

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 13th December, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

CONSIDERED RULING

PROPOSED AMENDMENTS ARE BEYOND THE
SCOPE OF THE FINANCE BILL

Mr. Speaker: Hon. Members will recall that on Thursday, 1st December, 2011 Order No.8 on the Order Paper of that day was the Committee of the whole House on the Finance Bill (Bill No.12 of 2011). When the Order was called, the Deputy Prime Minister and Minister for Finance requested that the matter be deferred as numerous amendments had been proposed to the Bill, some of which were new clauses. He further stated that some of the amendments had far reaching consequences not just to matters pertaining to finance, but also to issues touching on the mandates of other Ministries. The Deputy Prime Minister and Minister for Finance, therefore, requested time to enable him to go through the amendments in detail and engage Members who had filed them.

Hon. Members, I have considered the request by the Deputy Prime Minister and Minister for Finance for deferment of the Committee of the whole House on the Finance Bill, 2011. The request raises a fundamental issue on the scope and ambit of the Finance Bill; what matters ought to be covered in a Finance Bill, and which Committee Stage amendments should be allowed to a Finance Bill. The Finance Bill, 2011 was published on 8th June, 2011. The Long Title to the Bill reads as follows:-

“A Bill for an Act of Parliament to amend the law relating to various taxes and duties and for matters incidental thereto.”

This Long Title clearly indicates that the purpose and scope of the Finance Bill, 2011 extends to matters of taxation and duties. It should, therefore, follow that any amendments proposed to the Bill at the Committee Stage should fall within this general scope of the Bill.

Hon. Members, the practice that is emerging where amendments covering diverse subject matters are introduced as amendments to a Finance Bill is one that requires to be reconsidered. Some of the amendments that have been proposed to Finance Bills in recent times, and in the present case, cover matters that rightfully fall within the mandates of Ministries other than the Ministry responsible for finance, and consequently the mandates of various Departmental Committees. Introducing such amendments to a Finance Bill denies the relevant Ministries and Committees of the House, stakeholders, and the general public, the opportunity to reflect and deliberate on the proposed amendments.

(Several hon. Members stood at the entrance)

The admissibility of amendments or their relevance to a Bill is a matter that is alive in other jurisdictions and where thresholds for their relevance have been developed. Before we go on that tour, I will pause to allow Members at the door to come in.

*(Hon. Members at the entrance
entered into the Chamber)*

Hon. Members, the Australian Senate Practice Twelfth Edition, as our source of authority, states as follows:-

“An amendment must be relevant to the subject matter of the Bill. In determining relevance, the question is: What is the subject matter of the Bill and does this amendment deal with that subject matter? The Long Title of a Bill can be taken as an indication of its subject matter, but does not conclusively determine the question. Thus, if a Bill has the Long Title such as “A Bill for the Act to amend the Social Security Act 1991”, any amendment relating to social security or any matter dealt with by the Social Security Act is probably a relevant amendment. If, however, a Bill has the Long Title such as “A Bill for an Act to amend the Social Security Act 1991 in relation to age pensions”, this is an indication that the subject matter of the Bill is age pensions and amendments to deal with other matters covered by the Social Security Act would probably not be relevant to the Bill.”

If you find that book, you will find that at page 249.

Erskine May, an authority on parliamentary practice has stated in *Parliamentary Practice*, 23rd Edition thus:

“Provisions not essentially connected with national finance or not incidental to the taxing or administrative provisions of a Finance Bill are outside the scope of a Finance Bill. From time to time, however, resolutions are passed in the Committee of Ways and Means similarly beginning with the words “notwithstanding anything to the contrary in the practice of the House to authorize the inclusion in the Bill provisions which, while not falling within the strict definition of matters appropriate to a Finance Bill, are nevertheless sufficiently closely related to those matters to justify inclusion. By practice, certain resolutions are not permitted in respect of matters which are so far removed from central finance as to make their inclusion in the Finance Bill indefensible.”

Hon. Members, in the recent past, we have had cases where Members in a bid to fast-track the legislative process, proposed amendments to the Finance Bill, the subject matter of which is the same as a Bill or Bills already published under different stages before the House. This practice is in breach of Standing Order No.77 (1) on anticipating debate which provides thus:

“It shall be out of order to anticipate the debate of a Bill which has been published as such in the Gazette by discussion upon a substantive Motion or an amendment, or by raising the subject matter of the Bill upon a Motion for the Adjournment of the House.”

Further, by such practice, this House is denied the opportunity, through its Committees and in plenary, to consider the specific subject matter covered in a Bill. In the present case, the Order Paper of Thursday, 1st December, 2011 carried a proposal to amend the Banking Act, Cap. 488 of the Laws of Kenya by inserting new sections 16(b)

and 16(c). These same amendments also appear in the Banking (Amendment) Bill, 2011, a Private Member's Bill which, coincidentally, was listed in the Order Paper on the same day. Applying Standing Order No.77, there can be no doubt that this amounts to anticipation of debate and should not be encouraged.

Hon. Members, in the light of the above, the Chair rules and directs that henceforth commencing with the Finance Bill, 2011, proposed amendments to a Finance Bill shall be approved only where they fall within the scope and ambit of a Finance Bill, that is matters relating to taxes and duties, and where the House is not already seized of the proposed amendments through a previously published Bill.

It is my considered view that the proposed amendments in respect of the Price Control Essential Goods Act, The Public Procurement and Disposal Act, 2005; The Energy Act, 2006; The Kenya Information and Communications Act, 1998; and The Privatization Act, 2005 are beyond the scope of the Finance Bill as published and are inadmissible. Accordingly, applying this criterion, only the proposed amendments that fall within the scope of the Finance Bill, 2011 will appear in the Order Paper when the Bill is next listed for Committee Stage. Any amendments that do not fall within the scope of a Finance Bill may be introduced through a Statute Law (Miscellaneous Amendments) Bill published by the Attorney-General or as a Private Member's Bill.

I thank you.

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Finance, Planning and Trade on the Nominees for Appointment as Chairperson and Members of the Salaries and Remuneration Commission.

(By Mr. Okemo)

NOTICE OF MOTION

ADOPTION OF REPORT ON NOMINEES TO SALARIES AND REMUNERATION COMMISSION

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

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the following nominees for Appointment as Chairperson and Members of the Salaries and Remuneration Commission laid on the Table on Tuesday, 13th December, 2011:-

1. Mrs. Sarah Jepkemboi Chumo Serem – Chairperson
2. Hon. Oloo-Aringo, E.G.H.
3. Mr. Daniel Ogutu
4. Ms. Celestine A. Kiuluku
5. Mrs. Serah Kinyua

6. Brig(Rtd) Samuel Ndururi Kirugi
7. Mr. Jason A.N. Namasake
8. Mrs. Jacqueline Mugo
9. Mrs. Ann Elizabeth Owuor
10. Mr. Joseph Kinyua, CBS
11. Mr. Wanjuki Muchemi, CBS
12. Mr. Titus Ndambuki, CBS.

QUESTIONS BY PRIVATE NOTICE

PREMATURE ISSUANCE OF CIRCULAR ON LAND DISPUTE/TRIBUNALS/LAND APPEALS COMMITTEES

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

(a) Is the Minister aware that Circular Letter No. CLR/R/2/52 dated 31st October, 2011 by the Commissioner of Lands suspending the functions of all Land Dispute Tribunals and Land Appeals Committees in the country is premature on the grounds that the Land Court has not been operationalised and the Chief Justice or Chief Registrar has not issued any directions?

(b) Could the Minister rescind the directive and await operationalisation of the Land Court and issuance of directions by the Chief Justice to enable the Tribunals resolve pending disputes?

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

(a) The Minister is aware of Circular Letter No. CLR/R/2/52 dated 31st October, 2011 by the Commissioner of Lands suspending the functions of all Land Dispute Tribunals and Land Appeals Committees in the country. This is not premature because it is based on Environment and Land Court Act, which established the Environment and Land Court in accordance with Article 162(2)(b) of the Constitution as enacted by Parliament in August, 2011. The Act commenced on 30th August, 2011. Section 31 of the Environment and Land Court Act repealed the Land Disputes Act, 1990. This means that the Land Disputes Tribunals and the Land Appeals Committees legally ceased to exist as at 30th August, 2011.

(b) The decision by the Commissioner of Lands will not be rescinded as doing so will be breaking the law. Modalities of establishing the Environment and Land Court are already under discussion by the Judicial Service Commission.

Mr. Olago: Mr. Deputy Speaker, Sir, there is concern about the disbandment of the Land Disputes Tribunals and the Land Appeal Committees. This Question is based on a memorandum by members of the Kisumu East District tribunal signed by Mr. Martin Ndong'a Chan and Mr. Atian Siala, which I would like to table and in which they say that the tribunal elders are in confusion because the Government has not given them enough time to clear their offices, which they have held since 2003. There are quite a number of cases pending which are either not finalized or have been heard partly.

*(Mr. Olago laid the document
on the Table)*

Mr. Speaker, Sir, I am afraid that the interpretation of the law by the hon. Minister is clearly wrong. This is because the communication by the Commissioner of Lands correctly says that all cases pending before the tribunals and appeals will, therefore, be dealt with on the orders of the Chief Justice. Clearly, the Environment and Land Court Act, which the hon. Minister has relied on states, in Section 30, Transitional Provisions:-

“All proceedings relating to the environment or the use and occupation of title to land pending before any court or local tribunal of competent jurisdiction shall continue to be heard and determined in the same court until the Environment and Land Court is established and operationalized by the directions of the Chief Justice.”

Mr. Speaker, Sir, as I speak now, the hon. Chief Justice has not issued any directions. Is the Minister aware that in disbanding these tribunals, the Commissioner of Lands was breaking the law?

Mr. Orengo: Mr. Speaker, Sir, I have no problem with the interpretation that my learned friend is giving. However, the reason why these tribunals and committees were suspended - you can see from that circular, the operative word is that their activities have been suspended - was because this Act was meant to deal with the mischief that it was dealing with. There were many complaints made against Land Disputes Tribunals and Lands Appeal Committees. It was felt that now that there is a new Act in place, the establishment of the Environment and Land Court would be expedited.

If the hon. Member will bear with me, there have been a lot of correspondences and discussions between me, the hon. Attorney-General, the Minister for Justice, National Cohesion and Constitutional Affairs, the Minister for Environment and Mineral Resources together with the office of the Chief Justice to expedite the establishment of these courts. As we speak today, a lot of work that these tribunals have done has clogged the courts because previously, they went overboard; in fact beyond their jurisdiction. Instead of going through a process that the superior court will be forced to deal with when it is established, we felt that the way forward was to suspend them and let the Chief Justice and the Judicial Service Commission establish these courts.

Indeed, according to the information I have, the Chief Justice has already appointed a judge to ensure that the process of establishing these courts is well underway. Without anticipating debate, I think the Minister for Justice, National Cohesion and Constitutional Affairs will also bring an amendment to enable the Chief Justice to appoint more judges so that we can have Environment and Land Court Judges in every county. That is formed from the basis that every district should be covered by the Environment and Land Courts just like the tribunals covered every district.

Mr. Olago: Mr. Speaker, Sir, while I agree that there were cases of mischief in many of the tribunals and that could be a reason for the Act, is it in order for the Minister to avoid answering the specific question which I asked? I read Section 30 of the Act which says that all cases shall proceed to be heard until the Chief Justice issues directions but those directions have not been given. Is he in order to do that?

Mr. Orengo: Mr. Speaker, Sir, I said at the beginning that I agreed with the interpretation of my hon. learned friend. However, I said that the continued operation of these tribunals, even within the Ministry of Lands is causing us a lot of havoc because everywhere these tribunals have been established they go beyond their mandate. That is they deal with matters that are not within their mandate. However, I agree with the hon.

Member that his interpretation is correct but the solution is to expedite the process. If the hon. Member would know the concerns I have had on this, as soon as this statute was enacted, hon. Michuki, hon. Mutula Kilonzo, hon. Attorney-General and myself engaged in expediting the appointment of this court which is quite distinct and separate from the High Court although it is a Superior Court.

Mr. K. Kilonzo: Thank you, Mr. Speaker, Sir. While we appreciate the good and noble intentions of the Minister, during the intervening period; that is between the suspension of these tribunals and when these courts will be operational, majority of Kenyans will be suffering. Why can he not consider giving latitude for the tribunals to work during the intervening period up to the time that the courts will be set up? This is because when the Minister says that there will be courts in every county and they are not there, poor Kenyans continue to suffer. Could he consider allowing these tribunals to continue or look for a way of resolving land issues?

Mr. Orengo: Mr. Speaker, Sir, if you look at the law, you will find that the request should be put before the Chief Justice. I think those provisions were read clearly by my hon. Friend. That is Section 32 of the Act. However, I am saying that having these tribunals in place will be at an extra cost to the Exchequer. We have not been paying them because we do not have the money. After we establish the superior courts they will be remunerated by the Judiciary. They will have a Judicial Fund. I think it is more cost effective to have these courts in place instead of allowing the tribunals to continue. They are continuing at the expense of, not really resolving the issues that concern the common *mwananchi*, but creating more log jam in our judicial system.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. You have just heard the Minister say that these requests should be put to the Chief Justice. Is he in order to refer us to the Chief Justice when we are asking him this as the Minister in charge of this docket? The Chief Justice, being in the same Government that he works in should agree on a mechanism of expediting this process so that Kenyans can be served instead of referring Members of Parliament to the Chief Justice.

Mr. Orengo: Mr. Speaker, Sir, although the Attorney-General is not up on his feet, he wanted to give information on this because he has been working more closely with the Chief Justice. He will give---

Mr. Speaker: Order, the Member for Ugenya! How do I know that the Attorney-General wants to give information?

The Attorney-General (Prof. Muigai): With your permission---

Mr. Speaker: Order, Mr. Attorney-General! What we normally do is to get up on your feet and say "point of information" from where you are!

Mr. Orengo: Mr. Speaker, Sir, in fact, I was saying all that as a preamble. I was not giving---

Mr. Speaker: Mr. Attorney-General, say "point of information".

The Attorney-General (Prof. Muigai): On a point of information, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker: Very well! Proceed!

The Attorney-General Prof. Muigai: Mr. Speaker, Sir, I want to inform my learned senior, the hon. James Orengo, that as late as last week, I engaged the hon. Chief

Justice on this question. We had a very lengthy and fruitful meeting. I think it would be premature to say that the issue has been resolved but he is very aware of it. He advised me that he is taking counsel from his chief officers and definitely, within the New Year, this transition will be complete.

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

Mr. Mwangi: Thank you very much, Mr. Speaker, Sir. While we agree with the Minister and the Attorney-General, the simple question that was put by the hon. Member is whether the Minister could rescind the directive as an intervention between when these courts will be established and when they will become operational? Could the Minister tell us whether he is taking any steps to consider the poor Kenyans who will have to wait for the courts to be in place?

Mr. Orendo: Mr. Speaker, Sir, the simple answer to the simple question was that I will not rescind.

Mr. Olago: Mr. Speaker, Sir, I do respect hon. Minister Orendo very much. However, insisting that he will not rescind the Commissioner's directive is wrong. This is because despite everything else he has said, the fact still remains that Section 30 of the Act has not been complied with.

But it is quite satisfying to hear the Attorney-General saying that the matter is receiving attention from the hon. Chief Justice. I leave the matter at that.

Mr. Speaker: Very well! In that case, hon. Orendo, the matter must rest.

Mr. Orendo: Mr. Speaker, Sir, in fact, I just did not want to go into giving the House information which really I should not be giving at this stage. However, it is a complete separate court. But in the meantime, I would ask hon. Member for Kisumu to bear up with me. He normally brings a lot of Questions on land issues. Quite honestly, the tribunal in his district has not been dealing with them effectively other than asking for their allowances. So, within a month, he will no longer be bringing those Questions about allowances, but he will be asking whether the court is doing its work or not.

Mr. Speaker: Member for Juja!

DAMAGING OF ROADS IN JUJA BY SHENGLI ROAD CONTRACTORS

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

(a) Is the Minister aware that trucks belonging to M/s Shengli Road Contractors have severely damaged several roads in Juja Constituency as they transport materials for the ongoing construction of Thika Road?

(b) Are there plans by Government or the contractor to repair the affected roads and, if so, at what cost?

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

(a) Yes, I am aware that M/s Shengli Road Construction Company has been using the section of Road, D397 commonly known as Kenyatta Road about six kilometres in Juja Constituency for transporting construction materials to Thika Road. This has contributed to the damage of that road.

(b) I am not exactly able to indicate the cost of repair because it has to be assessed by my Ministry. As soon as that is assessed, I will be able to indicate the cost of repair for

that road. I will not hesitate to indicate that the road is available to other users, not Shengli Construction Company alone.

Mr. Kabogo: Mr. Speaker, Sir, as I thank the Minister for his answer that has done very little to my Question, I want to inform him through the Chair that I did write to the officers in his Ministry, asking about the damages caused to roads in Juja by this contractor. I may inform him by tabling the letter from the Ministry.

