

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 4th November, 2010

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### TWO DAYS RETREAT FOR MEMBERS OF PARLIAMENT

**Mr. Deputy Speaker:** Hon. Members, as you are aware, the implementation of the Constitution is ongoing and Parliament is playing a key role in the process. This House has already established the Constitutional Implementation Oversight Committee which is mandated to oversee the implementation of the Constitution. So far, Parliament has vetted members to the Judicial Service Commission and is in the process of vetting more persons to public offices. Further, Parliament has enacted the Commission for the Implementation of the Constitution Act, 2010 paving way for the process of appointing the Commission for the Implementation of the Constitution. Parliament is further expected to consider several pieces of legislation within a short period so as to fully operationalize the Constitution.

It is in this regard that the Constitution Implementation Oversight Committee, through the Office of the Speaker, has organized a two day retreat for all Members of Parliament to come up with strategies to meet the constitutional deadlines and appraise Members on the urgent legislation that need to be tabled in the House.

The retreat will begin on Monday, 8<sup>th</sup> November, 2010 at 8.30 a.m. and end on Tuesday, 9<sup>th</sup> November, 2010. The venue of the retreat will be the Kenya Institute of Administration, Nairobi. I, therefore, urge all hon. Members to attend and participate in this important retreat that is aimed at fulfilling the mandate of Parliament in the constitutional implementation process.

### PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on Justice and Legal Affairs on the Insurance Motor Vehicle Third Party Risk Amendment Bill, 2010.

Report of the Departmental Committee on Justice and Legal Affairs on the Nominees to the Political Parties Dispute Tribunal.

*(By Mr. Baiya)*

Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Inquiry into the allegations of mismanagement at the Harambee Sacco Society Limited

*(Mr. Mututho)*

Report of the Departmental Committee on Labour and Social Welfare on the Mai Mahiu/Gilgil/Kurbayat Internally Displaced Persons (IDPs) Camp in the Rift Valley Province fact finding tour in May, 2010

*(Mr. Magwanga)*

Report of the Select Committee to Investigate the Root Causes of Cattle Rustling in Kenya.

*(Mr. Kaino)*

## NOTICES OF MOTION

### ADOPTION OF REPORT ON ALLEGED MISMANAGEMENT AT HARAMBEE SACCO

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

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Inquiry into Allegations of Mismanagement at the Harambee Sacco Society Limited laid on the Table today, Thursday, 4<sup>th</sup> November, 2010.

### ADOPTION OF REPORT ON THE NOMINEES TO THE POLITICAL PARTIES DISPUTE TRIBUNAL

**Mr. Baiya:** Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Nominees to the Political Parties Dispute Tribunal laid on the Table today, 4<sup>th</sup> November, 2010.

### ADOPTION OF THE REPORT ON ROOT CAUSES OF CATTLE RUSTLING IN KENYA

**Mr. Kaino:** Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, this House adopts the Report of the Select Committee to Investigate the Root Causes of Cattle Rustling in Kenya laid on the Table today, Thursday, 4<sup>th</sup> November, 2010.

### ADOPTION OF REPORT ON IDPS FACT FINDING TOUR

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

THAT, this House adopts the Report of the Departmental Committee on Labour and Social Welfare on the Mai Mahiu – Gilgil – Kubayat Internally Displaced Persons (IDPs) Camp in the Rift Valley Province Fact Finding Tour in May, 2010 laid on the Table today, Thursday, 4<sup>th</sup> November, 2010.

### QUESTIONS BY PRIVATE NOTICE

#### REGISTERED OWNER OF LAND PARCEL LR.10743 IN THIKA

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

(a) Could the Minister indicate the registered owner of land parcel number LR.10743 in Thika Municipality, previously owned by Samuru Gituto Farmers Co-operative Society Limited?

(b) How was it transferred and who were involved in the signing of the transfer documents on behalf of the vendor?

(c) Is the Minister aware that the above property was previously charged to the Co-operative Bank of Kenya and did the bank execute the Discharge of Charge to accompany the registration documents?

**The Assistant Minister for Lands (Mr. Rai):** Mr. Deputy Speaker, Sir, in this particular Question I had raised the issue of *sub judice*. I had, in fact, proceeded to bring the proceedings of this matter to the Speaker and he promised to come up with a ruling.

**Mr. Odhiambo:** Mr. Deputy Speaker, Sir, the Assistant Minister is not telling this House the truth about this matter. He has been raising the issue of *sub judice* which is not true. Contrary to what he is saying, I have a document here which proves---

**Mr. Deputy Speaker:** Order, Mr. Odhiambo! Indeed, the Speaker is not seized with that information now. Nonetheless, the Speaker will refer to the records, the HANSARD plus the copy of the proceedings the Assistant Minister has said that he has already presented to the Clerk's Department. He will rule on the *sub judice* or non-*sub judice* on the matter. In the meantime, the Question is deferred until such a time the Speaker rules on that.

*(Question deferred)*

#### NON-ADMISSION OF VICTORINE ADHIAMBO OUKO TO RTS

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Defence the following Question by Private Notice.

(a) Could the Minister explain the circumstances under which Victorine Adhiambo Ouko (ID No.28451769) from Pumwani Division, Kamukunji Constituency, who was recruited to join the Kenya Defence Forces in the recent recruitment exercise, was denied admission to the Recruit Training School (RTS) on the 26th October, 2010?

(b) What steps will the Ministry take to address the matter?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry):  
Mr. Deputy Speaker, Sir, I beg to reply.

(a) Ms. Victorine Adhiambo Ouko was, indeed, recruited on 21<sup>st</sup> October, 2010 at Kasarani Recruitment Centre. She was given a calling letter to report to the RTS in Eldoret on Monday, 25<sup>th</sup> October, 2010. During confirmation at the RTS of medical tests and verification of documents, Ms. Adhiambo's ID card had discrepancies. The ID card she presented at the RTS was scanned, meaning that it was not the original, hence not a genuine document. This led to her disqualification. She was, therefore, not eligible to be recruited into the Kenya Defence Forces. We had nine other cases of similar nature and all those involved were handed over to the civil police for possible prosecution.

(b) The Ministry of State for Defence will continue to verify the required original documents; that is, the ID cards and education certificates whenever such an exercise takes place so that we avoid recruiting non-Kenyans or even Kenyans with bad records or fake and forged documents. The vetting process is continuous in the military. Whenever an anomaly is detected at any stage, the affected individual(s) are always disqualified and subsequently handed over to the civil police for possible prosecution. The document verification exercise has security implications if looked at holistically.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, this is another case of a Kenyan girl being sent home over suspect issues after being recruited into the Armed Forces. If the only problem that this lady had was the feeling by the officers that her ID card was fake--- Since the Government system has a machinery of verifying whether a registration document is genuine or not, could the Assistant Minister confirm to us whether he has already verified with the Ministry of State for Immigration and Registration of Persons or the immigration officers whom I feel are better placed to determine the authenticity of such a document? Is there a confirmation from that Ministry that this girl did not have a genuine ID card?

**Maj-Gen. Nkaissery:** Mr. Deputy Speaker, Sir, I said that it is important for the Ministry of State for Defence to do verification of individuals recruited into the Defence Forces for security reasons. With regard to Ms. Adhiambo, her case has been handed over to the civil police who will go to the Ministry of State for Immigration and Registration of Persons to confirm whether Ms. Adhiambo's ID card which she presented at the RTS is genuine or not. If it is found that it is not genuine, she will be prosecuted for impersonation.

**Mrs. Shebesh:** Mr. Deputy Speaker, Sir, in the same vein, could the Assistant Minister confirm that if they find that the ID card is not fake, they will compensate this girl and that we could also take the Assistant Minister to court?

**Maj-Gen. Nkaissery:** Mr. Deputy Speaker, Sir, we will take appropriate action in the next recruitment.

**Mr. Outa:** On a point of order, Mr. Deputy Speaker, Sir. The Minister in charge of issuance of IDs was not paying attention to the number which was read here. We really want him to take note of that. The hon. Member has asked: "What will they do?" However, the Minister was busy talking and yet, we want him to take keen interest on this matter. Is he in order to keep on paying no attention when we are discussing matters pertaining to an individual's life?

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Deputy Speaker, Sir, this was definitely not my Question. I was not asked to verify this. If the Chair directs that we verify whether Ms. Adhiambo bears that ID, we will in minutes and bring you the results.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. I do not know whether you are watching the drama. The hon. Minister said that they have forwarded these particular identification documents to the Ministry of State for Immigration and Registration of Persons. However, the Minister of State for Immigration and Registration of Persons has denied receiving those instructions from his colleague.

**Mr. Deputy Speaker:** Order, hon. C. Kilonzo! The Assistant Minister has not said that the matters were referred to the Ministry of State for Immigration and Registration of Persons. He has said that the matter was referred to the civilian police. But nonetheless, Mr. Assistant Minister, just as curiosity from the Chair, these days, for you to get identification is just a computer keyboard away. Did you have to send this to the civilian police? The Ministry of State for Immigration and Registration of Persons can find it within a second.

**Maj-Gen. Nkaiserry:** Mr. Deputy Speaker, Sir, it is not the business of the Ministry of State for Defence to identify individuals looking for a job. It is them to ensure that they are true citizens representing the location or district they are recruited from. If we detect any anomalies---

**Dr. Laboso:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has told us that the identity card was fake. What criteria or process was used to determine that it was a faulty document?

**Maj-Gen. Nkaiserry:** Mr. Deputy Speaker, Sir, if the hon. Member paid attention, I said that during the verification exercise at the Recruit Training School, Eldoret, when we did the scanning to prove that this was a genuine identity card, we found that Adhiambo's identity card was not original. Therefore, as a process which we normally follow in the Armed Forces, we refer such cases to the civil police. The civil police now will follow a certain process, whatever it is, to go to the Ministry of State for Immigration and Registration of Persons to find out whether or not this individual is the right person represented by the identity card. I think this Question is fully answered.

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, I would like to ask the Minister to confirm to this House that their system is so flawed; that, the Ministry has no basis telling us that they actually have the capacity to confirm whether or not documents are valid, especially based even on the case that we saw yesterday. I am happy that I was not in this House. I am horrified that you dare ask a woman what her sexual history is. It is not only unconstitutional but immoral and backward. We cannot have a situation where women, who are minority, find their way into the Military and then you remove them on a flimsy and flawed process.

**Mr. Deputy Speaker:** Can you ask your question? You have not asked your question.

**Mrs. Odhiambo-Mabona:** Mr. Deputy Speaker, Sir, since their system is flawed, do they have a basis to verify whether or not an identity card is valid? They do not have the capability.

**Maj-Gen. Nkaiserry:** Mr. Deputy Speaker, Sir, in our advertisement for those who would like to join the Armed Forces, we normally indicate the type of documents they should come with. The ability and capacity of the Ministry to verify and confirm the identification of citizens is very positive.

Mr. Deputy Speaker, Sir, just to respond to the hon. Member's lecture and remark, because that was not a question, the Armed Forces is not a trade union where you walk in and out. This is an institution of national security. I would like to ask this House to ensure that we do not ridicule the status of the Defence Forces of the

Republic of Kenya just for the sake of being rhetoric. I have fully answered this Question. There is no way we can identify Ms. Adhiambo---

**Mr. Mbadi:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to impute improper motive on Members of Parliament by implying that we are ridiculing the Armed Forces, when it is the Defence Forces which are ridiculing themselves by not conducting transparent exercises?

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, what kind of transparency do you expect from the Armed Forces other than going to every location and district and conduct recruitment exercises in the stadia?

**Mr. Oyongo Nyamweya:** On a point of order, Mr. Deputy Speaker, Sir. I have listened to the Assistant Minister answer the Question. The first issue is: How was this person recruited at the recruitment centre? I believe the candidate provided all the original documents for employment.

Secondly, when somebody has got doubt of identification, if it is the certificate, you consult the Kenya National Examinations Council (KNEC) to confirm that. If it is an identity card, you ask the Ministry concerned to confirm that, but not to ask somebody to leave the place of work when actually, the person presented original documents to the interviewing officers. What happened? How was she recruited?

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, if the hon. Member was very attentive, I said that anytime we undertake the recruitment exercise, we put certain conditions which a candidate must meet. One of the conditions, are the documents required; that is, the identity card and original educational certificate. At the recruitment centre, whatever you bring is provided to the recruiting officer who will look at it. However, they do not have a scanning machine at that particular time. We do the scanning when you report to the Recruitment Training School. So, when Ms. Adhiambo went to the Recruitment Training School in Eldoret and her identity card was scanned, it was found not to be original.

**Mr. Oyongo Nyamweya:** On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister explain how this person was recruited without the original identity card? In any event, if the identification card has got a problem, the authority to certify it does not belong to the candidate who was picked. It is the Ministry of State for Immigration and Registration of Persons and not the people at Eldoret, because they have no technical know-how to determine that the identity card is original or fake.

