

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 8th March, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

TRIBULATIONS OF TASHRIFA MOHAMED SAID IN SAUDI ARABIA

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

(a) Under what circumstances was a Kenyan citizen, one Ms. Tashrifa Mohamed Said, found on the streets of Riyadh in Saudi Arabia unwell and without documents in February 2012?

(b) Could the Minister urgently instruct the Kenyan embassy in Riyadh to issue her with travel documents so that she can return home?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I beg to reply.

(a) On 15th February, 2012, Ms. Tashrifa Mohamed Said was taken to the Kenya Embassy in Riyadh, Saudi Arabia, by the police, who informed the Embassy staff that they had found her in the streets of Riyadh. She was critically ill, very weak, dehydrated and suffering from what looked like a mental disorder. The medical report which the police presented when they brought her to the Mission indicated that they had taken her to a mental hospital in Riyadh, where she received treatment and was discharged the same day. Attempts by the Mission staff to get her side of the story were fruitless, since she spoke in whispers and was incoherent. In light of her condition on 18th February, 2012, the Embassy took her back to the same mental hospital for further assessment. Unfortunately, the hospital does not, as a policy, admit foreigners as inpatients and so, Ms. Said was treated as an outpatient through examination and medication and taken back to the Embassy by the mission staff. Ms. Tashrifa's condition deteriorated as she was neither eating nor drinking. On 25th February, 2012, the mission took her to the general hospital in Shimez, but the latter referred her back to the mental hospital. The mental hospital, in turn, recommended that she gets medical attention due to her weakened state, as she could not even walk. The mission took her back to the same general hospital for medical attention, but she was turned away due to the fact that she was a runaway worker and they could not treat her without various details from her employer.

Subsequently, our Embassy, on 28th February, 2012, contacted the Saudi Diplomatic Police and requested for assistance in securing treatment for Ms. Said. The Diplomatic Police wrote to the hospital and asked that she be attended to. Only then did the hospital agree to admit her. On the same day 28th February, 2012, Ms. Said underwent an operation to remove excess

gas in her abdomen. She is currently in a stable condition and still in the same hospital receiving treatment.

On 4th March, 2012, the mission received contacts of her employer from her family back here in Kenya. The Embassy contacted the employer who alleged that the lady had run away from his house in Riyadh two months earlier, and he had reported the case of her desertion to the Saudi authorities.

(b) Ms. Tashrifa's passport was taken and kept away by her employer upon her arrival in Saudi Arabia. As she has a case of desertion as alleged by her employer, the employer has retained that passport. The mission is working to secure her departure from Saudi Arabia and will provide her with necessary one-way travel documents to facilitate her to come back to the country, once she is discharged from hospital and is strong enough to travel. Ms. Said has a cousin, a certain Mr. Warda, who lives and works in Riyadh and has been visiting her in hospital, and is currently communicating with her family in Lamu.

Mr. Twaha: Mr. Speaker, Sir, I would like to thank the Minister for the answer. I also want to thank the Ambassador and staff of the Embassy in Riyadh for doing such a good job of taking care of one of our citizens. However, because of her diminished capacity, is it possible for the Embassy to prevail upon the Saudi authorities to do away with the desertion case and just have her come home as soon as she is strong enough to travel?

Mr. Wetangula: Mr. Speaker, Sir, yes. In fact, the situation is that, as soon she is strong enough to travel, the Embassy will facilitate a one-way ticket and travel documents for her to come back to Kenya.

Mr. Keynan: Mr. Speaker, Sir, while I thank the Minister for that answer, the problem is not even with the Saudi Government or the victims; the problem is with the recruiting agencies. What is the Ministry doing to make sure that those individuals who are engaged in recruiting Kenyans, even where there are no job opportunities in those foreign countries, are regulated between the Ministry of Foreign Affairs and Ministry of Labour? That is because those individuals have duped many Kenyans. What happens is this: They normally put fake advertisements---

Mr. Speaker: Order! Order! Hon. Keynan, it is Question Time. You cannot ask a question and then proceed to answer it.

Mr. Keynan: Mr. Speaker, Sir, I was just explaining---

Mr. Speaker: Order! Order!

Mr. Wetangula: Mr. Speaker, Sir, the hon. Member is right. My Ministry has repeatedly advised Kenyans that we have crooked and unscrupulous recruitment agents and individuals. The victims of those crooks are largely from the coastal region; that is, Mombasa, Kilifi, Lamu and a section around Nairobi called Kinoo. They recruit young Kenyans - mainly girls - and collect very heavy commissions, take them to Saudi Arabia and dump them there in the hands of equally crooked employers who abuse those young Kenyans. We have said that any Kenyans going to work out there should report to the Ministry of Foreign Affairs and leave their details there. They should also report at the Embassy upon arrival. We have also liaised with the Ministry of Labour that licenses the recruitment agents. They have informed us that all the Kenyans who go through licensed and regulated recruitment agents do not go through those problems. It is those that go through those unscrupulous characters that get the problems. I want to urge the Ministry of Labour which has got penal sanctions in the law against those unscrupulous recruitment agents, to enforce the law against them, so that we do not have Kenyans suffering in the manner this girl has suffered.

Mr. Affey: Mr. Speaker, Sir, I want to join hon. Twaha in congratulating the Kenya Embassy and the Ambassador in Riyadh for a job well done. But the Minister knows that they have bilateral agreements with friendly governments, and I am sure that Saudi Arabia is a friendly Government. Why can they not have an arrangement with the Embassy in Nairobi to deny visas to those Kenyans that they think are going to seek jobs, even where those jobs do not exist, instead of bringing back the burden to the Ministry of Labour? That is, because there is always a problem here.

Mr. Wetangula: Mr. Speaker, Sir, that problem actually involves a criminal network. We have engaged the Saudi Ambassador in Kenya and he has advised us that, in fact, there are some members of staff at the Embassy who work in cahoots with those crooked recruitment agents. I believe that if we work together, we can resolve this. But the Ministry is also trying to deal with this situation with other countries, where we have many Kenyans working, particularly, in the Middle East. The Minister for Labour recently signed an agreement with the Government of the United Arab Emirates (UAE) to regulate the working conditions of our nationals working there. Right now, I believe that the Minister is in Qatar signing a similar agreement to also regulate the conditions of Kenyans working there. I want to urge my colleagues, particularly from the affected areas – Coastal Members of Parliament and the hon. Member responsible for an area called Kinoo – to urge their constituents to beware of those agents.

Mr. Njuguna: Mr. Speaker, Sir, first, let me thank the Minister for that very timely humanitarian response that he gave to this case. I would like to extend my thanks to the Ministry because of the manner it assisted in a death case of my constituent who died in Germany. Could the Minister inform this House what plans the Ministry is putting in place to make sure that the terminal benefits of the concerned are paid? That is because we are well aware that, that worker deserted her employment as a result of mental health?

Mr. Wetangula: Mr. Speaker, Sir, I thank the hon. Member for that question. This will, definitely, be looked into.

Mr. Ologo: Mr. Speaker, Sir, the answer by the hon. Minister discloses not just action by some crooked brokers. In my view, the answer discloses international human trafficking. To that extent, what is the Minister doing to ensure that the matter is handed over to Interpol, so that the crooks are dealt with as international criminals?

Mr. Wetangula: Mr. Speaker, Sir, my learned senior is fully aware of the complex nature of international human trafficking and those involved. Indeed, the Ministry through other organs and agencies of the Government will liaise with Interpol as and when the cases arise so that we can deal with those crooks.

Mr. Ngugi: Mr. Speaker, Sir, I want to thank the Minister for his answer. While answering, he said that this girl was taken to the first hospital and she could not be admitted because the hospital does not admit foreigners. She was taken to the second one but was only treated after the intervention of the Diplomatic Police. There are so many other Kenyans in that country. When they get sick and cannot be admitted in hospitals there because they are foreigners, then I want to ask the Minister what the fate of those Kenyans is and what the Ministry is doing to ensure that Kenyans can be admitted in hospitals there.

Mr. Wetangula: Mr. Speaker, Sir, I cannot ensure on behalf of another Government but I also know that all those that are legitimately in the jurisdiction of this country have no difficulties in this admission. The problem with this girl is that she did not have any identification whatsoever but as soon as the police verified that they actually picked her up on

the streets, that she was mentally unbalanced and that the mission of Kenya and Saudi had identified her as a Kenyan, she was admitted.

Mr. Mwangi: Mr. Speaker, Sir, while we appreciate the answer given by the Minister, could he tell the House whether there are any arrangements by his Ministry and instructions to embassies abroad and High Commission offices to get all the Kenyans registered on arrival in any of the countries that they are going to seek employment to facilitate the tracking of these Kenyans who are all over the world working?

Mr. Wetangula: Mr. Deputy Speaker, Sir, if the hon. Member had listened when I was responding to Mr. Keynan, I said that we have advised and we have a section for the diaspora that registers the details of Kenyans who go out. In fact, all bonafide and legitimate recruitment agents bring records of those they have recruited and sent out to my Ministry but this particular case that we are dealing with is part of that criminal enterprise and criminals will not expose themselves. They do not report to anybody, they do not account to anybody but what they want is a quick buck and take off. So, out there, we have advised our missions in the United States of America (USA) and everywhere and they are doing very well particularly in the USA; Kenyans in their hundreds of thousands are registering with the mission so that we have some database now that they are also eligible to vote in future. They can be reached when they need support or when they need to register as voters. This is going on and is doing very well. The problems of workers are only limited to Kenyans working largely in the Middle East, that is, Qatar, Kuwait, United Arab Emirates (UAE) and Saudi Arabia. In UAE we have resolved by signing an agreement. In Qatar, the Minister for Labour has signed an agreement. We will now concentrate on working on Saudi Arabia and Kuwait.

Mr. K. Kilonzo: Mr. Speaker, Sir, I happen to be a Member of the Committee on Defence and Foreign Affairs. Obviously, I have had the privilege of interacting with some of the Kenyans who had suffered when we last visited Mombasa. Could the Minister tell Kenyans what is expected of them when they go on their own to the missions? Many of them have gone there and when they suffer they go to the embassy and they expect the embassy to help them and bring them here. What can the embassies do and what are they not able to do? Sometimes, they are just turned away. The embassy says that they cannot pay for them air fare because they did not have a proper arrangement when they went there. Could he talk to Kenyans on that?

Mr. Wetangula: Mr. Speaker, Sir, we have already done that. I have even established, for the first time, a diaspora desk with a director at ambassadorial level who deals with these issues. We have gone public to the print and electronic media and I want to take this opportunity to use this forum to advise Kenyans that those who are going out to look for employment of whatever category should come to the Ministry of Foreign Affairs and record the details. There are some countries where we have no embassies but we have consulates who can be able to assist. You as the hon. Member should also assist the Ministry because this is not just about the Ministry of Foreign Affairs but about all of us.

Mr. Twaha: I am satisfied with the Minister's answer. Thank you very much.

REGULATIONS OF MEDICAL SCHEME ADMINISTERED BY NHIF

Mr. Olago: Mr. Speaker, Sir, I rise to ask the Minister of State for Public Service the following Question by Private Notice.

(a) Can the Minister confirm that the medical scheme for civil servants and

disciplined forces introduced and administered by the National Hospital Insurance Fund (NHIF) provides for treatment of only one wife and three children per employee?

(b) Can the Minister also confirm that the scheme is discriminating men with more than one wife and is restrictive to the constitutional rights of children with regard to access to health and medical services?

(c) Did the Minister consult and coordinate with the Minister of State for Public Service to confirm the amount of deductions from the employees' salaries before and after the introduction of the scheme?

Mr. Speaker, Sir, my Question was directed to the Minister for Medical Services because insurance for public servants is administered by National Hospital Insurance Fund (NHIF) but the answer that I have is from the Minister of State for Public Service but I am happy with it.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I beg to reply.

(a) The medical cover for civil servants and disciplined services implemented with effect from 1st January, 2012 is administered by NHIF. It provides for treatment of the principal member, one spouse and three dependent children under 18 years of age and up to a maximum of 25 years if still in college. The cover also caters for additional dependents at an extra premium which would directly be payable to NHIF.

(b) The cover is neither discriminative to men with more than one wife nor restrictive to the constitutional rights of children with regard to access to health and medical services. It provides for treatment of unlimited additional dependent both children and spouses at an additional premium which we have negotiated with NHIF but would be paid directly by the employer.

I am sure the hon. Member knows that additional spouses is a preserve for those with capacity both physical and financial.

(c) The introduction of the medical insurance cover was an initiative of the Ministry of State for Public Service in fulfillment of the Government's obligation under the Employment Act and the Constitution of Kenya, 2010. My Ministry held consultations with stakeholders including the Ministry of Medical Services. The cover has been funded from converting employees' outpatient allowances and the medical ex-gratia budget with additional funding from Treasury to meet the cost of comprehensive insurance cover. The cover provides in-patient, out-patient, life and last expense benefits for all levels of employees.

Mr. Speaker, Sir, I wish to add that there were hiccups in the commencement of the scheme but NHIF is working round the clock to streamline the administration of this scheme.

Mr. Olago: Mr. Speaker, Sir, the insurance for public officers is a very good thing and is welcomed but the complaint that is the basis of my Question is that it is restricted only to one wife and three children. The question is whether this is discriminative or not. The Minister has said that if a public officer has more than one wife or more than three children then you are supposed to pay extra premium directly to NHIF. If that is not discriminatory then what is discriminative?

Mr. Otieno: Mr. Speaker, Sir, I think the hon. Member knows that the very large majority of civil servants are one spouse persons. We cannot extend this benefit because it will again read discrimination the other way round, that those who are more than two or three spouses are being paid for extra money. So, we negotiated very good and competitive premiums that those with capacity can still access the scheme but by extra payment.

Mr. Olago: On a point of order, Mr. Speaker, Sir. You heard the Minister say that most public servants have only one wife. Is it in order for him to say so when he is known to legally have more than one wife himself?

Mr. Otieno: Mr. Speaker, Sir, I am even looking for a third one but that is because I have capacity. When we designed the coverage for the honourable Members of Parliament we were allowed to assume that they have capacity as you all know.

Mr. Speaker: Last Question, hon. Member for Kisumu Town West!

Mr. Olago: Mr. Speaker, Sir, capacity notwithstanding, is the Ministry in conjunction with the Ministry of Medical Services and NHIF willing to co-ordinate and make this cover available to even those who have the capacity, financial and physical so that they do not have to pay extra premiums?

Mr. Otieno: There has to be extra premium because nobody else would subsidize your responsibilities, the hon. Member knows this very well.

FATE OF POLICE OFFICERS DETAINED IN COMOROS

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

(a) Is the Minister aware of the detention of six Kenyan police officers by Comorian authorities on Saturday, 25th February, 2012?

(b) Under what circumstances did these officers end up aboard the MV Squirrel and, subsequently, thousands of miles into Comorian territorial waters?

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

Yes, I am aware that the following officers are being detained by Comorian authorities:-

- i. Reuben Getich Kipsigei, Personal No. 64843
- ii. PC Larima Kimathi Mukindia, Personal No.33159
- iii. PC James Ndirangu Gucheru, Personal No.54508
- iv. PC James Mwendu Mwisa, Personal No.65448
- v. PC Boniface Mutisya Kituku, Personal No.56009
- vi. PC Evans Njagi Ndwiga, Personal No.85896

Mr. Speaker, Sir, on 12th February, 2012 the Kenya Marine contractor EPZ Limited of P.O. Box 94002/80107 Mombasa applied for private hire of police officers for fear of piracy. The request was approved to escort a vessel MV SVS Squirrel on 13th February, 2012 which was transporting construction and building materials to an exclusive economic zone within the Kenyan territorial waters. The vessel was heading to Tanga in Tanzania. The owner of the vessel paid for the services vide our official receipt No.A8828816 dated 13th February, 2012 for Kshs57,600.

Mr. Speaker, Sir, the vessel left the Port of Mombasa on 13th February, 2012 and on 18th February, 2012 the vessel lost radio contact and erroneously drifted into the Comoros Island territorial waters. The ship captain was signaled by the Comoros Coast Guard but owing to language barrier the captain did not respond forcing the Coast Guard to intercept the vessel and escort it to Comoros, Moroni Port where it was detained together with the six armed police officers and the crew. The Kenyan Government through the Ministry of Foreign Affairs is liaising with the Comorian Government to secure the release of the police officers, crew and the vessel.

I also wish to inform the Questioner that I have just spoken to the able Minister for Foreign Affairs and he has indicated to me that the police officers will be released this afternoon from Comoros.

Mr. Speaker: Yes, the hon. Member for Kamukunji!

(Several hon. Members stood up in their places)

Order, the hon. Member for Kamukunji! You know we do not do that. We do not have two hon. Members on their feet at the same time!

Now you may go back to the microphone!