*(Mr. Kabogo laid the document
on the Table)*

They are three roads. If I may name them they are: UR15, E495 and E435. The cost of repairs that are expected to bring them back to normal is indicated there. So, may I ask him to have a minute and look at it. Could he confirm to the House that these repairs will be done to bring the roads back to the state they were? We have used taxpayers' money to repair these roads. The contractor has completely messed these roads. May he give an undertaking to the House when those roads will be repaired?

Mr. Bett: Mr. Speaker, Sir, as I have always endeavoured, as able as we are enabled by the Exchequer, we will repair our roads. So, once the assessment is done, and to my knowledge I think it is only D397---

Mr. Speaker: Order, Minister! The Member for Juja has given you information, including a document that he has tabled, which, in fact, gives you the information that you are saying: "Once the assessment is done---". Your officers, in fact, have done the assessment. So, is it a situation where the left hand does not know what the right hand is doing?

Mr. Bett: Mr. Speaker, Sir, I must indicate that I am not aware of that letter. So, I cannot claim I know it. You may as well be right by saying the left hand does not know what the right hand is doing. However, be that as it may, my Ministry's undertaking is that the road will be repaired once the contractor has come to the conclusion of the construction works, which he is involved in at the moment.

Mr. Speaker: Mr. Minister, I find that letter admissible. So, take it seriously. Yes, Member for Mutito!

Mr. K. Kilonzo: Mr. Speaker, Sir, looking at the letter which has just been tabled, the Ministry of Roads is confirming that this particular contractor has actually damaged this road, what happens to the issue of axle weights? Does the Ministry enforce the issue of axle weights so that, that particular road is not damaged? Did this contractor contravene that?

Mr. Speaker: Order, Member for Mutito! This is Question Time. You have asked a very good question so far. Now let the Minister answer it.

Mr. Bett: Mr. Speaker, Sir, I agree with the Member that our transporters, not only Shengli Construction Company, do not comply with the law. They always disobey the law. That is why we are using a lot of money to build weigh bridges. This is a serious matter. I would urge our people to appreciate the importance of protecting our roads.

Mr. Speaker: Order, Minister! So, what are you doing to enforce the law?

Mr. Bett: Mr. Speaker, Sir, we will handle the matter at the right time.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the able Minister for giving a very positive reply on this Question, could he indicate to this House, the very deterrent

measures he is taking to make sure that further destruction and damage on these roads will be stopped?

Mr. Bett: Mr. Speaker, Sir, I have already issued instructions that in the meantime the potholes must be looked after by the contractor. Any damage on the road must be looked after by the contractor. I want to assure the House that by March next year, this contractor will be out of that road. That is the time I have given instruction for him to repair that road.

Mr. James Maina Kamau: Mr. Speaker, Sir, other than Juja Road that has been destroyed by the contractors, we have other roads which have been damaged by constructors. A good example is Kambiti-Mariira Road especially the water piping has been damaged by Put Sarajevo. What is the Ministry doing to make sure that the people of the area are compensated, or given proper services?

Mr. Bett: Mr. Speaker, Sir, yes, I agree with the hon. Member. However, in the same vein, I wish hon. Members were also concerned that other road users like log hauliers, people who remove logs from our forests also destroy our roads. So, I will only repair those as soon as those contractors move out of the site and I get funds from the Exchequer.

Mr. James Maina Kamau: On a point of order, Mr. Speaker, Sir. I asked the Minister about that road whose water infrastructure has been damaged by a certain contractor. What is the Ministry doing to make sure that the pipings are replaced by that contractor?

Mr. Bett: Mr. Speaker, Sir, I agree with you. However, I am wondering why those pipes are on the road.

Mr. Duale: Mr. Speaker, Sir, I think it is within the mandate of the Ministry of Roads and the many companies that do road constructions in this country to sign contractual agreements that contain issues to do with pollution, environment and road damage. Could the Minister confirm what procedures he follows, so that the said companies work within the contractual obligations?

Mr. Bett: Mr. Speaker, Sir, that is true. They are under obligation to repair the road as they are using it to ferry their materials. They will finally repair it, when they will be leaving.

Mr. Kabogo: Mr. Speaker, Sir, you have heard the last sentence by the Minister that they are under obligation to continue repairing those roads. If you read the document that I tabled, it simply says: "The following are the roads damaged by Shengli." Could the Minister give an undertaking to this House that he will order Shengli or whoever it is to continuously repair these roads? We do not have logging in Juja. We have residents using these roads and they are suffering. Can he undertake to do that?

Mr. Bett: Mr. Speaker, Sir, yes, I agree that there is no logging in Juja, but there is logging elsewhere in the country, which is destroying our roads. Yes, I undertake that continued maintenance of the road be undertaken by the contractor.

FACILITATION OF CULTURAL GROUPS
FROM MUMIAS CONSTITUENCY

Mr. Washiali: Mr. Speaker, Sir, I beg to ask the Minister of State for National Heritage and Culture the following Question by Private Notice.

(a) What were the modalities for facilitating the Cultural Groups that have been invited to participate in the 2011 Kenya National Music and Cultural Festival held in Nairobi from 6th to 12th December, 2011?

(b) How much money has been allocated to the five Cultural Groups/Dancers from Mumias Constituency, who are representing Western Province?

(c) Could the Minister provide a list of the groups that participated and received awards in the event in 2010?

(Mr. Kabogo stood up in his place)

Mr. Speaker: Order, Member for Juja! You know that I have already called Question No.3 by Private Notice. So, we will proceed accordingly.

Mr. Assistant Minister, please answer!

The Assistant Minister, Ministry of State for National Heritage and Culture (Mr. Ombui): Mr. Speaker, Sir, I beg to reply.

(a) I confirm that the groups that annually come to perform during the Kenya National Music and Cultural Festival are self-sponsored as they are responsible for their own transportation, accommodation and general upkeep during the festival, except where a formal commitment has been made by the festival organizers. This commitment is put in writing through the Provincial Directors of Culture to the teams which have qualified for the nationals.

Also allow me to state that these cultural groups are also advised to seek for sponsorship from other stakeholders to support them meet the costs of attending this event.

(b) Mr. Speaker, Sir, I wish to say that there is no money allocated to these cultural groups or dancers as stated above since there is a general understanding that the participants will take care of themselves during the festival.

Indicated below are the groups representing Western Province from Mumias Constituency in the nationals of the 2011 Kenya Music and Cultural Festival. They are:-

- (i) Ekama Cultural Group;
- (ii) Lukoye Cultural Group;
- (iii) Mumias Cultural Group;
- (iv) Ichinga Cultural Group; and,
- (v) Kungwani Adult Learners.

(Mr. Nyambati was applauded as he entered the Chamber)

(c) Mr. Speaker, Sir, I am glad to inform you that last year the following cultural groups from Mumias Constituency received certificates and/or trophies. These groups were:-

- (i) Ekama Cultural Group;
- (ii) Mumias Cultural Group;
- (iii) Nabii Cultural Group;
- (iv) Ichinga Cultural Group;
- (v) Lung'anyiro Cultural Group;
- (vi) Lukoye Cultural Group; and,

(vii) Mumias Municipal Cultural Group.

Mr. Speaker, Sir, may I conclude by stating that this festival draws its major participants from the local communities who create and own these cultural expressions that are showcased during the many other occasions. Significantly, these communities form a potential hub for most entrepreneurs who are now targeting the rural communities for future cultural markets.

Mr. Washiali: Mr. Speaker, Sir, I want to take this opportunity to thank the Assistant Minister for the answer. However, this country is in dire need to achieve national cohesion and integration. I have been looking at the budget for the Ministry and true to his word they have not budgeted for the national event. In Mumias we have five groups that represented us in the last even and each group has about 30 people. How does he ask the groups to raise such a huge sum of money? Why is he not able to factor this in the national Budget like the Ministry of Education has done?

Mr. Ombui: Mr. Speaker, Sir, I agree with the hon. Member that we do not have a budget for the same, but the Ministry of Education has within its budget an element which is concerned with these activities. That is why they are able to cater for the operations.

Mr. Koech: Mr. Speaker, Sir, this country is rich in culture and this Ministry is expected to promote that culture. We find the culture right in the village, where the very needy actually do participate. Could the Assistant Minister confirm that come next year, because they are supposed to promote this, he will include it in the budget so that Kenyans can fully participate in this programme?

Mr. Ombui: Mr. Speaker, Sir, we always include this in the Budget, but our budget is reduced. I would only request the hon. Members to assist us in passing the same Budget so that we can include it.

Mr. Speaker: Yes, the Member for Mumias!

Mr. Washiali: Mr. Speaker, Sir, before they come for the national event they participate in the district and provincial events where they have to qualify to come to the national event. The amount that is required by the groups is huge and I am sure that even in the Assistant Minister's constituency there are groups that are not able to afford to come to Nairobi. Is he then saying that we will not take care of the cultural practices of those groups that cannot get sponsorship?

Mr. Ombui: Mr. Speaker, Sir, the simple answer is "Yes." Before these groups come to Nairobi for national music festivals, we just give them a syllabus and regulations. In the event that they cannot sponsor themselves, they can just abstain from coming.

EXPENDITURE ON ANIMAL OFF-TAKE PROGRAMME

(Mr. Sirat) to ask the Minister for Livestock Development:-

- (a) How much money has been used in the Animal Off-take Programme since 2008?
- (b) Could the Minister provide a list indicating how the money has been used and state the number of livestock bought?
- (c) How many animals died during the last drought in Northern Kenya and what specific measures has the Ministry taken to address the situation?

Mr. Speaker: Is the Member for Wajir South not here?

(Mr. Speaker consulted with the Clerk)

Order, hon. Members! I have information that this Question, in fact, may not have been brought to the fore until this morning. So, it is possible that for that reason the Member for Wajir South was not aware that it would appear on the Order Paper.

In the circumstances, therefore, I will defer it until such a time that we have indication from the Member for Wajir South that he will be available to ask the Question. So, it is deferred infinitely.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.903

LIST OF EDUCATION ATTACHÉS IN KENYAN EMBASSIES

Mr. Kaino: Mr. Speaker, Sir, regarding this Question, I met the Minister this morning at around 7.00 a.m. and he told me that it was misdirected. He told me that it was supposed to have been directed to the Ministry of Education since it is on educational attaches.

Mr. Speaker, Sir, it is only your direction which will help us now sort out this Question, because it has been on the Order Paper for the last two months.

Mr. Speaker: Very well! You have made your point, hon. Kaino. Hon. Members, I have received a letter from the Minister for Foreign Affairs and he indicates that he will not be available to answer the Question today because he has had to travel to a country in the Middle East maybe to seek some support for us in the effort that we are undertaking in Somalia. So, it is understandable why the Minister is not here. His Assistant Minister has also been dispatched to the region I think for similar reasons. So, I will defer this Question to Thursday, next week, because the Minister says that he will be available to answer it next week and he does not say that he is unable to answer it. So, I will defer it for an answer on Thursday, next week. Please, note the Member for Marakwet West!

(Question deferred)

Question No.964

ENFORCEMENT OF SECTION 53 OF EMPLOYMENT ACT

Mrs. Odhiambo-Mabona asked the Minister for Labour:-

(a) when he will make regulations under Section 53 of the Employment Act on activities that are deemed harmful to the health, safety and morals of a child between 13-16 years of age; and,

(b) what is considered “light work” that a child can undertake under the law.

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

When this Question came up last time, the Attorney-General promised that he was going to fast-track the gazettelement of those draft rules, which we have already presented to him. I have just talked to him right now. He has said that by Friday, he will have gazetted those draft rules and regulations. So, Mrs. Odhiambo-Mabona should bear with us a little while again.

Mr. Speaker: Mrs. Odhiambo-Mabona, you have an undertaking there to act by Friday.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, if the matter could be listed for next week--- That is because when this matter came up last time, we got the same reply. The Attorney-General was to gazette the already drafted regulations. Currently, children are working without clear guidelines as to what is light work that children should perform. Many children are out of school because we do not have those regulations. So, could he give an indication on whether he can give us a response within a week’s time?

Mr. Speaker: Yes. I direct that this Question be listed on the Order Paper for Wednesday next week so that, that position is confirmed.

(Question deferred)

The hon. Member for Naivasha!

Question No.920

STATUS OF POST-ELECTION VIOLENCE CASES

Mr. Mututho asked the Attorney-General:-

(a) how many cases relating to the 2007/2008 Post Election Violence (PEV) have been investigated and forwarded to the Attorney General with recommendations to prosecute, how many have been successfully prosecuted and what the status of each case is,

(b) what measures are in place to fast-track all investigations and prosecutions relating to PEV before the 2012 General Elections; and,

(c) what legal measures have been put in place for the protection of witnesses involved in the ICC investigations.

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

Further to your directions on 23rd November, 2011, and my undertaking to provide the House with data relating to sexual offences and incitement cases in relation to the Post-Election Violence (PEV), I have consulted the Director of Public Prosecutions and he has availed to my office the following data:-

(i) A total of 369 cases relating to sexual gender based violence were reported---

Mr. Mututho: On a point of order, Mr. Speaker, Sir. When this Question came last time, you ordered that I be supplied with documents, at least, three clear days before the reply. I have an 86 page document which was given to me this afternoon. It would be very difficult for me, with due respect, to go through the document and respond accordingly. Shall I be in order, therefore, to request that we have this Question tomorrow so that I can ask the specifics?

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I would also request that, as you give direction to the Attorney-General, whether he could indicate why some cases were withdrawn. Most of the cases relate to defilement and it means there were sexual abuses against children. Most of them were withdrawn without giving any reasons. So, could he, even in giving that response, indicate why most cases of rape against children were withdrawn?

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

Mr. Speaker: Order! The hon. Member for Gem is engaging me. I am trying to plead with him that he can come to my office, but he does not want to follow. What is it hon. Member for Naivasha?

Mr. Mututho: On a point of order, Mr. Speaker, Sir. I was just going to do exactly that because it is not fair. You are neighbours in your offices up there.

Mr. Speaker, Sir, please give direction. We have an 86 page document which has been produced this afternoon. Your ruling was that I be given three clear days so that I can be able to respond. Mrs. Odhiambo-Mabona has also brought up other issues. She has said that there are so many cases of defilement which have been withdrawn. It would be good, while you are giving direction, to know why so many cases were withdrawn. That is according to this document.

Mr. Speaker: Very well. How long do you think you need, in your estimation, having looked at that document?

Mr. Mututho: Two days. Thursday afternoon will be good for me.

Mr. Speaker: I so direct; Thursday 2.30 p.m. Attorney-General, please, note to be present in the House.

Hon. Member for Bura!

Question No.1247

ILLEGAL MINING OF GYPSUM IN
BURA CONSTITUENCY

Dr. Nuh asked the Minister for Environment and Mineral Resources:-

(a) whether he could confirm that all the companies undertaking Gypsum mining in Bura Constituency are contravening mining laws;

(b) whether he could also confirm that all communities in Bura were to be involved and consulted when allowing the companies to resume operations and, if so, why the companies were allowed to resume operations without such consultation; and,

(c) how many companies have now been cleared to resume mining and whether he could table the letters ordering the stoppage of mining activities by the companies as well as the letters lifting the ban.

The Assistant Minister for Environment and Mineral Resources (Mr. Murgor): Mr. Speaker, Sir, I beg to reply.

(a) Although several companies have been licensed to prospect for Gypsum in Bura area of Tana River County, the Ministry has noted that there are some companies which are carrying out prospecting and mining activities without licences. There are also companies which are using exploration licence to carry out mining activities contrary to the Mining Act, Cap. 306 of the Laws of Kenya. On 1st October, 2010, the Ministry issued a directive to all District Commissioners (DC) and Officers in Charge of Police Divisions (OCPDs) to investigate and arrest anyone found to be prospecting and/or mining without relevant licences. A list of licensed miners was provided to guide the crackdown on the illegal operations. Mining companies are responsible for rehabilitating mined areas as stipulated in the Environmental Management Plans that they submit. The District Environment Officers ensure that mined areas in their respective areas of jurisdiction are rehabilitated by the mining companies.

(b) Among the conditions for issuance of prospecting and mining licences is the requirement for land owners' or communities' consent as the people to be affected by the intended activity. Local community consultation is also a requirement during Environmental Impact Assessment (EIA) process. As a result, local community consultations and negotiations with the companies were part of the prerequisite conditions for allowing companies to resume operations.

Mr. Speaker, Sir, after a fact-finding visit by the mining group from 10th to 11th May, 2011, National Environment Management Authority (NEMA) issued Stop Orders on mining activities in Bura District vide letters referenced NEMA/5/4/Vol.II of 16th May, 2011 to eight companies namely; Yamata Gypsum Limited, Hilaa Mining Company Limited, Dajachana Mining Company, M/s Fataha Mining and Construction Company Limited, Delta Mining Company, Wakasha Mining and Construction Company Limited, Amka Ventures Limited and Athi Stores Limited.