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, I do not know really what the hon. Member expects me to tell him. I said that when Ms. Adhiambo presented her identity card at the recruiting centre, she was recruited based on that identity card of hers. But when she reported to Eldoret, her identity card was found not be original. That is why we handed over her case to the police. Do you understand?

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to keep on not answering this very valid Question? What expertise do the officers from the Ministry of State for Defence have to verify whether or not an identity card is genuine?

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, I think it is important that when we ask questions, we avoid being emotional. We need to understand that we conduct verification of documents at the Recruitment Training School. We have the capacity and the capability. We have all the machines and that is why we take fingerprints. We do not take fingerprints at the recruitment centers. That is why some people, after three months of training, are found to be criminals. Some of them are chased midway in their training. That is why we do fingerprinting, scan their ID cards

and their certificates. We also go to the Kenya National Examinations Council (KNEC) to verify whether their certificates are genuine. However, you cannot do all that at the recruitment centers because it is only a one day job. I want hon. Members to understand that we do the verifications at the Recruitment Training School. That exercise takes time and incidentally, for Ms. Adhiambo, her ID card was scanned and was found not to be an original. She was not the only one. There were nine others. I want hon. Members to listen to me. It was not only Ms. Adhiambo. There were so many others.

**Mr. Sirma:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Assistant Minister has admitted that they discontinue training of some recruits midway. That means that they do not have the capacity to check the documents. If they had the capacity, they would have checked at the first instance. Is the Assistant Minister in order to mislead this House that some recruits had fake identity cards while they do not have any capacity?

**Maj-Gen. Nkaissery:** Mr. Deputy Speaker, Sir, I really do not know what the hon. Member wants me to tell him. I said that verification takes place at the Recruitment Training School in Eldoret where we do the fingerprinting. At the recruitment centers, for example in my district Kajiado, we do not do finger printing there because people present themselves there for jobs. People present their original documents to be recruited. Later, we have to know who is Nkaissery from Eldoret. Is he a criminal? That is why we do fingerprinting, check your certificates and contact KNEC and Criminal Investigations Department (CID). If you are found to be a criminal, even if it is midway, you are arrested and taken to the police.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, to be fair to this Question, what the military would have done is to retain that lady and confirm the authenticity or genuineness of her documents. However, I want the Assistant Minister to clarify to me two things. He has talked about the identify card not being original. I wonder what he means by that. Was it a photocopy, a fake identity card or a stolen identity card? Secondly, and the final one, if the Ministry of State for Immigration and Registration of Persons can confirm that, that lady genuinely holds the identity card number mentioned here, will the Ministry ensure that she gets back her job?

**Maj-Gen. Nkaissery:** Mr. Deputy Speaker, Sir, with regard to the validity of the document, when it was scanned, it was found not to be original. So, we are waiting for the police to confirm that. We have forwarded that case to the police. I am trying to answer my hon. colleague. I am a military General and I am talking from experience and knowledge. So, he should not push me to tell him the “truth” about the matter because I have already told him the truth. The validity will be known when the police come up with a report.

**Mr. Ogindo:** On a point of order, Mr. Deputy Speaker, Sir. You are aware that the Assistant Minister was on the Floor of the House yesterday. He is here again answering questions about the recruitment. Yesterday, he told us that according to the Act, the recruitment is ethnic based. On further enquiry, he told us that in Mumias, they recruited five recruits. Knowing that Mumias is a constituency, that translates to about 1,100 recruits nationally. The lady that we are talking about here was recruited in Nairobi. Nairobi is very competitive, being cosmopolitan. Now that Ms. Adhiambo is about to lose her chance, what is the Ministry doing to ensure that that quota is not lost?

**Mr. Deputy Speaker:** Is that a point of order? That is not a point of order. Mr. Assistant Minister, proceed!

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the questions? The question was very clear. The Ministry of State for Defence has been sending away recruits on flimsy grounds. In this case, he has sent documents to the police for verification. The question is: Once they are verified and it is found that she is a genuine Kenyan with a genuine identify card, will she be taken back to the Ministry? That was the question.

**Maj-Gen. Nkaisery:** Mr. Deputy Speaker, Sir, I am at a loss because you gave the questioner the last opportunity to ask his question. But it is being followed by several points of order.

**Mr. Deputy Speaker:** In any case, Mr. Assistant Minister, that is not a point of order. Hon. Koech, the Assistant Minister has answered the same question you have asked. He said that she will be taken in the next recruitment.

**Maj-Gen. Nkaisery:** Mr. Deputy Speaker, Sir, for the sake of clarity, I said that if she is found to be genuine, we will take her in the next recruitment. That is because of two reasons. I want hon. Members to listen to me. I said earlier that---

**Mr. Outa:** On a point of order, Mr. Deputy Speaker, Sir---

**Maj-Gen. Nkaisery:** Mr. Deputy Speaker, Sir, allow me to respond to the point of order.

**Mr. Deputy Speaker:** Hon. Outa, allow the Assistant Minister to respond to the point of order.

**Maj-Gen Nkaisery:** Mr. Deputy Speaker, Sir, I am responding to a point of order. I think we need to learn the Standing Orders of this House. I said that if Ms. Adhiambo's case is found to be genuine, we will take her during the next recruitment.

**Hon. Member:** Why?

**Maj-Gen Nkaisery:** Because--- Let me finish! One, because training has already started and she cannot catch up. I said earlier that the defence forces are not a trade union that you wait for people while sitting. From the first day, they started moving and running. Ms. Adhiambo will never catch up. That is why we will give her a chance in the next recruitment.

**Mr. Shakeel:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House when justice delayed is justice denied? In fact, he is denying justice to that lady. Could he confirm that, that lady will be recruited in the next recruitment in writing now?

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. With all due respect to my former boss in the military and he continues being my boss even in civilian life, this issue of recruitment has raised such anxiety in the House. Would I be in order to ask the Departmental Committee on Defence and Foreign Relations to investigate the issue of recruitment in the military?

**Mr. Deputy Speaker:** Order! The relevant Departmental Committee does not need direction from the Chair. In any case, the Chair gave direction to the relevant Committee yesterday. How many directions, do you want the Chair to give on the same issue?

#### LOSS OF HIGH COURT FILES HCCC 1909/09/HCCC1416/95

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



(a) Could the Minister clarify whether the Police have established the circumstances surrounding the loss of two High Court files, No.HCCC 1909/09 and HCCC 1416/95, from the court strong room?

(b) Could the Minister also confirm whether the police investigated the loss of a title deed and transfer transaction of a proposed sale of property LR 36/VII/586 (Original No.50-52, 117) I.R 5666/2 by Mr. George Chege and Mr. Mark Ngarira?

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

(a) Yes, I confirm that police opened investigations into circumstances surrounding the loss of two Nairobi High Court files, Nos.HCCC 1909/09 and HCCC 1416/96 from the court strong room. However, no arrests have been made, so far. The matter is still pending under investigations by the Director of the Criminal Investigations Department (CID) vide inquiry file No.50/2010.

(b) Yes, I can also confirm that police investigated the loss of a title deed and transfer transactions of a sale of property in Nairobi Eastleigh, L.R.36/7/586 from original number 50/52, 117/IR5666/2 by George Chege and Mark Ngarira. After investigations, both George Chege and Mark Ngarira were adversely implicated in the fraudulent sale of the property vide police case No.121/661/2010. The two went underground and the police have since filed criminal charges before the Kiambu Chief Magistrate's Court and obtained warrants of arrest by court file No.1420/2010. The police are still looking for the two suspects at large and any other person found culpable.

**Mr. Kioni:** Mr. Deputy Speaker, Sir, it is proper for the House to note that this is a matter that started back in 1995. The orders that the police acted upon were given on 5<sup>th</sup> December, 2007. It has taken the police officers three years to carry out the investigation. I want to table a document here. Since 2007, the forensic document examiner from the Director of CID, Mr. Nyanjua was given instructions to carry out this examination on 14<sup>th</sup> September, 2010. The orders were issued on 5<sup>th</sup> December, 2007. During that time, the land was sub-divided into 17 parcels and sold to unsuspecting Kenyans. Why would the police take a whole three years to carry out such an examination which is simple in nature? I say so, because it took the document examiner only six days to inform the police officers that there was forgery examination. However, it took the Police Department three years to commence investigations into this issue. Why?

Could the Assistant Minister inform this House why the Police Department or the Ministry took that long to commence investigations? What action has he taken? The warrant of arrest was issued on 3<sup>rd</sup> September and to date, no arrest has been made? Secondly, there are those people who are in charge of the strong room at the High Court. What has the Ministry done to apprehend those who were in charge of the strong room then?

**Mr. Deputy Speaker:** Do you wish to table the documents?

**Mr. Kioni:** Mr. Deputy Speaker, Sir, I wish to table this document from the forensic document examiner. It has also implicated the Registrar of Titles, a Mr. George Gichimu Gachichi. It will be important for the Assistant Minister to also tell us what he has done against the person who was involved in the fraudulent transaction of this piece of land.

*(Mr. Kioni laid the documents on the Table)*

**Mr. Ojode:** Mr. Deputy Speaker, Sir, it looks like the Questioner does not have the background of this issue. I would request the Chair to allow me to explain the background of this particular issue, up to where we are. The complainants in the police criminal case No.121/661/2010 are bishops Elijah Mulela Kaseve and Joseph Membasi of Good News Church of Africa and Gospel Furthering Bible Church, respectively. The mother church, namely, Gospel Furthering Fellowship Church is an offshoot of a missionary church which was established in 1968 from where the two splinter churches started.

The founders of the missionary church came into the country in early 1930s. They founded their missionary church and work on property of Nairobi Eastleigh L.R.No.36/586 which was registered under the trustees of the church as follows:- The Good News Church of Africa - Bishop Elijah Mulela, Thomas Mutise and Reverend Isaac Bett. The trustees of the Gospel Furthering Bible Church were Bishop Reverend Joseph Chuma, Bishop Joel Kijilu and Thomas Mwangangi. I am giving the background so that the Member can build his argument.

**Mr. Kioni:** On a point of order, Mr. Deputy Speaker, Sir. Is in order for the Assistant Minister to engage in story telling? The Question before him is straightforward. Why did it take the police officers three years to investigate this matter? It took the document examiner only six days to report back to the police officers. Did he take part in this fraudulent transaction of this piece of land?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, that would be the simplest question to answer. However, could you, please, allow me to give the background for the hon. Member's benefit?

**Mr. Deputy Speaker:** Answer the question, hon. Assistant Minister! Why did it take the Police Department so long to act on this matter?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, the files went missing. We had started investigating this matter. There are those who have been arrested and there are those who will be arrested. I would ask the indulgence of the Chair not to reveal some information because it will prejudice what we are going to do. I had already spoken to the Questioner and indicated to him that I am arresting some two fellows today. We have found them. At first, they were at large. There is a warrant of arrest issued for them to be arrested. If I reveal everything, then I will be doing a disservice to this country and even to the hon. Member because he is interested in this Question.

**Ms. Karua:** Mr. Deputy Speaker, Sir, this is a very clear case of subversion of the cause of justice. In December, 2007, the court orders investigations into the missing file and also orders that the land should not be transferred to anyone.

Mr. Deputy Speaker, Sir, in the meantime, this land is subdivided into 17 parcels and no investigations are done until the Question is asked to Parliament. What action is the Assistant Minister taking against the officers who delayed the investigations for three years and against any land official who may have been involved in the subdivision and transfer of this land. Otherwise, we shall undermine the rule of law in this country.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, the Nairobi High Court case No.1416/95 was heard and a judgement delivered on 20<sup>th</sup> November, 2000. The plaintiff, Pastor George Chege and others lost. They were ordered to move out of the church land property, but they refused to vacate the property. So, what happened? In 2001, the two churches moved to court vide Nairobi High Court Case No.1909/2001 seeking eviction orders and vacate possession of land from George Chege and others. So, what happened? There was consent to terminate these cases. That was on 4<sup>th</sup> April, 2008. When the consent had already been filed, that is when the file got lost.

**Mr. Kioni:** On a point of order, Mr. Deputy Speaker, Sir. Again, the Assistant Minister has gone back to storytelling; perhaps, that is his favourite way of doing things. But in the words of Justice Angawa when she was delivering the ruling on the 5<sup>th</sup> December, 2007, she said as follows:

“What transpired thereafter is hard to believe”.

I think what is now transpiring with this Assistant Minister is hard to believe. The original court file goes missing. The land department application is made to raise the injunctive orders against the title deed. The file at the land office concerning the title deed was missing thereafter and seven people are seen measuring the acreages of the said parcel of land with certain title deed documents which did not have all the pages. More so, the third respondent was seen with a third party who was ready to make a payment of Kshs80 million to Kshs100 million on the transaction of this land.