Mr. Hassan: Mr. Speaker, Sir, now that the Assistant Minister has clarified that Tanga is in Tanzania and not part of Kenya, I was not aware that, in fact, our police has jurisdiction to escort vehicles across our borders. Is this usual or---

Mr. Ojode: Mr. Speaker, Sir, I indicated here that the owners of the company which was transporting the drilling equipment to Tanzania sought for the police escort and, of course, we provided that officially. I have even indicated the official receipt which we gave after they paid the money. However, I am glad that the fellows will be released this afternoon.

Mr. Affey: Mr. Speaker, Sir, it is a bit surprising and I think it is shameful that six armed Kenyan police officers got detained in Comoros one month ago – almost a whole month – and it took the intervention of hon. Yusuf Hassan. It is just after they realized the Question was appearing on the Order Paper that these Kenyans will be released this afternoon. Why did it take a whole month for him to release these Kenyans and subjected their families to unnecessary anxiety if it was not laziness on the part of the Government?

Mr. Ojode: Mr. Speaker, Sir, as I indicated there has been a big problem in communication. There has been a barrier because those people speak French only. The able Minister for Foreign Affairs has been dealing with this matter, liaising with the Comoros authorities for the last two weeks to secure the release of these fellows.

Mr. Letimalo: Thank you, Mr. Speaker, Sir. Given the fact that these officers were providing escort services for the vessel and, in the process, they were arrested, what arrangements do they have to ensure that such a thing does not happen in future?

Mr. Ojode: Mr. Speaker, Sir, we have an elaborate arrangement where if the officers will go beyond our territorial waters, we will definitely arrange with the foreign country so that nothing should happen to them. But in this particular case, it was just a problem of radio; otherwise this thing would not have happened. There was no way they could contact the other officers.

Mr. Njuguna: Thank you, Mr. Speaker, Sir. The ship owners feared the piracy in the Indian Ocean. What is the Government doing to stamp out that menace in the waters?

Mr. Ojode: Mr. Speaker, Sir, I believe that the Questioner has been reading in the newspapers that since we went to Somalia to fight the so-called *Al-Shabaabs* and the *Al-Qaeda's* of this world, the issue of piracy has gone down completely. In fact, we are trying to eradicate piracy completely.

Mr. Hassan: Mr. Speaker, Sir, I am surprised that, in fact, our Government is now in the business of hiring out our own police officers. They can be hired as a gang for hire because I do not understand how our armed policemen could go on a ship across foreign territory without any indication. In this particular case, I am worried that, in fact, they have been used as private

security. Why did the ship not hire a private security? Why was it necessary for our armed Kenyan policemen to be used as an escort?

Mr. Ojode: Mr. Speaker, Sir, this is not the first time we are escorting vessels. Since the pirates started to control the Indian Ocean, we said that we have to escort some of these vessels carrying Export Processing Zone (EPZ) items. It is just that we only had a problem with the radio contact otherwise the vessel would not have drifted to the territorial waters of Comoros.

Mr. Speaker: The hon. Member for Karachuonyo!

KILLING OF PEOPLE BY POLICE IN
RACHUONYO NORTH DISTRICT

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

(a) Is the Minister aware that police officers shot and killed people during a peaceful meeting between the Transport Business Community and the Traffic Police in Rachuonyo North District on 15th February, 2012?

(b) Could the Minister appraise the House on the circumstances that led to the killings and state what steps the Government has taken to ensure that the officers responsible are brought to book?

(c) Could the Minister confirm that the Government will pay the burial expenses of the deceased persons and provide upkeep to the bereaved families?

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

I am not aware of a meeting held between the Transport Business Community and the Traffic Police on 15th February, 2012. However, I am aware of a shooting incident which occurred on 14th February and not 15th February, 2012. On the same 14th February at Kandiege Trading Centre of West Karachuonyo District within Homa Bay County, officers from Rachuonyo County Council accompanied by police officers from the local Kosele Police Station and Administration Police erected a road barrier with a view of collecting council revenue. At about 1.00 p.m., a group of about 200 *boda boda* operators approached the roadblock while armed with *rungus* and stones demonstrating against the county council bylaws on revenue collection. The police and the council officers watched from a distance as the demonstrators shouted anti-council slogans and threw stones at the officers threatening to kill the officers and burning the council vehicle. On sensing danger, APC Jogan Martin Jagongo opened fire and shot two rounds of ammunition, one of which hit one Bernard Opiyo Otieno aged 28 years, killing him on the spot.

Mr. Speaker, Sir, I wish to table a postmortem report on Jagongo.

(Mr. Ojode laid the report on the Table)

Mr. Speaker, Sir, the scene was visited by the police and investigations commenced immediately vide Kendu Bay Police Station Criminal Case No.64683/26/2012, and the suspect was arrested and charged with murder before Kisii High Court. The matter is coming up for mention on 15th March, 2012.

The Government does not have funds under the budgetary allocations to cater for burial expenses and upkeep for bereaved families. Further, the Government was not party to the act and

this case is being treated as a criminal act by an individual and appropriate action is underway through the court process.

Thank you, Mr. Speaker, Sir.

Eng. Rege: Mr. Speaker, Sir, the cause for the killing was simply because the deceased decided to tie the road barrier spikes on his motorbike and pull it away. That young man did this and that was a mistake. It is okay. However, is it in order for a police officer to control a peaceful demonstration such as this one using live ammunition in this day and age? Is it in order for the Assistant Minister to just say that he was shooting in the air and a stray bullet killed the person? This is not correct. The bullet was aimed at the deceased.

Mr. Speaker: Order, the Member for Karachuonyo!

Mr. Ojode: Mr. Speaker, Sir, on several occasions, I have warned my police officers that they must be very careful while using their guns. If they misuse their guns, the law will take its course. As at now, we have arrested the person who misused the gun, and we have charged him with murder. I want to caution my officers that when not necessary they should not, at any time, attempt to use live ammunition on innocent Kenyans.

Mr. Shakeel: Thank you, Mr. Speaker, Sir. The Assistant Minister has clearly told us that the APs and regular police were seconded to the county council. Actually, they were supporting the council in carrying out an illegal exercise which was not properly advertised, to increase rent or levy. Unfortunately, very educated and well trained APs and regular police are now being used routinely for exercises that are not clearly above board. There was no security risk at that time and if there was, why were rubber bullets not used?

Furthermore, Mr. Speaker, Sir---

Mr. Speaker: Order, the Member for Kisumu Town East! It is Question Time. Ask one question at a time and you have asked one. You have asked why rubber bullets were not used.

Mr. Ojode: Mr. Speaker, Sir, the reason why we interdicted this officer was because he went beyond what he should have done.

Mr. Speaker, Sir, when the notification was given to the police officers and the OCPD that there would be a demonstration, their job was to maintain law and order or sanity. The reason why we have arrested this officer and charged him with murder is because he misused the authority and we will continue to do the same to any person who misuses the gun.

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

Mr. Speaker: What is it, Mr. Shakeel?

Mr. Shakeel: Mr. Speaker, Sir, the Assistant Minister has clearly not answered the question of the rubber bullets. Why are rubber bullets not used in these exercises?

Mr. Ojode: Mr. Speaker, Sir, I think I have said that because of the misuse of the firearm by this particular officer – because he ought to have used the rubber bullets - he has landed in court charged with murder.

Mr. Pesa: Thank you, Mr. Speaker, Sir. The Assistant Minister concedes that this police officer misused the firearm. He has, at the same time, said that the officer fired two rounds of ammunition. Can he accept, in his own statement that, actually, this police officer aimed at the deceased, who is Bernard Opiyo Otieno and shot him on the spot?

Mr. Ojode: Mr. Speaker, Sir, I want to categorically deny that the officer aimed at Otieno because there were several people within that area. Otherwise, we would have had many casualties. However, it was just one person who had a problem. So, it was not aimed at Otieno as the hon. Member is saying.

Mr. Speaker: Ask the last question, the Member for Karachuonyo.

Eng. Rege: Mr. Speaker, Sir, I would like to ask the Assistant Minister to provide Rachuonyo North District with proper policing methods. In the past four years, many people have been killed. The police did assure us that we would get reports, but until today, we do not seem to have any reports from the Police Department. Could he kindly give us these reports and beef up security in this district?

Mr. Ojode: Mr. Speaker, Sir, once we have the equipment, we will supply them to various police stations, including Karachuonyo.

DISMISSAL OF POLICE OFFICERS

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

(a) Under what circumstances were police officers, CPL Peter Thaine Koome (No.76078), PC Benjamin Kipruto Chumba (No.85263), PC Charles Agwingi Ambogo (No.64417) and Andrew Lomosi Budembeshe (No.66637) who investigated mobile phone and digital accessories counterfeiting by Ms. Banlon Kenya Ltd, dismissed from service in December, 2011?

(b) What charges were preferred against the Director, Mr. Yang Zhihong (a Chinese national) and under what circumstances was he released from custody?

(c) Can the Minister confirm or deny that police force procedures were violated in dismissal of the four officers?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg for the indulgence of the Chair to allow me to answer this Question later this afternoon before we move to another Motion because I am still waiting for the answer. The reason is that this Question was received last night in my office and I need more details on it. That is why you have seen that I am receiving the answers while seated here.

Mr. Speaker: Very well! We will determine how to deal with it as we come to the end of Order No.6.

INSECURITY IN LAISAMIS CONSTITUENCY

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

(a) Is the Minister aware that the residents of Laisamis Constituency and specifically Logologo area are currently unable to access water and pasture in Gudas and Soriadi areas due to insecurity?

(b) Is the Minister further aware that in many meetings between the Members of Parliament of the region and the national security team in the Office of the President it was agreed that an Anti-Stock Theft Unit would be set up in Gudas?

(c) When will the Government set up an Anti-Stock Theft Unit in Gudas?

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

(a) I am not aware that the residents of Logologo area are currently unable to access water and pasture in Gudas and Soriadi areas due to insecurity. However, I am aware that the

residents have not been taking their animals to Gudas and Soriadi as there is plenty of pasture and water in their current locations. They migrated to Logologo area several years ago.

The Government has established two permanent AP camps in Gudas and Logologo areas. In addition to this, the Government has also recruited and deployed 77 Kenya Police Reservists. In addition, security arrangements and mobile patrols have been enhanced in the areas and no single incident has been reported in the recent past with the last incident having been recorded on 16th November, 2011, when the Degodia tribesmen from Wajir West raided Kenya Agricultural Research Institute (KARI) sub-centre in a revenge attack and stole camels belonging to KARI. This followed a similar raid by the Rendille in June, 2011, during which they stole 65 camels from Koya area.

Previously the area had enjoyed three consecutive years of calm.

(b) Yes, I am aware that previously the need for the establishment of an Anti-Stock Theft Unit had been expressed and agreed upon in various meetings. However, the idea has been shelved due to the ongoing security operations in Moyale and Isiolo. Further, we are awaiting additional officers who are currently undergoing training in the police training colleges. Once they pass out, the camps will be set up immediately.

It should also be noted, however, that there are ASTU officers in the two volatile districts of Moyale and Isiolo.

(c) Plans are underway to set up the camps by latest September, 2012 after receiving additional officers from our training colleges.

Mr. Lekuton: Mr. Speaker, Sir, I do not know what Mr. Ojode calls permanent camps because Logologo has three soldiers and Gudas has four. Also on the police reservists, we do not have any report of any such police reservists being trained and deployed in Laisamis Constituency in the last two years. Is this Assistant Minister in order to come and mislead this House that those three and four askaris in Gudas are permanent camps?

Mr. Ojode: Mr. Speaker, Sir, the Questioner is aware that we were recruiting police reservists. When the recruitment had been done and completed, we posted 77 Kenya Police Reservists within that area. I also mentioned to him that if there are some areas which were left out he can bring some of the names, so that we include them as police reservists.

In terms of beefing up security in Gudas and the rest of those areas as I have mentioned, I will beef up security in those areas. Just give me up to September. Once our boys pass out, I am sure you will be satisfied. But as at now, I will try to get some officers from elsewhere to help the officers who are currently in there.

Mr. M.M. Ali: Mr. Speaker, Sir, issues of security must be taken seriously by this Government. It is sad to listen to the Assistant Minister when he is giving the excuse of Moyale and Isiolo. That is why county leaders of Marsabit agreed way back last year in August that this permanent anti-stock unit be set up in Gudas. The chaos in Moyale just occurred from early December and Isiolo was still unstable even at the time we met officers from the Ministry of State for Provincial Administration and Internal Security. I am not really in agreement that he is taking this matter very seriously. When for sure will he establish that Gudas station as agreed between the leaders and what assurance will he give us that the areas he has mentioned like Isiolo and Moyale will get a permanent solution rather than just sending soldiers every now and then on temporary basis?

Mr. Ojode: Mr. Deputy Speaker, Sir, it is true that we agreed with the Members from that area that we will put some stations there on permanent basis. By that time, Isiolo did not have this insecurity problem.

You have read from the newspapers that after Isiolo, we also had problems in Moyale, Marsabit and other places. So, I would request my colleagues to bear with us. I will have a permanent station at Gudas. I will still look for other officers to transfer to that particular place in order to bring law and order.

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

Mr. Speaker: Order, Member for Turkana Central! You are actually out of order. You have been standing all this time as the Assistant Minister answered the question.

Mr. Mwangi: Mr. Speaker, Sir, the Assistant Minister did not answer part “c” of the Question. It asks: “When will the Government set up an Anti-Stock Theft Unit in Gudas?” He has not made an attempt to answer it. He talked about police reservists and Administration Police officers who are inadequate as far as the Questioner is concerned. Could he tell the House why the MP would prefer an Anti-Stock Theft Unit to police reservists?

Mr. Ojode: Mr. Speaker, Sir, I think the Member for Kiharu has just walked in. I did mention in part “c” that by September, latest, we are going to put a permanent station at that particular place.

Mr. Speaker: Last question, Member for Laisamis!

Mr. Lekuton: Mr. Speaker, Sir, this issue was also raised by the residents of Laisamis to His Excellency the President and there was an agreement that this was going to be done long time ago. As I speak, the people of Logologo are only 12 kilometers from Gudas and there is plenty of water and pasture. It only makes sense that when the Member says that he does not know why they are not going there, it is because of serious insecurity. Could the Assistant Minister consider deploying those *askaris* before September? Right now there is a big drought yet there is a lot of water and pasture there.

Mr. Ojode: Mr. Speaker, Sir, that is a genuine question. I will try my level best to look for *askaris* to transfer to Gudas and my friend Mr. Lekuton’s area. I will do that as a matter of urgency.

Mr. Speaker: Next Question by the Member for North Horr!

ORAL ANSWERS TO QUESTIONS

Question No.1009

PROJECTS UNDERTAKEN BY ENNDA IN NORTH HARR

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

(a) what projects have been undertaken by the Ewaso Nyiro North Development Authority in North Horr Constituency during the 2008/2009 and 2009/2010 Financial Years;

(b) whether he could provide the cost for each project undertaken as well as all the contract documents for all these projects; and,

(c) what immediate measures the Ministry is taking to ensure projects are implemented by the Authority as planned.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Speaker, Sir, I beg the indulgence of the Chair that I be given one week to come and answer this Question. I have consulted the hon. Member and there are some facts he would want to ascertain on the ground before I issue a comprehensive answer.

Mr. Speaker: Very well! Mr. Chachu, do I have your concurrence?

Mr. Chachu: Yes, Mr. Speaker, Sir, you do have my concurrence.

Mr. Speaker: I direct then that this Question appears on the Order Paper a week hereafter.

(Question deferred)

Next Question by the Member for Ndaragwa!

Question No.1270

EMBEZZLEMENT OF FUNDS AT MULTI-MEDIA UNIVERSITY COLLEGE

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

(a) how much money was reported as embezzled at the Multimedia University College of Kenya, located at Mbagathi, under the management of Dr. James Kirumbi;

(b) what he has done to recover the said amount of money; and,

(c) under what circumstances Dr. Kirumbi was paid gratuity of over Kshs6 million considering that he was serving as the Principal of the University College in an acting capacity.

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

(a)The Ministry of Public Works Report “Verification and Certification of Projects at Multimedia University College of Kenya”, Ref. No.FPU/5Vol. I/1 and the Kenya Audit Report on the Systems Audit for 2010/2011 Ref. No.MMUC/219(3) show that laid down Government procedures for procuring works, that is, building and associated civil engineering works were not followed by the university management. However, it is only after the Ethics and Anti-Corruption Commission (EACC) and the Auditor-General finalizes their investigations that the Ministry can confirm if there was any embezzlement and the action to be taken thereof.

(b)When the two reports were received, the Permanent Secretary, on the 29th of May 2011 forwarded them to the EACC with a copy to the Auditor-General and requested them to carry out investigations to ascertain these allegations and take appropriate action. The EACC is yet to communicate to the Ministry of their findings and the action they intend to take if any.