NEMA ordered those companies to:-

(i) Immediately stop mining activities in Bura District until they adequately decommissioned the previous sites to the satisfaction of the Environmental Inspectors.

(ii) Carry out Environmental Impact Assessment for any new mining sites and where EIA licence will be issued, licence conditions will be strictly adhered to.

(iii) Fence off the disused excavations in accordance to the Mining Safety Regulations No.4(i) parts (a) and (e); and,

(iv) Erect beacons at the new sites bearing the details of the company and all relevant licence numbers according to Mining Safety Regulations No.23 and No.24.

Since then NEMA and other relevant Government department officers have made three visits to the area on 9th June, 6th July and 20th July 2011 accompanied by the local communities to assess compliance of the mining companies with the order.

(c) Of the eight companies issued with Stop Orders by NEMA, five of them namely, Hilaa Mining and Construction Company Limited, Dajachana Mining Company, Delta Mining Company, Wakasha Mining and Construction Company Limited and Athi Stores have been cleared to resume mining. Letters for lifting the ban for the first four companies are referenced

NEMA 5/11/Vol.II of 20th July, 2011, whereas for Athi Stores it is referenced NEMA/EA/5/2/4738 dated 16th January, 2011.

In addition, NEMA vide letter NEMA/5/7/Vol.III, dated 26th July, 2011 gave M/s Fataha Mining and Construction Company Limited two months' authority to transport the mined Gypsum.

Thank you, Mr. Speaker, Sir.

Dr. Nuh: Mr. Speaker, Sir, this has been a very long journey, and I just want you to bear with me. I raised this issue in February, 2009, and the then Minister gave an assurance to this House that he was going to visit Bura, and that the problems that bedevil the mining industry in Bura were going to be something of the past. The Ministry did nothing and I raised again this issue in October, 2010; that was one-and-a-half years down the line, when the Assistant Minister, Prof. Kamar, was then compelled to visit Bura to give an assessment of what the mining of gypsum in Bura Constituency was like.

Mr. Speaker, Sir, last November, when the Assistant Minister was answering the Question, you gave an order that, among other things, this Assistant Minister should provide the reports by NEMA that cleared the companies and allowed them to resume operations, and also give evidence of consultations with the local communities that allowed the so-called lifting of the ban that was then enforced by NEMA. What the Assistant Minister has done is only to re-read the answer. So, where are the documents that you were asked to table in this House?

Mr. Murgor: Mr. Speaker, Sir, according to the records we have, Bura people were consulted on 15th September, 2010, during Environmental Impact Assessment (EIA) in various places, and also by various agencies, including NEMA, the Kenya Forest Service and the Coast Development Authority. Also---

(Mr. Duale stood up in his place)

Mr. Speaker: What is it, hon. Member for Dujis?

Mr. Duale: On a point of order, Mr. Speaker, Sir. The Assistant Minister was asked by my colleague to table the NEMA reports and the minutes of the consultations held between the people of Bura, the mining companies and the Ministry of Environment and Mineral Resources. Is The Assistant Minister in order? He is saying that consultations were done; can we have evidence of that? Can he table in the House documents showing when this was done? We want to see the minutes. Thank you, Mr. Speaker, Sir.

Mr. Speaker: Order, Assistant Minister! That is a legitimate challenge; I want you to recap from the HANSARD of 3rd November, 2011, when this Question was again before the House. This is what we asked you in reaction to the point of order by Dr. Khalwale, the hon. Member for Ikolomani:-

“Mr. Speaker: Assistant Minister, what is your reaction to the plea for the Question to be deferred so that you table, among other things, the NEMA report and evidence of consultations with the community?”

That was a question from me and you wavered. You said you thought you had answered. Of course, if you had answered, I would not have been giving you those directions. The final order then was:-

“Mr. Speaker: Order, Assistant Minister! You know that you have not answered this Question adequately. I will defer this Question to three weeks away. Assistant Minister, it will appear on the Order Paper. Come prepared

to table, among other things, the NEMA report and evidence of consultations with the communities.”

(Applause)

It is that clear, Mr. Assistant Minister! You have had three weeks to do this and, apparently, you have not done it! So, if you do not have a satisfactory account, then maybe you just want to ask for more time.

Mr. Murgor: Yes, Mr. Speaker, Sir, I will ask for more time to avail those necessary materials.

*(Several hon. Members stood up
in their places)*

Mr. Speaker: Fair enough. Before you go back to look for those materials, you have to take two more points of order, which you may have to take home with you, as part of your homework, beginning with the hon. Member for Garsen.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. I wish to refer to this letter, which I wish to table; it has not been tabled. It is dated 19th November, 2011, and addressed to the Permanent Secretary, Ministry of Environment and Mineral Resources, which the Assistant Minister should be aware of. These are the minutes of the Environmental Committee held at Karidende on 19th November. We had people like the chief, the area councillor, Abdi Mogow, and many hon. Members here. The community in this letter – I want the Assistant Minister to take a copy of it – are saying that there was no notification given to the residents on the resumption order. There were no consultations. In fact, there was no effort at trying to reconstitute the areas that had been destroyed before the previous stoppage order he had given, yet, according to his answer, the Assistant Minister is telling us that there were local community consultations. Now, this community is saying that they were not consulted. Is he in order? I want him take this letter and look at it.

*(Mr. Mungatana laid the document
on the Table)*

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

Mr. Speaker: What is it, hon. Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, the Assistant Minister had ample time if he wished to respond to the concerns in this Question. It only shows that the Assistant Minister is not willing to answer it; this Question was deferred for three weeks from the 3rd of November, 2011, and today it is 13th of December, 2011; it is now one and-a-half months since this matter was deferred for the Assistant Minister to go and get adequate information. Last week, the Assistant Minister was here and he said that he needed more time.

So, I would seek your indulgence; it seems the Assistant Minister is not ready to answer the Question, because he has no information. The information he says he is seeking is the information they used to lift the ban! They said they lifted the ban because

the companies complied with the requirements, and that is in their report. Are you convinced that this Assistant Minister actually needs some more time to respond to this matter?

Mr. Speaker: Order! Member for Bura, I am convinced that this Assistant Minister needs more time for obvious reasons that he is still very new in the Executive. So, he has not learnt the ropes. He will need time to go and find that information. Maybe that is the more reason why his immediate senior is leaving this matter to him. So, even as he carries that responsibility, let him do so, from a position of knowledge. Give him enough room to do whatever he wishes to do with it.

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

Mr. Speaker: What is it again, Member for Bura? Do not be too persistent!

Dr. Nuh: On a point of order, Mr. Speaker, Sir. These mining activities are hurting the communities in Nanig Location. I see in this an attitude by the Assistant Minister that he wants to buy time. I just want to refer you to a letter that was written by the same Ministry.

Mr. Speaker: Order, Member for Bura! Have I not really covered that? This Assistant Minister is new. In fact, he is not even six weeks old in this portfolio. Surely, you must give him some accommodation and a bit of tolerance. If it was the substantive Minister, hon. Michuki, then you would have said, yes, he has been with this matter since October or September. However, hon. Rev. Murgor, is only six weeks old. Be fair to him! He is your colleague also in the House.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Going by your words, it reminds me of the days when I was in school. The Assistant Minister is an equivalent of a Form One student. Form One students were called “monos” and they used to be given mentors to train them, so that they could catch up fast. Could I suggest that hon. Ojode becomes his mentor?

Mr. Speaker: Fair enough!

Dr. Nuh: On a point of order, Mr. Speaker, Sir. With your indulgence, I do not want to be persistent, but when the Assistant Minister was being appointed, the appointing authority must have looked at the qualities of an Assistant Minister. So, an Assistant Minister who is six weeks old should have learned the ropes by now. I just want to read the letter that was written by the Authority. It says that the Authority has since reviewed the inspection team’s finding and is satisfied that adequate mitigation measures have been put in place to address the concerns that led to the closure. This is a letter from the Ministry. It must be on the findings of a report within the Ministry’s docket. So, if providing information to this House that is in the locker of the Assistant Minister is becoming difficult, can he really perform?

Mr. Speaker: Order! Member for Bura, I do not think you are being kind to him. However, from my position, I will extend some indulgence to the Assistant Minister and allow him another week to bring that information. I am sure he is equal to the task. He will learn. That is why he was elected by the people of Kapenguria because he has capacity. So, do not cast aspersions. Just be fair to him. You have one week, Assistant Minister. Please, address those concerns even as you come back.

(Question deferred)

Question No.956

ALLOCATION OF MONEY TO MATUU/YATTA
POLICE STATIONS

Mr. C. Kilonzo asked the Minister of State for Provincial Administration and Internal Security whether he could indicate the amount of money allocated to Yatta and Matuu police stations for fuel and vehicle maintenance in the last three financial years.

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

The department does not issue funds directly to police stations, but through their respective Officers Commanding Police Divisions (OCPDs). The disbursement of funds for purchase of fuel and maintenance of motor vehicles for OCPD, Machakos and Kangundo, under which Yatta and Matuu police stations are, were facilitated in the last three years as follows:-

In 2008/2009, Machakos received Kshs3,150,000 for fuel and Kshs800,000 for maintenance making a total of Kshs3,950,000. In 2009/2010, Machakos received Kshs4,250,000 for fuel and Kshs1,370,000 for maintenance, making a total of Kshs5,620,000. In 2010/2011, Kangundo received Kshs1.2 million for fuel and Kshs540,000 for maintenance, making a total of Kshs1,740,000. In 2011/2012, Kangundo received Kshs2.4 million for fuel and Kshs960,000 for maintenance, making a total of Kshs3,360,000. The total amount of money disbursed for fuel during the three years comes to Kshs11 million and Kshs3,670,000 for maintenance. That gives us a total of Kshs14,670,000.

The OCPD is allowed to use his discretion in determining the levels of allocation of fuel and other resources to the police stations under his command.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. If you look at the Question, it is very specific. It has asked how much money has been allocated to Yatta and Matuu police stations. The Assistant Minister has given the disbursements for the entire county. In the answer, he says that: "The OCPD is allowed to use his discretion in determining the levels of allocation of fuel and other resources to the police stations under his command". That is the reason in the first place. After the OCPD used his discretion, how much money was given to Yatta and Matuu police stations over the last three financial years?

So, is he in order to avoid the facts as requested?

Mr. Speaker: Order, Assistant Minister! I am actually satisfied that by that challenge, you have actually not provided the information that you have been asked here. Instead, you have concealed that information under the OCPD. That cannot be good enough.

Mr. Ojode: Mr. Speaker, Sir, that is so because we do not issue money to OCSs. We give Authority to Incur Expenditure (AIEs) to the OCPDs. Then the stations that fall under the OCPD get money according to the need. That is why I said that it is the OCPD-

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

Mr. Ojode: Let me finish first!

Mr. Speaker: Order, Assistant Minister! You do not have that authority!

Mr. Baiya: On a point of order, Mr. Speaker, Sir. This is a classic case of an Assistant Minister taking this House for a ride. He is being asked how much money was allocated or used by the two police stations. This is information within his knowledge in the sense that even if the entire amount was allocated to the OCPD, he is still under duty to account to this House how that money was utilized and how much was received by these two police stations. We want to see how fair this system was. Is he in order to avoid doing that?

Mr. Ojode: Mr. Speaker, Sir, I think the Member's question is genuine. Out of what we had given to the OCPD, I will check how much he gave to these two stations. The Member is right. So, I can give that information tomorrow morning.

Mr. Speaker: Order! Assistant Minister, if you read the Question and looked at the answer given to you, maybe by your officers, you would immediately have noticed that you have not been given adequate information. So, instead of giving you until tomorrow, I want to give you until Thursday at 2.30 p.m., and really you must come with this information.

Mr. Ojode: That is fine, Mr. Speaker, Sir.

Mr. Speaker: Very well. I defer the Question to Thursday at 2.30 p.m. As I said, it should not be that difficult, Assistant Minister.

(Question deferred)

Question No.1419

LIST OF PROJECTS UNDERTAKEN BY
ENNSDA IN ASALS

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

(a) whether he could provide a per-constituency list of all projects/programmes undertaken by Ewaso Nyiro North and South Development Authorities in all ASAL Constituencies since 2008; and,

(b) whether he could also state how much money was spent on each of the projects and indicate the status of the respective projects.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Speaker, Sir, I beg the indulgence of the Chair and the House that I be given more time to answer this Question tomorrow in the afternoon. I have consulted the Questioner and we are in agreement that I answer the Question tomorrow in the afternoon, with your permission. I will have adequate information to answer the Question.

Mr. Speaker: You need more time to answer the Question. Member for Dujis, are you prepared to accommodate the Assistant Minister?

Mr. Duale: Mr. Speaker, Sir, yes, I am, if it will be tomorrow in the afternoon as he has asked.

Mr. Speaker: Very well. I so direct!

(Question deferred)

Question No.1431

PROVISION OF VEHICLES/OFFICERS
TO MOYALE/SOLOLO DISTRICTS

Mr. M.M. Ali asked the Minister for Education:-

(a) whether he is aware that Moyale and Sololo District Education offices do not have official Government GK motor vehicles;

(b) whether he is also aware that the same districts do not have Deputy DEOs; and,

(c) when the Government will provide vehicles for the two districts and appoint Deputy DEOs.

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

(a) I am aware that the Sololo District Education Officer (DEO) does not have a motor vehicle, while two Land Rover vehicles which were allocated to the Moyale District Education Office in the year 2003 are grounded and require major repairs.

(b) I am also aware that some districts do not have Deputy DEOs. The Sololo DEO will be considered for a vehicle alongside other 100 DEOs who have no vehicles when the Ministry gets budgetary allocation from Treasury in the next financial year. As a temporary measure, the DEO, Moyale, has been directed to bring mechanical reports from the Ministry of Public Works regarding the two grounded vehicles, so that they can be repaired. After the repairs, one vehicle will be taken to Sololo District as one remains in Moyale.

(c) In line with the new Constitution, the Ministry is currently finalising the posting of the new County Directors of Education. Further to this, with availability of funds, the Ministry will hire more staff and post them to the districts, including Sololo and Moyale.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I feel a lot of pain listening to that answer. For the last four years, this Ministry has been in consultation with me on how to provide vehicles to Moyale and Sololo Districts. Today we are being told that the two districts will be provided with vehicles in the next financial year. Only in October, when His Excellency the President went to preside over the ground-breaking ceremony of the Moyale-Turbi Road, we appealed to him, so that we can be provided with vehicles for the Ministry of Education and the Ministry of State for Provincial Administration and Internal Security because of the difficult situation in the county.

The Ministry of State for Provincial Administration and Internal Security moved with speed and provided vehicles to many districts, including Sololo and Moyale. This Ministry, to-date, is dragging its feet. It is like they are disobeying the executive order given by His Excellency the President. What I need from the Ministry is to be certain that vehicles are going to be provided urgently, so that children in Moyale and Sololo Districts can get decent education like children in the rest of the country. I am not ready to receive answers such as “next financial year” only for the same to be postponed when we reach the next financial year, bearing in mind the fact that His Excellency the

President had personally directed this Ministry to avail the vehicles. What is the Assistant Minister going to do for these two specific districts in the meantime; before financial year 2012/2013, when he is going to provide vehicles to all other districts? Since His Excellency has given a directive, what is he going to do to make sure that the two districts get vehicles?

Prof. Olweny: Mr. Speaker, Sir, as I said, we are going to ensure that the two vehicles that are grounded are working. That is a directive we have given, so that we provide money, latest in January, 2012, to have those vehicles repaired, so that they can be in use. In the meantime, as I have indicated, Sololo District will be budgeted for in regard to acquisition of a new vehicle for it.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister has agreed to repair the grounded vehicles, could he indicate to this House how much money he has set aside for that purpose, so that immediately after he gets the mechanical report, the vehicles can be repaired and released to the relevant districts?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, that is an interesting question. I have said that once we get the report as to how much money will be required to repair the vehicles, the money will be available. We shall provide the money.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. M.M. Ali, you have the final chance to ask the Assistant Minister a question, if there is something you want clarified.

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, on part (b) of the Question, about Deputy DEOs, you realise that these are vast districts and they need adequate supervision. When we do not have vehicles for the DEOs to move around, and when we do not have Deputy DEOs, the supervisory function suffers. The Assistant Minister realises that DEOs are more often than not outside the districts, attending training and conferences. When we do not have Deputy DEOs, education suffers in the districts. The excuse has always been that we do not have qualified people in the Public Service to be appointed to fill those positions. What is he going to do to ensure that we get people who are competent enough to deputise the DEOs, so that our education does not suffer any more than it has already suffered?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the issue of lack of DEOs is a problem all over the country. Even in my constituency, we have only one DEO and one person who is supporting her. So, this is a problem which is affecting the whole country. We are asking the Ministry of State for Public Service and the Treasury to help us, so that we can have enough officers to handle the Ministry of Education across the country.