Mr. Deputy Speaker, Sir, finally, the court file number that he is talking about of 1909/09 goes missing. Now, he is giving us a story. These things have been happening because there has been reluctance on some offices to take action. Is he in order to continue giving us stories, while there is a clear case? Why did it take the police officers three years to commence investigation? What action has he taken up to now?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I said that already, warrants of arrest are out. We have been looking for those two people. They went under and we could not find them. I also mentioned to you here that the two officers who were implicated in the case will be arrested today.

Mr. Deputy Speaker, Sir, even after the consent of the parties had been obtained, the whole document was filed. That particular file got lost. That is why we will arrest those two fellows who were handling the files. In order for us to arrest the two fellows who were actually on this particular fraud, we have to continue with the investigations. I have mentioned to the Questioner that arrests will be done today.

**Mr. Mwangi:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell us he will arrest people today after he had three years to do so? Is he in order to imply now that they have found the lost files?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I stand to be corrected. I said that those fellows whom we have been looking for went under. We could not find them. Warrants of arrest were made public, but we could not get them. What my officers have done is that they have identified these fellows who made away with the files. I said that, because I do not want to reveal a lot of information on this particular matter, simply because, my officers might not get these fellows. So, I cannot reveal some of the information because I want to arrest those fellows.

**Ms. Karua:** Mr. Deputy Speaker, Sir, we are happy that the Assistant Minister has given firm assurance that arrests will be made today. Is it, therefore, in order for me to request that the Question be deferred to next week when he will have a fuller explanation to the House? That is, when the arrest will have been made because the question is complaining about action not being taken for too long.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, whether the Question is deferred or not, I will arrest those fellows. Whether the Question is deferred or not deferred, law must be followed. I will arrest them because we have identified where their hideouts are.

**Mr. Kioni:** Mr. Deputy Speaker, Sir, given the assurances that the Assistant Minister has given, could we have this Question deferred to next week, so that we can interrogate him further after he has made the arrests that he has promised to do this afternoon?

**Mr. Deputy Speaker:** Hon. Assistant Minister, the history of your department in this particular matter is not one that is clear. It leaves a lot to be desired. It has taken you three good years to carry out an investigation, even after a member of your from the forensic department had already given information that the person needs to be investigated.

Under the circumstances, the Chair will want to see how far you have gone; whether the commitments you have today can be carried to next week. The Chair directs that this Question appears on the Order Paper on Thursday, next week.

*(Applause)*

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I would request that we do it after one week, not next week. That is the request.

**Mr. Deputy Speaker:** Fair enough! This Question is deferred to Tuesday, one week after next week.

*(Question deferred)*

Next Question by hon. ole Lankas!

*Question No. 516*

#### DISTRICTS CREATED IN THE LAST FIVE YEARS

**Ole Lankas** asked the Minister of State for Provincial Administration and Internal Security:-

- (a) whether he could provide a list of all new districts created in the last five years and state how many of them have fully operational District Security and Intelligence Committees (DSIC); and,
- (b) how much funds have been allocated to each of the districts for construction of District Headquarters?

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

(a) I hereby table the list of districts created over the last five years which number 213. I table the list.

*(Mr. Lesrima laid a document on the Table)*

All districts have operational district and intelligence committees. Where a district does not have personnel, they share with the original parent district.

(b) A sum of Kshs2.28 billion has been allocated to construct 75 district headquarters under Economic Stimulus Programme at a cost of Kshs30 million each. A total of Kshs411,440,621 has been allocated to construct 30 district headquarters for the period 2009 to 2011 under normal budgetary allocations depending on the need, range from Kshs2.4 million to Kshs16.8 million per district.

**Mr. ole Lankas:** Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for the answer, he has said that 75 districts benefited from an allocation of about Kshs2.28 billion under the Economic Stimulus Programme (ESP) at a cost of Kshs30 million each. The other allocation is the one of Kshs400 million which was allocated to 30 districts. What he has failed to do, as I requested in my Question, is to

indicate out of the 213 new districts created in the last five years, the amount of money allocated to each district for the construction of the district headquarters. Could he, further clarify the 75 districts that benefitted from the Kshs2.28 billion and the 30 districts that benefitted from the Kshs400 million?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I do apologise because I had a list of the 30 districts in my office. The list indicated the amount allocated over a period of time under budgetary allocation directed to the Minister of State for Provincial Administration and Internal Security. I have that list and work is still progressing on the 30 districts. With regard to the ESP districts which are 75, I have a list which I wish to table with a standard amount of Kshs30 million and the projects are in two phases; that is, Phase I and Phase II. I have the list for the 30 districts under normal allocation and the 75 districts whose amounts are standard. However, the amounts vary for the other districts. This is because you will find that there is a District Officer's office which required refurbishing in a certain place while in other districts, we had to construct a new building over a period of two to three years.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, most of the construction work in the new districts has stalled for lack of funds. What plans does the Assistant Minister have to ensure that they have sufficient funds to complete these projects?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, there may have been cash flow problems in the initial stimulus projects which are implemented under the supervision of the Ministry of Public Works through the tendering process. The funds are directed to this Ministry which I think tendered nationally. I think that problem has now been resolved in the initial districts which were in Phase I. Monies have also been allocated for Phase II under the stimulus project and tenders are being processed by the Ministry of Public Works. However, I am not aware of stalled projects, unless there are other issues like quarrels about where the district headquarters should be. If the hon. Member gives me a specific project which has stalled, then I am prepared to go back and confirm with the Ministry of Public Works the reasons for stalling.

**Mr. Sambu:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has asked whether I can give a specific example. The specific example is Webuye District Headquarters which has stalled for the last two years. When will funds be available to complete it?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I do not have specific information. You will realise that these are very many districts but I can go back and confirm the specific problem that Webuye District faces. I do not have that information with me now because I have not brought a progress report which is available in the Ministry of Public Works. There are various reasons why a project stalls. It could be over contractual arrangements, quarrel over the district headquarters and weather. However, I am willing to provide the Member either through the Floor of this House or individually through my office, the details of that project.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, on the choice of the 75 districts for the construction of headquarters under the ESP, what criterion was used to chose those districts? Knowing very well that it is the Government that created the many districts that we have, what elaborate programme does the Assistant Minister have to ensure that all the new districts have district headquarters?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I do not know whether our Standing Orders allow me to repeat this again. This is because we have gone through the issue of criteria before. I do not know whether a question that has been answered before should be answered again. Although I risk breaching the Standing Orders, let me say that prioritization was based on various factors. We had to get information from the

Provincial Commissioners on the newly created districts that really needed immediate attention. Land had also to be available and an agreement on where the headquarters should be located. If there was a headquarters building, then we did not need to create another one. We were also considering regional equity, remoteness and accessibility of the proposed district headquarters. There were various factors but I must admit that every district would like to benefit from the ESP. We were able to identify 35 districts in Phase I and in Phase II, the Treasury added another 40. We hope that as we continue to request for resources from the Treasury, more and more districts will be covered. I believe that as we move into the final budgetary arrangement, the Revenue Allocation Commission may dictate other arrangements. Those are the criteria we used for the allocation of funds. Readiness of the districts in terms of plans, agreement on sites and provision of drawings from public works were other factors to be taken into account.

**Mr. Nyambati:** Mr. Deputy Speaker, Sir, with the creation of new districts, there were also creations of new divisions and new locations in those districts. What plans does the Government have to ensure that there are funds for divisions and locations to make them functional? Manga District which is in Kitutu Masaba Constituency which I represent is functional but the division and the locations are not, simply because of non-funding. What plans does the Government have to ensure that there is enough funding to ensure that those administrative units are operational?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, this is a very big challenge to all of us because you do realize that it is the leaders, on request by their people who pressurize the Government to create these districts. There are so many districts and, obviously, there will be challenges because we have to take care of the district headquarters first and then the divisions. But we want to encourage that you support us to get more resources from the Treasury to enable the various divisions to be operational. But it is true, indeed, that we do have those challenges, but we are negotiating for the Treasury to increase our ceilings.

**Mr. Affey:** Mr. Deputy Speaker, Sir, sometime in August, the Government announced the creation of Wajir South District at a place called Leheley. We really appreciated this gesture and celebrated in a major way. But to date, the Government has not posted a District Commissioner who is supposed to be the Chairman of the District Security Committee. I would like to find out from the Minister when they intend to do this.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I will undertake to find out why the District Commissioner is not available. I do know that we also had challenges in terms of shortage of personnel and a number of districts did not have district commissioners. Some have acting district officers, but I undertake to find out what is happening with Wajir, so that we take action immediately.

**Mr. Deputy Speaker:** Ask the final supplementary question on the same, hon. ole Lankas!

**Mr. ole Lankas:** Mr. Deputy Speaker, Sir. I had requested the Minister to list the districts which were created for the last five years and state how many of them have fully operational District Security and Intelligence Committees (DSICs). In the second part of my Question, I had requested the Minister to indicate how much funds have been allocated to each of the districts for construction of District Headquarters. But in the answer that the Assistant Minister has given, he has just been general, and I wanted specifics for each district. Will I be in order to request the Chair that since the Question was not answered as requested, this Question be deferred so that we do justice to it?

**Mr. Deputy Speaker:** Mr. Assistant Minister, part “b” says: “how much funds have been allocated to each of the districts for construction of District Headquarters?” You admit that you have not provided that information. Maybe you need to---

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I did mention, with regret, that I left some documentation in my office which contained the details of how much money was given for construction in those districts. I am not very clear what the intention of the hon. Member is in saying that I have to give all the details. I would have thought that he would be more concerned about his own district to begin with and thereafter, the rest of the country at large. But I must give credit to hon. ole Lankas because through the Constituencies Development Fund (CDF), he has constructed a wonderful facility---

**Mr. Deputy Speaker:** Mr. Assistant Minister, the issue is that the Question is not fully answered and the hon. Member is asking for the Question to be deferred to another day when you will come with the full answer. The issue is that you do not have the full answer as asked by the Questioner and as it appears on the Order Paper.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, can I undertake to come with the details of the financial allocations over the last five years, because I forgot it on my desk as I was coming?

**Mr. Deputy Speaker:** Fair enough!

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, with regard to the operationalisation of the DCIs, indeed since 2009, over the last one year, we have been able to create 42 OCPDs. We now have 130 OCPDs and I think that is the progress that has been made over the last one year and we will continue to increase the number of OCPDs.

**Mr. Deputy Speaker:** Hon. Member, are you satisfied with this information being availed to you? The Question does not have to be deferred again to another day. The honorable Assistant Minister has undertaken to supply the information.

**Mr. ole Lankas:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Fair enough!

Next Question, No. 442 by hon .Mututho!

*Question No. 442*

NON-EMPLOYMENT OF NAIVASHA  
RESIDENTS BY MINISTRY OF ENERGY

**Mr. Mututho** asked the Minister for Labour:-

(a) why the Ministry of Energy has persistently locked out local residents out of recruitment in basic manual jobs at all its operations and affiliates in Naivasha;

(b) to provide a breakdown of all persons employed in the last one year by Geothermal Development Company (GDC) and their contractors, KenGen and Kenya Pipeline Company (KPC) within Naivasha and state where they come from within Naivasha Constituency; and,

(c) when the apparent discrimination against local residents will stop.

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

(a) The Ministry of Energy in Naivasha has not consistently and persistently locked out local residents out of recruitment of basic manual jobs in all its operations and affiliates. I have attached a list of the local residents and the others in the manual jobs at Olkaria, Naivasha.

(b) The Geothermal Development Company (GDC) has 411 regular employees out of which 66 are from Naivasha and are registered voters in the constituency. The rest of the workers are from different parts of the country. Currently, the Government of Kenya is financing through the GDC, the drilling of geothermal wells at Olkaria in Naivasha Constituency through a contract being executed by Great Wall Drilling Company of China. KenGen, on the other hand, is giving logistical support to the contractor and, therefore, does not employ any manual workers in Naivasha.

The Great Wall Drilling Company has visiting consultant engineers for specific assignments for short periods. The main contractor, the Great Wall Drilling Company of China employs workers through labor contracts for manual work and has employed 160 local manual workers, out of which 102 are from Naivasha Constituency and reside in Town and Site and Service Estate, Kabati, Council Estate, Lakeview, Kihoto and Karagita. As for the Kenya Pipeline Company (KPC), it does not employ manual workers in Naivasha since they do not have regular manual work in the region.

(c) From the above analysis, there appears to be no discrimination against Naivasha Constituency residents.

To emphasize this, the Employment Act, 2007, is very clear on discrimination in employment. Section 5 (2) states:-

“An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.”

It further states in Section 5 (3) that:-

“No employer shall discriminate directly or indirectly against an employee or prospective employee or harass an employee or prospective employee on grounds of race, sex, religion, political, nationality, ethnic, social origin among others.”