(c)There is no evidence that Dr. Kirumbi was paid a gratitude of Kshs6 million. However, he was paid Kshs4,166,270 as gratuity. The additional payments were in favour of trade off days for the leave accrued. This matter is also under investigations by EACC to determine the authenticity of these payments and for recommendation of action to be taken.

I thank you.

Mr. Kioni: Mr. Speaker, Sir, I find the Question answered by the Assistant Minister slightly different from what I was looking for. Part “a” of the Question was asking how much money was reported as embezzled. However, the answer by the Assistant Minister does not give us a figure. The report that was done by the Kenya Audit and Systems must have contained a figure.

Mr. Kamama: Mr. Speaker, Sir, first of all the Question on the Order Paper today talks about Dr. Kirumbi. I hope this is a typographical error. We are actually talking about Dr. James Kulubi. I hope that is the person we are discussing today.

I want to confirm to the House that this matter is under thorough investigations by this re-known institution called the EACC and the Ministry is following up to ensure that when we get this Report we will take appropriate action and, of course, the EACC we hope will take appropriate action because it has all the instruments of dealing with such matters.

Mr. Speaker, Sir, as to the amount of money that was embezzled, I think the Question was not really about that, it was about Kulubi but having looked at the Verification and Certification Report and the National Audit Report---

Mr. Kioni: On a point of order, Mr. Speaker, Sir. I think the Question is very clear; it is about the money that was reported as embezzled. Is the Assistant Minister in order to mislead this House that the Question was just about Kulubi while it is about what Dr. Kulubi did while he was acting as the Principal of Multimedia University College?

Mr. Speaker: Assistant Minister, I am satisfied that, that challenge is legitimate if you look at part "a" of the Question.

Mr. Kamama: Mr. Speaker, Sir, that is fine.

I confirm that there were quite a number of irregularities. Looking at several LPOs that were not verified and authenticated, I cannot go into the details of those LPOs. However, I know quite a number of LPOs were issued---

Mr. Speaker: Order, Assistant Minister! You can save time for the House; you know that Question at "a" asks you how much money was reported as embezzled. So give a figure if you can!

Mr. Kamama: Mr. Speaker, Sir, at this point in time, we are relying on the two reports until we get the reports from the investigators.

Mr. Njuguna: Mr. Speaker, Sir, the Assistant Minister has admitted that there was some wrong doing by Dr. Kulubi through the procurement processes. Why would the Ministry continue to pay Dr. Kulubi Kshs4.6 million aware that he was under investigation and the university resources were mismanaged under his own supervision?

Mr. Kamama: Mr. Speaker, Sir, when Dr. Kulubi's term ended, it was really fair for the Ministry to have paid him his gratuity. However, when he left all these issues emerged and that is why we are investigating all of them.

Mr. Koeh: Mr. Speaker, Sir, issues of embezzlement of funds in institutions of higher learning is rampant in so many of them. It is absurd to note that the Assistant Minister comes awake to these issues after somebody has already cleared. What systems or mechanisms do you have to ensure that you are able to detect some of these corruption cases being mentioned left and right before hand?

Mr. Kamama: Mr. Speaker, Sir, after getting several reports, we have tightened our audit offices in those respective universities to ensure that matters of this nature are reported in good time.

Mr. Kioni: Mr. Speaker, Sir, I think it is important for the Assistant Minister to know that Dr. Kulubi had worked at Egerton University. He ended up with similar complaints before he left and went to Multimedia University.

The report that was compiled clearly states that the amount that was reported as embezzled was Kshs64 million. I can table this, if it can benefit to the Assistant Minister---

(Mr. Kioni laid the document on the Table)

Mr. Speaker: Order, Member for Ndaragwa! Why would you be asking the question if you know the answer?

Mr. Kioni: Mr. Speaker, Sir, it is upon the Ministry to provide this information and we counter-check. Ours is an oversight---

Mr. Speaker: Look at the right book again, Member for Ndaragwa! Read it once more!

Mr. Kioni: Mr. Speaker, Sir, the Assistant Minister tells us that the issue is under investigation. Could he confirm that the issue is under investigation? If so----

Mr. Speaker: Carry on!

Mr. Kioni: Mr. Speaker, Sir, could he confirm that this matter is still under investigation and that it has not been cleared by the KACC? Could he also confirm to us that this individual has not again been engaged by Masinde Muliro University with this issue still pending?

Mr. Kamama: Mr. Speaker, Sir, I actually confirm to the House that this matter is under investigation. I quoted a letter that was written by the Permanent Secretary of our Ministry. This letter was written on 29th May, 2011 to the Ethics and Anti-Corruption Commission to take over this matter and deal with it expeditiously, so that it is confirmed.

As to the issue of Masinde Muliro University, I think that may be a new development. So, I have no idea about it.

Mr. Kioni: On a point of order, Mr. Speaker, Sir. I believe the Assistant Minister is aware that this letter was written by the KACC. I can produce this letter within 24 hours showing that this individual was cleared of all that he is talking about. We know employment at Masinde Muliro University must be consented to by the Ministry?

Is he in order not to inform the House as to the actual position of what is happening to Dr. Kulubi? Why is it that he has been hopping from university to the other?

Mr. Kamama: Mr. Speaker, Sir, the Ministry will really appreciate if my good friend, hon. Kioni, can forward that letter to our office on Monday. We will know what to do as a Ministry.

Mr. Speaker: Member for Migori!

Question No.1202

SHORTAGE OF TEACHERS IN PUBLIC SECONDARY
SCHOOLS IN MIGORI

Mr. Pesa asked the Minister for Education:-

(a) whether he could provide a list of all registered public secondary schools in Migori District, indicating their respective classes per school as well as the number of TSC teachers per school,

(b) whether he could also state the curriculum based establishment for each school in comparison with the actual number of teachers and explain why a number of schools have only one or two TSC teachers,

(c) what immediate measures he will take to correct the acute shortage of teachers in Migori District both at primary and secondary levels.

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

(a) The list of 36 registered public secondary schools in Migori District, indicating respective classes per school and the number of TSC teachers per school is attached. It has been provided to the Member.

(b) The curriculum based establishment for each school in comparison with the actual number of teachers is also indicated. Some schools have one or two teachers, due to shortage of teachers and the fact that some of them were newly registered.

(c) Serious shortage of teachers is a national problem, which the Ministry is addressing. The Ministry is negotiating with the Treasury for budgetary allocation of funds for employment of 40,000 teachers in the next financial year. The rest will be hired on attrition rate.

Mr. Pesa: Mr. Speaker, Sir, I want to commend the Minister for, at least giving us the right figures which are different from what he brought here yesterday. I know very well that we have a problem of teachers all over the country. Whereas we have 493 CBEs in Migori Constituency, they are only 214 teachers employed by the TSC. This is hardly half of the number. That gives us 279 shortages.

Mr. Speaker, Sir, we have heard in the media that many of our students are now losing their lives for fear of failing examinations. How are the students of Migori going to be assured that they will pass in the coming examination when most of schools have one teacher or two teachers? Imagine a full Form Four class with only one teacher or two teachers! If he doubts me I have schools like Godonche Girls Secondary School with one teacher who is supposed to man four classes. We have Got Kachola with four classrooms, but manned by two teachers. We have Kitambaa, Malera Mixed, Maperu Mixed and Siling with similar problems. These are all single stream schools in Migori that have only one or two teachers.

Mr. Speaker, Sir, even if you are a jack of all trades, how can one teacher, teach four classes and we expect our students to excel in their examinations?

Prof. Olweny: Mr. Speaker, Sir, this problem does not apply to Migori alone. It applies to the whole country. Even in my own constituency, we have schools that are registered, but do not yet have TSC teachers. But in the next recruitment of teachers, we shall give special consideration to those schools with extremely low number of teachers.

Mr. K. Kilonzo: Mr. Speaker, Sir, the issue of shortage of teachers is not unique to this particular school like the Assistant Minister has pointed out. However, the problem is that year in, year out there have always been shortages of teachers. Every time we ask Questions here, we are told they will give special consideration to schools in dire need of teachers. Yet, when this recruitment comes, we still do not get enough teachers.

For instance, Mutito Constituency alone has a deficit of 560 teachers. What method will he use to ensure that schools get teachers?

Prof. Olweny: Mr. Speaker, Sir, there is only one method. That one method is the Treasury giving the Ministry of Education enough money to hire teachers. As of today, we have a shortage of 70,000 teachers for this country. Unless we get money, there is nothing we can do. If the Ministry gets enough money to hire all these teachers, we will hire the same day because we have enough trained teachers in this country---

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister who is part of the Government in order to tell Parliament and Kenyans that there is nothing they can do unless they get money? Where does he expect us to get money for you from? Could he tell us how he will post teachers in those schools?

Mr. Speaker: Order! Order! That, Member for Mutito is not a valid point of order!

Mr. Ethuro: Mr. Speaker, Sir, shortage of teachers in our country is a national disaster. In Turkana County alone, we have a school like Loyoro Primary School, up to Standard Six with two teachers, Turkwel Boys Secondary School, which this Assistant Minister promised six teachers last year, has only one teacher. It goes up to Form Three. Kerio Secondary School, up to Form Two, has one teacher.

Mr. Speaker, Sir, out of the schools that were upgraded to the national level, two of them are from the Turkana County, Lodwar High School and Turkana Girls. The Government was to give some money to these schools. When will they release the money to those schools they promoted to the national status?

Prof. Olweny: Mr. Speaker, Sir, that is a different question from what we have here; anyway, let me say that the schools that are going to be promoted to national schools in the next round will get the money when the budget for them goes through. We have them in mind.

Mr. Pesa: Mr. Speaker, Sir, sometime ago when we had a shortage of teachers in certain areas, the Ministry of Education decided to train teachers in those areas which were more affected because when teachers were posted there they used to go back to their home areas. Could the Assistant Minister look at the national shortage and also the areas which have a bigger shortage than others; in the next recruitment he should employ teachers in those areas which are more affected by the shortage of teachers in this country? Could he assure this House and Kenyans that he will do that?

Prof. Olweny: Mr. Speaker, Sir, that is exactly what my Ministry does in collaboration with the Teachers Service Commission (TSC). The shortage is looked at with respect to every district and constituency. We then balance out the hired teachers depending on the shortage.

Question No.1297

ISSUANCE OF IDS TO KENYANS IN REFUGEE CAMPS

Mr. Affey asked the Minister of State for Immigration and Registration of Persons:-

- (a) whether he is aware of the many Kenyans who have registered as refugees in camps and have been denied national ID cards;
- (b) what measures have been put in place to assist them to acquire the document; and,
- (c) whether he could provide a list of names of the affected persons.

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

(a) I am aware that some persons have registered as refugees in the camps and have also sought registration for Kenya national identity cards at the same time. They should be arraigned in court and charged. However, we have a humanitarian window and we have referred the applicants, who say they are Kenyans, to their respective district security committees for vetting and clearance before they present themselves for national identity card registration and subsequent deregistration from the refugee data base. I have a total number of such applicants; it is about 124; I have attached a list here as Appendix I and Appendix II; I have shared this with hon. Affey.

Mr. Affey: Mr. Speaker, Sir, ordinarily I thank the Minister but on this one I am not going to thank him at all; it is unfortunate that in this country today young Kenyans are flocking

to refugee camps because the services provided in the camps are much better than what the host communities get. A lot of these young people went to the refugee camps when they were less than ten years old, and have since matured. When they went to seek national identity cards they were denied them on the basis that they were refugees.

Mr. Speaker, Sir, the Minister has submitted a list of such people. They are more than the number he has stated but just going by what he has submitted, I just want to pick out a name. The Minister has the name and the name is No.30 – Saddam Farah Kayie. This is a Kenyan from the Deputy Speaker’s constituency of Lagdera. This Kenyan actually went through the process of deregistration on the advice of the Department of Registration but four years down the road, from 2008 to 2012 - It is nearly five years - this one Kenyan cannot get an identity card, and there are very many of them. Could the Minister inform the House what policy he has put in place now that he knows that there are Kenyans who, inadvertently, registered as refugees to seek food, and not because they wanted to become refugees---

Mr. Speaker: Order, Mr. Affey! Come to the question and avoid repetition!

Mr. Kajwang: Mr. Speaker, Sir, let me give a short background of what happened. The refugee camps are for refugees from neighbouring countries. Some are from Somalia, Sudan, Congo and many other countries. So, when you get into a refugee camp we register you from your country of origin and indicate that you are from Somalia or Sudan. Of course, we have now learnt that there are some Kenyans who, because of adversities like drought, hunger and availability of relief food within the refugee camps, cheat that they are refugees; they cheat about their country of origin. Some say they are Somalis or Sudanese when they are actually Kenyans. Since we have an electronic data base, when we register you as a refugee we take your thumb print. When you apply for an identity card, we check our computers and find that you have already been registered as a refugee through what is technically called “biometric system”. When we are confronted by this, the assumption is that you are a foreigner because that is how you registered first; until you persuade us that you are a Kenyan, we are reluctant to register you.

So, what have we done? We have said that instead of arresting all these people and charging them, this is a futile exercise. We have said we will take them back to their villages – to their chiefs who know them and to the security people at the grassroots who know them to clear them and then they can apply as Kenyans. I have given hon. Affey two lists. One of the list which is Appendix I, is of those who are refugees, or whom we have found in the refugee data base; they have said they are Kenyans but they have not applied. Appendix II is of people who are actually in the refugee database, but have since been cleared and have applied; they have the serial number or the waiting cards. What he is complaining about is that those who have since been cleared and have applied should now be issued with identity cards promptly. If that is the thrust, then I confirm that any of these people who have applied, unless there is any specific question of a security nature, will be registered within 30 days; they are in Appendix II. Those who are in Appendix I, until they are cleared and apply, we will treat them as foreigners.

Mr. Farah: Mr. Deputy Speaker, Sir, indeed, this is a problem that affects by and large more than any other constituency, my constituency and hon. Affey did a very good thing knowing the fact that I end up where you are quite often when these questions arise. I appreciate what the Minister has said, and that has been the content of communication from the Minister, Permanent Secretary, Director of Registration and a number of senior officers in the department. In one case which hon. Affey is talking about is a letter addressed to me here of a young man who completed his high school examinations in 2008 and cannot go to the university four years down the line because he cannot access an identity card. The letter is here which, indeed,

confirms that he is a Kenyan. I have letters where the security machinery has done all the investigations, but somehow he has been issued with an ID card.

Mr. Minister, I am happy that you have given these. I just want you to confirm one more time. These are Kenyans who are likely to be displaced. We talk about Internally Displaced Persons (IDPs) everyday in this country. We talk of the victims of the post-election violence of 2007 and 2008; we are using massive amounts of public money to resettle them.

Every time we have a drought, not less than 200,000 people from North Eastern Province get displaced and nobody gives them anything because their livelihood is displaced. You do not expect them to starve when there is a refugee camp. They will go there and access food.

Could the Minister give us a very firm undertaking - which he has given, and I have no reason not to trust him - that all these Kenyans who went in there because they did not want to starve and any human being will do this, will get their rights as Kenyans and get registered now?

Mr. Kajwang: Mr. Speaker, Sir, with a light touch, the name is Saddam Farah and we are doubtful whether he is not an Iraqi, but I have now confirmed that he is a Kenyan and he has since registered. He is waiting for his identity card. This is a very serious matter because the student should join university. I confirm that those who have now applied, unless there is any other question, will get their identity cards in 30 days.

Mr. Duale: Mr. Speaker, Sir, because of the nature of the issuance of identity cards in northern Kenya - I know that we have scaled both the staff and the resources - could the Minister appoint a special team to handle these particular poor people who went to the refugee camps and now they have the problem of getting identity cards? Could he set up a special taskforce to work on that?

Mr. Kajwang: Mr. Speaker, Sir, we have the normal security apparatus there. We need the chiefs, the elders and the intelligence officers to help us because if you go through this list, you might find names which you are very doubtful whether they are Kenyans or not. We want to check that. We will try as much as possible. The Member should encourage those who registered there and are afraid to come out. There are so many other people who registered and they now want to declare that they are Kenyans, but they are afraid that they may be arrested, but we will give them amnesty. They should come out, go through the system and we will give them identity cards.

Mr. Affey: Mr. Speaker, Sir, I cannot see any other reason not to thank the Minister because he has given a very strong commitment, but the number I have given him is small. He should advise his office, so that the hundreds or thousands are captured properly and given national identity cards just like the rest of Kenyans.

The Minister of State for Defence (Mr. Y. Haji): On a point of information, Mr. Speaker, Sir.

Mr. Kajwang: Mr. Speaker, Sir, there is some information from the Sultan, which I will accept.