*[The Temporary Deputy Speaker
(Prof. Kaloki) left the Chair]*

[The Temporary Deputy Speaker]

(Mr. Mungatana) took the Chair]

Mr. M.M. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has told me that this is an issue which affects the whole country yet I was very specific. My Question is about Moyale and Sololo Districts. These are districts which have been marginalised from time immemorial. Sessional Paper No.10 of 1965 is on the marginalization of Northern Kenya and this Ministry continuously executes that marginalisation. We are not prepared to be kept in a perpetually marginalized situation. The new Constitution has enabled us to access resources, just like the rest of the country. He has told us that the issues of Sololo and Moyale Districts will be addressed alongside other districts. I am reliably informed that the Ministry of Education issued not less than 15 vehicles in the recent past. What is he going to do, in terms of upholding the principle of affirmative action, so that the Northern Kenya Districts, since they are vast, are given first priority when the Ministry gets a chance for appointments and vehicles?

Prof. Olweny: Mr. Temporary Deputy Speaker, is that really a point of order or another Question? Anyway, let me answer the Question that I was answering because what he has raised is a different Question.

The Temporary Deputy Speaker (Mr. Mungatana): Please, proceed and answer him.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the hon. Member asked about provision of Deputy DEOs in Sololo District. We shall provide the Deputy DEOs once we get facilitation from the Treasury to employ more staff members. As of now, we do not have the funds with which to employ them.

As regards qualifications and the quality of people we employ for that purpose, we employ qualified education officers. We do not just employ anybody to the position of Deputy DEO.

Thank you.

The Temporary Deputy Speaker (Mr. Mungatana): Next Question, Member for Manyatta; hon. Emilio Kathuri!

Question No.1359

MONEY RAISED FROM KPLC
PREFERENCE SHARE SALE

The Temporary Deputy Speaker (Mr. Mungatana): The information I have here is that hon. Kathuri is away on official duty. The Question is deferred to Thursday, next week.

(Question deferred)

Next Order!

MINISTERIAL STATEMENTS

The Temporary Deputy Speaker (Mr. Mungatana): We will do it this way. If there is a Minister who has a Statement, please, deliver it and then we will take the requests. We will also take any reminders for undelivered Statements.

SHOOTING/KILLING OF TEN PEOPLE IN SIRISIA CONSTITUENCY

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I was supposed to issue a Statement which was sought by Mr. Eugene Wamalwa. However, we had agreed with him that I issue it tomorrow morning because I did not carry it with me. You will remember, I was supposed to have issued it last week where I was authorized just to issue two Statements. So, because I take my work seriously, I will issue it tomorrow morning. We have actually agreed with Mr. Eugene Wamalwa, the presidential candidate, that I issue it tomorrow.

ASSISTANCE TO FLOOD VICTIMS

The Minister of State for Special Programmes (Ms. Mathenge): Mr. Temporary Deputy Speaker, Sir, I also had a Ministerial Statement but we have discussed with Mr. Ochieng and he needs further information on the Statement. So, we have agreed that I do it on Thursday.

The Temporary Deputy Speaker (Mr. Mungatana): Just for the directions of the House, please, if you are agreeing to postpone, we need to update the duty roster here. Kindly, let us be putting it on record so that we can update it accordingly.

Any requests?

POINTS OF ORDER

CONSTRUCTION OF SIGIRI/MULWANDA BRIDGES

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, mine is a reminder. Apart from the Statement that I had requested from Mr. Ojode, there was another Statement I had requested from the Ministry of Transport with regard to a boat that capsized in Budalangi and the construction of the Sigiri Bridge and Mulwanda Bridge. Mr. Kinyanjui had undertaken to make that Statement, but I have not seen him in the House. Could it also be given tomorrow?

The Temporary Deputy Speaker (Mr. Mungatana): Leader of Government Business? Can it be delivered tomorrow?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, let me undertake to inform the Minister to deliver this Statement tomorrow afternoon, if there is time.

The Temporary Deputy Speaker (Mr. Mungatana): Please, record that, tomorrow afternoon, a Statement from the Minister of Transport to Mr. Eugene Wamalwa.

Is there any other request or reminders?

UNCONSTITUTIONAL WITHDRAWAL OF FUNDS
FROM THE CONSOLIDATED FUND

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I also expected a Statement from the Attorney-General with regards to the issue of withdrawals of Government funds in this financial year before the Appropriation Act was assented to. The Attorney-General was supposed to bring this Statement last week. However, he was not in the House. I expected it today. I saw the Attorney-General, but he has not given any indication that he has the Statement.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Yes, it is, indeed, true that the Attorney-General was here. But knowing very well that he was out of the country on official duties, let me remind the Attorney-General tomorrow, so that he could give the Statement on Thursday, afternoon.

The Temporary Deputy Speaker (Mr. Mungatana): Mr. Mbadi, please, note that the Statement will be delivered on Thursday at 2.30 p.m. by the Attorney-General.

DEMOLITIONS OF BUILDINGS IN EASTLEIGH

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, I also wanted to raise an issue relating to a Ministerial Statement on the demolitions of which the Attorney-General was to present on behalf of the Government. We were told last week that he was away on Government business. I just wanted to know about the status of that Statement.

The Temporary Deputy Speaker (Mr. Mungatana): Leader of Government Business, that one has been pending for long.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, indeed, it is true that that particular Statement has been pending for long. Let me ask the Attorney-General to issue the same on Thursday, so that he will be able now to issue two Statements on Thursday.

The Temporary Deputy Speaker (Mr. Mungatana): Thursday at 2.30 p.m.
Next Order!

BILL

First Reading

THE COCONUT BILL

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

MOTION

ADOPTION OF REPORT ON DEMOLITIONS/ EVICTIONS AROUND AIRPORTS IN NAIROBI

THAT, this House adopts the report of the Joint Committee on Administration and National Security, Lands and Natural Resources, Local Authorities and; Transport, Public Works and Housing on the demolitions and evictions in Syokimau, Kyang'ombe, KPA, Maasai and Mitumba villages and Eastleigh laid on the Table of the House on Wednesday 7th December, 2011.

(Mr. Musyimi on 8.12.2011)

(Resumption of Debate interrupted on 8.12.2011)

The Temporary Deputy Speaker (Mr. Mungatana): May I get an indication on who was on the Floor on 8th December, 2011?

I am informed that the Motion was moved and the Mover concluded. Now we need the seconder.

Mr. Mututho: Mr. Temporary Deputy Speaker, Sir, it was not moved fully. I still had 25 minutes.

The Temporary Deputy Speaker (Mr. Mungatana): No. I think you are on the wrong Order. We are on Order No.9, Motion.

So, Mr. Kapondi, you are seconding?

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, yes, I am the one seconding.

The Temporary Deputy Speaker (Mr. Mungatana): Please proceed.

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion on the report of the Joint Committee on Administration and National Security, Lands and Natural Resources, Local Authorities and Transport, Public Works and Housing on the demolitions and evictions in Syokimau, Kyango'mbe, KPA Maasai, Mitumba villages and Eastleigh.

Mr. Temporary Deputy Speaker, Sir, as you know land is a very emotive issue. It is what causes problems the world over. Being that sensitive, it requires---

Mrs. Shebesh: On a point of order, Mr. Temporary Deputy Speaker, Sir. Much as I do not want to interrupt my colleague, I want to rise on a point of order as I did last time when this Motion was being moved, to ask for the respondents of this Motion who are the Government, especially the Ministries that are mentioned in this Report, whether it is in order for us to be debating such an important Motion that affects so many Kenyans and we do not see the relevant Ministries' representatives here?

The Temporary Deputy Speaker (Mr. Mungatana): Leader of Government Business, where are your Ministers?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the Minister for Lands said that he will be back in the Chambers and we are waiting to see him in the

Chambers. Regarding the Minister for Local Authorities, am afraid, I have not checked where he is, but I can do that with your permission, together with the Minister for Transport.

The Temporary Deputy Speaker (Mr. Mungatana): And the Minister for Public Works?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Let me just get hold of them so that they can come in the House.

The Temporary Deputy Speaker (Mr. Mungatana): Please, do so. In the meantime, we proceed. It is perfectly in order to proceed even in the absence of those Ministers.

Proceed, Mr. Kapondi.

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, I was saying that land is a very emotive issue because the livelihood of Kenyans hinges on land. Kenya is basically an agro economy. In this case of Syokimau, it is a very sad case in the sense that those ones who are vested with the responsibility of land administration in this country, more or less, found themselves in a situation of complicity.

In the process, hundreds of Kenyans have lost their livelihoods and their hard-earned money over the years. They ended up investing in Syokimau with a very strong belief that their investments would, in turn, assist their families.

Mr. Temporary Deputy Speaker, Sir, as I speak, Kenyans who have lost a lot of property there have nowhere to go. Many begging questions arose when the Joint Committee visited Syokimau and subsequent interrogations that the Committee had with the Ministers concerned and other stakeholders. The nagging questions that the Committee found it very difficult to get answers were as follows.

The Ministry of Local Government which supervises county councils was not aware, at all, that Syokimau was part of Nairobi; it was part of the City Council of Nairobi. That was until after the demolitions, when the Ministers appeared before the Joint Committee. That is when a shocked Permanent Secretary for Local Government was surprised to say that Syokimau was in Nairobi after being informed by the Permanent Secretary for Lands who produced the maps.

However, for a long time, the Mavoko County Council approved the plans and collected land rent in Syokimau. Even the area Councillor of Syokimau reported to Mavoko. Therefore, there is a situation where Government Ministries are not properly informed of the jurisdiction of a particular area. It is, indeed, a very sad case. That is the case of Syokimau.

Mr. Temporary Deputy Speaker, Sir, it is good that the Minister is here. A serious allegation of forgery was made. It goes through the Attorney-General and the Government Printer. Kenyans in the process, with the trust that a Legal Notice that has been issued by the Government is valid, went ahead to do transactions in Syokimau. The Minister only realized that something was amiss after the demolitions. He realized that his signature had been forged. However, the Ministry did not take any remedial measure to correct that anomaly, if, at all, it existed. So, what happened is that hundreds of Kenyans ended up investing there.

Interestingly again was the following: The owner, Kenya Airports Authority, (KAA), after going to court in 2004 because of what they believed was incursions into

their land by intruders, never exhausted the court processes. As we speak, there is a pending court case between KAA and Syokimau inhabitants. It has not been concluded. So, for KAA to proceed to issue notices which were later acted on to demolish is, indeed, a very sad scenario. I do not know at what point in terms of law that a notice is more superior to a case before a court. In the process, because of what the Committee rightly called impunity, KAA decided to take a shortcut. It is a shortcut in the sense that they left a court case not concluded and proceeded with the demolitions. Now what happened to the hundreds of Kenyans who had invested there heavily? People had spent millions of shillings. It is this kind of impunity that we are saying should come to an end.

Mr. Temporary Deputy Speaker, Sir, the raft of proposals and recommendations that we came up with as a Committee more or less - if this House adopts this Report - would go down to assist the many Kenyans who are suffering on a daily basis because of lack of information or hiding of information by the Ministry of Lands as is the case in the Syokimau issue. I am happy that, at least, the Minister has started cracking the whip. We have read that in the newspapers. A number of civil servants are facing the music in the Ministry of Lands.

In Mitumba where thousands of hapless Kenyans were affected, the most unfortunate thing is that those villagers had been pushed from Bandari Estate where they used to stay. When a developer developed Bandari Estate, they were pushed to the remaining unoccupied piece of land. Now, interestingly, what the Joint Committee discovered is that the unoccupied land, which is Mitumba Village, had three title deeds. Two title deeds were surrendered and one is still in the hands of private individuals. So for KAA in this case to say: "This is our land. Get these villagers out", there are more questions that beg for answers and you cannot get them from KAA. Even for them to say that, indeed, that is their land when they have an old fence and the remaining portion is basically a small area that has no relationship at all with the flight path during takeoff, one begs for more answers. There could be more than meets the eye in this particular case.

All in all, what is critical is that those hapless Kenyans who were left in the cold and who are living in ramshackle structures cannot just be left like that. That is why the Joint Committee recommended that there should be some kind of compensation for those people. Some of them have known that place to be home for all the years of their lives. We found an old man who is almost 80 years old who gave a history of how the name "Mitumba" came up. When developers were putting up Bandari they said: "These are just mitumbas". All these things were done with the full knowledge of the Government.

Mr. Temporary Deputy Speaker, Sir, it, therefore, beats logic that the people you have given responsibility--- You have been told: "Stay there!" But many years down the line, you go there and demolish their structures. It is really a very sad case.

For the Eastleigh issue, as a Joint Committee, we were thoroughly convinced by the security reasons given through a presentation by a Colonel who is the Airbase Commander. One thing which we have to admit here is that the security of this country is very critical. Whatever is happening currently in Somalia, the effects are being felt in Kenya. They are felt inside our country in areas like Wajir and Mandera in North Eastern Province.

Without going much into details, the Committee recommended that it is critical that approvals by the Ministry of State for Defence, when it comes to any structure in

Eastleigh, should be given priority. Those ones who have been responsible for acts of impunity should face the music. But all in all, it is important that as the Executive and as Government agencies, we respect the law. Let us not take shortcuts. We have reformed the Judiciary and we should trust it to give us a conclusion of any dispute. However, to leave them aside and proceed as if there is no law is the impunity that we need to fight in this country.

With those few remarks, I beg to second this very important Motion.

(Question proposed)

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion. First, allow me to congratulate the Committee for doing a very good job within a very short time. All of us watched the joint committee sitting until late, trying to unearth what led to the demolitions of these houses and also to unearth the rot that is in our Government Ministries.

Let me say from the onset, that I would like to go back to what led to the two committees being asked to look into this matter. It is very sad that this Government acted with such kind of insensitivity. It is not even the question of who owns the land, but it is a question of how do you carry out a Government operation? If citizens of this country own land which the Government feels belongs to it and the citizens have already developed the land that the Government should have protected from the word go, if that is the case, one would have expected that the Government to carry out a process that is civil in nature. What we say as we described it then was really barbaric but that is history. I want to now come straight to the recommendations of the Committee and to discuss the report itself.

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

*[The Temporary Deputy Speaker
(Mrs. Shebesh) took the Chair]*

Madam Temporary Deputy Speaker, it is very clear to me from the Report that there is a lot of confusion in the Government. There is rot in the Ministry of Land and it is high time that the Ministry is fixed. Probably we will ask the Minister and the Government to do what we did with the Electoral Commission of Kenya. We should sweep the whole Ministry, let them go home so that we can have Kenyans who can serve Kenyans well in that Ministry. We cannot continue to have a Ministry which does not know who owns land in this country. Land is such an important resource in this country that we cannot play around with. I know that the Minister for Lands is a reformist and without even waiting for Bills which are supposed to be generated and passed in this House, I would ask the Minister to think of cracking the whip. Some steps would just be administrative. Hiring staff to me is purely administrative. I think if the staff members in the Land Ministry are not ready to serve Kenyans, they should be told to go home.

Madam Temporary Deputy Speaker, even though I can see the recommendations from the joint Committee are that we need to enact a number of laws, I see a problem that

some of these laws should be in place by 27th February. We are almost proceeding on a long recess without the laws being brought to this House. I am aware that the relevant Ministry has already generated these Bills. My question is; why can these Bills not be brought to the House so that we debate and pass them with speed?

The other question we need to ask ourselves is; why is it that various Government departments or agencies like the Kenya Airports Authority (KAA) claim land that they do not protect? This is not only happening in Nairobi. If you go to Mombasa, you will find that the KAA will show you pieces of land that they claim to be theirs but they are not protected at all. I think it is high time that the Government took decisive steps to repossess the land that is owns.

Let me come back to those Kenyans who have suffered. I fully agree with the Committee that the Government needs to take full responsibility and compensate these individuals for the loss they have incurred. It is not the responsibility of individuals to determine the legality of the documents they own. It is the responsibility of the Government to ensure that any document, be it a title deed or any other, which is supposed to be a legal document is legal. If we have a system where some unscrupulous individuals go round, conning and deceiving Kenyans, it is still the responsibility of the Government to protect those Kenyans. Whatever happened to these Kenyans, whether they owned genuine title deeds or not, it is the responsibility of the Government to protect their interest. It is also the responsibility of the Government to have warned them when they were constructing. If the demolitions were carried out when they were still laying the foundations, the damage would not have been as much as we saw. The picture that those demolitions gave to this country and the negative publicity is something that may not be easily repaired. We cannot “cure” it even by passing this Report. Investors have been discouraged from coming to this country because, if today you are given a title deed and tomorrow you are told that the title deed is fake, then how will you have confidence to invest in such a country?

Madam Temporary Deputy Speaker, I also want to talk to Kenyans who are in the habit of grabbing every available space in this country. It is wrong and immoral. They are few and not many. We need to get these people and charge them. If we do not have stiff laws or severe laws which can deter these Kenyans from grabbing every available land, I think this House needs to seriously think about coming up with laws which would deter those of us who would be encouraged to grab pieces of land. People have become very rich in this land and they are proud of the wealth that they have acquired by grabbing pieces of land. These are not poor people. People grab forest land, play grounds, schools land and it is unethical. This also includes cemeteries. This includes even church leaders.