Thank you.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, the Assistant Minister has confused all those organizations. There are three distinct organizations; Geothermal Development Company (GDC) and their contractors, KenGen and Kenya Pipeline Company (KPC).

When this Question came up here, we were told of a Mr. Simiyu, who is not co-operating. Mr. Simiyu of GDC, to which you are saying has employed 411 workers, does not employ the lower cadre employees. Indeed, GDC only deals with top-notch companies that have been contracted to do certain things like the Great Wall Drilling Company of China. The 66 workers you said come from Naivasha actually come from the neighbouring district. They are mainly watchmen who have been brought from that side. What is more is that all projects to do with corporate responsibility are---

*(Loud consultations)*

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

Proceed, hon. Mututho!

**Mr. Mututho:** Mr. Deputy Speaker, Sir, now that the Assistant Minister has not even understood, or attempted to answer the Question, and he has given



completely wrong answers and confused everything, would I be in order to ask him to, first of all, attach the list he has talked about because he has not attached any to my written answer? Secondly, can he go back and get the right answer? Standing Order 82 is explicit – a Member shall be responsible for the accuracy of what he says on the Floor of this House. M/s GDC does not have 411 workers. The company has not hired anybody from Naivasha.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, when I took the answer to Room 8 in the morning, I ensured that I attached the list. I do not know what happened with the clerks, because I ensured that all the answers I submitted to Room 8 had the list of the local residents working in this company.

The hon. Member has said that I have not attempted to answer the Question. This list is very clear. There is no discrimination as such. I have attached a list of the residents from Naivasha. The list specifies where they come from. I have also stated that our labour laws---

**Mr. Mututho:** On a point of order, Mr. Deputy Speaker, Sir. I am trying all I can to be polite and useful to the Assistant Minister. Kabati and Karakta are just like Buruburu and other residential places. It is not a place you can be domiciled in and say that it is your home. What I am saying is that the answer is mixed up. There are three distinct companies, namely; the GDC, the KenGen and the KPC. The answer he has given does not relate to any of these companies, or even to all of them; the fact is that Greatwall, which is a subsidiary or which is hired by the GDC, has hired about 66 watchmen from the neighbouring district, and they are masquerading as Naivasha residents. So, would I be in order to ask the Assistant Minister to go back to Naivasha and come back to this House with the right answer? Naivasha is not far. It is only a one-hour drive.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, I think what the hon. Member is asking is why the Ministry of Energy is discriminating against people. I have said that as far as KenGen is concerned, it just provides logistical support to the Greatwall Drilling Company of China. As far as the KPC is concerned, it has no jobs there. It does not employ people. It does not have any vacancies there, and he knows it very well.

As far as GDC is concerned, which is the company which contracted the Great Wall Drilling Company, it has 411 regular employees, 66 of whom are from Naivasha and are registered in his constituency. So, I do not know what the hon. Member wants. The answer is very clear and well summarised. I am very confident that the CEO, who was giving a difficult time, when he learnt that Parliament is supreme, he behaved very well and gave us all the information we needed.

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to state that an officer of Government was behaving badly when that officer is not here to defend himself? The fact of the matter is that when they requested answers for this Question, GDC were the only responders? The others did not respond, yet the Assistant Minister is imputing improper motive on that officer.

**Mr. Deputy Speaker:** Order, hon. Eseli! The Assistant Minister and the Government are able to defend themselves.

Last question, hon. Mututho!

**Mr. Mututho:** Mr. Deputy Speaker, Sir, can the Assistant Minister state the locations or sub-locations from which the 66 people he has referred to come, now that he has the list with him?

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, if you look at part (b) of the Question, you will see that it does not ask for a list. It is only part (a) which asks for a

list. On part (b), what I brought is the list of manual workers; by doing this, I was trying to emphasise the answer to part (a) of the Question. Under part (b) of the Question, he just wanted a breakdown of the workers, and 411 is a good breakdown. Also, 66 workers from his constituency is a very good number. However, if he wants further information, I have the list in the office, and I will give it to him. All the same, we have talked with the CEO and officials from the Ministry of Energy. They have committed themselves to consulting the hon. Member on the people he wants employed, and how. They will also be consulting our Ministry's officials, so that we have fairness in Naivasha.

**Mr. Deputy Speaker:** Fair enough!

**Mr. Mututho:** On a point of order, Mr. Deputy Speaker, Sir. You have heard his last part. Does that insinuate that he wants the Member of Parliament to have an employment bureau, through which people who will be recruited will have to pass through? The issue here is very serious – 66 watchmen who are hired in that organisation come from neighbouring districts. None of them comes from Naivasha. So, if he sticks to his answer that 66 of them come from Naivasha, he should tell us the locations or the wards they come from. Kabati and Karakta are estates.

**Mr. Ojaamong:** Mr. Deputy Speaker, Sir, this matter is very clear. Our current Constitution outlaws discrimination of any form. Further, our labour laws outlaw discrimination. We also recruit these people through our employment bureaus, which he knows where they are in his constituency. We have an employment bureau. We can order them to be recruiting on behalf of Great Wall Drilling Company, so that we have fairness. It is just a matter of talking to our labour officers, who are always available, and everything will be done in a fair manner.

**Mr. Deputy Speaker:** Next Question, Dr. Kones!

*Question No.495*

DELAYED PAYMENT OF RETRENCHMENT  
DUES TO BORNES CHEPKEMOI KOECH

**Dr. Kones** asked the Minister for Information and Communications:–

(a) whether the he is aware that Bornes Chepkemoi Koech (PF No. 36655), who was retrenched from Telkom Kenya on 31<sup>st</sup> January 2007, has not been paid her dues; and,

(b) what the Minister is doing to ensure that the retrenchee is paid immediately.

**The Assistant Minister for Information and Communications** (Maj. Godhana): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Miss Bornes Chepkemoi Koech (PF No. 36655), who was retrenched from Telkom Kenya on 31<sup>st</sup> January, 2007, was paid her gross retrenchment package of Kshs1,011,574.75 on 16<sup>th</sup> March, 2007, while another amount of Kshs273,886 was paid to her as Provident Fund dues from Teleposta Pension Scheme on 9<sup>th</sup> October, 2007.

(b) The Government does not need to take any action since the retrenchee was paid all her dues.

Thank you, Mr. Deputy Speaker, Sir.

**Dr. Kones:** Mr. Deputy Speaker, Sir, I do not know what to do with the Assistant Minister because he is giving a totally different answer from what obtains

on the ground. I have a letter from the lady which she wrote on 31<sup>st</sup> March, 2010, to the Managing Director of Teleposta Provident Fund asking that she be paid. There is a letter that had been given to her indicating that she was not going to be paid until she attains 55 years. She wrote this letter after attaining 55 years. So the Assistant Minister is misleading the House by saying that this lady was paid in 2007. Can he prove to us that actually money was paid? If so, who was paid?

**Maj. Godhana:** Mr. Deputy Speaker, Sir, I want to table a copy of her last payslip as evidence that indeed Miss Koech was paid. As pertaining to the letter, although I have not seen it, but I believe that is an issue regarding to her pension. I am very much willing to work with the MP to see to it that Miss Koech is paid.

**Dr. Kones:** Mr. Deputy Speaker, Sir, I want to make it very clear that the letter is not about pension; it is about the provident fund which the Assistant Minister is saying has already been paid. I want also to table the same letter for you to countercheck the claim.

*(Dr. Kones laid the document on the Table)*

**Maj. Godhana:** Mr. Deputy Speaker, Sir, as I have said and in view of the fresh evidence that the Member of Parliament has presented to the House, I am very much willing to work with him to ensure that the process is completed.

**Mr. Deputy Speaker:** Dr. Kones, if the Assistant Minister has volunteered to act---

**Dr. Kones:** In that case, Mr. Deputy Speaker, Sir, may I then request that we defer this Question may be for another one or two weeks so that the Assistant Minister can go and---

**Mr. Deputy Speaker:** Hon. Member, the Assistant Minister has given an undertaking and it is reflected in the HANSARD. It will be wrong for him not to fulfill it. There are sanctions if he does not fulfill the undertaking which he has made here. Just make sure he does that. If he does not, you come back and rise on a point of order and draw the Chair's attention to the fact that he has given an undertaking which he has not fulfilled. Co-operate with him, in the meantime.

**Dr. Kones:** Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Next Question, Mr. Mwangi!

#### *Question 499*

#### CONSTRUCTION OF KARWINU-MARAGUA RIVER –GACHARAGE ROAD

**Mr. Mwangi** asked the Minister for Roads:–

(a) to clarify whether the design for the Karwinu-Maragua River- Gacharage Road has been completed; and,

(b) when the Ministry will provide funds to construct the road to bitumen status.

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

(a) I confirm that the design for the Karwinu-Maragua River-Gacharage Road has been completed.

(b) I am not able to confirm at this point when the road will be upgraded to bitumen standards. However, it will be considered for funding along other priority

projects. Nevertheless, my Ministry will continue setting aside funds for maintenance of this road in order to maintain it to a motorable standard.

**Mr. Mwangi:** Thank you, Mr. Deputy Speaker, Sir. While I appreciate the answer, the design for this road began in 1978, and 32 years down the line, the Ministry has not been able to raise funds to complete the undertaking. The Ministry commenced construction of a bridge on Maragua River and it has stalled for the last two years. Could the Assistant Minister give an undertaking to complete the stalled bridge and maintain the road between the two rivers, Kayahwe and Maragua, to motorable standards because the bushes are almost covering the road which is Class C. It has been abandoned.

**Mr. Kinyanjui:** Thank you, Mr. Deputy Speaker, Sir, I want to indeed agree with the hon. Member that the road is in dire need of repair and through the Kenya National Highways Authority, I have set aside a total of Kshs10 million during this financial year that will be available for maintenance of these roads. Subsequently, I also want to assure the hon. Member that the bridge that is in question that has remained incomplete for over two years, I give an undertaking that we will be able to send a contractor to ensure that it is completed and that the road is usable.

**Mr. Njuguna:** While I thank the Assistant Minister for the very good answer that he has given because of the importance of this road, could he indicate when he is likely to start work on this road so that *wananchi* in that area will start benefiting from it?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I have indicated that my Ministry has set aside Kshs7 million through the Kenya National Highways Authority. I want to further indicate that we are at the procurement stage and---

**Mr. Mwangi:** On a point of order Mr. Deputy Speaker, Sir. The Assistant Minister had earlier on indicated that he had allocated Kshs10 million. Is he in order to reduce it to Kshs7 million?

**Mr. Deputy Speaker:** Hon. Assistant Minister, yes, the Chair recollects the same.

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I said Kshs7 million and not Kshs10 million.

**Mr. Deputy Speaker:** Not initially. Initially, the Chair heard very expressly. You said Kshs10 million.

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, if that be the case, then I wish to apologise and indeed correct the situation to Kshs7 million.

**Mr. Deputy Speaker:** Fair enough.

**Mr. Kinyanjui:** I want to assure the hon. Member that the procurement process has already begun and as soon as it is completed, we expect the contractor to be on site.

**Mr. Deputy Speaker:** Hon. Mwangi, ask the last supplementary question on the same unless you are satisfied.

**Mr. Mwangi:** Mr. Deputy Speaker, Sir, I am grateful for the answer but I would have wished the Assistant Minister to give us a timeframe when this bridge will be completed. Is he talking about this financial year or is it within the next financial year?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I undertake to ensure that the completion of the bridge commences within this financial year. I also further wish to assure the hon. Member that we will be able to copy him communication regarding that particular contract.

**Mr. Deputy Speaker:** Next Question, Yakub!

*Question No. 510*

ISSUANCE OF NEW IDs IN COAST PROVINCE

**Mr. Yakub** asked the Minister of State for Immigration and Registration of Persons:—

(a) to indicate the number and names of people issued with new identity cards in Kwale, Mombasa, Kilifi, Taita Taveta, Malindi, Tana River and Lamu districts from January to 30th August, 2010, to date;

(b) whether he is aware that applications approved by the Lamu District Committee are routinely rejected at the headquarters in Nairobi. If so, what is the point of having the District Registrar of Persons Committee at the district level; and,

(c) whether he could also provide a list of names of people who have not collected their identity cards in Kwale, Mombasa, Kilifi, Taita Taveta, Malindi, Tana River and Lamu districts as at 15<sup>th</sup> September, 2010.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang<sup>3</sup>): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The number of people issued with new identity cards in the following districts; Kwale, Mombasa, Kilifi, Taita-Taveta, Malindi, Tana River, and Lamu from 1<sup>st</sup> January to the end of August, 2010, are as follows; Kwale, 11,991; Mombasa, 22,306, Kilifi, 12,484; Taita Taveta as it then was 6,058, Malindi, 9,472, Tana River 3,043 and Lamu 2,808, making a total of 68,162. The names of the people who have been issued with ID cards are here and I wish to table them. It is a long computer list of the 58,162 people. I beg to lay it on the Table.