The Minister of State for Defence (Mr. Y. Haji): On a point of information, Mr. Speaker, Sir. I had a very fruitful discussion with the Minister and I told him that I was going to give him a list of 2,000 people from my constituency who are in refugee camps. I hope that when I do that, something tangible will happen.

Mr. Kajwang: Mr. Speaker, Sir, it is amazing how many could be there and it is not exaggerated because the refugees that are registered and are in our database are in excess of 700,000. So, 2,000 is a small percentage. So, it is not something which should scare anybody. I

am trying to say that every Kenyan who registered as a refugee, but now wants to declare that he has seen the light and wants to become a Kenyan, should come out.

QUESTION BY PRIVATE NOTICE

Mr. Speaker: Order, Members! We want to go back to Question No.5 by Private Notice.

DISMISSAL OF POLICE OFFICERS

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

(a) Under what circumstances were police officers, Cpl Peter Thaine Koome (No. 76078), PC Benjamin Kipruto Chumba (No. 85263), PC Charles Agwingi Ambogo (No. 64417) and Andrew Lomosi Budembeshe (No.66637), who investigated mobile phone and digital accessories counterfeiting by Ms Banlon Kenya Ltd., dismissed from service in December 2011?

(b) What charges were preferred against the Director, Mr. Yang Zhihong (a Chinese National) and under what circumstances was he released from custody?

(c) Can the Minister confirm or deny that Police Force Procedures were violated in dismissal of the four officers?

Mr. Speaker: Assistant Minister, do you have the answer now?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I have not received the answers. I have received some papers here and I thought the answer will be there, but it is not.

Mr. Speaker: Very well. In that case, Member for Yatta, we will defer the Question to the nearest sitting day.

(Question deferred)

Mr. Keter: On a point of order, Mr. Speaker, Sir. On Tuesday, I had filed a Question and you mentioned that it would appear on the Order Paper today. To my surprise it is not there and the Question which has been pending since September last year.

Mr. Speaker: What was the Number of the Question?

Mr. Keter: Mr. Speaker, Sir, it was Question No.1334.

Mr. Speaker: And I directed that it should appear on the Order Paper today and it is not there?

Mr. Keter: It is not there.

Mr. Speaker: Order! I am sure the Clerk has taken note, and I direct that it appears on the Order Paper on the next sitting day.

Hon. Members, that brings us to the end of Order No.6.

Before we move to the next Order, I have two Communications to make.

COMMUNICATION FROM THE CHAIR

NOMINATION OF CHAIRPERSON AND MEMBERS OF NATIONAL POLICE SERVICE COMMISSION

First, this is with respect to nomination for the chairperson and members of the National Police Service Commission.

Section 4(1) of the National Police Service Commission Act, 2011 provides that the National Police Service Commission shall consist of nine members appointed in accordance with the Constitution and the provisions of the aforesaid Act. Pursuant to Section 6 (5) of the Act, the President shall select the Chairperson and members of the Commission from the list of qualified persons forwarded to him by the Selection Panel and subsequently forward the names of the persons so selected as Chairperson and members to the National Assembly for approval.

In a letter Ref. OP/CAB.3/77A, dated 7th March, 2012, from the Permanent Secretary, the Secretary to the Cabinet and Acting Head of the Public Service, the National Assembly has been advised that His Excellency the President, in consultation with the Rt. Hon. Prime Minister, has nominated the following persons for the positions stated hereunder:-

- | | | |
|----------------------------------|---|-------------|
| 1. Amina R. Masoud | - | Chairperson |
| 2. Esther Chui-Colombini | - | Member |
| 3. Ronald L. Musengi | - | Member |
| 4. James A. Atema | - | Member |
| 5. Dr. Major Muiu Shadrack Mutia | - | Member |
| 6. Mary Auma Owuor | - | Member |

Members may wish to note that the other three Members of the Commission will be the Inspector-General of Police and the two Deputy Inspector-Generals and who are yet to be appointed to these positions. Under Section 6(6) of the National Police Service Commission Act, 2011, the National Assembly is required, within 21 days of the day it next sits after receipt of the names of the nominees, to vet and consider all the applicants and may approve or reject any or all of them and request for the names of new nominees.

Hon. Members, I direct that these names and the accompanying curriculum vitae of the nominees together with the report of the Selection Panel including the score-sheet be forwarded to the Departmental Committee on Administration and National Security for consideration prior to approval by the House. The Committee is subsequently hereby directed to table its report on or before Thursday, 29th March, 2012.

PROCESS OF ELECTING MEMBERS TO EALA

Hon. Members, I wish to communicate as follows regarding the process for the election of Members to represent the Republic of Kenya in the East African Legislative Assembly.

As Hon. Members may be aware, the five-year term of the present East African Legislative Assembly, which is the 2nd Parliament of the East African Community, will come to a close on 4th June, 2012. It is, therefore, imperative that this House commences and concludes the processes for the election of Members of the Assembly ahead of the inauguration of the 3rd East African Legislative Assembly due on 5th June, 2012.

Hon. Members, the election of Members of the East African Legislative Assembly is governed by Article 50 of the Treaty for the establishment of the East African Community which is part of Kenya's law pursuant to the Treaty for the establishment of the East African Community Act, Act No.2 of 2000. Article 50 of the Treaty, to which the elections must conform, provides as follows:-

50. "Election of Members of the Assembly"

1. The National Assembly of each partner State shall elect, not from among its Members, nine Members of the Assembly, who shall represent as much as it is feasible, the various political parties represented in the National Assembly, shades of opinion, gender and other special interest groups in that partner State, in accordance with such procedure as the National Assembly of each partner State may determine.

2. A person shall be qualified to be elected a member of the Assembly by the National Assembly of a partner State in accordance with paragraph 1 of this Act, if such a person:-

- (a) is a citizen of that partner State;
- (b) is qualified to be elected a Member of the National Assembly of that partner State under its Constitution;
- (c) is not holding office as a Minister in that partner State;
- (d) is not an officer in the service of the Community; and,
- (e) has proven experience or interest in consolidating and furthering the aims and the objectives of the Community.

Hon. Members, the Draft Rules of Procedure contemplated by Article 50(1) of the Treaty have been drafted and will shortly be forwarded to the Departmental Committee on Defence and Foreign Relations, which will then be required to table a Report for debate and adoption. Thereafter, the election of Members to serve in the East African Legislative Assembly will be undertaken by this House in accordance with those Rules.

It may be important to note that parliamentary political parties have a significant role to play in the nomination process. I would, therefore, urge the leadership and the members of parliamentary political parties to prepare to actively discharge their mandate in this process since Article 50(1) requires that the nine members of the Assembly should “represent as much as it is feasible, the various political parties represented in the National Assembly, shades of opinion, gender and other special interest groups in that Partner State”.

Hon. Members, the matter of the election of Members of the East African Legislative Assembly (EALA) needs to be handled with circumspection as Kenya has previously had her nominees contested in the East African Court of Justice. Hon. Members will recall that in the 2006 Reference, the East African Court of Justice found that the Kenya National Assembly’s rules infringed on Article 50 of the Treaty to the extent of their inconsistency therewith. The Court, therefore, declared that the National Assembly of Kenya did not undertake an election within the meaning of Article 50 of the Treaty and issued an order restraining the Clerk to the EALA from recognizing nine persons named in the order as duly elected by the National Assembly of Kenya to the EALA, or permitting them to participate in any function of the EALA. Perhaps just to add that, that whole process and the case will cost your Treasury an amount in excess of Kshs350 million in costs.

Hon. Members, it is, therefore, imperative that the rules that we adopt for the election of Members to the EALA and the election process we conduct as a whole, adhere to the Treaty.

I thank you.

MINISTERIAL STATEMENTS

Mr. Speaker: Hon. Members, we have many Statements which are due today but we will begin with the one by the Minister for Education, Prof. Ongeru. Leader of Government Business, please, note that Prof. Ongeru will give the Statement because he has reported to me that he is not feeling too well. So, we will let him go first.

EXAMINATION IRREGULARITIES IN NORTH EASTERN PROVINCE IN 2011

The Minister for Education (Prof. Ongeru): Mr. Speaker, Sir, on Tuesday, there was a Ministerial Statement required by this House on the examination irregularities in the 2011 KCSE examinations, with particular reference to North Eastern Province. I would like to present the following:-

During the release of the 2011 Kenya Certificate Secondary Education Examinations, a total of 2,927 candidates out of the total of 411,783 who sat for the examination, had their results cancelled by the Kenya National Examination Council (KNEC) due to examination irregularities. Since then, a lot of concern has been expressed about the cancellation of those results, especially in North Eastern Province. Subsequently, I directed the KNEC to re-examine all the cases of cancelled results, especially those from North Eastern Province, and give me a comprehensive brief on the same. The 2,927 candidates who had their results cancelled as a result of involvement in examination irregularities were from 154 centres countrywide. Most of the cases were mainly as a result - and I repeat - of collusion and smuggled materials. I wish to state that my Ministry is determined and committed to uphold the national curriculum evaluation system that is fair and will, therefore, not condone any form of cheating in examinations, and those found guilty will continue to be firmly dealt with in accordance with the operative statutes.

Our schools are charged with the responsibility of inculcating moral values and ethics with a view to preparing honest and responsible citizens with a high sense of integrity. Candidates who have, therefore, gone through our education system and seek to pass their final examination through cheating make a mockery of the very values that they are supposed to have acquired in school. Such candidates may believe that they can go through life expecting to achieve every good thing through cheating. A transparent and accountable society that we are striving to mould will not accept such individuals. I need not over-emphasize the fact that the examination results are a major determinant of access into our institutions of higher learning, training opportunities and the job market. It is therefore, imperative, that objectivity, equity and fairness be the overriding concerns in the allocation of those places. Any practice, therefore, that threatens to undermine the whole examination process must be stamped out without hesitation.

The Government and my Ministry, in particular, has an obligation to safeguard the quality and credibility of our education and examination systems and the respect it commands locally, regionally and internationally. It is, therefore, important that KNEC is fully supported when it is carrying out its mandate of objectively testing and evaluating the curriculum in order to maintain acceptable and credible certification standards.

Mr. Speaker, Sir, having given that background, let me now turn my attention to examination irregularities that occurred during the 2011 KCSE examination and, in particular, the North Eastern Province and how they were dealt with. During the 2011 KCSE examination peak season, there were 6,448 examination centers with 411,783 candidates. The examination was administered for 19 days and within the same period, the Kenya Certificate of Primary Education (KCPE) was also administered to 776,214 candidates in 22,154 centers.

Mr. Speaker, Sir, there are only 170 senior staff in the Kenya National Examination Council (KNEC). Therefore, they cannot be personally present in close to 30,000 centres for both the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) examinations countrywide.

Therefore, to manage these examinations, the Council enters into agency with the Ministry of Education officials who include the eight Provincial Directors of Education, Provincial Examination Officers, all the District Education Officers, District Examination Officers and other senior education officers in the field so as to manage the field administration of examinations. The KNEC also works with the Provincial and District Administration for provision of security and transport services. Through these offices, the KNEC then employs the services of trained supervisors, invigilators and security personnel. For the 2011 KCSE examinations, there were 6,215 supervisors, 22,496 invigilators and 12,796 security personnel who were deployed to man this examination.

Mr. Speaker, Sir, it is true that 1,694 candidates out of a population of 4,303 in North Eastern Province were involved in examination irregularities in 40 out of 60 schools and their results were cancelled. This indicates that over 60 per cent of the candidates in North Eastern Province got their results but 39.37 per cent who were involved in examination malpractices had their results cancelled. The nature of these irregularities was mainly collusion which involved 1,686 candidates while eight candidates were caught in possession of unauthorized materials when the examination was in progress.

The KNEC has had challenges in the management of examinations in the country. I would like to highlight some of these challenges with respect to North Eastern Province for Members of Parliament to appreciate the complexity of the situation and to note how some of these challenges could contribute to examination cheating.

During the administration of 2008 examinations, there were many reported attempts to compromise examination material stored in different distribution centres in North Eastern Province. The KNEC, with the help of security personnel, assisted in the investigations. There was then a gang that operated between Bura East and Fafi districts that was unearthed. The gang leader was arrested in Malindi and he revealed the following:

(1) He was networking with 17 candidates who were arrested and after investigations, their results were cancelled.

(2) He confessed that he used to charge as much as Kshs200,000 per candidate.

(3) He claimed to have been working with an Administration Police officer stationed at the Garrisa Police Station and an inquiry file opened in 2008 in Garissa is still pending.

(4) The gang leader was charged in a Malindi court for the case. The case is still pending before the court.

The KNEC used to dispatch examination materials for the entire four week examination period but in response to this threat to the security of examination materials, the KNEC introduced a weekly dispatch of examination papers to reduce the time of storage in the distribution centres. In 2009, the gang, again, tried to acquire examination materials from Coast and Garissa. The leader was arrested on 19th October, 2009, as he prepared to leave Coast for Garissa apparently to acquire examination materials. He was found in possession of fake vehicle number plates which he would fix on his vehicle to avoid being detected.

During the same 2009 examinations, when three KNEC officers attempted to visit Sankuri Secondary School in Garissa where examination irregularities were reported to have been taking place, they found the school gates locked and no one on sight to allow them entry. To establish exactly what was happening, one of the monitoring officers had to risk his life by climbing over the fence to open the gates only to get to the examination rooms and find candidates freely using textbooks and notebooks during the examination.

In 2010, intelligence reports received indicated that there were attempts to cheat in the Daadab Refugee Camp Examination Centre. When supervisors attempted to deter them, the mob roughed up the supervision team almost making the examination sitting impossible and that is in the public domain because it appeared in the papers. A security team composed of a KNEC officer, a Ministry of Education officer, a local guide and a Ministry of Education driver were dispatched to Daadab on 7th November, 2010. On 8th November, 2010, the security monitoring team was attacked by an armed gang as they travelled to Daadab. The officers were beaten and violently robbed of cash and other valuables. During the attack, the robbers told the officers that they were militia men and had been monitoring the movement of the KNEC/Ministry of Education Officers. They threatened to kill them and take the vehicle away. The officers pleaded for mercy and were---

Mr. Keynan: On a point of order, Mr. Speaker, Sir. With all due respect, what the Minister is doing is to give us a chronology of all the criminal activities that have taken place for the last seven years. That is not what we are interested in but we are interested in what led to the cancellation of KCSE examination results for the year 2011. Let him not tell us about the criminal activities because it is long and boring.

Mr. Speaker: Mr. Minister, how far are you from the end?

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, I am almost getting there.

One of the issues raised by the person who sought the Ministerial Statement was that he wanted to know what steps had been taken by the Ministry to address this issue. Therefore, it is important to lay the basis so that whatever decision that is taken is addressed. Why are we running away from the truth?

Mr. Speaker: Proceed, Prof. Onger!

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, therefore, on 8th November, the militia threatened to kill the officials who reported the matter to Daadab Police Station under OB No.27/9/11/2010. The matter is under investigation. During the same period, a senior Ministry official also monitoring examinations in the area was roughed up by unknown persons in Garissa. The supervisors, invigilators and security personnel were put on the alert and security was beefed up in Daadab and that matter was settled. It is common knowledge that a Mr. King'ori who was a supervisor in Garissa High School was killed in 1994 because of such examination malpractices. I wish to inform the House that the examinations malpractices trend is taking---

An hon. Member: Did you say 1994?

The Minister for Education (Prof. Onger): No, it was in 2000 and not in 1994.

Mr. Duale: On a point of order, Mr. Speaker, Sir. The Minister of State for Provincial Administration and Internal Security is here and as the Member for Dujis, a Mr. King'ori was not killed as result of examination cheating. Is the Minister in order to mislead the House? The Minister of State for Provincial Administration and Internal Security is seated here.

Mr. Speaker: Order, Minister! Continue with the Statement and try to get to the end quickly. Member for Dujis, that may be valid, but you can hold your horses.

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, I wish to inform the House that the examination malpractice is taking a worrying trend lately as the cartels in some of the cases that have been reported began to involve head teachers, supervisors and district education officials attempting to conceal examination irregularities in the recent past.

During the 2011 KCPE Examination, the following officers attempted to interfere with the submission of evidence on examination:

911: A District Examination Officer and a head teacher interfered with the submission of irregularity cases to the Kenya National Examination Council (KNEC) by withholding 10 mobile phones and a shirt containing pre-prepared responses that were confiscated on the first day of the 2011 KCPE examination. The details of the candidates who were caught with the mobile phones and the shirt containing prepared responses were only forwarded after KNEC proposed to forward the name of the examination officer to his employer, the Teachers Service Commission (TSC).