An hon. Member: Church leaders?

Mr. Mbadi: Madam Temporary Deputy Speaker, yes, I want to repeat that. Even church leaders grab land. In fact, I am told that some of the worst grabbers of land are church leaders in this country. It is unethical, unacceptable and, as a country, we need to put a stop to this. I want to conclude my contribution by saying that what has happened of late is something that the Government needs to correct, first, by moving with speed to resettle these individuals and compensate them for the loss they have incurred.

Thank you, Madam Temporary Deputy Speaker. I support the Motion.

Mr. Hassan: Asante sana, Bi. Naibu Spika wa Muda. Nimesimama kuunga mkono Hoja hii. Nitazungumza kwa Lugha ya Kiswahili kwa sababu baadhi ya watu walioathiriwa ni wazungumzaji wa lugha hii. .

Watu wanaoishi katika vitongoji vya Nairobi wana shida nyingi sana. Hawana makao maalum na hawamiliki ardhi yoyote. Ni muhimu sana kwa Serikali yetu kuheshimu haki za watu wake. Wengi wao wanaishi katika vitongoji duni visivyo na huduma za kawaida kama vile maji, umeme na vyoo. Chini ya Katiba yetu watu hawa wana haki sawa na wananchi wengi wa taifa hili. Hawa walichangia pakubwa kuweka Serikali hii kupitia kwa kura zao. Hata hivyo, wanadhulumiwa kwa sababu wao ni wanyonge.

Kupitia kwa vitendo vyake, Serikali inatumia uwezo wake kuwakandamiza, kuwakanyaga na kuwaumiza zaidi wakaazi wa vitongoji hivi vya Nairobi. Nyumba nyingi zilibomolewa katika maeneo mengi na watu wengi kuwachwa bila makao. Sasa watu hawa ni maskini zaidi kuliko vile walivyokuwa kabla ya ubomoaji huu kufanyika.

Bi. Naibu Spika wa Muda, ni jambo la kusikitisha kuona Serikali yetu ikitumia nguvu dhidi ya maskini hohe hahe na kubomoa nyumba zao na bila kujali maslahi yao. Waliotekeleza kazi hii walionyesha unyama na ukatili wa kupindukia. Hawakujali hali ya maisha ya watu wa kawaida, akina mama na watoto. Kwa nini Serikali hii haijali maslahi ya wananchi maskini? Kama kweli inajali maslahi ya watu wake, kwa nini ichukue hatua ambazo kila wakati zinaumiza mwananchi wa kawaida? Ni muhimu Serikali yetu ichukue hatua za dharura kurekebisha makosa yaliyofanyika.

Ingawa Hoja hii haijishughulishi na maisha ya watu wa kawaida, kuna watu wengi walioachwa bila makao. Kwa nini Serikali isihudumie watu hawa na kuwapa makao? Wakati huo watu hawa wanalala nje na familia zao. Sote tunajua kuna baridi sana nje. Watu hawa wanateseka sana. Ninaiomba Serikali hii kuiheshimu Katiba yetu inayowapa wananchi wote haki sawa.

Ningependa kuishukuru Kamati hii kwa maoni yake kuwa watu wa kitongoji cha Kiambiu wana haki kuwa pale na wasitimuliwe bila kupatiwa makao mapya na Serikali hii. Mimi kama mhe. Mbunge wa Eneo la Kamukunji ninakubaliana na maoni haya. Wakati umefika kwa sisi kutunga sheria zitakazolinda haki za watu maskini wa jiji hili na wale wengine waliobomolewa nyumba zao. Ni muhimu kama vile Hoja hii inavyopendekeza Serikali iwafidie walioathirika kwa kuwapa ardhi ambapo watajenga nyumba zao upya. Hii ni kwa sababu walitumia mali na rasimali zao kujenga nyumba zilizomolewa.

Bi. Naibu Spika wa Muda, Wakenya wengi wanaoishi nje ya nchi hii wangependa kuleta rasilimali zao hapa ili kuinua uchumi wetu. Lakini haya yatawezekanaje ikiwa wanaona kwenye runinga zetu matingatiga ya Serikali yakibomoa nyumba za watu wake? Je, watakubali kuja kuwekeza mali yao hapa? Ni muhimu kwa sisi kuwatia moyo Wakenya hawa ili waweze kuleta pesa zao hapa ili tuimarisha uchumi wetu na tuwe na maendeleo mengi hapa nchini.

Kwa hayo machache, Bi Naibu Spika wa Muda, ninaunga mkono Hoja hii.

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Madam Temporary Deputy Speaker, I stand to support this Motion.

First, I would like to take this opportunity to thank the Committee for the good work it has done. I am still a very sad woman today. I still remember what happened in Syokimau. Even as I speak now, one of the Assistant Ministers in this Government, hon.

Kajembe, has been hurt by the police who were demolishing houses in Mombasa. Are we Members of Parliament or Assistant Ministers in this Government becoming an endangered species?

Madam Temporary Deputy Speaker, there is a land rush in Mavoko. Everybody is yearning to own land in Athi River. Land has appreciated in Athi River. So, everybody wants a piece of land in Athi River. However, this has caused a lot of problems to our people. If I mention the number of pieces of land that I have problems with in Athi River, you will not believe it. We have Syokimau, the holding ground for sheep and goats, the Numerical Machining Complex land, the East African Portland land and the City cotton land. People grabbed land in Athi River and sold it to innocent Kenyans who are now building their houses. There is something that is very wrong in this country with regard to land issues. I am glad I saw the Minister for Lands. He is already doing something, but we need to do more.

I urge this Government to respect its own law. We cannot make the law and, at the same time, break it. When we have cases pending in the courts, the Government should not take any action until these cases are determined. Let this Government respect our courts.

Madam Temporary Deputy Speaker, I am very sad about the Syokimau notice. Syokimau is a very big area. That notice that was put on Syokimau affected so many people. The people who live in the proper Syokimau did not know that their houses were going to be demolished. That also caused a lot of emotions and trauma to these people. The notice to demolish houses in Syokimau should have been very clear. It should have stated which part of Syokimau was earmarked for demolition. I want to make it very clear that I do not own any land in Syokimau. However, my father owns a piece of land there. He owns land in the proper Syokimau. Syokimau is a society that was established long time ago even before I was born.

Madam Temporary Deputy Speaker, Sir, the demolitions that took place were so inhumane. The Government did not even give notice to the owners of those houses. They just moved in and started demolishing. Their households were destroyed. They are now starting a new life.

Madam Temporary Deputy Speaker, I do not want to talk a lot. However, I want this Government to compensate my people. Where do they want them to go now after their houses were demolished?

Madam Temporary Deputy Speaker, I would like to table two title deeds here. I do not know who is fooling who here. The Kenya Airports Authority (KAA) has two title deeds. I have a title deed here dated 1996. Another one is dated 2002 which shows 225 hectares of airport land was grabbed and sold to innocent Kenyans. They sold it and then they go to demolish people's houses in Syokimau. It is not fair. I want to thank the Committee for saying they want more investigations to be done on this land.

(Ms. Ndeti laid the documents on the Table)

We, as leaders of this country, must protect our people. Ours cannot be a country without people. It is the people who form a country called Kenya. The Bible says love your neighbour as you love yourself. If you are a leader, love your people as you love yourself. We should know that God has given us these positions not to destroy our

people, but to protect them. If there was a need to evict these people, there were better ways of doing so, without hurting them. We would have talked to people, involved leaders and negotiated with them. We would have told them that we wanted to expand our airport and they would have seen sense. However, we cannot just go demolishing people's properties without involving them.

The Member for Kamukunji has just spoken about the Kenyans who live outside this country and want to come and invest in Kenya. It is very sad. Some of them invested in Syokimau. One of them was a young man aged 30 years. He built a house there worth Kshs15 million. He was doing odd jobs in Europe and saved all that money to build a home. When he was preparing to come home for Christmas he was called and told that his house had been demolished. As I speak now, we are going to bury a lady who has died because of the Syokimau issue. The lady went there and saw the house being demolished and yet there was a boy inside. She just collapsed and never woke up from that. She never knew whether the boy was saved or not.

Madam Temporary Deputy Speaker, as a country, let us fear God. Let us love and protect our people. It hurts me as a Member for Kathiani, if the Government can destroy its people. They do not know what those people are going through.

(Ms. Ndeti broke down in tears)

Madam Temporary Deputy Speaker, I am hurt.

Thank you.

Eng. Maina: Thank you, Madam Temporary Deputy Speaker. This is a Motion that touches on the souls of Kenyans and I stand to support it.

Madam Temporary Deputy Speaker, the issue of land in this country or any country is really the security that wanachi or citizens can have when they get a document from the Government. It is a sad thing in this country that today we are reaching a point where, when you get a land certificate, you do not know whether or not it is an authentic document. Really, you cannot get a guarantee. Ordinary people should never be held responsible for ensuring whether a title deed or certificate is proper or not. This responsibility lies on the Government. How do you expect an ordinary person who goes to the Ministry of Lands, does a search and gets a land certificate, to determine whether that certificate is authentic or not? This Government must take responsibility. It should not wake up one day, after all that has happened, and say that the people did not hold authentic title certificates.

Madam Temporary Deputy Speaker, the issue of Syokimau is just one of the characteristics of this Government. It started in my area, when one day the Government forces came and demolished houses belonging to people who used to live in the forest. Those people stayed on the road for 20 years. I wonder whether this Government has some sadists within it. How do you wake up one day and send a bulldozer to a house where you can see some small children and heartlessly demolish it? It is heartless! There must be another way of handling matters rather than this animal like behavior.

Madam Temporary Deputy Speaker, the issue of land and demolition has even gone a notch higher. We saw the other day this Government back down from demolishing some buildings along Mombasa Road. Why was this so? It is because they belonged to influential people and big companies. I do not know whether anything

happened. What are you telling the ordinary Kenyans when you say that you cannot demolish a certain building on the road reserve along Mombasa Road because it belongs to such-and-such a company and people know that such-and-such a company belongs to who and who? Then the following day the same Government wakes up and heartlessly goes and demolishes a house like the one for an old lady. I want to quote a lady who appeared in the media and said: “I hate this country.” Surely, we must ask ourselves, as leaders, in this country whether we are creating a country where a lady, pushed to a point and in tears, can go to the media and say “I hate this country.” It is like a child saying: “I hate this woman who is my mother.” This Government must soul-search itself and ensure that, in as much as we are trying to put things in order, first of all, there is equity in law. If a building on Mombasa Road is on the road reserve, let us not be told of any investment. Let it come down. There is no point of bringing down a building of a family of six children in Embakasi, Syokimau or Mombasa, when you want to save some capitalism somewhere along Mombasa Road. This Government is not there just for what I would call “capital” but it is there for the interest of the people.

*[The Temporary Deputy Speaker
(Mrs. Shebesh) left the Chair]*

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

Madam Temporary Deputy Speaker, other matters have gone beyond what one would call civilization. We have witnessed a situation where a man is in court over his house worth Kshs100 million that was demolished in Spring Valley. I think the demolitions taking place in this country are selective because they are not based on law. I would request that this House says that demolitions should come to a stop until when we get a sensible framework of handling this matter. This gentleman had invested Kshs100 million in Spring Valley and the Government had all the time to go and witness the demolition and literally throw away court summons. These are the kind of things that we have been witnessing. There must be equity in law. It cannot be that in this place things are handled this way and in another place things are handled differently.

Madam Temporary Deputy Speaker, if the citizens were misled by the Government by being given a piece of paper which looked like an authentic title certificate, then they went and built their houses, they must be compensated. I think the demolitions in this country are actually political and they are not based on law. I would like to say that the least expected of this Government is to undertake that they will compensate these people. There is no need of reading the law because the law is not abstract. The law must be read together with the Bible and the Quran. You cannot just read the law made by men and throw away the Bible and the Quran. You must truly have a Godly heart where you say: “In spite of these letters that I am seeing which were written by man, there were other letters written by God.”

(Applause)

There is nowhere in the Bible or in the Quran where you can bring a piece of paper and say: “This is the law and, therefore, I will demolish a dwelling where there are ten children.”

Surely, we must start acting as leaders who are responsible to their country. We must start acting as leaders who have the hearts of their citizens. We are driving the citizens of this country to a point where they are living in despair. That is why blood pressure and depression are the fastest growing diseases in this country. That is because of the behaviour that we are witnessing from Government authorities.

I want to address my friend, the Minister for Lands. I want to say to my friend: “Read the law the way you used to read it when we were at the university.

The Minister for Lands (Mr. Orengo): On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Just take it positively, Minister!

The Minister for Lands (Mr. Orengo): I am taking it positively but I am saying that by the rules of this House, he is not supposed to address me directly. He should address Madam Temporary Deputy Speaker. So, you need to read a little bit of Standing Orders before you ask me to read the law.

Eng. Maina: Through the Chair, I am addressing the Minister for Lands who happens to be my friend.

Madam Temporary Deputy Speaker, because of the interest in this matter, I wish to request the following: Let this Government sit down and compensate the people. Let the Government sit down and ensure that there will be no such sadistic and heartless demolitions anymore.

*(Several hon. Members stood up
in their places)*

The Temporary Deputy Speaker (Dr. Laboso): Order, Hon. Members! Why are you standing before the hon. Member has finished?

Eng. Maina: Finally, I want to conclude by saying that let the Government, the Cabinet and every leader in this country analyze the statement which was made by that lady in the media. She said: “I hate this country!” She was in tears.

Mr. Lessonet: Madam Temporary Deputy Speaker, thank you for giving me this opportunity. I want to start by saying that cases of demolitions in this country have been with us for some time. The only problem is that, at the moment, it seems to be gaining some momentum. Just like the speaker who has spoken ahead of me said, demolitions started from the time when we came up with an item called “road reserves.” We started saying that road reserves have been grabbed. So many Kenyans suffered as a result. People suffered in the name of road and railway reserves. Demolitions started then. In this Tenth Parliament, we came up with an item called “Mau”. As you are aware, more than 5,000 Kenyans are still living in camps three years down the line, because of the same spirit of vindictiveness.

We have seen Syokimau, which I believe did not just happen overnight. Those buildings in Syokimau and other areas in Nairobi were not built overnight. They were built under the supervision of the Government. While I stand here, I keep on asking myself: Who is this called the “Government? I am sure that when the Minister for Lands

stands to speak, he is definitely going to blame “the Government”. So, I keep on asking myself: Who is the Government? Who is overrunning the Government? The innocent people who bought land in Syokimau are also the Government. We are here because of them. We are here because they sent us to come and represent their interests in this House. I am shocked that accommodation and housing is not part of the interests of the Government. I am shocked that the Ministry of Lands, which certified those title deeds as genuine so that people could get loans from banks to build houses, can turn back and say that those title deeds are not genuine. As I stand here today to speak about the issue of demolitions, I want to go back to the constituency that I represent called Eldama Ravine, where a “syokimau” is coming up. It is coming up because, under the supervision of the Ministry of Lands, school land is being grabbed. I did not want to mention the Minister’s name because I will be told to go and read the Standing Orders. But school land is being grabbed in Eldama Ravine. I am sure the Chair has heard about that. Innocent Kenyans are going to buy that school land. They are going to build homes on that school land. The land is neighbouring Mercy Girls in Eldama Ravine Town. Five years down the line, they will be told that, that was school land. I hope this Government and the Ministry of Lands can stop the many “syokimaus” - like that in Eldama Ravine - from happening. I hope they will stop the new structures that are coming up on public land.

Madam Temporary Deputy Speaker, I want to believe that the integrity of officers at the Ministry of Lands has a lot to do with Syokimau. I hear in some quarters that you can still get a title deed now. If you go there, you will be told to go and look for Gachanja so that he can sign now. Then it will be backdated to the time when Gachanja was the Commissioner for Lands, and it looks very genuine. The officers at the Ministry of Lands can even call Gachanja for you, so that he can come and sign the title deed, so that it looks genuine. All that is being done under the supervision of the Ministry of Lands. For those documents from Syokimau and elsewhere to be in the records at the Ministry of Lands, it can only happen because the Ministry of Lands allowed that. We have been waiting for so long for the purported computerization to take place in the Ministry of Lands. I am sure we have even allocated money in this House towards that activity, and I wonder how long it will take.