*(Mr. Kajwang' laid the documents on the Table)*

(b) Mr. Deputy Speaker, Sir, I am not aware that in Lamu District most applications approved by the District Committee are rejected at the headquarters in Nairobi. But I am aware that those applications which do not meet certain standards are rejected and returned to the office of origin. There were 12 rejected cases during that period.

(c) Details of the people who have not collected their identity cards are here, and are tabled as annexe 2.

These are the people who, after we have worked very hard and produced identity cards, have not bothered to collect them. They are listed here from the following districts, Mombasa, Lamu, Taveta and Malindi. These Kenyans should be advised by their MPs to go and collect their identity cards. They are 25,177 Kenyans, who have not collected their identity cards.

**Mr. Yakub:** Mr. Deputy Speaker, Sir, I wish to thank the Minister for the good job which he has done, and hope other Ministers will follow suit. I have not received a complete answer; I asked for the list, and I expected that the list would come to me first, so that I could peruse it. I wish to be given time so that next week I can come back with supplementary questions to the Minister.

**Mr. Deputy Speaker:** Fair enough. Next Question.

*(Question deferred)*

*Question No.511*

DETAILS OF PEOPLE VETTED FOR  
ISSUANCE OF IDS IN NANIGHI

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

(a) to provide details of names, sex and serial numbers of people vetted for issuance of National Identity Cards in Nanighi Location between 26<sup>th</sup> and 29<sup>th</sup> April, 2010, and what the status of the applications is,

(b) whether he could confirm that the applications are still lying at the Hola District Registrar's office and have not been taken to Nairobi and, if so, state why; and,

(c) when the applicants will be issued with the identity cards.

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

(a) I am not in a position to provide details of names, sex and the application serial numbers of people vetted for issuance of national identity cards in Nanighi Location between 26<sup>th</sup> and 29<sup>th</sup> April, 2010 as the said application forms were returned to that station and the chief between 26<sup>th</sup> and 29<sup>th</sup> April, 2010 for fresh vetting.

The purported vetting exercise conducted earlier had irregularly been conducted by an improperly constituted committee.

(b) I am not aware that the said application forms are lying at the District Registrar's office in Hola. These application forms were forwarded to the area chief and the applicants have been advised to appear on 1<sup>st</sup> and 2<sup>nd</sup> November, which have now passed, for a re-vetting by the District Vetting Committee.

(c) The applicants will be issued with identity cards immediately after re-vetting, which is scheduled for 1<sup>st</sup> and 2<sup>nd</sup> November, now passed.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, this Minister has been congratulated for answering a Question very well, but I do not know what to say about this Question because he is denying Kenyans information which is within his reach. These Kenyans have been issued with NPRs, which are counterfoils from the forms that are issued from the registration office. The Minister has the audacity to tell this House that he cannot provide the names because they are not in his possession. They were issued by the District Registration Officer who is answerable to his office.

Mr. Deputy Speaker, Sir, I would ask you to rule whether this Minister has indeed answered the Question or not.

**Mr. Kajwang':** Mr. Deputy Speaker, Sir, just to clarify what happened on 26<sup>th</sup> and 29<sup>th</sup> of April. The vetting that took place between those days raised a lot of complaints from both the local leaders and members of the public. These complaints reached the headquarters of registration.

The local leaders and members of the public claimed that some refugees had been registered during the vetting exercise of between 26<sup>th</sup> and 29<sup>th</sup> April, 2010. An investigation team was dispatched from the National Registration Bureau, Nairobi, to Hola to investigate the complaints. The team's findings were that the dates appearing on the applications and those appearing on the vetting minutes did not tally.

In addition to this, the signature appended on the application forms and purported to be the chief's signature, was disowned by the chief. So, the investigations are still going on, and action will be taken against the officers who will be found to have attempted to assist refugees to register as Kenyans.

The forms that were taken to the headquarters, after these complaints were raised and the investigations were undertaken, were returned to the chief of this area so that these people could be re-vetted to find out if they were really Kenyans. We have a duty to register them and give them identity cards. If they are not Kenyans, we will not register them. So, let us wait. I hope that the hon. Member can tell us whether his constituents took this opportunity to go back for re-vetting on 1<sup>st</sup> and 2<sup>nd</sup> of November, which was the other day and yesterday but one, so that this matter can be brought to a good conclusion.

To pressurize us to register people we are not sure are Kenyans is not good for anybody. To avoid doing our duty of registering genuine Kenyans is also not good for this country, because it is our job to register Kenyans. So, please just check with your constituents whether they took this advantage. If they did not, they can go back for re-vetting.

**Dr. Nuh:** Mr. Deputy Speaker, Sir, there seems to be a disconnect between what the Minister is saying on the Floor of the House and what he has given as an answer. He is saying that the forms were taken to the headquarters and then returned to the area chief. But the date he is giving as when the forms were issued and the date he is giving as when the forms were returned are tallying. The same dates the forms were issued are on 26<sup>th</sup> to 29<sup>th</sup>. He purports in his answer that they were returned to the chief between on the same dates.

This is a copy of the answer I have, which states that the forms were issued between 26<sup>th</sup> and 29<sup>th</sup>. He purports that they were returned to the chief on the same dates, that is between 26<sup>th</sup> to 29<sup>th</sup>; he is telling us they came to the headquarters and then were returned. How did that miracle happen?

**Mr. Kajwang':** That is definitely a typographical error. The dates on which the applications were made were between 26<sup>th</sup> and 29<sup>th</sup>, but they were returned much later. I am not quite sure of the date when they were returned. I do not have that in the answer here. I can bring it---

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

**Mr. Deputy Speaker:** Order, Dr. Nuh! Allow the House to engage in debate.

**Mr. Kajwang':** Mr. Deputy Speaker, Sir, this is definitely a typographical error; we are saying that vetting of people in this location for issuance of national identity cards was done between 26<sup>th</sup> and 29<sup>th</sup>. In fact, that is the question that my brother asked.

What we have said is that the forms were returned to the chief. The mistake is that we said they were returned between 26<sup>th</sup> and 29<sup>th</sup>. That is wrong. Definitely it was much later after the complaints were received. If it is important, I can come back and give him the dates.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I think the Minister will agree with me that it is the duty of his Ministry to issue ID cards. The applications were made in April. That is over six months ago and the dates for reapplying were only given this month, I suppose after the Question had already been submitted to Parliament. Could the Minister assure this House by which date the process will have been completed so that those individuals can either get their IDs or be told the reasons why they cannot get them? That is because that delay is not good.

*(Applause)*

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, if you look at the trend, the delay is not inordinate because there was a complaint after registration coming from the same representatives of the people. I can tell you that, that area has a large influx of refugees.

*(Dr. Nuh stood up in his place)*

**Mr. Deputy Speaker:** Allow the Minister to make his point.

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. I do not know who the representative of those people is, other than me. I am the Member for Bura in this House that the Minister is purporting to have complained. If he has any letter to show that there were complaints from the locals--- That is because it is the same locals who are pressuring me to put the Question to the Minister. If there are any legal complaints he has in the form of a letter or audio tape, let him table it in the House. That is because I am the representative of that constituency.

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, although we are the representatives of people in our constituencies, there are many other leaders in those areas including councilors, church leaders, mosque leaders, women leaders, men leaders and youth leaders. So, there are leaders all over the place! We are not the monopolists of leadership in those areas. But complaints were made and I have said that we returned the forms and we have given the same people an opportunity. If they are genuinely Kenyans - and we told them we want to check whether they are really Kenyan or refugees - they should come back. We gave them a date to do that. They should take that opportunity and if they have not gone, we can give them another date. We have no problem registering Kenyans! It is now our duty. The Constitution now says that it is an inalienable right of a Kenyan to be registered and we must do it. So, that is the opportunity we have given. But we will not register non-Kenyans because the Constitution does not allow us to do that.

**The Minister for Lands (Mr. Orengo):** On a point of order, Mr. Deputy Speaker, Sir, when somebody stands on a point of order, the Speaker is supposed then to take that into consideration. That means that when somebody is answering a Question or is contributing to a debate, he can be stopped from whatever he is saying so that the point of order is dealt with. But I am beginning to get the impression that anything goes so long as it is called a point of order. I have a lot of respect for Dr. Nuh, but what he stood on was not a point of order. Why was the Minister stopped?

**Mr. Deputy Speaker:** Order, Mr. Orengo! Whereas what you are saying is very valid, nonetheless, that again, is the responsibility of the Chair. You have not taken over the role of the Chair!

*(Applause)*

*(Mr. Orengo stood up in his place)*

Order! The Minister has answered and my presumption is that you are satisfied with the answer. Dr. Nuh, can you ask the last supplementary question or you are satisfied?

*(Dr. Nuh sat in his place)*



Are you satisfied?

*(Dr. Nuh continued sitting in his place)*

Dr. Nuh, can you ask the last supplementary question?

**Dr. Nuh:** Mr. Deputy Speaker, Sir, I will seek your indulgence because this Question has generated a lot of interest and, as the Minister himself confirmed, the issuance of IDs or getting an ID is an inalienable right of every Kenya. There seems to be so much controversy surrounding Kenyans and the issuance of IDs. Whether or not a Kenyan can get a job or even a driving licence and any other document depends on getting an ID. I would seek your indulgence that you allow some more ventilation before I---

**Mr. Deputy Speaker:** Order! Dr. Nuh, the Minister has given all indication that he is prepared to assist you get ID cards for genuine Kenyans. He has said that your own chief has disowned that information! Do you have a categorical position to say that your chief has not disowned it?

**Dr. Nuh:** Mr. Deputy Speaker, Sir, that is why I was asking if there is any evidence the Minister can table because---

**Mr. Deputy Speaker:** He said the chief!

**Dr. Nuh:** Mr. Deputy Speaker, Sir, the chiefs and sub-chiefs were on my neck asking to know what happened to those IDs. The Minister is not even categorically stating who those leaders are. To give a blanket reply that they are youth or women leaders--- Those are the same people who came for the IDs.

**Mr. Deputy Speaker:** Dr. Nuh, if you had listened very carefully, unless that information is going to be proven not to be as the Minister stated - the Minister said that the chief who signed the forms disowned them. Is that not the position, Mr. Minister?

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, that is so and thank you for the protection! The only thing that I have said and I will confirm is the following: I do not see why Dr. Nuh is agitated or upset because we had complaints which we have dealt with by saying: "Return these forms and make sure that these same people, if they are genuine Kenyans, come back for another evaluation." We do it, not because we like it. It is a very expensive exercise. But we do it because there are some people who would pass as Kenyans but are not. When they do that, we are roasted here for allowing non-Kenyans to be registered. We are accused of allowing non-Kenyans to walk with our valid documentation. In fact, I am roasted and now I am suffering in court because I said that a non-Kenyan was running as a Member of Parliament. So, these are very serious issues. Please, take it the way it should be. Take your guys back for that exercise and let us have Kenyans registered.

**Mr. Deputy Speaker:** Dr. Nuh, can you ask your last question?

**Dr. Nuh:** Mr. Deputy Speaker, Sir, before I ask the question, let me put this thing in perspective. That is because hon. Members may not understand the process of issuance of IDs in those far remote areas when it comes to that vetting committee. Between 26<sup>th</sup> and 29<sup>th</sup>, the district registration officer for Tana River District, Mr. Kwendo, the Do for Bura, Mr. Chege, officials from the National Security Intelligence Service (NSIS), the chief for Nanighi, the two assistant chiefs and three elders sat to issue those IDs as the vetting committee. Those are the same people he is saying that they complained that the signatures on the forms were not valid. I wish to request that you rule two or three forms to be tabled in this House because they are

within the possession of the registration office. That way, he will prove his case. He should also give an undertaking--- He should give the specific dates – because the people of Bura are watching - on when specifically he will request those Kenyans to come back for the issuance of IDs. It is very costly! Those are the people who are tirelessly looking after animals and for them to come every other day for issuance of IDs is a big trouble.

**Mr. Deputy Speaker:** Fair enough! You have made your point! Dr. Nuh. Are you confirming now, as the undertaking is in the answer of the Minister, that, that exercise has not been repeated thus far?

**Dr. Nuh:** Mr. Deputy Speaker, Sir, I got to hear that on 1<sup>st</sup> and 2<sup>nd</sup> --- In fact, this is a distress call. The Ministry put those specific dates because---

**Mr. Deputy Speaker:** Order! Can you confirm that, that exercise has not been repeated?

**Dr. Nuh:** Mr. Deputy Speaker, Sir, a sham one because they gave a notice of 24 hours just because they saw this Question. That is not doing justice and fairness to the people of Bura. Let them announce and give a two week notice and we will bring every person to that vetting.