912: The District Education Officer and the District Examination Officer coerced the supervisor of this examination centre to write a favorable report on the examination centre. In another incidence, a head teacher and the supervisor in Waberi Primary School knew that the examination irregularities were taking place in their school during the 2011 KCPE examination, but instead of reporting the same and taking steps to prevent further cheating, they conspired to hide and destroy evidence on examination irregularities by hiding mobile phones and prepared notes which were found with candidates during the examination. The supervisor had handed over mobile phones to the school's head teacher who returned them to the candidates and destroyed the prepared notes. As such, no evidence on cheating was forwarded to KNEC at the end of the examination.

The details of the students who were caught with the mobile phones and the pre-prepared responses were only forwarded after KNEC indicated that it was going to forward the District Examination Officer's name to his employer for disciplinary action.

The supervisor of the examination centre in Garissa District at Boys Town Secondary School reported that the District Education Officer and District Examination Officer, Garissa District, and the head teacher of the school in question attempted to coerce him to conceal the examination irregularities that occurred during examinations. Appropriate disciplinary action is being taken on the officers involved---

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

Mr. Speaker: What is it, Member for Ikolomani?

Dr. Khalwale: Mr. Speaker, Sir, we are following and closely observing the Minister. He has rolls and rolls of foolscaps to go through.

Mr. Speaker: Prof. Ongeru, how much longer?

The Minister for Education (Prof. Ongeru): Mr. Speaker, Sir, very shortly, I will be winding up. I will then table the list.

Mr. Speaker: Very well. Proceed.

The Minister for Education (Prof. Ongeru): Thank you, Mr. Speaker, Sir. I said that appropriate action is being taken on the officers involved and every effort is being made to ensure that there is security for the teachers who report the malpractices.

These are just but a few examples to show how challenging management of examinations can be. Such an environment is a fertile ground for examination cheating. Prior to the commencement of 2011 examination, KNEC put a programme in place to brief and sensitize all Provincial Directors of Education, District Education Officers, District Examination Officers, head teachers, supervisors and invigilators. This was undertaken from 4th October, 2011 to 14th October, 2011. It was done extensively in North Eastern Province as well as in other parts of the country. This resulted in a very good performance in KCPE. Indeed, Garissa District led in the nation in KCPE with regard to strict observance of the examination rules.

Due to insecurity coupled with bad weather conditions, intensive monitoring was, therefore, hampered. It was during this period that a District Officer in Laffey District, Mr.

Yusuf Godana, and the head teacher of Laffey Secondary School were attacked and killed in the name of Al Shabaab.

I know how painful it is for candidates to have their results cancelled, but if we are to retain the credibility of our national examinations and by extension our education system, then we cannot give results to candidates who have cheated. By doing that, we shall be sending very strong wrong signals and we will certainly wreck our education system and weaken the moral fibre of our society.

It should also be noted that the cancellation of results due to cheating was not confined to the North Eastern Province rather it was countrywide. Indeed, out of the 47 counties, only 11 counties stood out without any cases of irregularities. This is an indication that it was not a discriminatory process for any given province. It is a painful matter for both my Ministry and the KNEC that the results for many candidates were cancelled. This calls for a sober approach by all the stakeholders involved including our hon. Members of Parliament in order to address this unfortunate tragedy.

I have engaged Members of Parliament – I had a meeting with them this morning. I took them through the works of the whole process and I need not repeat it in this House. We have agreed that what is available to us is factual evidence that can only be tabled in the course of law. A decision was taken by the KNEC Security Committee that the candidates have a period of 31 days to lodge their grievances for redress by the KNEC. I also wish to state that all the candidates who cheated and had their results cancelled have a chance to appeal so that their cases are looked at again by the security committee on the basis of the appeal, or they can opt to repeat the examination this year. The only hiccup is that the closing date is on 15th February, 2012, but we are willing to extend this date not only for North Eastern Province, but for all other candidates who may have agreed the examination this year.

Mr. Speaker, Sir, cancellation of results was due to cheating and any other form of irregularities. I have quoted extensively what has happened and I need not go into details. I spent seven days in North Eastern Province with all my officers and we toured the entire province in search of a solution for education opportunities for the province. That is a fact. I know how much the hon. Members have invested in education, but that does not absolve us from a responsibility that we have of giving credible results.

So, the possibility is that this House will accept that we yield to pressure and release the results on the basis of the pressure or we go by the facts available on record. I have the records. They are subject to verification upon application in a court of law. We can verify those records but for purposes of clarity, I just want to say that because I wanted to be satisfied, as the Minister in charge of Education, I had the opportunity to peruse some of the materials this morning. I am satisfied that the element of collusion exists. It involved the schools. The scripts are available but they can only be made available in a court.

Therefore, I now want to append the list of all the schools that were involved in the North Eastern Province, in which subject, in which area and at what level of being caught with materials or collusion; I table this.

(Prof. Ongeru laid the documents on the Table)

Mr. Speaker: Very well, Prof. Ongeru! You realise that you took us through 30 minutes. If Ministerial Statements are delivered in 30 minutes, we will be cooked as a House.

Hon. Members, let us seek clarifications. I am afraid that I will restrict them to five.

Mr. Affey: Mr. Speaker, Sir, it is, indeed, a very difficult thing to understand this Ministerial Statement. From the outset, I would like to state that nobody supports cheating. Neither leaders nor parents support cheating. We absolutely do not support any form of cheating.

Mr. Speaker, Sir, we have a situation in this country today, from the Minister's Statement, where more than a half of the 2,927 candidates whose results have been withheld for cheating come from the North Eastern Province, which comprises of Wajir, Garissa and Mandera Counties. Fifty per cent of all the students who sat for the examination in the province have had their results cancelled; that is 1,600 students. This is the first time such a thing has happened in that part of the country.

The Minister has confirmed that he has personally toured the province many times. I can tell him that there is huge investment in education in the province today more than ever before. We know that you must work hard and get the right papers for you to become a useful citizen in this country. For that matter, there has been gradual improvement of educational performance in the province over the years.

Mr. Speaker, Sir, we are not convinced---

Mr. Speaker: Order! Order! Do not use this opportunity to debate the matter. What is your clarification?

Mr. Affey: Mr. Speaker, Sir, we are definitely not convinced that the 1,600 students cheated because there is no possibility of collusion over a distance of 1,500 kilometres between Mandera and Ijara, with students colluding in the same manner. I want the Minister to consider establishing a special audit committee to investigate this matter. There should be an independent team from his office or otherwise to investigate this matter to convince us, as parents, and the students that actually there was collusion. Could he consider establishing such a committee to convince us that the 1,500 students cheated?

Mr. M.M. Ali: Mr. Speaker, Sir, this is, indeed, very sad. Education is the cornerstone on which we all have to prepare our children as they go out to the world. We state very clearly that any form of cheating is a menace and we have to get rid of it. However, when the Minister withholds the results of all those children from the North Eastern Province alongside the results of quite a number of children in various parts of the country, including my own constituency of Moyale, where the results of 145 students in two schools were withheld--- We punish these students by withholding their results, I would want the Minister to clarify what measures he is taking to ensure that such a thing does not happen again. This is because in order for the children to have those materials, there should be negligence on the part of the education officers who supervised the exercise or on the part of the Kenya National Examination Council (KNEC). So, could he tell us what action he has taken against the officers concerned? We cannot sit back and listen to this kind of thing year in, year out.

Mr. Speaker: Order! Order!

Yes, Member for Mosop.

Mr. Koech: Mr. Speaker, Sir, the issue of cheating in this nation is a very sad thing that we believe we should be able to stem. The credibility of our national examinations must be protected at all times. What I want to note from the Minister's submission is that over a half of those whom he claims to have cheated come from one province. What does cheating entail? Could he explain to this House whether when one is found with materials that may not have any direct relationship with that particular examination is taken to be cheating?

Mr. Farah: Mr. Speaker, Sir, those of you who are of my age, your age and the professor's age remember the 1950s, when we used to do the examination by East African

Examinations Council; we never had these problems because the exams from Kenya used to be marked by Ugandans, those of Ugandans used to be marked by Tanzanians and those of Tanzanians used to be marked by Kenyans. That is how it used to be. Those exams used to be marked by people who had absolutely no interest in the examinations.

Examination now is a cartel; it is corruption. It is nepotism. It is regionalism because it is all conducted by teachers whose integrity and dignity are questionable in many cases. Could the Minister confirm that there will be an independent audit done by independent examiners from outside this country, including from Uganda, and in a manner that we can essentially say is independent? They should go through these materials and establish the exact facts. This is because sometimes when students from the North Eastern Province do so well, somebody assumes that they have cheated because they have done well. They are not used to them doing well.

Mr. Speaker: Yes, Member for Lari. I am afraid that that is the one, hon. Members!

Mr. Njuguna: Mr. Speaker, Sir, the Minister has informed the House of a well known examination gang leader, who seriously started interfering with examinations way back in 2009. What steps has the Government taken to apprehend this criminal who has now jeopardised the lives of innocent Kenyans in the North Eastern Province?

Mr. Speaker: Minister, you may want to give your responses.

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

Mr. Speaker: Order! Nothing has happened for you to raise a point of order!

The Minister for Education (Prof. Ongeru): Mr. Speaker, Sir, hon. Affey said that 50 per cent of the results of candidates in the North Eastern Province have been withheld. It is not 50 per cent. If he listened to my Statement, it was 39.37 per cent. So, that is an exaggeration.

Mr. Affey: It is almost 50 per cent.

The Minister for Education (Prof. Ongeru): No, it is not almost. Those who read statistics will tell you that there is a world of difference between 39.37 per cent and 50 per cent.

Mr. Speaker, Sir, I have been asked to consider establishing a committee to investigate the matter. Indeed, right from the word go, when the results were being presented to me on Monday, 27th February, 2012, my immediate reaction to the highlights was that this must have involved a chain. Therefore, before we punish the student who has been a cog in a wheel, I want to know what the chain is. I want the truth to be established of this chain. Indeed, the Security Committee of the KNEC, which excludes the members of the KNEC, sat on one day from 9.00 a.m. to 8.00 p.m., going through each of those scripts before I pronounced the results on 1st March, 2012. I want you to know the Permanent Secretary, the Educational Secretary, people from the university who are members of that Council and many other people sit in that security committee.

Secondly, when I announced the results because I am asking---

Mr. Keynan: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to mislead Kenyans when we know he, himself, and his PS and his Education Secretary have all declared their intention to go for elective posts and yet, he said they sat in a place from 9.00 a.m. to 5.00 p.m.? What time did they have? Could he tell the country?

The Minister for Education (Prof. Ongeru): Mr. Speaker, Sir, obviously, you can understand the irrelevance of that question.

The question I was being asked to address by Mr. Affey, and I will gladly address it is: Have you considered establishing a committee? I did establish a committee then. After the results, I again met the people---

(Several hon. Members stood up in their places)

Could they allow me to finish?

Mr. Speaker: Order! Let us give the Minister a chance to respond.

The Minister for Education (Prof. Ongeru): Mr. Speaker, Sir, I established a committee. After the matter was raised in Parliament, I said this is the only way we can help each other by appealing to that committee. There is an opportunity for these individuals to make specific appeals. This will be a period between 1st March and 31st March. They could now make their specific appeals within this month. We will look at it and re-examine it again. If there is any flaw, we will be the first ones to come to the Floor of the House and announce. However, if there is no flaw, and we reconfirm the same figures---

Dr. Nuh: On a point of order, Mr. Speaker, Sir. You are a seasoned lawyer and you know the process of appeal that someone cannot appeal to the same court that judged him. Is the Minister in order to mislead this House that there is an appeal process in the Kenya National Examination Council (KNEC) when it is the same judges who declared the exam irregularities that will sit in that appeal committee?

Mr. Speaker: Mr. Minister, you have a response to that?

The Minister for Education (Prof. Ongeru): There is a provision in the Act of Parliament. Please, get acquainted with the KNEC rules and procedures and the Act itself. It is quite clear. There is a provision for appeal and that is the window of opportunity that we are invoking. It sounds quite reasonable.

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

Mr. Speaker: Order, Member for Bura! If you take the Minister seriously, then he has a valid response which you must take carefully and seriously. The Act that regulates examinations is a product of this House. So, if he is merely living within the law, then he has done nothing wrong.

Dr. Nuh: Mr. Speaker, Sir, I am not challenging the legality of whatever he is saying, but it is a sham. Whatever law that was passed, there is no credible appeals process in Kenya.

Mr. Speaker: Order, Member for Bura! That will not be valid. You still have recourse to the courts if you feel that that process is unjust.

Proceed, Minister.

The Minister for Education (Prof. Ongeru): Indeed, after the 31 days appeal if the candidates are still dissatisfied, the legal avenue available is courts. This is not the first time that the KNEC has been taken to court. Indeed, everybody is seized with the information that last year the KNEC was taken to court. The matter was adjudicated by our courts in this country. I am referring to the new court, and not the old court.

The Member for Moyale said there were 145 students in a school in his area who were involved in two schools and asked: What measures have you taken to other officers who have been involved?

As I speak to you now, the KNEC which is the legal entity that can take action, has already written to the Teachers Service Commission (TSC) on 6th March immediately after this complaint was raised in Parliament. They have now given the TSC the number of officers who were invigilators, headmasters and the Education Officers who were involved in examination malpractices. I have up to 35 officers who will be written letters to show cause why, once the due

process is given room to take place. They will receive a letter to show cause why they should not face disciplinary action for being involved in the examination malpractices.

Mr. Speaker, Sir, this is the route we have taken---

Mr. Speaker: Minister, can you move to conclusion?

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, as to the Question by the Member for Mosop on what does cheating entail; that calls for a definition of cheating. Cheating is when you are caught with red materials. The red materials of examinations are either in the form of a book or written scripts. Any material can be used to cheat, including a mobile phone. This can be verified. We have such exhibits in our possession. They will be produced in the court of law at any time when required.

Finally, the Member for Lagdera asked me whether I can get independent examiners from Uganda. The law is very clear on what happens and the procedures that must be carried out. I do not intend to operate outside the law.

The Member for Lari asked: What about the gang leader? The gang leader is already in court. If you notice, I did not make further reference because the matter is *sub judice*.

Mr. Bahari: Mr. Speaker, Sir, the Members of Parliament who had asked for clarifications had requested for an independent committee to be instituted to look into this matter. In all fairness, this is a matter of serious public interest. The PS and others that have been mentioned by the Minister, in the Ministry of Education, they come from the same Ministry. There is potential for them to conceal the outcome of the investigations. Could the Minister consider allowing the representatives of parents to sit in that committee so that they can look at those scripts jointly?

Mr. Duale: Mr. Speaker, Sir, this is a very grave matter of national importance. It is as big as when Kshs1.9 billion was lost in the Ministry of Education. Through your indulgence, as Members of Parliament, our role entails an oversight. About 1,600 young men and women in northern Kenya are in a desperate situation. When the Minister was releasing the results of these exams, in his speech he alluded that the KNEC officials and staff are involved in this mass cancellation. The examination, the certificates and the credulity of our education system in this country is at stake internationally. This is not a small matter. Through your indulgence, I want the relevant Committee on Education, Research and Technology to take over this matter and do a forensic audit and report back to the House.

Mr. Speaker: Order, Member for Dujis. The people of Dujis obviously have heard you loud and clear.

Mr. Minister, you want to make a response and then we must conclude.

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, I have not absolved anybody. A positive response to your query will help us to nab the elusive officers that you may be having in mind. Therefore, that is why I said during the appeal that you are perfectly at liberty because we are all concerned. We want to help each other, so that we can stamp out this menace. You are all welcome and any parent is welcome to be able to bring---

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

The Minister for Education (Prof. Onger): I am responding to a point of order. I must be protected now.

Mr. Speaker: Order. I know you are, Mr. Minister!

Mr. Farah: Mr. Speaker, Sir, I have no wish to interrupt my good friend, Prof. Sam Onger. I only want to tell him that I heard him on a number of occasions say, "The law is clear".

As far as the Examination Act itself is concerned, the law is very clear. The law is here and it says:-

“Cancelled results, scripts, projects and other examination material for the purposes of assessment and in respect of which irregularities are established by the Council and the results cancelled shall not be available for re-assessments”

Basically, what this law says is that whatever the Examination Council does is the alpha and omega and there is no appeal. What is the purpose of the appeal if you cannot go back to the examination materials for reassessment by independent bodies?

Mr. Speaker: Minister, please, proceed! I think we are tendering on abusing parliamentary process.

The Minister for Education (Prof. Onger): Mr. Speaker, Sir, I think the most important point is that there is a window of opportunity for appeal. The relevant Parliamentary Committee will do its normal job in the normal routine of its work. I do not have to answer to that. For now, these scripts are available and if you still feel that you are actually aggrieved, then the course of action will be the court. We will be quite happy. My officers are prepared to present these scripts before a court of law.

Thank you.

Mr. Speaker: Hon. Members, Parliament has a committee that has this mandate under its purview and I do not have to direct it to investigate this matter. They are at liberty to do so and table a report in the House at the earliest opportunity.