Madam Temporary Deputy Speaker, as I stand here, in this beloved country called Kenya, we have really made land such a serious matter. We have really made land such a very scarce resource. Kenyans cannot find affordable land. What happens is that you can only get land which is being sold by unscrupulous Kenyans in Syokimau and other places like Eldama Ravine. What is this policy that makes land very scarce in Kenya? It is even easier for you to go and buy land in the Central Business District (CDB) in Dar-es Salaam at a cheaper rate than along Mombasa Road; even towards Machakos. Why have we made land in Kenya so scarce, expensive and so rare? I hope the Ministry of Land will look for ways of making land available. When Kenyans want to build homes, let them be able to get land where they can build their homes; whether it is in the city or elsewhere. Let us make land an available resource. Land is so scarce now. Why can this Government not make available 100,000 acres of land in the outskirts of Nairobi at affordable rates? A small piece of land in Nairobi will cost you Kshs10 million and yet, if you go to other cities like Dar-es Salaam, Kampala and Johannesburg, land is affordable, unlike in Kenya.

Madam Temporary Deputy Speaker, personally, I want to put this problem squarely at the feet or in the hands of the Ministry of Lands. There is no way the Ministry of Lands can get out of this. It is the coordinating Ministry and it is the only one charged with the responsibility of issuing title deeds. It is the only one which is charged with the responsibility of maintaining documentation of title deeds and all the documents that have to do with land.

Madam Temporary Deputy Speaker, when we got the brand new Minister at that time in his Ministerial portfolio, hon. James Orengo, as the Minister for Lands, I was very optimistic that Orengo, who had been fighting for democracy; hon. Orengo, who had been fighting for transparency in this country; hon. Orengo, who had been fighting for human rights and the rule of law, he was the right person to clean the Ministry of Lands. But we are coming to the end of the 10th Parliament and the Ministry of Lands looks much dirtier than before hon. James Orengo went there. Mr. Orengo, you have one year to redeem yourself; you have 2012 to attempt to redeem your image and to clean up that Ministry of Lands.

Thank you, Madam Temporary Deputy Speaker.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): thank you, Madam Temporary Deputy Speaker, for the permission to contribute to this Motion. I want to echo the sentiments---Actually here I have a deep felt feeling and sympathy for my colleague and comrade in the Ministry of Youth Affairs and Sports, the MP for Kathiani, hon. Wavinya Ndeti. When you see the tears of a woman, Madam Temporary Deputy Speaker, they are the tears of God, because there is no other creature by God that can be emotionally and sentimentally affected by the pain of a child, not even we, men; it is more so for a woman.

Madam Temporary Deputy Speaker, being a Member from that area, facing a multitude of families that will be seeking assistance for food, housing and, I can imagine, even bursaries in January, the hon. Member is specially affected. So, I want to declare my sympathy and solidarity with the hon. Member for Kathiani, hon. Wavinya Ndeti.

Further to that, Madam Temporary Deputy Speaker, some of the houses that have also been seen on television crumbling down under the demolition forces, without any notice, belong to young people from my constituency, Mukuruweini. These are people whose parents pioneered investments in this town; people who came to Nairobi in the early and mid 1950s, long before we got Independence; they have taught their children how to invest, how to go to the Government, how to contract legal services, how to trust Sheria House, how to know that City Hall is a centre for local governance in the City of Nairobi, and how to trust the Commissioner of Lands, the Minister and even Government Gazette notices.

So, Madam Temporary Deputy Speaker, the pain is great. I saw on television and on page 5 of one of the main dailies, and the following day, on page 5 of the same daily and in two other dailies, houses built in the early 1990s by individuals of my age, and some even younger, being brought down. I also saw a widow from my constituency, whose husband was like my father – and remains so in spirit – actually shedding tears of pain; she saw houses constructed for the past three or four decades being brought down barely a year after her enterprising husband was buried. So, it is important to declare, as many other Members have done, that it cannot be expected that this is a collective Government position because the Ministry of Lands or the Ministry of Transport are

merciless – even stupid enough – to think that they can give statements to justify things done to families.

Over the weekend – actually on Sunday – I was in Kerugoya Stadium, but my Youth Officer was not present. Only three months ago, he had a good party with friends in the Ministry of Youth Affairs and Sports, his age mates in colleges, his clan members and with his neighbourhood friends; he showed them an investment he had constructed through the pain of a bank loan; he had purchased a plot and constructed a house. Three months ago, he had a house warming party; he took his young family to that house, but it was among the houses in Syokimau that were demolished. This was a young man dedicated to enterprise, to owning a house and, therefore, assisting the Government in achieving the social pillar, and also helping the community and the country in attaining an obligation in the Constitution, which the Government should undertake, namely ensuring that everybody has a shelter over his or her head.

So, Madam Temporary Deputy Speaker, if we say that the demolitions, supervised by the Ministry of Lands, are a violation of the Constitution, we are right. If we say that the demolitions are actually an abuse of social justice, we are right. If we say that the demolitions are a merciless treatment of innocent investors, we are right. If we say that these demolitions actually appear to be a strategy to exterminate the poor, and kind of cleanse Nairobi of young and old people and children who do not seem to be well connected to the central Government, we are right.

(Applause)

Madam Temporary Deputy Speaker, if we say that the Ministry of Lands is actually in violation of Section 40 of the Constitution that requires adequate notice before demolitions are undertaken, and adequate provision of compensation, we are right. If I stand here and I say that the Minister and the Ministry of Lands are actually not ashamed of presiding over a citadel of graft, I am right.

Madam Temporary Deputy Speaker, you can say that they are not showing us the original culprits who actually perpetrated the acquisition of that land under the supervision of the Government or a Government department; they actually passed over the acquisitions to other people through legal means; this was through purchase that was agreeable.

The Ministry is now perpetuating impunity by covering the originators of the sin. We are being shown the owners of the houses, but we are not being told when they were originally allocated the land. Who was originally allocated this land? We are hiding behind the excuse of security, but must we create insecurity in Nairobi at the time we are facing external aggression by pouring more people in the streets and expecting Nairobi to be a safe haven? We are facing external aggression but we are stupidly and blindly creating internal discomfort among our people.

I must say here, as a former Chairman of Students' Organization of Nairobi University (SONU), who was very inspired by a former Chairman of SONU, one James Aggrey Orenge, that I am actually very disappointed by his management of the Ministry of Lands. I know that Dr. Khalwale will be in agreement with me that as hon. Lessonet has said, James Orenge – we are not addressing you in person – you are a huge and incorrigible disappointment. You have some time remaining; you even at one time

contested the presidency in 2002. We knew you did not win, but we sympathized with your spirit and idealism. But it also happens – I am not surprised – that when individuals who are either connected with your party or with your side of the Coalition Government are connected with graft, you are very quiet! I am not discussing the Minister, hon. J.A. Orengo, Member for Ugenya and Minister for Lands.

The Minister for Lands (Mr. Orengo): On a point of order, Madam Temporary Deputy Speaker.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, hon. Orengo is rising to say that somebody is mentioning him, but when he was mentioning hon. Wamalwa the other time, he was not contravening the Standing Orders. *Hakuna ya tumbo na ya mgongo*. This issue is very difficult.

In conclusion, I also tell the Members that we are another arm of the Government. The Judiciary is part of the Government. I want to congratulate the Committee for the good effort made in addressing this matter. Unless this report is implemented and compensation is done to the widow that I saw, whom I know, Mrs. Kagio and to my youth officer who lives in Syokimau, but now he is homeless, I will not support any Government Motion in this House. Unless a clear formula of compensation is done, I will not do that. I am a Member of this Government and there is collective responsibility. However, it is time to also expect that which we are expected to do, to be done diligently and in good faith.

I finish by saying that nobody should rob a thin skin. I have heard the Minister for Transport saying that it is about the KAA. What is the importance of the planes if people are homeless? Who will come and enjoy Nairobi if our streets are littered by homeless children? Who will enjoy our tourism if our streets are littered with individuals looking at where they can pickpocket because they have been thrown out of their homes?

I have also heard the Minister for Lands saying that these issues were done before, but we are in the Government to correct these issues today. The sins of yesterday must be corrected by the Government that sits and executes the constitutional mandate at this time. Hon. James Aggrey Orengo, the Minister for Lands and MP for Ugenya, should wake up, hold the shoot and know that he has a responsibility to do that which is right.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, I stand to support this Motion. I will start by congratulating the Committee that undertook this work led by hon. Musyimi.

All the resettlements that were done in Nairobi, starting with Kyangombe, KPA, Maasai Village, Mitumba, Kitui Village and Biafra were through the Provincial Administration. The PCs, DCs, DOs and the chiefs were involved in the resettlement. There is no settlement in this Nairobi that I know that was done without the participation of the Provincial Administration. When the demolitions started at Syokimau, people at Kyangombe thought that they were being done on the flight path. However, we were surprised because only about 10 per cent at Kyang'ombe, KPA and Maasai Village were on the flight path. Our people saw a senior Provincial Administrator going there in the evening, received some money from some of the big people. That night, some demolitions were undertaken outside the flight path.

I have title deeds here showing that some senior people are involved. They are the ones who instigated demolitions outside the flight path. Majority of us in Embakasi are

very surprised to see that some Members of this Parliament were also involved in the demolitions. This is true because I have the searches and the copies of the titles here. It is a pity---

The Temporary Deputy Speaker (Dr. Laboso): Are you tabling the documents?

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, I can table them because I have them here. I also have the search. This is not a joke. One company namely, Newpoint, has a plot No.11320. I did the search and I presented the map which is here. Among the directors of Newpoint, I said it before the Committee and I wish to repeat it here, are the Prime Minister and his brother. This is the truth. They are Eng. Raila Odinga, with 3,500 shares, hon. Oburu Odinga with 1,000 shares and Walter Edwin Okuku with 500 shares. The total shares are 5,000. These are the people who own a plot there of almost 10 acres which was demolished at the KPA. I have another title deed here belonging to Bleach House which is owned by hon. Jirongo. The documents are here and Members can go through them if they have doubts.

Mr. Duale: On a point of order, Madam Temporary Deputy Speaker. Through your indulgence, could you first confirm that admissibility of those documents before the Member continues with his debate on the same?

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. I do not know whether you heard that one of the names mentioned was that one of Raila Odinga. Could the Member confirm that the Raila Odinga he is speaking about is the same one who is also the Prime Minister of Kenya?

The Assistant Minister for Water (Mr. Waititu): Madam Temporary Deputy Speaker, I confirm that the name I have mentioned is that of Raila Odinga, who is the Prime Minister. I do not know any other name similar to that.

I have the map with me. I am talking about so many people who have suffered, who expect to be helped by the same people who instigated these demolitions. One hon. Jirongo was also involved because one plot there at Kyang'ombe is his.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I have heard the Member mentioning about three Members of Parliament without a substantive Motion. Is he in order? Two, I have also heard him suggesting that Newpoint, which is a corporation, was involved in the demolitions without proving how it was involved in the demolition, thereby trying to impute improper motive on the hon. the Prime Minister of Kenya. Could the Member, please, clarify or withdraw if he does not have a substantive Motion to discuss another Member?

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, we might be very strong supporters of some people in this Parliament, but when it comes to the truth concerning our people who are suffering, it has to be told. I have the documents and I have presented the maps here. I have the searches from the Registrar of Societies. I cannot be cowed by anybody.

(Mr. Waititu laid the documents on the Table)

Mr. Mbuvi: On a point of information, Madam Temporary Deputy Speaker. The Member is tabling documents and not mentioning names.

Mrs. Odhiambo-Mabona: He has mentioned a name!

The Minister for Lands (Mr. Orengo): On a point of order, Madam Temporary Deputy Speaker. I think you need to give us some direction. Normally, in any title deed, if there is a deed plan, there are what are called abuttal which would tell you where that piece of land is. It is important for the Chair to determine if the title deeds are genuine. I am not trying to say that they are not genuine. However, it is important to determine in terms of the abuttals contained in the deed plan where exactly those pieces of land lie. It will be very bad for this forum to be used in name calling on a matter which we are not sure exactly where that piece of land lies. From the information that I have, it may not be related to the issue that we are discussing at the moment.

If it is within the area that we are discussing, then the Member may have the liberty to proceed and give that information to the House. But it will be wrong to use this Motion for purposes totally unrelated to bring names. When somebody wants to present a document to the House as a source of information, the practice that I was used to is that you make that document available to the Speaker in advance, so that you do not use the well of this Chamber as a basis of name calling when the facts are not correct.

I think that is very good practice and it should be continued. At this rate, we can begin to call names all over and use the Floor of this House as a platform for finding fault with everybody. By the way, hon. Waititu, if we begin to talk about land in Nairobi, you should be the last person to talk about land in Nairobi. I am telling you. So, let us present facts as they are. But if you begin to name call when facts are convenient; then you use them in one direction and hide them when they are inconvenient; that would not be right.

Hon. Members: On a pointer of order, Madam Temporary Deputy Speaker.

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, just to conclude, I am saying that as far as I am concerned, this Report contains issues I entirely agree with, and we should not denigrate it by going into diversionary matters.

The Temporary Deputy Speaker (Dr. Laboso): Bring out your point of order clearly, Minister!

An hon. Member: He has finished!

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, the Minister has not made clear his point of order.

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, the purpose of the point of order is to say that the document may be related to the person he is talking about but it may not lie within the area he is alleging that land lies. So, the Chair may give us direction as to where that land is, as described in the title deed.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): On a point of order, Madam Temporary Deputy Speaker. My colleague, hon. Waititu, mentioned that this particular company effected demolitions. Could he give evidence as to how this particular company effected demolitions? Let us also ask hon. Waititu to tell us which law has been breached by having the directors of this particular company own land in Kenya.

Mrs. Odhiambo-Mabona: On a point order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Odhiambo-Mabona, I thought your point of order would wait for hon. Waititu to respond.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, please, allow hon. Waititu to respond to the points of order that have been raised before you raise more of them.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, first and foremost, I presented the same document to the Committee, together with the map, which specifically shows that the property on the said plot, which is at KPA, was demolished. So, I am not speculating.

Another thing is that I have done the search. I have the rates demand document from the City Council of Nairobi for the said plot from the said company. The search I have is from the Registrar of Companies, specifying the directors of the company. I said that senior people instigated the demolitions because the properties were outside the flight path. How could they have been demolished when they were not part of the properties on the flight path? The persons who demolished the property did so at the instigation of some senior people, because the property was not on the flight path.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Waititu, you have used the word “instigated”. Could you prove that there was instigation?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): On a point of information, Mr. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Would you want to be informed, hon. Waititu?

The Assistant Minister for Water and Irrigation (Mr. Waititu): Yes, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Very well!

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I rise to inform my colleague, the Assistant Minister for Water and Irrigation and the Member of Parliament for Embakasi that, very evidently, there are “sacred cows” in this Parliament. There are also “sacred cows” in the Government.

The Temporary Deputy Speaker (Dr. Laboso): Give the information.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): That is the information I am giving, Madam Temporary Deputy Speaker! I cannot be intimidated! Even after I contributed here, I was intimidated from the Bench here. I cannot be intimidated by anybody, no matter who you are.

Madam Temporary Deputy Speaker, we want full disclosure of the information as to who owns land and why some areas were targeted even though they were not on the flight path. The Member of Parliament for Embakasi was just doing exactly that by tabling documents. We have seen the Minister for Lands rise, saying that he was on a point of order, and speaking for 10 minutes as if he wanted to cover up something. That is why we are talking about “sacred cows” in the Government.

The Temporary Deputy Speaker (Dr. Laboso): You have made your point.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, the information I am giving hon. Waititu is that nobody, not even President Mwai Kibaki or Prime Minister Raila Odinga, is beyond reproach. We seem to agitate some sections of this House. Even when we were debating the *Kazi Kwa Vijana* (KKV) issue, the same Minister rose on a point of order

and cut short hon. Wamalwa for about 15 minutes. Now, instead of waiting to hear all the information and respond, he is trying to subjugate debate.

Hon. Waititu, have courage! Hon. Waititu, do not be intimidated! Hon. Waititu, tell the truth! Do not be intimidated by anybody!

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order! Order! Hon. Members, this is not a market place! Can we conduct ourselves with decorum? Can we behave like hon. Members!

Hon. Waititu, continue.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, on page one, the Report---

The Assistant Minister for Industrialization (Mr. Muriithi): On a point of information, Madam Temporary Deputy Speaker.

The Assistant Minister for Water and Irrigation (Mr. Waititu): I accept to be informed, Madam Temporary Deputy Speaker.

The Assistant Minister for Industrialization (Mr. Muriithi): Madam Temporary Deputy Speaker---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker!

The Temporary Deputy Speaker (Dr. Laboso): Hon. Muriithi is on a point of information. Allow him to give the information.

The Assistant Minister for Industrialization (Mr. Muriithi): Madam Temporary Deputy Speaker, I agree with you that we must, surely, debate with some decorum. Even the points of order that we are raising and the issues we may want clarified must also be of substance. For example, you asked where the proof is. Circumstantial evidence is a concept in law. So, if the hon. Member is able to table documents suggesting circumstantial evidence to a point, he deserves to be listened to. Shame on us, if we cannot listen to him!