**Mr. Deputy Speaker:** Mr. Minister, considering that members of that community are pastoralists and are people who move around with their livestock all over, that, maybe, is the information that you need to know. Could you give an undertaking---

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, I will give an undertaking but, first, I will invite my friend to come, we work on a specific date which is suitable for him. Whether it is four days, we will give him that at a specific time. Please, ask them in advance to come and be vetted and registered. That is all we are asking for! We want to register all Kenyans.

**Mr. Deputy Speaker:** Fair enough!

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. While I appreciate the offer by the Minister to invite the hon. Member to his office - which is very good - but he could have done that before he came to the Floor of the House. Now that he is here and the hon. Member has even given him up to two weeks, why can he not be categorical because the rest of Kenya is watching? We want to know when you are going to allow those people to come for vetting! Give a specific date!

**Mr. Deputy Speaker:** Mr. Ethuro, the Minister has given a firm undertaking to the hon. Member. He told him: "Come to my office so that we can go through this with you." This is all carried in the HANSARD. Can you allow that process itself to--

**Dr. Nuh:** On a point of order, Mr. Deputy Speaker, Sir. This is a House that is supposed to serve justice to Kenyans and the people of Bura are watching and listening. So, if the Minister could give an undertaking and come up with a specific date in two weeks time, they will be there. He does not need me in his office!

**An hon. Member:** That is true!

**Dr. Nuh:** Mr. Deputy Speaker, Sir, in fact, this House has a better coverage than me calling people and telling them to go for the vetting process. So, let him give an undertaking to the people of Bura when he is expecting to re-vet them. I assure him that they are Kenyans.

**Mr. Deputy Speaker:** Minister, can you give an undertaking?

**Mr. Kajwang':** Mr. Deputy Speaker, Sir, first and foremost, I did not come with the dates because this exercise should have been done on 1<sup>st</sup> and 2<sup>nd</sup> which have

now past. I have only known now that they did not actually come back. But to stand here and say that registration will be on 4<sup>th</sup> and yet we have to do the logistics---

**An hon. Member:** But Mr. Ojode does it!

**Mr. Kajwang':** No! No! That is Mr. Ojode.

**The Assistant Minister of State for Provincial Administration and Internal Security** (Mr. Ojode): On a point of order, Mr. Deputy Speaker, Sir. Did you hear my name being invoked in something which I am not aware of?

**Mr. Deputy Speaker:** Mr. Kajwang', please, proceed!

**Mr. Kajwang':** Mr. Deputy Speaker, Sir, let me give this assurance; that today is Thursday, let the next Thursday pass. The next Thursday, bring all your people who were rejected and the new people who want to apply. From that Thursday give us four working days. God bless you.

*(Applause)*

**Mr. Deputy Speaker:** Fair enough!

Next Question by Eng. Gumbo!

*Question No.519*

LOW WAGES FOR KENYANS WORKING  
FOR CHINESE CONTRACTORS

**Eng. Gumbo** asked the Minister for Labour:-

(a) whether he is aware that Chinese contractors are paying Kenyan workers poor wages which are below the recommended daily rates; and,

(b) what steps he is taking to ensure all Kenyans employed by Chinese contractors and other foreign contractors are paid recommended wages, treated with dignity and ensured access to all their rights as provided in the new Constitution.

**Eng. Gumbo:** Mr. Deputy Speaker, Sir, I would like to notify the House that I have not received the written answer to this Question.

**Mr. Deputy Speaker:** Do you wish to continue with the Question without the written answer?

**Mr. Gumbo:** Yes, Mr. Deputy Speaker, Sir. I have no problem.

**The Assistant Minister for Labour** (Mr. Ojamoong): Mr. Deputy Speaker, Sir, my officers received this Question just three days ago. I am requesting that because of the magnitude of the work we are going to undertake, considering that there are so many Chinese who have come to Kenya and this Question cuts across so many Ministries and sectors, I beg that I be given some two or three weeks so that I can come up with a comprehensive answer which contains the payrolls and other details regarding the employees of the Chinese contractors.

**Mr. Deputy Speaker:** Fair enough! Eng. Gumbo, are you happy with that?

**Eng. Gumbo:** Mr. Deputy Speaker, Sir, I appreciate the magnitude of the task before the Assistant Minister and I hope he understands what it involves. The issue of mistreatment of locals by Chinese is not unique to Kenya. If the Assistant Minister has been following, it was in fact a major campaign issue in the last Presidential elections in Zambia. So I do not mind him asking for two to three weeks as long as he will give us the answer which will satisfy the country.

**Mr. Deputy Speaker:** The Assistant Minister has given an undertaking that he will have a comprehensive answer that has information, including payrolls. Fair enough! It is so directed!

*(Question deferred)*

Next Question by Mr. Ekwe Ethuro!

*Question No.513*

PROJECTS FUNDED BY CDTF/PEC/MDG/  
VISION 2030 SECRETARIAT IN TURKANA

**Mr. Ethuro** asked the Minister of State for Planning, National Development and Vision 2030:-

(a) to provide a list of projects funded by Community Development Trust Fund (CDTF), Poverty Eradication Commission (PEC), Millennium Development Goal Unit and Vision 2030 Secretariat, indicating project name, location, amount funded, commencement and completion date of each project in Turkana County;

(b) what the per annum quantum and per centum of the total budget for Community Development Trust Fund (CDTF) and Poverty Eradication Commission (PEC) allocated to Turkana County since independence is; and,

(c) what other projects are planned by these agencies in Turkana County in the next three years.

**The Assistant Minister, Ministry of State for Planning, National Development and Vision 203** (Mr. Kenneth): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I hereby provide the list which the hon. Member has. I also hereby table it.

*(Mr. Kenneth laid the document on the table)*

(b) The CDTF has since inception disbursed about Kshs2, 020,754,000 to community based projects countrywide of which Kshs16 million has been allocated to projects in Turkana County. This translates to 0.8 per cent of the total disbursements under this programme. In addition, the EDP has disbursed a total of Kshs167 million to 18 projects countrywide of which one project in Turkana County has received Kshs24, 421,000; this translates to 15 per cent of the total disbursement under the emergency programme.

(c) The following relates to projects planned for implementation in Turkana County in the next three years under CDTF, PEC and MDGs. On CDTF, programmes are demand driven and funds are allocated on merit according to set criteria. CDTF does not pre-allocate funds to any part of the country. Projects are selected and funded after a call for proposals, which is advertised and published in all the media countrywide.

On PEC, the Commission funded projects are determined by the budgetary allocations in each financial year and, therefore, it is difficult to plan for projects in a

certain country. Plans to support other projects in Turkana County will be considered once the funding levels are increased to match the demands for these funds.

On MDGs, the Government is in the process of finalizing the second phase of MDGs programme which will be funded by our development partners in the period 2011. This project will also have interventions in Turkana County which is one of the MDGs districts. The specific interventions will be based on a laid down selection process.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for supporting development projects in Turkana County. He has provided the schedules and amount of money. On the impact of irrigation schemes, there is a project called Rehabilitation of NAROS Irrigation Scheme where the Ministry has spent Kshs1.7 million. What is the output from that project?

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, projects that have not been given enough money especially under poverty eradication might not have much impact especially when only Kshs1.7 million was put in. However, because Turkana County falls under the MDGs and one of the goals will cover that particular field, I hope that there will be enough funds to ensure the output is visible and proves useful to the people of Turkana County.

**Mr. Deputy Speaker:** Are you satisfied?

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I am satisfied but the Assistant Minister has not answered the question on the output because there is no output. However, he went ahead to give the reason that the money is not enough. How much of this money will be enough to produce the output that the Assistant Minister can report? Every shilling must count.

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, I hope that when we plan for 2011 to 2013 in the second phase of the MDGs and when we sign with development partners, we can put this as a priority so that it can be useful and helpful. May be at that time, depending on the specifications, we will be able to allocate enough to satisfy the hon. Member.

**Mr. Deputy Speaker:** Next Question by Mr. Kigen!

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

**Mr. Deputy Speaker:** On what?

**Mr. Mbuvi:** Mr. Deputy Speaker, Sir, I have just seen the Assistant Minister for Planning, National Development and Vision 2030 and ---

**Mr. Deputy Speaker:** Order! We have gone to the next Question. Are you on a point of order?

**Mr. Mbuvi:** Yes, it is a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Fair enough! The Chair is going to dispense with the very strict rules because you are a freshman who has just come to Parliament. Proceed now!

**Mr. Mbuvi:** Mr. Deputy Speaker, Sir, yesterday, I was to ask Question No.504 on the current unemployment problem facing the youth in this nation. The Minister requested to answer the Question today. However, the Question is not listed on today's Order Paper. Could the Assistant Minister give an undertaking as to when we are going to have this Question?

**Mr. Kenneth:** Mr. Deputy Speaker, Sir, the hon. Member is right. We had agreed that the Question be listed on today's Order Paper and we had been assured it would be listed. I had actually come with the answer. Probably, it can be listed on Tuesday and we dispense with it.

**Mr. Mbuvi:** Much obliged, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** The Chair directs that the Question be listed on the Order Paper on Wednesday next week.  
Next Question by Mr. Kigen!

*Question No.518*

PROVISION OF AMBULANCES TO CONSTITUENCIES

**Mr. Kigen** asked the Minister for Public Health and Sanitation:-

(a) whether she could confirm that each constituency will receive an ambulance before the end of the 2010/2011 financial year, in line with an earlier Government commitment on the same;

(b) how much funds the Ministry will use to ensure that enough ambulances are bought; and,

(c) whether she could also explain how the Ministry intends to utilize the Kshs.294,000,000 provided for the 2010/2011 budget to hire ambulance services, considering that there is no policy framework on the same.

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** Mr. Deputy Speaker, Sir, this Question was taken initially to the Ministry of Medical Services and we got it this morning. I would like to seek for the indulgence of the House so that I can bring the answer next week on Wednesday morning.

**Mr. Deputy Speaker:** Is that okay, hon. Kigen?

**Mr. Kigen:** Mr. Deputy Speaker, Sir, it is quite in order.

**Mr. Deputy Speaker:** It is so directed!

*(Question deferred)*

**COMMUNICATIONS FROM THE CHAIR**

ADMISSIBILITY OF MOTION ON APPLICATION  
OF GEOGRAPHIC DIMENSION REPORT OF  
2005 IN ALLOCATION OF CDF/DEVOLVED FUNDS

**Mr. Deputy Speaker:** Hon. Members, on Wednesday, 3<sup>rd</sup> November, 2010, during the morning sitting, the Chair undertook to give a ruling on the admissibility of the Motion by the Member for Rangwe, hon. Martin Ogindo. The Motion, among other things, calls upon this House to resolve that the Government continues to use the geographic dimension of wellbeing in Kenya Report published in 2005 in allocating CDF monies in the financial year 2010/2011 until a more objective and consultative survey is carried out.

Following the Moving of the Motion, hon. Ethuro rose on a point of order under Standing Order No.47(3) and specifically, paragraphs (b), (d) and (e), which require the Speaker to rule to be inadmissible, a certain proposed Motion, or rule that notice of such Motions be not given without such alteration as the Speaker may approve.

It was hon. Ethuro's contention that the Motion was inadmissible on three grounds. First, it is unconstitutional on account of being discriminatory in its effect, on account of the adverse effect it would have on some areas of the country by

requiring that the survey in the words of the hon. Member, “was not comprehensive to be used in disregard of a more comprehensive survey.”

Secondly, that it had the effect of amending the Statistics Act No.4 of the year 2006, which creates the Kenya Bureau of Statistics, which is the sole organ of the Government with the mandate of being the gatherer and custodian of data by requiring the use of data other than that collected by the legitimate statutory organ.

Thirdly, that the Motion was framed in terms that are inconsistent with the dignity of the House to the extent that it requires the House to resolve on a matter which Parliament has already delegated to another authority under the Constituencies Development Fund (CDF) Act.

A number of Members contributed to the points of order raised by hon. Ethuro. These included hon. Peter Munya, hon. Martha Karua and hon. Jakoyo Midiwo. Hon. Munya argued that the Motion was not inadmissible on the ground that it was merely questioning the accuracy of the survey. The crux of hon. Karua’s contribution was that the Motion was inconsistent with Sections 19(b) of the CDF Act which requires that the funding to be given be based on the National Poverty Index and the Motion could not, therefore, ask that the most current National Poverty Index released by the Ministry of State for Planning, National Development and Vision 2030, be disregarded in favour of an earlier one. To her, the recourse, if dissatisfied with the current survey, was to have another one undertaken. Hon. Midiwo agreed with hon. Munya’s contention that that the Motion was in order.

