opened, and they had to stay within the compound. Again, they came together with the relatives---

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. Let us stick to the facts. The Assistant Minister said that the police arrived and met five relatives. In his Ministerial Statement, he said that the wife called the police when she left the gate, because she feared for her security, which is understandable. However, the police and members of the public could not be expected to react in the same way. I asked you how long the police took to arrive at the scene. They never arrived immediately, according to your original Statement.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojoed): Mr. Deputy Speaker, Sir, there is something which the hon. Member is not talking about. First of all, the late Wanjiru was a member of the Police Service. He was our colleague. So, when Triza called the police, the policemen arrived immediately. What I am saying is that it is us who are pained more, because we have lost somebody who was giving the police a lot of fame.

Mr. Deputy Speaker: Hon. Members, I want you to understand that this is a matter which has still not been concluded, investigations-wise. It is imperative for the Assistant Minister to tread carefully, so that he does not compromise the ongoing investigations into the matter.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, to answer all the questions that have been asked by my colleagues, I mentioned here that I was giving the House a preliminary report. I do not want to give contradictory statements, because doing so will prejudice the ongoing investigations. So, for those who want to know more about this incident, they can be asking me about it quietly, although I will be updating the House on the progress of the investigations.

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

Mr. Deputy Speaker: What is it?

Mr. Gaichuhie: The Assistant Minister has not answered me about the inquest.

Mr. Deputy Speaker: Order! Order, hon. Members! The inquest is part of the investigations. A Ministerial Statement from which Ministry! Deputy Leader of Government Business, Proceed!

ORDER OF HOUSE BUSINESS FOR THE WEEK COMMENCING 24TH MAY, 2011

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, pursuant to the provisions of the Standing Order No.36(4), I take this opportunity to make the following Statement with regard to the business for the week commencing Tuesday, 24th May, 2011. The House will consider the following Bills, which are now at the Second Reading Stage. The first one will be the Companies Bill, Bill No.23 of 2010 and the Insolvency Bill, Bill No.22 of 2010. The following five Bills will be considered at the Committee Stage, namely; the Nurses (Amendment) Bill, Bill No.25 of 2010, the Limited Liability Partnership Bill, Bill No.21 of 2010, the Prohibition of Female Genital Mutilation Bill, Bill No.24 of 2010, the Independent Electoral and Boundaries Commission Bill, Bill No.6 of 2011 and the Salaries and Remuneration Commission Bill, Bill No.8 of 2011.

The House is also expected to consider debate on the following Motions:-

(i) The Motion to adopt the report of the Departmental Committee on Defence and Foreign Relations on their familiarization visit to the Kenya Embassy in Somalia that was laid on the Table of the House on Tuesday, 3rd April, 2011

(ii) The Motion to adopt the report of the Select Committee on the Constituencies Fund Committee on the study tour to the Republic of Singapore from 5th to 13th November, 2009, that was laid on the Table of the House on Thursday, 5th May, 2011.

Finally, the House Business Committee will convene on Tuesday, 24th May, 2011, to consider business for the rest of the week.

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. You have been hearing on many occasions, Members of the Government side-issue Statements directed at Parliament that we are not taking the implementation of the Constitution Bills seriously; that, we are not passing legislation, yet when you hear the Minister give the business that the Government will introduce next week, there is hardly anything to show commitment on the Government's side towards the implementation of the Constitution. We would have expected the Minister to be telling us they have published the following Bills and they will be coming to the House for debate, yet no such mention has been made. When will the Government take the issue of the implementation of the Constitution more seriously than it is now doing by bringing Bills that are relevant to the task ahead, rather than Bills that are just for filling time in this House?

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I want to respond in two ways as follows:-

(i) In terms of Statements made by Members of the Government apportioning blame on who is not doing what, I would like to take those as personal statements and not Government Statements. People are entitled to their own opinions in terms of what they say. All the other Statements are made within this Statement.

(ii) In terms of the Bills that are coming, today, the Cabinet approved the Supreme Court Bill, which will be published shortly and will be coming to the House for debate, and the Independent Offices Bill, that creates the offices of the Controller and Auditor-General and the Controller of Budget. Again, that will then be coming to the House for debate.