That is my information.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, on page one of the Report---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Waititu, allow hon. Millie Odhiambo-Mabona to raise a point of order.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I thank you for giving me this opportunity. I have been trying to catch your eye for a long time because hon. Members are giving misleading information to this House. I want to seek your indulgence; my point of order is directed to hon. Kabando wa Kabando and hon. Orengo. Are the Minister for Lands and the Assistant Minister for Youth Affairs and Sports in order to come here and make this House a theatre of the absurd when they know that some Ministers who are sitting in this House are the landlords of those properties but still sit here and take the country for a ride? The Assistant Minister himself is a landlord in Kyangombe. He is making us sit here and condemn the Prime Minister when they are the

ones who have created this fiasco. Own up that you are a landlord. Next time, you will be accusing the Prime Minister when your wife has miscarried or has given birth to a white child! Let us put things into proper perspective.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Order! Order, hon. Members!

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, I do not wish to answer the hon. Member because I am not a landlord at Kyang'ombe. But there are my people.

It is clearly stated on page one of this report though the whole of KPA, Kyang'ombe and Maasai villages were demolished. It is only a small fraction of the Kyang'ombe which is in KAA land and on the flight path.

The next point is that KPA Village was neither on the flight path nor on KAA land.

The next point is that KAA only ordered---

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker!

The Temporary Deputy Speaker (Dr. Laboso): Dr. Khalwale, allow Mr. Waititu to contribute.

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, the next point is that KAA only ordered for demolition and eviction of those residing within their land and structures that were within the flight path. However, it was established that some buildings within KAA land and on the flight path were not demolished. Some buildings which were on the flight path were left intact. So, there was selective demolition. That is why we strongly believe that the ones that were demolished outside the flight path were instigated by some powerful people. There is no other reason that can be given other than that.

The Temporary Deputy Speaker (Dr. Laboso): Your time is up, Mr. Waititu!

The Assistant Minister for Water and Irrigation (Mr. Waititu): Madam Temporary Deputy Speaker, before I finish there is a looming demolition that is supposed to take place in Kibera, Soweto Village. Those people have been there for over 40 years, including the Nubians of Kibera. They have never been given title deeds. They are Kenyans. Right now, some people want to demolish those structures there in the pretext of slum upgrading. Does slum upgrading---

The Temporary Deputy Speaker (Dr. Laboso): All right. I have indulged you enough, Mr. Waititu.

The Assistant Minister for Water and Irrigation (Mr. Waititu): I support, Madam Temporary Deputy Speaker.

Ms. Karua: Thank you, Madam Temporary Deputy Speaker. I rise in support of the Motion and thank you, hon. Members, for indulging me.

I rise in support of the Motion and seeing the interest I will try to be very---

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. I am rising purely on a matter of procedure. It is the procedure and tradition of this House that when an hon. Member tables documents, the first thing that the Chair does is to satisfy itself. Mr. Waititu has tabled a map. He has referred to a plot within that map. He has tabled a search certificate and a certificate of land which he has purported to be the

property of Raila Odinga. Surely, Kenyans want to know whether their own Prime Minister is involved in the culture of impunity and corruption to the extent that poor Kenyans were conned by his company. Make the determination and tell us whether it is authentic before we proceed.

Ms. Karua: Madam Temporary Deputy Speaker, I want to, first, commend the Committee, I wish they went a little bit further and moved this House to stop all demolitions until there is a policy on demolitions. I am hoping that before the conclusion of this debate, an appropriate amendment to that effect will come up. I think the Committee tried within the time and the means they had. I want to refer to one of their observations that there were court cases between the Kenya Airports Authority and the residents of these places before the demolitions. This brings to question the issue of the rule of law. How could a Government entity and the Government itself be involved in demolitions when the matter is pending before the court? We passed a Constitution so that we could have a new beginning. Is this the new beginning where the Government is leading the country in disobedience of the law?

Madam Temporary Deputy Speaker, we also have been told that some of the areas demolished had nothing to do with the flight path. Why were they demolished? There is obvious self-interest. We would like to know who are these powerful individuals who are interested in this land and who are causing a majority of poor people to be displaced at this time in place?

Even if we were to believe the Government officers who testified that the land belonged to the KAA, the Government watched these citizens building their houses until they completed. Some had been there for more than a decade. The notices that were being tabled in this House by the Minister for Transport, some were dated, 2005, others 1999 and others 2007. How could the Government sit idle and watch people utilize their life sweat and then demolish thereafter?

A Government stands in a position of trust. The relationship of a Government and a citizen is like that of a parent and a child where there is total trust; where a person expects protection, facilitation and support at all times. These Kenyans received nothing else, but aggression from their own Government. This is an incident which I will say what I did say during the passed Motion on Syokimau that it is a Government at war with its people.

Even if the title deeds were found not to be genuine, yet these people have spent their life savings building these houses, the Government ought to have come in, found an alternative place for these people to go. After all, the Constitution is asking the Government to settle the landless. So, it ought to treat these people, if, indeed, the land does not belong to them, as part of the people who need to be settled. Show them an alternative place. Because of the Government's failure to let them know early enough that the houses they were putting up were not on land that should be utilized in that manner, then the Government must be liable to compensate.

I see the Committee is calling for *ex-gratia*. We should be bold enough to call for compensation, and not *ex-gratia*. It is compensation. I am certain that a case well prosecuted in a court of law, utilizing our Constitution and our laws, that case will succeed.

The Ministry of Lands has been a morass of confusion for a long period, over one decade. I do not want just to blame my good friend who happens to be the Minister at this

time. This is rot that has gone on for more than a decade. You will find that in most places there is double allocation within the towns and there is double title even in rural land. Therefore, are we able to believe the Ministry of Lands when they tell us that these title deeds are not authentic and the title deeds with KAA are authentic? Is this another incident of double allocation? If it is double allocation, who is to blame? It is the Government because it is the Government officers who are misleading innocent Kenyans. Whichever way we turn when a Government presides over confusion like it has in the issue pertaining to land and in many other matters in this country, it owes a duty of care. When it is unable to create an orderly society, then the loss the citizens suffer must be borne by the Government. I am, therefore, calling for full compensation not ex-gratia, but compensation as of right. Already these people have been hurt irreparably.

I believe my sister across when she says that somebody has died. This is actually destroying people. The trauma that one suffers is impossible to recover from. It is a time when Kenyans are suffering because of the rising cost of living and the high cost of food. Even those who are within their houses have problems making ends meet. What about a person who finds their house flattened at the end of the day?

Madam Temporary Deputy Speaker, this Government must remember that it is there because of the people, not to serve itself. If it is a Government by the people and for the people, then it must compensate those people. By demolishing this numbers of houses, the Government created a humanitarian crisis. Many families have been left homeless in the rain. Many families are without money or anywhere to go. If the Government and Government officers were shedding or purporting to shed tears for the Sinai victims, they must shed tears for the humanitarian crisis that they, themselves, have caused. If every time there is a disaster we rush to help the people because it is a humanitarian crisis, when you displace the number of people who were displaced from Kyang'ombe, Maasai Village, Syokimau and all those other places, it is a humanitarian crisis deserving of intervention. In the name of the people of Kenya, even if the Government is uncaring, the citizens are caring for fellow citizens. This Parliament must resolve that those people must be fully compensated. We must also resolve to halt any further demolitions anywhere without a proper policy on how to demolish and resettle people.

I want to stand here and say that I appreciate our city has to develop. I appreciate that, at times, a Government may need to acquire land which people are occupying. That is why we have compulsory acquisition. The Government is the custodian of all that Kenyans have. Therefore, it is the Government that can show those people alternative settlement. That is the same thing that happens when the Government wants to develop anything within the informal settlements. I just want to ask: What do those in Government think? Where do they think those people will go? Will they go to thin air? Human beings will not vanish into thin air. It is, therefore, mandatory that the Government comes up with a proper policy of how to effect demolitions where necessary.

Madam Temporary Deputy Speaker, the other point is that our Constitution is very clear on due process. Even where in Article 40 (6), it says the titles that are not lawfully obtained will not be protected, it pre-supposes due process. That is because it says, "If it is found!" How else is it found other than by due process? The Government, therefore, ought not to have moved to demolish without either compulsory acquiring or

without a court order to show that eviction was necessitated. Even where there is a court order, in civilized countries - and we are hoping that this Government would like to count itself as superintending of a civilization known as Kenya - it ought to have given adequate notice for people to move out, show them alternative settlement and compensated them as necessary so that they can move. We must learn to do things in an orderly manner. We cannot be visiting *Muoroto* on people the same way the KANU regime did in the 1990s, necessitating the *Saba Saba* demonstrations. It cannot be the same thing that is being done by the Grand Coalition Government.

This Government has lost any claim to be reformist or democratic and to abide by the rule of law. It is a Government that has displayed impunity. No wonder its parastatals are equally displaying impunity and disobeying court orders.

I have seen the recommendation that we amend the Contempt of Court Act. I think the Committee, because it went without guidance from the Committee on Administration of Justice, may not have got everything correct. I do not think it is the law that has a problem. It is the implementation and enforcement. This is a case of pure impunity and not inadequacy of the law. Yes, some of the laws need to be reviewed and we need to move to enact the land laws envisaged by the Constitution. We also need to have a Lands Commissions so that instead of the Government dealing with issues of land, it should be the Land Commission---

Mr. Kapondi: On a point of order, Madam Temporary Deputy Speaker. The Member for Gichugu is misleading the House in the sense that the Contempt of Court Act, it is the Attorney-General who appeared before us and said he is coming up with a law on Contempt of Court. So, the Committee basically lifted that---

Mrs. Odhiambo-Mabona: That is a point of information!

Mr. Kapondi: It is a point of order in the sense that she is misleading the House.

Ms. Karua: I am not misleading and I think if he means it as a point of information, he is welcome. I would not agree even with the Attorney-General. There is nothing wrong with the law. There is something very wrong with the enforcement. If you want to know how correct that is, we have a new Constitution. Why are people being evicted in a worse manner than under the old Constitution? This has nothing to do with the law. It has something to do with attitude. It has something to do with the impunity that reigns in this Government. That is why I am saying that let us not blame the law always. It is our behavior and that is what we need to change. I have said, yes, we need new laws especially those that relate to land.

Madam Temporary Deputy Speaker, I want to finally touch on one issue. We had an earlier issue when the Ministry of Roads wanted to demolish the new Standard Group Complex along Mombasa Road because they needed one of the by-passes to pass there. I also think the Sameer Group of Companies was affected. Those are big companies and I am not advocating that any atrocity should have been visited against them. However, when they complained, the Government listened. It sat down with them. What does that tell us when we see how the Kyang'ombe, Maasai Village and Syokimau residents were treated? It shows that this Government has only ears for the mighty and well to do. It has no time for the ordinary person. It did not listen to the cries of those people. Not even giving them a minute to, at least, get their utensils and their hard-earned furniture out of the houses. It flattened the houses even with people inside, although nobody died. There are instances where people were scampering out when the bulldozer was already pushing

the wall. Is this a Government that respects human rights? Is this a Government that is adhering to the social justice principle that our Constitution upholds?

If we are adhering to the social justice principle, then we are not going to make people destitutes in their own country. We are going to give them alternative land where they can go. If they have been misled because of confusion in Government offices, the Government should own up. Henceforth, because there are going to be many other occupied places where the Government will need land, it is time that a fund is set up to cleanse the errors of omission and commission that were committed by this Government and previous regimes. It will take a sinking and a compensation policy that will give a clear criteria so that wrongdoers are not compensated, but innocent people are compensated.

We also need an undertaking - and that we can give ourselves as a House through another amendment - that the land where those poor citizens were evicted from is not going to be allocated under any circumstances, whatsoever, to individuals. If we do not have such a resolution, you will see houses coming up. You will see godowns coming up. After all, the residents of Kyang'ombe said in some of the land that they left, there were Chinese godowns. I have seen in the Report that there are some godowns there. So, you demolish the houses by citizens, but leave Chinese godowns standing on the same very land. It does not matter whether they are Chinese or any other nationality. The question is: If it is insecure to have buildings, why do you leave some and demolish others?

I want to support this Report wholeheartedly.

CONSIDERED RULING

DOCUMENTS TABLED BY HON. WAITITU AND
HON. NDETI ARE ADMISSIBLE

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Dr. Khalwale has asked the Chair to comment on the documents that have been tabled by Mr. Waititu on the admissibility of the documents.

On the question of admissibility, what the hon. Member has tabled is a letter with a Government letterhead from the Department of Registrar-General. Clearly, it is signed by the Assistant Registrar of Companies on News Point Ltd.

As he read, he said who the shareholders are. So, the document tabled by hon. Waititu, on face value, appears authentic and is admissible. There is also a copy of a land rent invoice done over the counter which is unsigned for LR. No.209/1113, to the same News Point. It also bears the same address for the company. This company, however, has its last annual returns dated 31st December, 2001. The Directors and shareholders of the above company as indicated are Eng. Raila Odinga of Box 78050 Nairobi - 3,500 shares; hon. Dr. Oburu, the same box number; Walter Edwin Okuku of the same address and Alex Julius Lado of the same address.

Hon. Members, on the face of it, this is an admissible document. We do not have a map. If I remember correctly, there was no map attached to the documents that hon. Waititu has tabled. Therefore, the question of whether there is a relationship between this company and the areas where the demolitions took place cannot be ascertained at this point from the documents that have been availed to us. In addition, on the documents that

have been tabled by hon. Wavinya Ndeti, again, on the face of it, looking at the documents, they have the Government seal, logo and they are duly signed. Therefore, on the face of it, they are admissible and it is the Minister for Lands who can further ascertain and give us the true position of their authenticity.

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. I want to thank you for that ruling and guidance. You heard the Minister for Lands, Mr. Orengo, clearly ask the Chair to determine whether those documents were referring to a property which was around or at Syokimau, Maasai Village or Kyang'ombe. Could the Chair ask the hon. Minister to discharge his ministerial responsibility by telling this House and the nation where that particular land that has tabled with its own title deed is situated in Nairobi instead of shifting that responsibility to the Chair?

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, I can be able to do that but not right away because I have just seen the documents. Normally, the principle is that he who alleges is the one who is required to prove. However, in the spirit of having full disclosure of these matters, I am quite prepared, tomorrow or any other day thereafter to give particulars of where that piece of land is situated.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, let me just draw your attention to Standing Order No.82 which clearly states:-

“(1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Member has sufficient reason to convince the Speaker that the Member is unable to substantiate the allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next sitting day, failure to which the Member shall be deemed to be disorderly within the meaning of Standing Order No.97 (Disorderly Conduct) unless the Member withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

This is just to bring to your attention that it is upon the allegor to bring proof.

Ms. Karua: On a point of order, Madam Temporary Deputy Speaker. I do not hold brief for hon. Waititu, but I think that the House will need your guidance. A Member has tabled documents which speak for themselves. So, if any other Member says they are not what they are, the onus then will be on that Member. However, to ask a Member who tables a document, to do something technical, like saying the location and other technical things, it will set a dangerous precedent. We shall never be able then to table documents unless the ones we have authored.

The Assistant Minister for Water and Irrigation (Mr. Waititu): On a point of order, Madam Temporary Deputy Speaker. I tabled the same documents to the Committee together with the map. Therefore, the map is available. I can bring it tomorrow without any complication.

The Temporary Deputy Speaker (Dr. Laboso): Then, you are within the Standing Orders! Hon. William Ruto!

Mr. Samoei: Madam Temporary Deputy Speaker, thank you for giving me an opportunity to support this Report by the Committee. I think the Committee has done a very commendable job.

Madam Temporary Deputy Speaker, we have seen over the years, contempt by Government officials of poor Kenyans. In fact, sometimes homes; very modest homes of

Kenyans, be they made of grass, or mud, or other simple structures, have been referred in a very derogatory manner by Government officials. Homes of Kenyans have been referred to as structures, or some other derogatory references.

Madam Temporary Deputy Speaker, it is important for us as a nation to know that, first and foremost, comes the people of Kenya in their entirety, without class, without race, with religion, with nothing, Kenyans come first. When the Government goes out of its way and brings the full force of Government machinery to destroy the homes of Kenyans in their own country, there cannot be an absurdity more than that. We saw children, women, very old sleeping in the cold, shading tears, as their homes were razed down by Government bulldozers, while security officers in full combat gear stood by to supervise the destruction. That kind of violence meted on innocent Kenyans and children, when they come back in the evening; they have no place to call home. I mean a person who presides over such; really I do not think they have a heart. Such people go home to their wives and children, sleep on a warm bed, when they have razed down the home of another Kenyan. How do they feel, even as basic human beings?

Madam Temporary Deputy Speaker, the report has brought to the fore serious issues. There were court cases. There were court orders. Even if there were none, the Constitution is very clear on the protection of property. When we say property, we are not talking about Lornoh House. We are not just talking about Kenyatta International Conference Centre (KICC). We are talking about what a simple Kenyan can call their property. It could be a house that is grass thatched. That is their property, and that is their home. It enjoys the same status in the Constitution as any other property in this country. It is very sad what we saw going on in Syokimau. I do not know whether those who brought down those houses read the Constitution. Section 40 of the Constitution on the protection of property is very clear. For anybody to allege that the Cabinet sat down to order the demolitions, who told the Cabinet that they can amend the provisions of the Constitution using a Cabinet decision? There is nowhere that it is written that a Cabinet decision can override the provisions of the Constitution. The Constitution is supreme and whatever it provides is the mother law. Any other decision or law is subordinate to the provisions of the Constitution.