We will now take a Statement from the Leader of Government Business.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 13TH MARCH, 2012

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I thank you for the opportunity to make a very brief Statement.

From the outset, allow me to salute hon. Members for the dedication and zeal demonstrated in the collective quest to fulfill legitimate obligation since the House was recalled on 14th of February this year.

Mr. Speaker, Sir, you consulted with the Executive and it was found necessary to have this Special Session. We have made absolutely good use of the same. At the level of the House Business Committee (HBC), we did the best we could to restrict the sittings under this session to matters to deal with the implementation of the Constitution.

During this period, we were able to cover substantial business and we were able to meet the February 26th deadline as stipulated in the Schedule of the implementation of the Constitution.

In today's Order Paper, we have scheduled a Motion for adjournment of this House to a day other than the next sitting day. Mr. Kimunya, the second Deputy Leader of Government Business will have quite an opportunity trying to live through the rest of this afternoon. I want to thank him for his commitment as usual and sense of presence, of mind and also physically.

Mr. Speaker, Sir, during the debate on the Motion, Members will have the opportunity to contribute on various issues as we break off for the anticipated short break which might also include Easter Holiday---

Mr. Keter: On a point of order, Mr. Speaker, Sir. Is the Vice-President and Minister for Home Affairs in order? I thought whatever he wants to say he can say under the Motion of

adjournment so that we can save time? There are other Statements to be given which are very vital. The way he is putting it, he is concluding. He can do that during debate on the Motion of adjournment to save time.

Mr. Speaker: Order, Mr. Keter! I do not think you are being fair to the Leader of Government Business. He has not been too long!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Thank you, Mr. Speaker, Sir, for protecting me from my good friend; the Member for Belgut. It is so amazing that sometimes you need protection from friends and this is what is happening.

I want to be very brief so that he does not have the opportunity. Let me thank him and all of us for what we have done so far. In the event that the Motion is moved and Members do not want to agree with us, of course, we will meet next Tuesday and be able to schedule further business for the House.

I thank you.

Mr. Speaker: I want to take the Minister for Foreign Affairs!

BRITISH FOREIGN SECRETARY'S STATEMENT ON SOCIAL/
POLITICAL SITUATION IN KENYA

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, the Member for Saboti Mr. Eugene Wamalwa requested for a Ministerial Statement regarding a statement allegedly issued by the British Foreign Secretary, the hon. William Hague, which was said to have been made on 3rd February this year relating to the social and political situation in Kenya which caused uproar and protests from many leaders in the country.

The Member wished to know whether the Government sought a statement from the Government of the UK on the same in terms of the protest and whether they have received such a statement from the UK and, if so, the contents therein.

Mr. Speaker, Sir, I wish to state that as a sovereign nation, the Government of Kenya does not take instructions from any external power nor accept interference in its internal affairs, more so, in the determination of our leadership. We continue to cherish our independence of thought and action and mutual respect from our peers in our bilateral as well as multilateral relations.

On 3rd of February 2012, the British Foreign Secretary, Mr. William Hague, undertook a successful visit to Kenya. During the visit, the Foreign Secretary met with His Excellency the President, the Rt. Hon. Prime Minister, the Minister of State for State for Provincial Administration and Internal Security, and the Minister for Foreign Affairs. A range of issues were discussed including bilateral trade, Kenya's reform programme, the forthcoming elections and security issues including Somalia.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, the Foreign Secretary was also interested to hear about Kenya's progress in overcoming the legacy of the 2008 Post-Election Violence and observed that all of Kenya's friends welcome and support the actions. He said that Britain will be a reliable friend and partner and will support Kenya as it continues down the path of reform.

During the meeting with the Head of State, the Foreign Secretary further made it clear, and this was in my presence, that although his country supports the ongoing International Criminal Court (ICC) process, he did not wish to delve into or comment on the individual cases. Both we and the British Foreign Secretary were in agreement that his visit and the meetings held further cemented the strong working relationship between our governments and the close ties between our people.

Mr. Deputy Speaker, Sir, upon the conclusion of the meeting with the President, the Prime Minister, Prof. Saitoti, the Foreign Secretary and I addressed the press in my Boardroom at the Ministry of Foreign Affairs. The issue of ICC was never discussed at that Press Conference. Upon conclusion of his visit, the Foreign Secretary gave a Press briefing at the ole Serian Hotel, along Mombasa Road on his horn of Africa Tour. The Ministry of Foreign Affairs was not invited to the Press briefing, as the official meetings with the Foreign Secretary were over. However, we have learnt through the media reports that while he was addressing the Press, he was asked if the presidential ambitions of some of the four ICC suspects went against efforts to end impunity in the country. In response, it is stated that the Foreign Secretary said he did not want to be dragged into the details of Kenyan politics. But added as per the News clip on KTN television that we have obtained from the internet, and I quote:-

“Britain supports the work of the International Criminal Court, and that, of course, all concerned must have strong regard for Kenya’s international reputations. Kenyans will make their own decisions individually and collectively about their own leadership and election campaign. Of course, we also want to see Kenyans make strides to overcome the painful legacy of the violence at the end of 2007. Britain will be a reliable friend and partner, and we support Kenya as it continues down these paths of reform”

There have been several Press articles about the Foreign Secretary’s remarks, each giving the spin, or interpretation of the remarks of the particular media house that published them. The information that the articles give is, therefore, not the same and is quite subjective. This consequently cannot be a reliable basis for determining what was stated by the Foreign Secretary. However, going by the KTN News clip, which gives verbatim, it is clear that the Foreign Secretary did not express a direct opinion on the eligibility of the hon. Uhuru Kenyatta and hon. William Ruto to run in the next presidential elections only that it was up to the Kenyans to decide on their future leadership and how they want the elections to be carried out.

In the absence of a formal written Press Statement from the British authorities containing the alleged remarks and ascribed to the Foreign Secretary that were published by some media houses, my Ministry cannot request for an explanation from the Government of the United Kingdom. Our determination on the UK’s position remains as per the Foreign Secretary’s remarks made to the Head of State during the meeting with him in which I was present.

Mr. Deputy Speaker, Sir, the quotation which is verbatim from the KTN clip also indicates what I have said. Thank you.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I wish to refer to a good document which is in my possession which is a document restricted from Foreign and Commonwealth Office, one Hamborg, I do not know if it is a Mister or a lady, addressed to the PS, Minister, Birmingham, and PS Foreign Secretary, and others.

Mr. Deputy Speaker, Sir, I raise this document because the Minister said the purpose of the visit was to cement relationship between the two countries. But going through this document, it is a conspiracy by a friend to stab you at the back. It says as follows:-

(Applause)

I will try to be very brief.

“ Following January’s confirmation of charges by the ICC of four suspects alleged to have masterminded Kenya’s 2007/2008 violence, we expect the ICC to issue arrest warrants in the spring--- The spring, I suppose will be around April.

This is how they intend to do it according to this document--- I will also tell you how the document landed to us.

Mr. Deputy Speaker: Lay the document on the table.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I will lay the document on the Table.

Mr. Deputy Speaker: You should lay the document on the Table first, so that the admissibility of the document itself can be ordered by the Chair.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, unless you want me to lay the document on the Table----

Mr. Deputy Speaker: You have to lay it on the Table, so that we see if it is authentic or not.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I lay a copy on the Table.

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

Mr. Deputy Speaker, Sir, with your permission, I continue.

Mr. Deputy Speaker: You will realize it is a Ministerial Statement and you supposed to seek clarifications.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, that is where I am getting to. I am only building my case.

Mr. Deputy Speaker: Be very brief.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, this is how they intend to have these suspects arrested.

Mr. Deputy Speaker, Sir, in the annex of the document, they say:

“With all indications that the two Ocampo guests bearing presidential ambitions and their groupings are likely to be a strong team, the way forward is to push for detention during the mention at the court on the pretext that they are a security threat through public utterances in the political/prayer alliances.”

Mr. Deputy Speaker, Sir, the other bit of the conspiracy says as follows:-

“The arrest warrants will assist the ongoing investigations of President Kibaki.”

Mr. Deputy Speaker, Sir, it will diminish the chances of Uhuru Kenyatta and William Ruto ascending to State House. Increase the chances of Kibaki being indicted as a former Head of State---

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. I want hon. Charles Kilonzo to tell the nation whether there is conspiracy in this document---

Mr. Deputy Speaker: Order! Hon. Duale! Clearly, you should understand what a point of order is about. You rise on a point of order, if the Member on the Floor breaches the Standing Orders.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, let me repeat that. The arrest warrants---

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, as I listen very keenly to the hon. C. Kilonzo, the content of the same document, you having determined

admissibility is what is being used to put forward material on the HANSARD. So, it will be better---

Mr. Deputy Speaker: Order! Order! The rules of the House are very clear hon. C. Kilonzo. Whereas the Chair has absolutely no opposition---

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, on page four, you will see the issues---

Mr. Deputy Speaker: Order! Order! Whereas the Chair has absolutely no opposition to a Member essentially bringing facts out, even if it is under the pretext of seeking clarifications, which is not quite in order. But when matters of national sovereignty and security are involved, the Chair is inclined to give a leeway. But nonetheless you have to use---

(Applause)

Order! Order! Nonetheless, if you have to use this document as a basis for that, I am afraid based on our rules and Standing Orders, this document is inadmissible. A document only becomes admissible, if it is signed and dated.

(Several hon. Members stood up in their places)

An hon. Member: It is signed at the bottom!

Mr. Deputy Speaker: Indeed, yes!

(Applause)

You can proceed, yes!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I was getting to show you the conspiracy and how the document, indeed, landed to us, because even the House of Commons was divided on this issue.

Mr. Deputy Speaker, Sir, one is to make sure the arrests of the two presidential aspirants as they go to The Hague on the pretext that they going to be a security threat, and the arrest will ensure the investigations on President Kibaki is carried on. Then, later on, when is a former Head of State, they will be able to indict him.

Mr. Deputy Speaker, Sir, that is not the end. This is how William Hague landed. He was part of the conspiracy. If you look at the document, it says as follows: How they planned and how the visit will start.

“With Kibaki himself now feeling vulnerable following the confirmation of both his closest advisors and his most likely successor as ICC guest, he is retreating further into comfort zone of passive rule, letting a group of hardliners advise him on issues like ICC. Neither we or the US, nor more moderate advisors have an icy way of assessing the President. We are trying through inter-mediaries” Now this is how William Hague came in.

“But first, we need to send William Hague, as the high ranking diplomat to President Kibaki, among other issues to discuss” It goes on. The visit was not in good faith. It is part of a conspiracy, because the British Government has actually sat down, decided and condemned the President that he should be indicted. They were not comfortable because they knew this document was going to be leaked by people; this is what they suggested. If you look at Page 2, which is on policy choices, arguments and resource implications; number six says:

“In the light of these circumstances, our advice is that Ministers do not push for a communication from the International Criminal Court (ICC) on the ongoing investigations of President Kibaki but focus---“ There is something missing.

“What we need to do is to mitigate the risk of Kenya/African Union (AU) using the situation as an excuse. Since, with the current division in the United Kingdom (UK) and the European Union (EU) at large, the ditto process is likely to reach President Kibaki and the political players in Kenya and the AU.”

That is how the document got here straight from the UK.

Mr. Deputy Speaker, Sir, now to my question; my colleagues will be able to raise other issues. This document is actually copied to the Hague. This document is copied to the Hague – somebody by the name Kanberg Hosen Bor(?), the Hague.

Mr. Deputy Speaker, Sir, I want the Minister to clarify the following. Is the British Government a friendly state? Is the British Government in the process of trying to bring down the Kenyan Government? In the same document they have proposed to put pressure and issue travel bans.

Mr. Deputy Speaker: Seek clarification.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I am seeking clarification as to whether the British Government is a friendly state. It is very clear that the visit by William Hague, the Foreign Secretary, was part of the conspiracy. So, could the Minister tell us whether we are dealing with a friendly state, or with a friend holding a dagger behind your back?

Mr. Bahari: Mr. Deputy Speaker, Sir, in view of the revelations by hon. C. Kilonzo on this very serious diplomatic matter---

Mr. Deputy Speaker: Hon. C. Kilonzo, is the document you are reading from the same one that you tabled?

Mr. C. Kilonzo: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Proceed and give it to the Minister for Foreign Affairs to read.

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

Mr. Bahari: Mr. Deputy Speaker, Sir, in view of the revelations by hon. C. Kilonzo, which are startling, could the Minister consider severing relations with the UK over this matter as it is trying to interfere with the affairs of this Republic and influencing the direction the citizens of the country are likely to take in the next general election?

Mr. Ethuro: Mr. Deputy Speaker, Sir, first, I want to thank the Minister for that Ministerial Statement, but I thought he has services of the National Security Intelligence Service (NSIS) and other Government information departments, which avail him information rather than him just getting information from newspaper clips. Could he confirm that the reason why the ICC remarks were not made in formal meetings, and could only be made at the debriefing session, was because the conspiracy was against the Kenya Government? In the same document that hon. C. Kilonzo has quoted, on Page 4, Item 14 states that: “We will develop a strategy to engage key Ministers including the one he is referring to.” They are also going to engage the ICC in the same way; further the ICC President himself is going to be engaged along the same lines. Hon. Minister, can you confirm this? You are even part of the Cabinet committee on the same. Can you confirm this is a truly friendly government? If you determine otherwise, you should go the route recommended by hon. Bahari.

Mr. Deputy Speaker: Order, hon. Members! As the hon. Bahari has said the information that has been disclosed here is startling; but we work under our own rules and we are guided by the Standing Orders, the laws of the country, the Constitution, our own traditions and past precedents. Standing Order No.79(1) says:

“Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country shall be referred to adversely, except upon a specific substantive Motion of which at least three days’ notice has been given.”

The Standing Order has paragraphs (2), (3) and (4) on the same. If we have to discuss the British Government, which is a friendly country or a representative of that country domiciled in the country or on a visit or representing that country itself, we cannot do so without a substantive Motion, which also requires a minimum of three days’ notice to the House. So, I am afraid that under the circumstances, difficult as they maybe, the Chair is bound by the laws of the country, our own Standing Orders and our rules of engagement. My humble advice, or counsel, to the Members of Parliament is to follow our own rules, if you wish to introduce an appropriate substantive Motion on the same.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. We are not discussing the conduct of any nation. We are asking the Minister whether the UK has an interest in the ongoing ICC cases. He has said in his own response that as far as he is concerned, the UK has no say in the ICC matter. Here is a situation where we have documents to prove that the ICC cases are being pushed by the UK. So, at this point we are not discussing a country. We are seeking clarifications from the hon. Minister for foreign Affairs.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, I was waiting for you to point out Standing Order No.79 as you have done.

I have absolutely no difficulty in discussing the issue if a substantive Motion, in accordance with the rules of the House, is brought to this Floor. What has been elicited so far violates the Standing Order that you have read to us to the extent that any mention of an interest of a friendly country in a process such as the ICC will definitely lead to discussing the conduct of that government. The President of the ICC has been mentioned. Again, the President of the ICC is a judge of the court that is anticipated under that Standing Order. I, therefore---

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

The Minister for Foreign Affairs (Mr. Wetangula): I am on a point of order unless the rules have changed.

Mr. Deputy Speaker: Order! Hon. Ethuro and hon. Keter, the hon. Minister is on a point of order!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, so, the matters being raised are definitely grave. If a Motion is brought, we shall invoke the relevant Standing Orders of the House on the manner in which we can conduct our debate on that Motion; I fully agree with you that, that Standing Order is being violated.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Mine is just to contradict the Minister. He cannot stand here in my presence to misrepresent me. I did not discuss the conduct of the ICC President. I stated what others were intending to engage the ICC President. Is that discussing what the ICC President did? No, it is not!

Mr. Deputy Speaker: Order! Hon. Members, you can be passionate, but you do not have to get agitated. An element of maturity and sobriety should be the hallmark of every Member of

Parliament. I am in no mood to shout “order”, the way I used to do it with a big voice for you to have that discipline. I will repeat. That Standing Order says, among other things, that:-

“Nor any conduct of the Head of State or Government---”

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

Mr. Deputy Speaker: Order, hon. Nuh! If you could only listen, then you would not need to rise on all these points of order that you rise on. It says:-

“Nor any conduct of the Head of State or Government---“

None of these ones can be mentioned here in a manner being advanced now without a substantive Motion. Those are our rules. We are the ones who passed these rules. If you want to have it differently, we have the liberty to have it differently. There are countries which in their plenary discuss very casually the conduct of other governments and countries. But nonetheless, whereas the interest that is developing on this matter is an interest that cuts across and an interest that is there in every Member of Parliament who is here, including the Chair, to understand this matter in its entirety, but again, we are bound by our rules. We cannot bend the rules because of the passions we have for something. The rules are the rules and we are a rules making body. Ours is the National Assembly. It is the legislative arm of Government and I do not see how we can bend the same rules that we set ourselves.