Within the Statement, I have indicated the ones that are already here, namely; the Independent Electoral and Boundaries Commission Bill and the others. But until they have gone through the processes as was agreed as it involves several stakeholders from the Commissions and the Committee, they cannot come to the House. At this point, we can only bring what has already been cleared through the House Business Committee, which has been scheduled, but then there is still a lot more in the processing out there. There will be that business for this House to consider.

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

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE OF THE WHOLE HOUSE:
THE PRICE CONTROL (ESSENTIAL GOODS) BILL

Mr. Deputy Speaker: With regard to Order No.8, the Deputy Prime Minister and Minister for Finance made an indulgence to the Chair that until such time as the Budget is disposed of, we should not entertain any other Bills on behalf of that Ministry. The Chair appreciates that the task of preparing a Budget is not easy and I direct that this Order appears after the Budget has been read. I rule that Order No.8 be deferred.

MOTIONS

ADOPTION OF REPORT ON STUDY TOUR TO SINGAPORE

Mr. Deputy Speaker: Order No.9 is a report on the study tour of the Select Committee on Constituencies Fund Committee which was supposed to be moved by the Chair, who is out of the country. Nonetheless, the tenure of that Committee has expired. It is upon the House Business Committee to revalidate that tenure. The tenure expired on 30th April and consequently, this cannot be moved by the Chairperson until such time that the Committee has been reappointed or the majority of the Members of the Committee have been reappointed. Consequently, Order No.9 is also deferred until such time that the Chair is able to move the Motion.

(Motion deferred)

ADOPTION OF REPORT ON 123RD ASSEMBLY OF IPU

Mr. Deputy Speaker: With regard to Order No.10, the Chair today; the Deputy Speaker of the Kenya National Assembly, was the leader of that delegation and is supposed to move this. This will be moved sometimes next week.

(Motion deferred)

ADOPTION OF REPORT ON STUDY TOUR
TO PARLIAMENTS OF ITALY/SPAIN

Mr. Deputy Speaker: Order No.11 also suffers the same fate. It is the report of the Library Committee. As with Order No.10, the Deputy Speaker, who is also on the Chair now, will move the same next week when the Speaker is on the Chair.

(Motion deferred)

Mr. Deputy Speaker: Under the circumstances, we do not seem to have any other business. Before I adjourn the House, let us probably give an indulgence to hon. Maina. He rose on a point of order.

Eng. Maina: On a point of order, Mr. Deputy Speaker, Sir. My concern is with regard to your directive regarding the Bill under Order No.8. Whereas you know very well that I abide by your ruling, I wish to make one or two comments regarding your order.

Mr. Deputy Speaker: Regarding my direction or the contents of the Motions that are listed?

Eng. Maina: Mr. Deputy Speaker, Sir, the Motion that is listed.

Mr. Deputy Speaker: Indeed, you cannot open up debate on the Motions that are listed.

Eng. Maina: Mr. Deputy Speaker, Sir, but I wish to make a comment in line with your directive.

Mr. Deputy Speaker: Proceed!

Eng. Maina: Mr. Deputy Speaker, Sir, we are all aware of the importance of this particular Bill. We are also aware that this matter has taken long in this House. We are also aware that this House is under public pressure that something be done regarding what we are all witnessing. By the time the Executive and the House Business Committee were making this decision, this matter was on the Floor of the House. Whereas I agree and abide by your directive, I want to assure the Kenyan public that the cause of the delay of this matter or the deferment of this matter is not out of my personal liking. My resolve to have the issues addressed still remains steadfast.

Mr. Deputy Speaker: Order, hon. Maina! The Chair was very categorical. The request was made by the Deputy Prime Minister and Minister for Finance because the Minister and his officers are busy preparing the Budget. Under the circumstances, it is only fair that we should give him sufficient time until after the Budget is read and the matter will be listed on the Order Paper.

Eng. Maina: Mr. Deputy Speaker, Sir, I agree with that. I wish to conclude by saying, with your indulgence that let this deferment be the last one. Let us ensure that this Order is brought to the House as the first item after the Budget.

ADJOURNMENT

Mr. Deputy Speaker: Order, hon. Members! Under the circumstances, and there being no other business to transact this afternoon, the House stands adjourned until Tuesday, 24th May 2011, at 2.30 p.m.

The House rose at 4.55 p.m.