Madam Temporary Deputy Speaker, Section 40 of the Constitution is very clear on property owned by Kenyans. We have heard issues that have been raised; that “ooh, this property belongs to the Kenya Airports Authority; ooh, these structures are a security risk and must be brought down in public interest.” Let me read to the Cabinet Section 40(3)(b) of the Constitution. It says:-

“is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that—

- (i) requires prompt payment in full, of just compensation to the person. ”

Madam Temporary Deputy Speaker, even if these structures were posing a security threat, the Government is obligated by the Constitution that, first and foremost, they make prompt payment in full compensation to these people before their houses are touched. The Government must own up that they violated the Constitution. Whoever is associated with these demolitions, including the Cabinet, must tell the country how they intend to live and implement this Constitution if they are violating not just the spirit but the letter of the Constitution.

Madam Temporary Deputy Speaker, it is very clear even in this Report that these Kenyans paid money---

The Assistant Minister for Trade (Mr. Oyongo-Nyamweya): On a point of order, Madam Temporary Deputy Speaker. Given the time left and the fact that most hon. Members want to contribute, I do not know if it is possible for you to reduce the time for contribution to five minutes so that many of us can contribute.

The Temporary Deputy Speaker (Dr. Laboso): Are the hon. Members in concurrence? Do you want to reduce the time to five minutes?

Mr. Samoei: Madam Temporary Deputy Speaker, I think this is a very serious issue and we do not need shortcuts. We want to exhaustively tackle this issue.

Documents brought to the Committee indicated that, in fact, the Ministry of Lands was fully aware of what was going on in Syokimau and all these other areas. These Kenyans paid money to the Government. The Government received money from those poor Kenyans and then turned round to disown them and destroyed what they called home. It cannot be worse. We must look very keenly through this Report and, as House, I think it will be proper and right and in accordance with the provisions of the Constitution, that these people whose houses were destroyed should be paid compensation in full by the Government.

(Applause)

Madam Temporary Deputy Speaker, we will be bringing amendments to this Motion to ensure that they are paid in full. Secondly, the Government must stop any further demolitions, especially of this nature, until a clear framework on how to relate with Kenyans even if they live in areas that are not permitted by law; they live in areas that they should not; they live in areas that pose a security threat to the country or to themselves; the issue must be debated exhaustively in this House so that there is a clear framework that Kenyans can understand. It is only surprises that are sprung to Kenyans. One morning, when children have gone to school, they come back and have no home to go to.

Madam Temporary Deputy Speaker, there are many Kenyans who had taken loans to build homes. As we are talking, almost 60 per cent of the population of Nairobi is living in unplanned settlement. If you see some of the homes that were destroyed in Syokimau, you will really wonder how somebody can go and destroy a five bed roomed house in Syokimau built on land that does not even belong to Kenya Airports Authority (KAA). We have millions of Kenyans living in squalor in informal settlements in Mathare, Kibera and all manner of informal settlements in the country. This is really unfortunate and it demonstrates the “out of touch attitude” that some in Government have; the kind of contempt they have for poor Kenyans. It cannot continue like this. It cannot be business as usual. It is absolutely clear that some of those demolitions were an excuse for people who actually want to get rid of others, so that they can make money out of those settlements. I think it is very clear that we are going to have a resolution in this House that in all the areas that Kenyans have been evicted in a very violent manner - only second to what we saw in the post-election violence - do not benefit individuals. If any person or group of persons, irrespective of their status, thought that they could use violence on Kenyans by removing them from their homes so that they can make money

by selling or make capital out of it, they should forget. For any reasons, if those settlements will be used for building houses, it must be given to the people who were removed from there. That is because they are equally Kenyans and deserve a place to stay and live like any one of us.

Madam Temporary Deputy Speaker, let me conclude by saying the following: By going forward, we must be human irrespective of sources of instructions, even if it is the Cabinet or whoever. Government officers are obligated under the new Constitution not to obey illegal unconstitutional orders. So, any officer found to have executed orders in contravention of the Constitution must face the full force of the law. That is what it is. The Constitution does not allow or give protection to any public officer to disobey illegal and unconstitutional orders like the ones that were carried out in Syokimau and all those other areas.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Dr. Laboso): I will now give an opportunity to the Minister for Lands. Remember we will have three Ministers answering on this issue. So, you will still have an opportunity to contribute. This is not the end of contributions.

The Minister for Lands (Mr. Orengo): Yeah, I am not the last respondent, Madam Temporary Deputy Speaker. You are quite right. Now, the entry point from the last speaker, hon. Samoei, is actually a good position for me to start, and I want to say this, which I have said time and again in this House. Not all demolitions are unlawful, but all demolitions must be carried out in accordance with the law.

(Applause)

For that reason – and this is a matter on which I have been clear throughout – I support the Report by the Committee; I support it for several reasons, especially the component dealing with demolitions.

Madam Temporary Deputy Speaker, I just want to refer to Article 40 of the Constitution, which says the following--- I think this is a very important provision in this Constitution. It is being argued in this Report that, probably, there is no legal framework with regard to demolitions; that we should enact a law or produce some guidelines to govern circumstances where evictions have to be carried out.

Madam Temporary Deputy Speaker, I think the people of Kenya and this Parliament did make certain provisions, which I think are very important as we discuss this particular issue, and I want to refer to Chapter 5, which deals with land and environment, Article 60. I will come back to Article 60 (1) later, but Article 60 (2) says the following:-

“These principles shall be implemented---

These are the principles that relate to the land policy. The principles shall be implemented:-

“---through a national land policy developed and reviewed regularly by the national Government and through legislation.”

So, there are two options; either the land policy will be carried out on the basis of the National Land Policy or on the basis of national legislation. This matter is so critical; it is not left to legislation by county governments. It is to do with national legislation. I think

this Parliament did the country proud when in the year 2009, we discussed and approved the National Land Policy, which was Sessional Paper No. 3 of 2009. I just want to quote from the National Land Policy. It is the official issue of August 2009 at paragraph 211 on page 51; it begins from the citations that I am referring to. I think that, probably, the Committee and the Government should look at this as a whole. 51(c) says:-

“establish appropriate mechanisms for removal of squatters from unsuitable land and their resettlement.”

That means that where there are squatters and it is recognized that they may not have a colour of white, the Government committed itself in the National Land Policy to establish appropriate mechanisms for removal of squatters from unsuitable land and their resettlement.

Paragraph “f”, which is very important, says:-

“facilitate negotiations between private owners and squatters in cases of squatter settlements found on private land.”

Now, the argument has been that the Kenya Airports Authority (KAA)--- The land we are talking about which is partly on the flight path, by definition in law, it is a private property which belongs to the KAA. That is the how it is classified. This National Land Policy recognizes that even where there are squatters on private land--- I think this message should go out very clearly, because I am also tired of writing to other departments in Government to not only adhere to the Constitution, but also to the National Land Policy. This National Land Policy has been thrown into the Constitution. It is part of the Constitution. In the Constitution, it is directed that we have a National Land Policy which should be constantly reviewed. Since it was debated and passed by Parliament, it has not been reviewed. It reads:-

“where there are squatters on private land, a forceful eviction is not the option.” The option that the National Land Policy has adopted is that there should be negotiations between the private owners and squatters in cases of squatters’ settlements.

Madam Temporary Deputy Speaker, this is because of the history of Kenya as it is. Many Kenyans, especially at the Coast Province and in the urban areas, because of the land policies that existed in the past, live either in slums or informal settlements. This National Land Policy is saying that in such instances, even if there is a court order, that should not happen. I see all this is being directed to the Ministry of Lands. I can tell you the situations I have been dealing with where courts have issued orders for eviction and directed the police to forcefully evict squatters on settlements. I can give many cases where I have taken a position that they cannot be moved forcefully and actually visited some of these areas. If hon. Gunda was here, he would tell you that there was a piece of land where there was no controversy as to who it belonged to because it belonged to an individual who had got a court order and had orders directing the police to forcefully evict those who were living on that land. I took measures to ensure that there were negotiations between the private land owner and the squatters. The agreement was for him to surrender part of his land to the squatters, so that there would be no other forcefully evictions. That was settled.

The National Land Policy again on the same page 51, provides for the facilitation of the regularization of existing squatter settlements found on public and community land for purposes of upgrading or development. If squatters are found on public land, we should find a way of regularizing that squatter settlement and not to evict them. I can give

the example of the Kenya Railways where they wanted to evict squatters in many areas in Mombasa, including Bangladesh. I made an intervention and told the Kenya Railways that they cannot evict them until we made a determination where these individuals were going to go. Indeed, I wrote a circular to all the Ministers who were presiding over parastatals which wanted to sell public land that they would not be allowed to sell public land. I think this is important from what I have heard that they do not have the option of selling public land that has been given to them. If they do not need it, the answer is to bring it back into the public pool, so that the Government can then allocate it to more appropriate purposes but they do not have the option to sell that public land.

That is already good law. For example, in the Kenya Airports Authority Act, the Kenya Railways Corporation Act and in the Kenya Aviation Authority Act; there are provisions which state very clearly that they cannot sell public land without the consent of the line Minister and the consent of the Minister for Lands. In the past, even as late as two or three years ago, they were in a habit of selling the land without making sufficient consultations.

One of the reasons why we are having a lot of problems is that a lot of public land belongs to civic authorities. Civic authorities have more land than all Government land put together. Where there are allocations to public land, you will find that most of them have been done through local authorities and Syokimau is one of the instances where---

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): On a point of information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Would you like to be informed, Minister?

The Minister for Lands (Mr. Orengo): I will take the information, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Very well!

The Assistant Minister for Youth Affairs and Sports (Mr. Ndeti): Madam Temporary Deputy Speaker, I would like to inform the Minister that most of the land, especially within Mavoko Town and its outskirts, is controlled by the Ministry of Lands. I am sure that if the Minister goes back to his office, he will be able to get all that information. Most of the land is being issued to people in the Ministry of Lands.

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, that does not take away my point. I was saying that generally speaking, a lot of land, including trust land, belongs to civic authorities. Land in the counties belong to civic authorities. Therefore, you could find Mavoko Municipal Council playing some role where land is within their jurisdiction.

A point was raised about whether Syokimau is actually in Mavoko or within the Nairobi City Council. Even if it is land which is allocated from the Ministry of Lands, if it is within an urban area, how that land is used is the responsibility of the Ministry of Local Government. I have had the occasion to also point out to the Ministry of Local Government the fact that civic authorities do not have authority to sell any land belonging to them without the consent of the Minister for Local Government.

Madam Temporary Deputy Speaker, what I am trying to say in a nutshell, although I digressed a bit, is that, for me, speaking from the position of the National Land Policy and the Constitution, including the various provisions of the Constitution that have been referred to, I would support a position where the Government is actually obligated

to stop all demolitions until everybody in the Government understands the process that is required to carry out evictions. If we carry out evictions without following the law, that will be highly inappropriate. It would be unlawful and unconstitutional.

There has been some discussion about what the Cabinet decided, and I have read out what the decision was. In fact, now that people are trying to cast aspersions, blame and call other people names, I would like to state that the truth of the matter is that there was no Cabinet decision as such. There was a decision by the Security Committee of the Cabinet. This is a matter which is known to the people; the people who are in the Security Committee of the Cabinet, who are about seven---

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): On a point of order, Madam Temporary Deputy Speaker. Could the Minister let us know who the members of the Security Committee of the Cabinet are? We do not know them. If they are the ones who made the decision, we want to know their names.

The Minister for Lands (Mr. Orengo): Madam Temporary Deputy Speaker, let me come to that one later, because it is related to the point that I want to make. I will do it. I have no qualms about it.

The point I want to make is that even if the Cabinet made that decision, it does not mean that we violate the Constitution. Article 10 of the Constitution is very clear. I would like to read it again, with regard to the demolitions, because even last week, I had to write to the Commissioner of Police, the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security and the Provincial Commissioner (PC), Coast Province, about an intended eviction, and tell them that they could not carry out those evictions. I do not want to keep on writing letters saying what the position should be.

Article 10 is about national values and principles of governance. The key words are “principles of governance”, which are critical. The national values and principles of governance in Article 10 bind all State organs, State officers, public officers and all other persons whenever any of them applies or interprets the Constitution, and enacts, applies or interprets any law or implements public policy decisions. So, in carrying out implementation of any Government decision, there must be strict observance of the Constitution. Therefore, nobody should stand up and say that it was a Cabinet decision and, therefore, they demolished the properties. You say that there was a Cabinet decision but you carried out the demolitions in accordance with the law, because that is what the Constitution requires. Therefore, with respect and humility, I want to put it before the House that from now on, we should tell those in authority, including myself, that demolitions have to be carried out, if they are in the national interest and for the good of the people of Kenya, but they should always be done in strict observance of the Constitution.

The Committee will tell you that this was not an easy part for the Government to deal with when we appeared before the Committee. But at least the point was made that in relation to the demolitions that were carried out, they were security concerns and we were not able even to talk to the Committee in the public eye. We had to carry out proceedings in camera. I think those points were made. To me, what was of concern was that the demolitions that were carried out at that time were related to security installations at the time at the KAA, Wilson Airport and the Moi Airbase.

Madam Temporary Deputy Speaker, as Mr. Kapondi pointed out, that if saw the demonstration that was given by the representatives of the Kenya Airforce, it was very

difficult to live with the fact that these structures would continue to be in place at the great risk, not just to Kenyans as a whole, but interfering with aviation industry generally which is important for Kenya's tourism.

So, I would say that to the extent that this Report requires of the Government to ensure that there is a framework to carry out demolitions, I support the Committee in making those recommendations. In the Report, you will see that the Committee was talking about the eviction guidelines which are necessary in order to make sure that when we carry out evictions in future, they will be done within the context of the current Constitution.

Madam Temporary Deputy Speaker, we have carried out the exercise at the Ministry although it is strictly not just to do with the Ministry of Lands. It is a law and order issue. We have prepared, and there is Cabinet Paper which has been prepared to state clearly how and when you can carry out evictions even where you have proved that you have a title deed and you have orders from the court to do so. Even in that respect, you need to carry out evictions in accordance with the new Constitution of Kenya.

Madam Temporary Deputy Speaker, as relates to the many issues which have been raised on the Ministry of Lands, I cannot say that there is no abuse or malpractice---

Mr. Mbuvi: On a point of order, Madam Temporary Deputy Speaker. We are almost winding up and the Minister has promised to mention the names of the members in the Security Committee of the Cabinet.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Mbuvi, Parliament is not ending.

The Minister for Lands (Mr. Orengo): There is a lot of time and I will come to it. He is saying "on a point of order"; he should be thrown out.

The Temporary Deputy Speaker (Dr. Laboso): He is relatively new. We will let him off this time. But, Mr. Mbuvi, you are on the wrong side.

The Minister for Lands (Mr. Orengo): No, he is not too new because he knows people should not sleep in the House.

Madam Temporary Deputy Speaker, I think the Committee has made the point that without a modern information system and land information system at the Ministry of Lands, I have said this without fear of contradiction, that even if you have the Pope as the Commissioner of Lands, some of these malpractices will continue. We cannot preside and manage the affairs of the Ministry of Lands based on a technology and a system that was established in 1901.

The records in the Ministry of Lands and I had the opportunity to bring one of the registers which was opened in 1901, the title deeds are marked in that register sequentially from the year 1901 to date. Some of the pages have gone missing because as people access the register, they pull out the pages and some of these have not been done just by the people in the Ministry of Lands officials, but by people who have access to these records. What was stated in the National Land Policy that we require funding to modernize and digitize the land information system in the Ministry of Lands, it is not just about computers. Computerization itself is not enough. If we can find a system of printing money which you can determine whether that is fake or not, and it is a note of Kshs5 or Kshs10 and you have a title deed which is worth Kshs20 million, we should put a little bit more money in order to individualize these title deeds, so that I can just put it in a

machine and I know this title deed belongs to the Chairman of the Committee, Mr. Musyimi, and it is genuine. It will give you all that you require.

Even now, and I have done some criminal cases where the security inscriptions on let us say a toothpaste tube, you can actually determine which year and where it was produced without any problems. I am saying that in that Land Information System, if this Government, which I am a part of and I have been trying to urge the Government, give us even out of the Kshs8 billion we are amassing every year, give us even Kshs1 billion of that---

The Temporary Deputy Speaker (Dr. Laboso): The hon. Minister for Lands, you will have 10 minutes when this order comes next in the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso) Hon. Members, it is now time to adjourn the business of the House. This House stands adjourned until tomorrow 14th December, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.