Hon. Members, the sole point for determination, as I see it, is the admissibility of the Motion by hon. Ogindo. If this is so, some of the contentions raised by hon. Members appear to go to the merits of the Motion rather than the pure technical point of the admissibility of the Motion under our Standing Orders. The admissibility of a Motion is to be seen through the provisions of Standing Order No.47(3) which provides as follows:

“If the Speaker is of the opinion that that any proposed Motion:-

- (a) is one which infringes, or the debate on which is likely to infringe any of these Standing Orders; or
- (b) is contrary to the Constitution, without expressly proposing appropriate amendment of the Constitution; or
- (c) is too long; or
- (d) is framed in terms which are inconsistent with the dignity of the House; or
- (e) contains or implies allegations which the Speaker is not satisfied that the Mover can substantiate; or
- (f) calls for the commitment of public funds for which no provision is made in the annual estimates as adopted by the National Assembly;

the Speaker may direct either that the Motion is inadmissible or that notice of it cannot be given without such alteration as the Speaker may approve.

As I have indicated, in accordance with the Standing Orders, a Motion is not admissible if it is contrary to the Constitution. After the passage of the new Constitution, it is important that its full implications be appreciated. In particular, Article 10 of the Constitution sets out the national values and principles of governance which bind all State organs, including this House, when they apply or interpret the Constitution or any law or make or implement public policy decisions. These values include among other things the rule of law. The rule of law in its most basic element means that all persons are bound to obey the law.

Hon. Members, this House is bound by the laws it makes. Indeed, this House is as much bound by the laws it makes, as all other persons. If any Member of this

House should be unhappy with the state of the law, it behooves that Member to bring an amendment to that law. When this House vests a particular function in an organ by statute, this House cannot take away that function otherwise, than by statute.

Hon. Members, in these premises, I rule that the Motion by the hon. Ogindo is inadmissible in that it be not proceeded with to the extent that it calls on this House to make a resolution, the effect of which would be in conflict with the provisions of the CDF Act and would, therefore, be in contravention of the statute. I rule also that the Motion is inconsistent with the dignity of the House in that it calls on the House to make a resolution that will be in conflict with the law that the House has itself made.

Hon. Members, I, therefore, order that the Motion shall be not proceeded with and that notice of it be not given again without such alterations as the Speaker shall approve.

Thank you.

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

Order hon. Members! Hon. Ogindo, you are out of order! You cannot rise on a point of order on a ruling by the Chair. It is important that you understand the basic rules of the House.

Hon. Members, the Chair has another Communication to make.

RECORDING OF HOUSE PROCEEDINGS  
BY STRANGER IN THE GALLERIES

**Mr. Deputy Speaker:** Hon. Members, on Tuesday 2<sup>nd</sup> November, 2010, hon. Duale, rising on a point of order, drew the attention of the House to the fact that a stranger seated in the Public Gallery, was recording the proceedings of the House, contrary to the provisions of the Standing Orders. The Chair immediately directed the Sergeant-At-Arms to ascertain the claims.

The Sergeant-at-Arms carried out investigations and the following facts have been established:-

- (i) that it is true that the person who was seated in the Press Gallery had a recording equipment which he used for recording proceedings of the House;
- (ii) that the stranger is a journalist working with the Nation Media Group, who is accredited by the Kenya National Assembly; and,
- (iii) that the journalist informed the Sergeant-at-Arms that, indeed, he had recorded the proceedings and that he was not aware that it was not allowed without authorization.

Hon. Members, Resolution 6(4) of the Broadcasting Regulations provides *inter alia* that no camera or other recording or broadcasting equipment shall be allowed in the House without authorization. Further, Resolution 6(5) states that accredited journalists shall be allowed access to designated areas for purposes of following the proceedings and taking notes, and any journalist so allowed, shall observe the Standing Orders and these regulations.

From the foregoing, I find it that the said accredited journalist had breached the broadcasting regulations and provisions of the Standing Orders. In the circumstances, I order the Sergeant-at-Arms to have the information recorded fully erased and the Nation Media Group to offer an appropriate apology for the gross breach of the House Standing Orders and Regulations.



Let me take this opportunity to ask all accredited media practitioners to ensure that they do not infringe on the Standing Orders or regulations governing the work in the Chamber. It would help if accredited journalists carried themselves with the dignity they deserve while executing their professional duty within the Chamber because, as a House, we appreciate their positive role in informing our electorate of what we do here.

Thank you.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. I fully agree with your ruling on the Nation Media Group with regard to the breach of the Standing Order. Would I be in order to ask the Office of the Speaker, when it accredits journalists to this House in future, to spell out the rules clearly? They should sign that they have read and understood them so that no one takes advantage of the weakness in the system?

## STATEMENTS

**Mr. Letimalo:** On a point of order, Mr. Deputy Speaker, Sir. Yesterday, the Chair directed that the Minister of State for Defence responds to a statement that was requested by hon. Lekuton. The Minister is not here. The statement has been pending for more than a month. It is a grave matter and it made hon. Lekuton and I to cancel a trip to our constituency because there was a major security meeting. But because of the weighty matter that the Statement contains--- We feel that we are really frustrated.

**Mr. Deputy Speaker:** The Chair is seized of that. Indeed, the Chair gave a ruling that the Ministerial Statement would be delivered today. I directed the Minister to come here today and, under the circumstances, I think the Chair will give further directions to the matter.

**Mr. Mbadi:** On a point of order Mr. Deputy Speaker, Sir. I rise to seek for two Ministerial Statements from the Minister for Transport.

### APPOINTMENT OF MANAGING DIRECTOR OF KPA

The first one is with regard to the appointment of the Managing Director of the Kenya Ports Authority (KPA). Could he provide the details of the procedure followed in the appointment of the current Managing Director of the Kenya Ports Authority? In his Statement, I request the Minister to explain comprehensively the entire recruitment process of the advertisement, interviews and the final appointment of the MD, providing documented evidence in each case. The Minister should further confirm to this House whether all the relevant laws were followed in the recruitment process of the Managing Director.

### APPOINTMENT OF MANAGING DIRECTOR OF KAA

My second request for a Ministerial Statement from the same Ministry is with regard to the appointment of the Managing Director of the Kenya Airports Authority (KAA) and replacement of general managers of the Authority. The Minister should give details of the process of recruiting the current MD of the Kenya Airports Authority, giving details of the advertisement, interviews and final appointments. Further, the Minister should also give details of the general managers of the Authority, giving names, qualifications and experience of each of them.

Finally, from the list of the general managers, I would like the Minister to clarify whether the management of the Authority reflects professionalism, efficiency and the face of this country.

**Mr. Deputy Speaker:** Order! Could the Minister give an undertaking on when those two Ministerial Statements will be made available to the House?

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, the information will be presented, once again, to the House on Thursday next week.

Indeed, this matter has already been presented and debated in this House. A Committee of the House has tabled a report on the KAA and it was disposed of by this House. I do not know whether the Member is aware of that, and whether I should not be seeking protection under the Standing Orders owing to Members asking for information that has already been disposed off by the same House. Subject to your ruling on this matter, I will be happy to reproduce the same information, which has already been disposed of by this House, in the very recent period. In terms of the KPA, I will be happy to bring the Statement on Thursday next week. However, with regard to the matter relating to the KAA, it is on record that this matter has already been handled by the relevant Committee of the House. A Report has been tabled here and disposed of by this House.

**Mr. Mbadi:** On a point of order, Mr. Deputy Speaker, Sir. There are many details that I have put in my request for the Ministerial Statement. I expect the Minister, if he has all the facts, to come on Wednesday and present them. I do not want to debate before he brings the Statement I have requested.

**Mr. Deputy Speaker:** Order! The Chair will give a direction on the Ministerial Statement that was sought by hon. Mbadi. With regard to the one of KPA, you will have to give a Ministerial Statement because it has not been discussed. With regard to the KAA, you will issue a Ministerial Statement, less the details of the Managing Director because the statement is an audit and has a lot of information that the hon. Member is seeking. However, the issue of the Managing Director has already been discussed on the Floor of the House.

**Mr. Lekuton:** On a point of order, Mr. Deputy Speaker, Sir. When you gave a ruling on the matter regarding the Ministry of State for Defence, hon. Members were consulting in high tones. Therefore, I did not hear your ruling. Could I beg you, one more time, to repeat your ruling?

**Mr. Deputy Speaker:** Deputy Leader of Government Business, the Chair remembers very well that the Ministry of State for Defence was directed to present its Ministerial Statement on the same matter that is being sought by hon. Letimalo and Lekuton. Why was that not done?

**The Minister for Transport** (Mr. Kimunya): Mr. Deputy Speaker, Sir, you will agree with me that hon. David Musila has been patiently waiting in this House since last week to deliver that Statement. He was here on Tuesday, Wednesday morning, Wednesday afternoon and you agreed with him that he will issue it today. Since we have many statements pending, I request for your indulgence that we hear the other Statements while we look for hon. Musila who has been waiting here for four days to deliver that Statement.

**Mr. Deputy Speaker:** The Chair will have to take other Ministerial Statements hoping that hon. Musila is somewhere within the precincts of Parliament.

#### SAFETY MEASURES IN MARINE TRANSPORT

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Deputy Speaker, Sir. I rise to request for a Ministerial Statement from the Ministry of Transport. In the Statement, I would like the Minister to give the necessary information following the tragedy in Lake Victoria where several people lost their lives. I would like the Minister to give the necessary safety and security measures in marine transport in Kenya with specific reference to Lake Victoria. Secondly, I would like to know what functional mechanisms the Ministry has put in place to ensure that rescue efforts are well coordinated just in case of an accident because there is absolutely no rescue mechanism in place. Even though those people could have been saved, we had to wait for rescue teams from Mombasa.

Could the Minister give an account of the accidents that have taken place in Lake Victoria in the last two years and, owing to the uniqueness of marine transport in Kenya, whether there is a body specifically established by the Ministry to ensure proper standards, quality and regular inspection of marine vessels used for either transport of persons or goods - just like the motor vehicle inspection unit - including the provision of life jackets?

Could the Minister explain what he has done to ensure there is a 24-hour patrol boat in the lake to provide security and help to sound alarm just in case of an emergency?

Finally, could he give an account of the number of people who perished while they were travelling from Sena, Mfangano Island, to Mbita Point? What could have caused the accident? What can be done in future to avoid the occurrence?

Mr. Deputy Speaker, Sir, I would like to take this opportunity to also thank the Ministry of State for Special Programmes for the support it has given so far.

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, let me first send my condolences to the family of the people who perished in this unfortunate incidence. I want to assure the House that investigations are ongoing and we can share the outcome plus the response to the Statement in two weeks time. It requires some inter-Ministerial coordination because there are some security matters and some cross-border matters. This is something that we need to comprehensively deal with it, so that we do not discuss the agony over a prolonged period in different nations. So, I believe two weeks will be good timing.

**Mr. Deputy Speaker:** It is so directed.

#### STATUS OF TATU CITY COMPANY LIMITED

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, I wish to seek a Ministerial Statement from the Attorney-General of the Republic of Kenya. In the Ministerial Statement, he should clarify to Kenyans whether Tatu City Limited Company, which was in the newspapers a fortnight ago, indeed, has wound up. Why is the company now selling property and collecting money? He should also clarify how this mega billion shilling project is going on? How will he protect Kenyans against losing money like they lost in GTV? He should clarify whether the Kenya Gazette Notice which was issued on 29<sup>th</sup> October, 2010, winding up the company was true.

**Mr. Deputy Speaker:** Hon. Minister, can you make an undertaking on behalf of the Attorney-General?

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, the Attorney-General is currently out of the country on official business. However, I would like to ask for two weeks, so that we can have a comprehensive response from him.

**Mr. Mbugua:** On a point of order, Mr. Deputy Speaker, Sir. This company has been wound up, but it is still collecting money from Kenyans. The Statement that I am asking for is of great importance to Kenyans. We want to protect Kenyans from losing money. For those two weeks, this company will collect a lot of money. With your indulgence, I wish to ask that the Attorney-General give that statement on Tuesday, next week.

**Mr. Deputy Speaker:** The hon. Deputy Leader of Government Business, it appears that there could be some illegality, which, of course, you, as the Government, have the machineries to deal with, if, indeed, it is true!

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, the matter is actually a Question and not even a Ministerial Statement. However, in terms of the policy issue on it, I would still ask for two weeks because the Attorney-General is not here. The Ministerial Statement is being asked specifically from the Attorney-General's office. So, I would like to have an opportunity for him to respond to those issues.

**Mr. Deputy Speaker:** Could you, in addition to that, give an undertaking on behalf of the Government as a Member of the Executive that, indeed, Kenyans will not lose their money to some entity that is illegal, if, indeed, it is true?

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, if, indeed, the company has been deregistered, obviously, then it is operating under illegal circumstances and the law will take its course.