Mr. Mwau: On a point of order, Mr. Deputy Speaker, Sir. I would like to have your ruling as to whether the portion of the Standing Order that you have read would be unconstitutional when read in conflict with Article 28 of the Constitution of Kenya. The matter at hand relates to individuals whose dignity is being violated by foreigners. They can come here, go out there and call our leaders all sorts of names, brand us all sorts of criminals and the Standing Orders gag us from responding, yet Article 28 of the Constitution deals with human dignity. Those people are entitled to dignity. The Article reads that:-

“Every person has the inherent dignity and right to have that dignity respected and protected”.

That Standing Order as far as it relates to them opening the dignity of Members of this House to be violated with impunity by foreigners, then that Standing Order, as far as I am concerned, would be unconstitutional. Further, I would like to refer to Article 10; the national values and principles of governance.

Article 10(2)(b) refers to human dignity, equity, social justice, inclusiveness, equality, human rights and non-discrimination. You cannot say that one white man can come here because he is a dignitary in England and abuse our Ministers here and we cannot discuss him here because he is a foreigner. It cannot be allowed. That is unconstitutional and your ruling then will be required.

Mr. Deputy Speaker: Order! Indeed, as hon. Mwau puts it, Article 28 of the Constitution says that:-

“Every person has the inherent dignity and right to have that dignity respected and protected”.

It is there in our Constitution. It even goes further as he puts it in Article 10(2) to say that:-

“The national values and principles of governance include—

(a) patriotism---“

Indeed, if you feel the sovereignty of your State is abused, you have a right to have patriotism. It goes on to say:-

“national unity, sharing and devolution of power, the rule of law, democracy and participation of the people”.

The Chair has absolutely no interest in gagging anybody from discussing the conduct of another State or government. The Chair has absolutely no objection. As a matter of fact, the Chair will be too willing to approve that specific substantive Motion. I am only asking you that there is a laid down procedure. All you need to do is to follow the laid down procedure and have your field day in the plenary of this House.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to seek a ruling or direction from the Chair in reference to Article 35(1)(b) of the Constitution of Kenya which provides that:-

“Every citizen has a right of access to information held by another person and required for the exercise or protection of any right or fundamental freedom”.

I would like you to issue a directive from the Chair because in the document that hon. C. Kilonzo has tabled, there is an annexure, which is also referred to in the main document. That annexure is penned by Dr. Tibber, the current Acting British High Commission. In this annexure, he has gone ahead and cast aspersions on the Chair. So, I am rising under Article 35, so that the Chair confirms whether indeed, the allegations by Mr. Tibber are true. He is referring again to the same issue, but in the case of the Chair, he says the following:-

“They believe it would be harder to take action against them if they are in positions of high power. However, this group around President Kibaki are agreeing on the ongoing investigations at the ICC and the Speaker also mentioned this to me, suggesting a possible general election as early as December. We consider this a big blow to Raila’s candidacy since he is seen as having compromised the ICC cases. The memory will be fresh on the confirmation of the charges. It is unlikely for him to make it without our support”.

In the body of the language, “they” is hon. Uhuru and hon. Ruto.

The Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. All the constitutional provisions read by my colleague, hon. Mwau, are correct. The Standing Order No.79 does not violate the Constitution. It gives meaning to the Constitution and gives you procedure on how to handle the issue. This is a House of rules and procedures. It does not say “do not discuss a Head of State of another country, another country or the representative of another country”. It says “this is the procedure to discuss such a person”.

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

Mr. Deputy Speaker: The Minister is on a point of order!

The Minister for Foreign Affairs (Mr. Wetangula): So what I am saying is---

An hon. Member: On a point of order!

Mr. Deputy Speaker: Order, hon. Members!

The Minister for Foreign Affairs (Mr. Wetangula): So, Mr. Deputy Speaker, Sir, I am on a point of order! My colleagues do not understand. I agree with their feelings! Those are my feelings as well. What I am saying is that for us to discuss this matter in the manner that my colleagues want us to discuss it - which I have no difficulty with - let us follow the procedure and you have made a ruling. That is all I am saying!

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. This is a grave matter and this House has the onus to protect this nation. It is within us; it is amongst us. I do not want to go against your ruling. But Standing Order No.79 talks about any friendly country and Mr. C. Kilonzo, courtesy of this document that has been tabled, challenged the Minister for Foreign Affairs to confirm, based on that, whether that country is still a friendly country.

Mr. M.M. Ali: On a point of order, Mr. Deputy Speaker, Sir. Indeed, this is a very serious matter. I want to agree with you that, as a matter of national concern, we need to discuss

this matter substantively. However, without touching the name of that nation or other countries, based on the information laid bare by Mr. C. Kilonzo, it has been said very clearly that the fate of the four Kenyans before the ICC Court is sealed because of the conspiracy we see. They are slowly reaching out to our own Head of State who is legitimately there. Would I be in order to ask the Minister for Foreign Affairs to institute the process of removing us from the ICC completely?

Mr. Deputy Speaker: Order, hon. Members! When you rise on a point of order, it is not to give you an opportunity to debate the content of the letter itself. The point of order you have to rise on, and the Chair has given a ruling now--- Indeed, without a specific substantive Motion based on our own Standing Orders, we cannot deliberate and discuss this matter any further. If, indeed, you feel that the Speaker or the Chair has erred in that and you are able to prove otherwise through the Standing Order or the Constitution itself, that is the kind of point of order you should rise on. But you are now debating the content of the letter that has been laid on the Table. The Chair will give you two more points of order and then give a final ruling.

Dr. Nuh: On a point of order, Mr. Deputy Speaker, Sir. with all due respect to your ruling which you rightly gave under Standing Order No.79, you will realize that many at times when hon. Members are seeking clarifications to either a Question or a Statement that has been given by a Minister, the Speaker would say that it is not time for speeches, it is not time for debate, it is not time for giving opinion, but it is Question Time. Standing Order No.79 relates to speeches. As you have rightly put it, if there is any hon. Member who is coming to introduce in the midst of a speech to a debate matters touching on a person or Government, that is the time someone is required by law to introduce a substantive Motion. I want to take you to Standing Order No.43, the one that deals with the contents of Questions. What we are seeking are mere clarifications which amount to questions. I want to take you to Standing Order No.43(14) which says that a Question shall not refer discourteously – get that word – to any friendly country or to any head of state or government or the representative in Kenya of any friendly country. The questions we are posing are very courteous. They are only touching on a matter of a document that has been laid in front of this House and seeking for clarifications as to the truth and position that the Government has.

(Applause)

There is not a single discourtesy that has been provided in the statements of any of the hon. Members; neither have we belittled any head of state. What we are seeking is the truth! As Dr. Khalwale has put it, Article 35 guarantees the right to information for every Kenyan, this House included. So what we are seeking is information from the Government because we are not informed. If we have been misinformed, let the Government give us the right information.

(Applause)

Mr. Deputy Speaker: Order, hon. Members! For the benefit of every hon. Member who is here, if you look at your own Order Paper, it starts with the Administration of Oath. It progressively goes on to the Communication from the Chair, Petitions, Papers, Notices of Motion, Questions and then Statements. Passionate as you are, emotional as you are, Dr. Nuh, you missed out on the point that we are long past Questions. We are now dealing with Statements. Statements are Statements.

(Loud consultations)

Order! They amount to speeches! That I think is a very basic linguistic issue which all of you---

(Dr. Nuh stood up in his place)

Order, Dr. Nuh! Do not turn this thing into--- It is a serious matter! This is a serious House.

(Loud consultations)

Order, hon. Members! We have a Constitution in this country. The Constitution has so many Articles. This Parliament is sitting now late to pass Bills and to enact laws. The idea is to operationalize those constitutional provisions. The Standing Orders are in a sense also there to operationalize that. When the Constitution gives you certain rights, there is a process to follow in realizing those rights. I am going to allow Messrs. Mwau and C. Kilonzo and then I will give directions.

Mr. Mwau: On a point of order, Mr. Deputy Speaker, Sir. First of all, I thank the Minister for his remarks. But I want to say that, first of all, what I said is that I am aware of the provisions requiring the law to be followed. But I said that the Standing Orders as far as they allow another person to infringe on the dignity of a Kenyan and prohibit another Kenyan from discussing that violation, it would be discriminatory. If it is discriminatory, it is unconstitutional. That is what I said as far as the Standing Orders are concerned.

Secondly---

Mr. Deputy Speaker: Order, Mr. Mwau! The Chair will repeat this again: You are not gagged; you are not barred; you are not stopped. Indeed, you are allowed to go and buy a piece of land in Nairobi today. But you do not just walk into a piece of land and then fence it and say: "This is my land." There is a process to be followed! The right to property is there but you cannot just walk anywhere and say: "I have the money. This is a property and I am going to sit in it and own it!" There is a process to own that piece of land. There is a process in everything! There is a process that allows you to discuss the issue at hand, and it is provided for in the Standing Orders. You put in a specific substantive Motion on the same, give three days notice and it gets approved. The Chair has already told you upfront that it will be too willing to approve that.

Mr. Mwau: Thank you, Mr. Deputy Speaker, Sir!

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I mentioned and you have clearly heard that the reason for the origin of the document is because the British Government is divided on the matter. So, we would not like, at any level, to bring a Motion to discuss it. The clarifications we were asking were purely on what the Minister said. He said that William Hague was here to cement ties between the two countries. The proof is an agenda on that document. He also said that William Hague did not want to be dragged into local politics. In that document, I have proved that he is involved in local politics. That is what has caused the division within Parliament and that is why we would not like to come and condemn the entire country, which is already divided on the matter. In this document, the ruling elite have taken a position on 2012

but the Opposition there has not taken a position. The direction I am seeking from the Chair is to allow---

Mr. Jamleck Kamau: On a point of information, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: He is on a point of order. You do not inform a person who is on a point of order!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I will not mind.

Mr. Deputy Speaker: Who do you want to inform?

Mr. Jamleck Kamau: Mr. Deputy Speaker, Sir, I want to inform hon. C. Kilonzo because he has agreed.

Mr. Deputy Speaker: Order! You inform somebody who has the Floor and is contributing to a Motion. You do not inform somebody who is on a point of order. It is understandable, hon. Jamleck Kamau, that this is your first time in Parliament. Indeed, you have been here for four years now.

An hon. Member: That is true!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, to conclude and seek direction from the Chair, now that we have no intention of bringing a Motion to discuss a friendly country, the problem we are dealing with is that of a few ruling elite who have taken a position against the view of the majority in the UK. So, I am asking that since this is purely a clarification you do allow and rule that as long as we are being courteous, we seek clarification.

Mr. Duale: On a point of order, Mr. Deputy Speaker, Sir. I seek your indulgence. On a matter such as this which is touching on the basic fabric of our intelligence network and our national security--- The Minister for Foreign Affairs was to give a statement. I listened very carefully; he said that there is a cordial and bilateral good relationship between the Government and the people of Kenya and the Government of the UK. I want to prove him wrong by tabling another document from the UK Government showing how they are involved in the ICC Process. With your permission, I want to table it.

(Mr. Duale laid the document on the Table)

Mr. Deputy Speaker: Order! Order! Hon. Members, the Chair had already ruled and given directions on this. The Chair will proceed and affirm the same direction that you cannot discuss the conduct of either another Government. A friendly Government, for the benefit of those of you who were not here, is a Government that enjoys diplomatic relations with Kenya. To the extent that we all know that neither Kenya nor Britain has broken its diplomatic relations with the other; we still maintain a High Commissioner in London and they maintain a High Commissioner in Nairobi. Under the circumstances, the direction of the Chair is that this matter can only proceed if there is a specific Substantive Motion.

Next Order!

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

Mr. Deputy Speaker: Not on the same!

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. On a different point of order, the Speaker had given me leeway to ask for a Ministerial Statement which I do hereby---

Mr. Deputy Speaker: Proceed!

AWARD OF TENDER FOR THE SUPPLY OF DAP FERTILIZER

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Agriculture on the award of tender to the National Cereals and Produce Board (NCPB) to supply DAP fertilizer in the 2011/2012 Financial Year. In the statement, the Minister should state:-

(i) The criteria used to award the tender to supply DAP fertilizer to the NCPB in the 2011/2012 Financial Year.

(ii) The Minister should explain why the NCPB was mandated to procure fertilizer and yet according to CAP 338 of the NCPB Act of Laws of Kenya, it is not supposed to import and deal in fertilizer.

(iii) The Minister should clarify why a company by the name Export Trading Limited which imports maize and is under investigation by the Departmental Committee on Agriculture, Livestock and Cooperatives has been given storage facilities by the NCPB, and it is the only company that has been awarded the tender for the last four years to supply fertilizer.

(iv) I would also like the Minister to confirm or even deny that Kshs4 billion has been spent annually on the subsidy programme. She should also explain why the NCPB has not been able to buy maize this season.

(v) I would like the Minister to indicate the number of small-scale farmers who have benefited from the subsidy programme and also indicate whether the programme has been audited or not.

(vi) I would also like the Minister to state whether she is aware that the Public Procurement Authority has sanctioned investigations into the circumstances under which this tender was awarded to the Export Trading Limited. If the NCPB is aware that the Public Procurement Authority has engaged investigations into this matter, why did they go ahead and award this tender to these people regardless of the outcome of the investigations both by the Public Procurement Authority and Parliament?

(vii) Lastly, I would like the Minister to tell us who are the directors of this company and whether they have any connection with politicians in this House.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, we will issue the Statement on Thursday, next week.

Mr. Deputy Speaker: Thursday next week.

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. Yesterday, this House was in full anticipation of a statement from the Prime Minister which was later promised by the Minister of State for Provincial Administration and Internal Security. We are all ready and prepared this afternoon to listen to the Statement from the Prime Minister.

Mr. Deputy Speaker: Order! You do not determine the business of the House. Are you the one who sought the Ministerial Statement?

Mr. Affey: Mr. Deputy Speaker, Sir, no but I have an interest in the matter.

Mr. Deputy Speaker: We need the person who sought the Ministerial Statement or the Minister who is supposed to deliver the Ministerial Statement. You have no specific *locus standi* on that.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I do not wish to contradict your ruling about statements. However, yesterday, hon. Prof. Saitoti undertook to respond to my Ministerial Statement in respect of the Mombasa Republican Council (MRC). The Chair was very categorical that this be done today because he stepped down the Question from the Prime Minister to the Minister of State for Provincial Administration and Internal Security. I beg that you reconsider that we address this matter of grave national importance.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): It is, indeed, true that the Chair asked me to undertake to handle the task now that the Prime Minister was not present. I did so in the spirit of collective responsibility. However, upon looking at the Question that the Prime Minister was asked, it became clear that I would need to consult him on the matter raised. If you read the Question, clearly it requires the attention of the Prime Minister himself. As a matter of courtesy, I would like to work out this Question with him and then benefit from his own knowledge of this matter.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order, hon. Members! Hon. Dr. Nuh and hon. Keter, it will be my pleasure, the next time you will behave in the manner you have been consistently doing this afternoon, to send you out of the House.

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Deputy Speaker, Sir, given that the Prime Minister is out of the country, I would wish to be given much more time until we discuss this matter. It is important that we appreciate that fact irrespective of our own different positions. It is important that we consult among ourselves within the Government in order to come up with a unified position of the Government.

Mr. Deputy Speaker: On the same matter, if a Minister says that he is not ready to deliver a Statement because he has further consultations to make in order to refine and enrich the Statement then the Chair, under the circumstances, can only direct the same. It is directed that hon. Prof. Saitoti will bring that Statement when he has had the benefit of meeting the Prime Minister and discussing the same with him.

(Several hon. Members stood up in their places)

The Chair has already given a direction on that matter!

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

Mr. Deputy Speaker: How different is your point of order?

Dr. Khalwale: Mr. Deputy Speaker, Sir, again, with your indulgence, this is a matter of grave national importance because it touches on security. Kindly allow me to say one thing. Now that the Minister wants time to go and consult, I could help him to go consult sufficiently because I have an affidavit here sworn by a witness and it is commissioned. In this affidavit---

Mr. Deputy Speaker: Order! You do not need the Chair's direction for you to go and discuss with the Minister and give him the information that you purport to have.

Dr. Khalwale: Mr. Deputy Speaker, Sir, it is just one word.

Mr. Deputy Speaker: Order! The Chair has given a direction on that. Next Order!

LEADERSHIP WRANGLES AT TRUTH, JUSTICE AND RECONCILIATION COMMISSION

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. I requested for a Ministerial Statement from the Minister for Justice, National Cohesion, and Constitutional Affairs on the fate of the Chairman of the TJRC and what he is doing about the Report which is likely to come to this House soon. You directed that the Statement be made today.

Mr. Deputy Speaker: Is the Minister ready to issue that Statement?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Deputy Speaker, Sir, after you ordered that we issue the Statement today, we took steps to get further details from the Commission to enable us issue a comprehensive Statement. Up to today we have got the information, but we feel that we still need more information so that we can issue a comprehensive Statement. I want to plead with my colleague that we do this next week on Tuesday.

Mr. Deputy Speaker: Fair enough. As far as the Ministerial Statement sought by the hon. Member for Mosop is concerned, it is directed. Are you happy with that, hon. Koech?

Mr. Koech: Mr. Deputy Speaker, Sir, I have no problem with that for as long as the Minister assures this House that there will be inclusivity in the Report that will come to this House and that every Commissioner will be part of that Report so that this country can move forward.

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. When hon. Koech sought the Ministerial Statement, two days after that I heard the Minister, hon. Mutula Kilonzo, over the radio giving comments. According to me that Statement ought to have been ready because he said that Mr. Bethuel Kiplagat should get back to his office. That was the statement made by the Minister which I heard in the news. So, for us to be told that they are still waiting for some facts, I find that to be ridiculous. I attended a meeting today of the Commission on Administration of Justice and the Commissioners of the TJRC were present pleading for help. I find it ridiculous that the Ministry is trying to delay instead of issuing the Ministerial Statement.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Deputy Speaker, Sir, I said that the issues raised by hon. Koech are very substantive. We are supposed to give that Statement without leaving out any information that has been sought. If, indeed, the Minister made comments over the radio, that does not amount to a Statement. We need to give the Statement in this House formally.

INSECURITY IN NORTHERN KENYA

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. I am seeking a Ministerial Statement on the state of insecurity and unfolding human crisis which is generally targeting most Kenyans in northern Kenyan, but especially the Turkana Community.

I would like the Minister to confirm under what circumstances the GSU at the Turkwell Gorge went and ambushed unarmed peasants in Kwaburu. I want to know why in Lorogon which is in Turkwell Gorge the villages have been burnt and the people cannot access their homes. I would like the Minister to confirm whether what is going on in Isiolo is not just an act of Government to commit genocide against the Turkana Community.

Mr. Deputy Speaker: Minister, when will you have that Ministerial Statement available?

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Deputy Speaker, Sir, on Wednesday next week.

Mr. Deputy Speaker: Wednesday, next week. It is so directed.

Mr. Kutuny: On a point of order, Mr. Deputy Speaker, Sir. I requested for a Ministerial Statement last week from the Minister of Agriculture on the availability and price of fertilizer. I have been waiting patiently for the Minister to deliver the Statement here.

Mr. Deputy Speaker: Order, hon. Members! Order, Minister! Hon. Members, you realize that we have a lot of business to transact, including business which has to do with a Procedural Motion and which must be disposed of before 6.30 p.m. I will only entertain one

Ministerial Statement from the Minister of Finance who I am made to understand had initially been barred from transacting business on the Floor. He needs to apologize to the plenary for not being available and subsequently have his sanctions lifted.

The Assistant Minister for Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I apologise for not being available to issue the Ministerial Statement yesterday morning. I was in the House. I answered a Question here. I went back to the office to attend to a pressing matter. When I came back, I found that the time for issuing Ministerial Statements had already passed. Therefore, I sincerely apologise.

Mr. Deputy Speaker: Fair enough! The Chair has lifted the sanctions that had been placed against you. You can transact business. Proceed and issue that Ministerial Statement. Take not more than 10 minutes.

MINISTERIAL STATEMENT

The Assistant Minister for Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, on 16th February, 2011, the Member for Gwasi, hon. John Mbadi, sought a Ministerial Statement from the Ministry of Finance on the outstanding Finance Bill, 2011. In particular, he wanted the Minister---

*(The Clerk of the National Assembly
consulted the Chair)*

Mr. Deputy Speaker: Order! Order! Assistant Minister, there is a very important Procedural Motion that has to be moved. Under the circumstances, you will have to issue your Ministerial Statement on another day. In any case, the hon. Member who requested the Ministerial Statement is not here to prosecute it adequately.

Next Order!

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move:-

THAT, notwithstanding the provisions of Standing Order 20(2) this House orders that the sitting time of today's Sitting be extended until conclusion of business appearing on the Order Paper.

Mr. Deputy Speaker, Sir, as hon. Members will have noticed, it is now well past 6.00 p.m. and this House has not actually transacted any parliamentary business today. We have just been on Questions and Statements, which do not constitute parliamentary business. We need to do some parliamentary business. We have a constitutional matter ahead of us that we need to dispose off.

I would wish to tell hon. Members that in order to facilitate debate on Order Nos.9 and 10, we should extend today's sitting time, so that we can dispose of these very important matters for which this Sitting was called. Today we have just spent the better part of close to three hours on matters that we should have transacted earlier, which do not form part of our core business; which is these constitutional matters.

Mr. Deputy Speaker, Sir, I want to appeal to the House that although the last Order will be a Motion for Adjournment, we can discuss that Motion when we get there. For now, let us allocate some time in order for us to get through Order Nos.9 and 10. We should close today's Sitting, having concluded this very important matter of devolution, so that the necessary structures can start getting into place. Keeping this matter pending does not help our country in terms of implementation of the Constitution.

I beg to move and request hon. Members to support the Motion, so that we create some time to dispose of this matter. When we come to the issue of adjournment, we can look at the merits and demerits of the same *vis-a-vis* the matters that have been coming up this afternoon.

Mr. Deputy Speaker, Sir, I beg to move and ask hon. Ojode to second the Motion.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I rise to second the Motion.

Mr. Deputy Speaker, Sir, it is quite clear that we have urgent matters that we need to pass before we go to the other Motions. I would request my colleagues that we go through the Procedural Motion and pass the other Motions as they appear on the Order Paper.

I beg to second.

(Question proposed)

Mr. Keter: Mr. Deputy Speaker, Sir, I rise to oppose this Procedural Motion.

I do so because if you read the Motion itself, you will see that it says that it asks this House to order that today's sitting be extended until the conclusion of the business appearing on the Order Paper. However, the Mover of the Motion has cleverly said that we at least pass the business appearing under Order Nos.9 and 10. In this case, the Motion should have said that we only conclude Order Nos.9 and 10.

Mr. Deputy Speaker, Sir, Order No.10 is Committee of the Whole House to consider the Memorandum by His Excellency the President. You will remember that the last time this happened it was done late at night. Therefore, in order that we do not make mistakes, we should not be in a hurry. We are not going to adjourn today. Let us sit here. Why are we adjourning? Where are we going? Let us not make mistakes. If the time does not allow us to dispose of this business today, let us come back next week. If we want to sit, why can we not sit from Monday to Friday?

Therefore, I beg to oppose the Procedural Motion on those grounds.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I rise to support the Procedural Motion.

I want to say that the Memorandum of the President is very important to this country. Unless you are opposing devolution you will want us to extend today's sitting in order for us to dispose of this matter. The country is eagerly awaiting the formation of devolved structures. That is one of the reasons as to why we were called to a special Sitting.

Mr. Deputy Speaker, Sir, the Order Paper contains a Motion that will allow hon. Members to go back to their constituencies and work. I, for one, am here almost 24 hours a day because we are trying to implement the Constitution; this has robbed me of an opportunity to do certain crucial things in my constituency. I would like to plead with all hon. Members that we go and do some work. Hon. Members may want to continue being here for one reason or another, but in very few months MPs will need all the energy they have saved because 90 per cent of them will be facing an uphill battle. It is called a "show".

Mr. Deputy Speaker: Order, hon. Jakoyo Midiwo! You are debating an item on the Order Paper that is way down. Right now the issue is only one – the Procedural Motion.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I stand guided. I apologise.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I rise to oppose this Motion.

The Government side tends to believe that MPs must work up to midnight and beyond. We sacrificed when it was necessary. It is not necessary for us to do so today. We can do whatever we can do up to 6.30 p.m. and sort out the balance of the business on Tuesday and Wednesday and then go home.

Secondly, we raised fundamental issues this afternoon. One of them is about the state of insecurity in Turkana County and my good friend, the Joint Government Whip, is telling me to go there. Does he want me to go there and fight? I want the Government to protect my people. The Minister has agreed that he will give me the answer on Wednesday. I want to wait until Wednesday so that the Minister can give me the Ministerial Statement I requested.

Mr. Deputy Speaker, Sir, finally, I have always argued on the Floor of this House that the Government needs to form its Government Panel in order to take the business of this House seriously. Only yesterday, most Ministers were not in the House and they could not give an account as to why there were delays in giving answers to Questions or responding to Ministerial Statement requests.

With those remarks, I beg to oppose.

Mr. Deputy Speaker: Yes, Capt Wambugu!

Mr. Wambugu: Mr. Deputy Speaker, Sir, gauging the mood of the House, may the Mover be called upon to reply?

Mr. Deputy Speaker: Order! Order! Do you support or oppose the Procedural Motion?

Mr. Wambugu: Mr. Deputy Speaker, Sir, I definitely oppose this Procedural Motion.

(Applause)

Dr. Kones: Mr. Deputy Speaker, Sir, I stand to oppose the Motion. This afternoon, a very serious matter was raised. The matter touches on the sovereignty of this country. So, this House should not adjourn until that matter is sorted out.

Therefore, I oppose the Motion.

Mr. Deputy Speaker: Order, hon. Members! This is a procedural Motion.

(Question put and negatived)

Next Order!

MOTION

ADOPTION OF REPORT ON DECLINE OF KENYA SHILLING

THAT, this House adopts the Report of the Parliamentary Select Committee on the decline of the Kenya shilling against foreign currencies laid on the Table of the House on Tuesday 14th February, 2012, subject to the deletion of the recommendations on paragraphs 3.1.1.(i) on page XIV and 7.3.2.(i) on page 70 of the report.

(By Mr. Keynan 1.3.2012)

*(Resumption of debate interrupted
on 7.3.12)*

Mr. Deputy Speaker: Who was on the Floor? Who was contributing?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Deputy Speaker, Sir, I rise to support the Motion as amended.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. The Minister had already spoken to this Motion. Therefore, he could not be having a first bite on the amended Motion.

Hon. Members: He did not finish!

Mr. Midiwo: No! He had spoken to the amended Motion. This is against the Standing Orders. This is an amended Motion

Mr. Deputy Speaker: Order! Mr. Midiwo, thank you for drawing my attention to that. Indeed, when you have exhaustively contributed on the Motion in the amended form, you cannot contribute again.

(Mr. Githae stood up in his place)

Order, Mr. Githae! You are an old Member of this House. When you contribute on a Motion, you cannot again have an opportunity to contribute on the same Motion in an amended form. So, you got your chance.

Mr. Midiwo: Mr. Deputy Speaker, Sir, I rise to support the Motion---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! It is the Chair that has the list of the hon. Members who contributed on this. In that list, I do not see the name of Mr. Jakoyo Midiwo. Mr. Githae already spoke on the amendment Motion.

Mr. Midiwo: Mr. Deputy Speaker, Sir, thank you for helping me. I rise to support the Motion as amended. I am not afraid to say that. We do not want to lose the original object of this Motion.

I was a Member of this Committee. Our original intention was not to name anybody. All we wanted was to investigate and make recommendations that would in the end reform the structure of our financial sector.

I do believe that the recommendations in this report, if implemented, will help this country a great deal. In fact, it will then not matter who the Governor of Central Bank is or who sits in which office.

I want to say that in the last couple of days, a lot of noise has been made to the extent that the object of our resolutions or proposals looked like they were targeting a particular individual. But far from it---

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to allude that hon. Members made noise in the House? Is he in order to say that we made noise?

Mr. Midiwo: Mr. Deputy Speaker, Sir, I did not say anything like that. I said a lot of noise has been made. Maybe it is the issue of language.

Mr. Mwangi: Could he define what “noise” is?

Mr. Deputy Speaker: Order!

Mr. Midiwo: Mr. Deputy Speaker, Sir, you can now tell ---

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

Mr. Deputy Speaker: Proceed, Mr. Midiwo.

Mr. Midiwo: What he is doing is what is noise! He is making noise but---

Mr. Mwangi: On a point of order, Mr. Deputy Speaker, Sir! Is he in order to say I am making noise when I want him to state whether the Members in this House come here to make noise? When we contribute, we are not making noise. Do I not understand English language, Mr. Midiwo?

Mr. Deputy Speaker: Order! Mr. Mwangi, indeed, the Chair confirms that you are making noise because if you do not catch the Chair’s eye and you proceed and talk, you are making noise. You only are contributing when you catch the Chair’s eye.

Mr. Midiwo: Thank you, Mr. Deputy Speaker, Sir. Let me apologize to my friend if he is so offended, so that I get a chance to continue. I apologize to the hon. Member.

Mr. Deputy Speaker, Sir, the purpose of this report was really to investigate why the shilling within a period of just a little more than 30 days depreciated from Kshs82 to Kshs107. It has been said out there and I think for good reason that this depreciation of the shilling was artificial. It is even alleged that the crafters of this crime wanted the shilling to depreciate up to Kshs160. It is the noise Kenyans and Members of Parliament made that stopped them at Kshs107. They had set out to loot this economy.

It is a big shame that people who are in public office, people who run our economy could connive and craft a crime of that magnitude, an economic crime. If this crime were to happen in any other country, maybe a whole host of people today would have been condemned to death or to prison even for life.

I want to say this without fear of contradiction: hon. Members of this Parliament have to feel for Kenyans. All hon. Members, I included, are entitled to a loan of only 3 per cent; up to Kshs20 million only 3 per cent. There are Kenyans today who have a loan of Kshs15 million, but they are being charged an interest of 32 per cent. That is the crux of the matter. Let me also tell you that this morning a few of us, courtesy of Mr. Muriithi, went to meet the bankers and a few goodwill Kenyans, so that we could resolve the crisis of interest rates. We have been doing this for a period. We have been doing this for a period but what is interesting is that last week we met the banks, we told them we want you to bring down interest rates for Kenyans and the legislation which would be coming.

Mr. Deputy Speaker, Sir, the banks promised us that today they would show up at a meeting at Serena Hotel. None of them showed up; that is the height of arrogance. These people are killing Kenyans. Banks are killing Kenyans and this House must not be in the business of helping banks kill our people.

I want to plead with the Minister for Finance to help us ---

Mr. Kioni: On a point of order, Mr. Deputy Speaker, Sir. I was also in attendance at the meeting at Serena and I think there was at least one Managing Director (MD) from a bank. Is Mr. Midiwo in order to carry out that wholesome condemnation of all the banks in this country while they were actually represented by the HFCK?

Mr. Midiwo: One out of 44 means nothing in good mathematics!

Mr. Deputy Speaker, Sir, let me say this to the Minister for Finance: The Provisional Collection of Tax and Duty Act (Cap.415) does not allow you to any longer withhold the

Finance Bill from this House. Once the bankers refused to meet us, I have pulled the law. I think you are a good Minister because we have been communicating. We will take this issue even to the court if Parliament cannot help.

The bankers think that because they have the key to the Treasury and because they have the key to the Central Bank of Kenya (CBK) we cannot catch them. That window was closed yesterday. I have been meeting these people and through the meetings I have been so enlightened that I thought we could achieve the lowering of interest rates without bringing that legislation through this Parliament.

Mr. Deputy Speaker, Sir we are dealing with looters who are arrogant. If you look at our Report, it shows that these people made up to Kshs30 billion in manipulating the shilling. This is not a joke. In this House if your market does not have a boy who rides a *boda boda* then the woman or man who lives down the street has borrowed to buy fertilizer, a man or a woman from your village is living in the city somewhere and they have accessed a mortgage which they negotiated at ten per cent, 11 per cent, 12 per cent up to 15 per cent. Without reason, the banks have tripled or quadrupled some of the interest rates they were charging. This is economic sabotage.

This Parliament must seize this moment to deal with the banks once and for all because this is a resilient economy. This is an economy which was under economic sanctions all through the better part of the last 15 years of President Moi and it survived. The only missing link is the bank reforms.

Mr. Deputy Speaker, Sir the rate of inflation was over 22 per cent just two months ago. When it has begun to come down, the interest rate charged by the banks is still going up in most of the cases. When they talk to us they think and believe that all these Members of Parliament; ladies and gentlemen of this august House are ignorant. In fact, they think we have no brains.

As a House we need to think with our brains. I want to say that all Members of Parliament must think with their brains not their stomachs---

Mr. Deputy Speaker: Order, Mr. Midiwo! You have a balance of five minutes when this debate resumes next week.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to interrupt the business of the House, and the House is, therefore, adjourned until Tuesday, 13th March, 2012 at 2.30 p.m.

The House rose at 6.30 p.m.