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

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. In view of the sensitivity of this matter - it is two ways, if it is not being wound up, it will be hurtful for investment. If it is being wound up, it is hurtful for Kenyans. There is collective responsibility in the Government. The Registry is still at Sheria House. The Attorney-General may be abroad, but the Registry is in Kenya. Would I be in order to ask the Deputy Leader of Government Business to have this Statement responded to on Tuesday, next week?

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. I am also seeking your clarification. The old Constitution required that the Attorney-General must inform the Speaker of his absence. I am not sure whether the current one provides the same, but he may wish to confirm. For purposes of parliamentary business in this Constitution, some of these issues are being suspended until a particular time. This could be one of them. In view of the two weeks the Attorney-General will be away, which might affect the business of the House and the country, can you confirm that the Attorney-General had indicated that? If so, can we be assured that the Government is still functioning properly even in the absence of the Attorney-General? Given that mobile telephony is the order of the day, I am sure he can be reached wherever he is, unless he has gone to visit the Hague, which is possible.

**Mr. Deputy Speaker:** For the benefit of the House, the Attorney-General, indeed, wrote to the Speaker of his intended absence. So, for the benefit of the House, the Attorney-General does not travel out of this country without informing the Speaker. So, hon. Deputy Leader of Government Business, given the sensitivity and the risk that Kenyans maybe running into, I say "maybe" because this is not a confirmed situation, could you give something, probably, better than the two weeks that you had asked for? In any case, deregistration is a matter that you can find out from your office and report on Tuesday, next week.

**The Minister for Transport (Mr. Kimunya):** Mr. Deputy Speaker, Sir, as Members are aware, from your earlier Communication, we will not be in the House

on Tuesday, next week. So, let us put it for Thursday, next week, to just facilitate getting the clarification. As I said, in the meantime, if somebody is collecting money illegally, the law will take its course, either way, with or without the Statement. So, let us give the assurance in terms of the policy matters on Thursday, next week. I think Thursday next week is good enough.

**Mr. Deputy Speaker:** It is so directed!

**Mr. Ogindo:** On a point of order, Mr. Deputy Speaker, Sir. I want to thank you for your wise ruling on my Motion. I was the sponsor of this Motion and I represent the people of Rangwe Constituency. I also represent a larger constituency in Kenya. I am part of your constituency because I voted for you.

As I leave that matter to rest as per your ruling, I promise to pursue it through other avenues, but I have been marginalized in this process in a manner that borders on oppression. I want to request the Chair to be fair with me when I subsequently pursue this matter.

**Mr. Deputy Speaker:** Hon. Members, the Deputy Speaker of the Kenya National Assembly has the unique responsibility of being a Member who represents a constituency, and at the same time, the Deputy Speaker of the National Assembly of Kenya. In terms of my constituency, I think it has lost more than any other constituency in this House.

But we are bound by our own laws, Constitution and practice. We have to respect our own laws. The lawmakers who make laws expect those laws to be adhered to and respected by all Kenyans. The unique privilege that we have is that we can change those laws ourselves. If we are not too happy with a given law, and we feel that it does not serve the interest of Kenyans, we can repeal it. It is the House that makes the laws and can also amend them. But until such time that a law is amended, it has to be respected by the Chair, the House and everybody else.

#### INVASION OF VETERINARY LABORATORY SPORTS CLUB LAND

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I beg to request the Chair to allow me to respond to a Ministerial Statement which was sought by hon. Konchella on Thursday, last week. This is because he wants me to include certain details and I have not received them. I got this Ministerial Statement yesterday. I have so far written to the Minister for Lands to furnish me with certain details which I need to share with this House. I will equally do a disservice to the whole country if I give half-baked information in a sensitive matter like this one.

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. I want to, first of all, declare interest and say that I am a member of Kabete Veterinary Sports Club. I wish to ask the Assistant Minister if when granted more time he will include names of the purported allottees who have grabbed land belonging to the Veterinary Department. We want to know whether he will give the names of the directors, because we have information that they may include three sitting Cabinet Ministers. In the meantime, let him say whether he can assure this House that the police will not selectively terrorise and arrest workers at the club and that none of the grabbers will be allowed to go back to this land pending the Ministerial Statement.

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

**Mr. Deputy Speaker:** Order! Allow the hon. Assistant Minister to respond to that point of order.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I will request my colleagues to wait for my Ministerial Statement which will be elaborate. I will include all other requests. Some of the requests, if I may read part “c” of the Ministerial Statement include the names of the companies, which had been allocated these parcels and their directors.

Mr. Deputy Speaker, Sir, I will be able to give the details. I have already spoken to the Minister for Lands and he has agreed that he will furnish my office with the details, which are required. So, I am requesting my colleagues to hold on until we get the Statement fully done.

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

I was just getting a bit impatient because the Assistant Minister was attempting to answer when we want him to include more issues, so that he can give a comprehensive answer since you have already granted him longer time.

Mr. Deputy Speaker, Sir, I also want to declare my interest. I am not a member of the Kabete Veterinary Sports Club. However, I went to school in Kabete Campus, Nairobi University. I have a background of agriculture and research. Part of this land was grabbed from Kenya Agricultural Research Institute, which has a centre. Part of this land has been grabbed from Kenya Veterinary Vaccine Production Institute (KEVEVAPI), which has lacked capacity to produce vaccines. We would like him to be very categorical, that we want to know those grabbers in terms of the names, exact size of land allocated and when they were given this particular land. We would like also to know whether this habit of grabbing land for agricultural research and production will be stopped forthwith.

**Mr. Kombo:** Mr. Deputy Speaker, Sir, whereas I appreciate the Assistant Minister’s request for more time, there are people; a university student who had nothing to do with the club and a farmer who was collecting foodstuffs from the club who were arrested. They are now languishing in police cells.

Mr. Deputy Speaker, Sir, as he is asking for this time, what do we do with these poor people who are in police cells and no action is being taken to release them? He can be given more time, but this university student and a farmer, who were absolutely innocent, be set free. They were not even part of the club. What will he do for those people?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, one day in confinement is a very long time. To expect young, Jackson Ng’ang’a, a university of Nairobi student who has been asked to raise a bail of Kshs500,000 so as to be given freedom to await the determination of the matter; two weeks is a very long time.

Mr. Deputy Speaker, Sir, similarly to expect a junior employee by the name of Justus Mugo of the University of Nairobi, who has similarly been asked to raise a bail of Kshs500,000, is almost impossible.

Mr. Deputy Speaker, Sir, could he use this opportunity to convert that bail into a police bond, so that these two people can go home and then come back for the determination of the matter?

**Mr. Konchella:** On a point of order, Mr. Deputy Speaker, Sir. While the Assistant Minister wishes to answer these issues some time to come, it is a grave matter. The hon. Colleague here has just talked about two people. They are actually three people; one student who is in Industrial Area Police remand, another employee of the University of Nairobi and a farmer who simply went to collect swine food.

Mr. Deputy Speaker, Sir, these people are languishing in prison. He should surely not wait for that long to release these people. The Attorney-General should withdraw this case and release this student to go back to university because he is innocent. I must also declare my interest in that club because I am a member. How will members of the club be protected from grabbers who have now formed an association of grabbers of the land? His Ministry has disobeyed the request by the Minister for Lands, who is a great man of Kenya and I am proud of him. He has given instructions to protect public property and yet the Ministry of State for Provincial Administration and Internal Security has deliberately not even answered him or taken action. The members of the club are unable to use it now because of grabbers who can come at any time with hooligans to protect them.

**Mr. Deputy Speaker:** Mr. Konchella, you have requested for a Ministerial Statement and the Assistant Minister has given an undertaking---

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I am not satisfied that he should take that long.

**Mr. Deputy Speaker:** But you cannot be satisfied because he has not issued the Ministerial Statement!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I think we are anticipating the debate on what I am going to issue.

**Mr. Deputy Speaker:** How much time do you need?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I am requesting the Chair to allow me more time in order to furnish this House and the nation with the details that they require. I said that by Thursday, next week, I will be able to get all the details which are required. You have even heard some of them talk about two people who have been arraigned in court. We have arrested six people and arraigned them in Kibera Magistrate's Court where they were charged with arson contrary to Section 332. So, let me come with the details so that I can be interrogated and I will be able to give clarifications.

**Mr. Deputy Speaker:** Mr. Minister for Lands, do you want to help your colleague?

**The Minister for Lands (Mr. Orengo):** Mr. Deputy Speaker, Sir, I have had discussions with Mr. Ojode and Prof. Saitoti on this matter and I think we need a little more time to make a full disclosure. I am personally very offended with what is happening because the people who came to see me are law abiding citizens and because they have stood in defence of the law, they are the ones who are in custody. I am feeling very ashamed about it but I think we should have a full disclosure on this matter so that everybody is fully satisfied. We should just have the names but a little bit of the history of this land. This will show the mess we are in with regard to these issues.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I really feel pained that a university student was arrested by this Assistant Minister or his agents together with the innocent employee of the University of Nairobi. In fact, the same Assistant Minister uses his agents to cushion the arrest of an employee of a Minister of the Government who actually went on the ground and interfered with the matter. So that I am not misunderstood, here is a document confirming that one Paul Mutua who is an employee of Windsor Golf and Country Club is the one who is interfering and up to this moment he has not been arrested. Is the Assistant Minister in order to pretend that he is doing all that is possible to advance the course of justice?

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. In addition to what Dr. Khalwale has said, and we want to welcome the contribution by the Minister for Lands, although we want to give them enough time to identify the grabbers, we are also saying that we cannot give them enough time for the other people who were arrested, for example, a member who was there five hours after the event. Surely, what is the basis for detaining those people in police cells for that long? Could the Assistant Minister take some action on the people involved as we give them more time for the particulars and details of the land grabbers?

**Mr. Deputy Speaker:** Let me take one point of order from Mr. Jirongo and then we dispose of this matter.

**Mr. Jirongo:** On a point of order, Mr. Deputy Speaker, Sir. While a number of people languish in prison as we speak here, the Assistant Minister must have had enough evidence against the people he has charged in court. Therefore, there is no reason why he should be asking for more time and yet there are people he has charged selectively. Is he in order to continue asking for more time when he has already charged people like university students who are languishing in jail and yet he claims that he does not have all the details? On what basis did the Assistant Minister charge those people in court?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I believe that I am talking to professionals in this House. I also believe that I am talking to lawyers. Those people were taken to court once they were arrested and there is nothing I can do once you have been arraigned in a court of law in this country. Again, I want to assure you that if you break the law it does not matter where you are from---

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

**Mr. Deputy Speaker:** Order, Mr. Kabogo!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, could you protect me from my colleagues? Sit down please.

**Mr. Deputy Speaker:** Mr. Assistant Minister, proceed and give an undertaking.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I will definitely investigate the other matter which has just arisen. If at all investigations reveal that he was one of the fellows involved, I assure this House that upon the receipt of the investigation report, I will take action.

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

**Mr. Deputy Speaker:** Order, hon. Members! I think we have had sufficient ventilation on this. The Chair now directs that the Ministerial Statement be delivered on Thursday, next week.

Let us have a Ministerial Statement from the Minister of State for Defence! Is anyone here from that Ministry? Mr. Deputy Leader of Government Business, what do you have to say about this Ministry in your Government?

**The Minister for Trade (Mr. Kimunya):** Mr. Deputy Speaker, Sir, we are still waiting for the Ministerial Statement but in the meantime there is another urgent Ministerial Statement that you directed to be issued today on the chiefs. That Statement was requested by Mr. Ethuro and the Assistant Minister of State for Provincial Administration and Internal Security is ready to deliver it. As we receive that Statement, we will get the Minister of State for Defence.



**Mr. Lekuton:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister, Ministry of State for Defence was here. He has just run out. Could you order him to come back and issue the Ministerial Statement, which is key?

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. The Deputy Leader of Government Business has offered me the opportunity for the Assistant Minister of State for Provincial Administration and Internal Security to respond to my matter. Since this one is pregnant and ready, why can we not deliver it as we wait for the Minister of State for Defence to re-appear?

**Mr. Deputy Speaker:** Mr. Assistant Minister, you have exactly five minutes to deliver that Ministerial Statement and Members to interrogate it.

#### RE-INTERVIEWING OF CHIEFS IN NAIROBI

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, I will take less than two minutes. Mr. Ethuro rose on a point of order to request for a Ministerial Statement with regard to chiefs being invited to Nairobi to be re-interviewed and yet they have been interviewed before. I have checked with my officers and none is aware of this exercise. So, I wish to confirm that the arrangement for interviewing chiefs remains as before. We interview chiefs at the district level, forward names to the Provincial Commissioners who vet three names and forward them to the Permanent Secretary who picks the qualified candidate. We have not centralized nor have we arranged for re-interviewing of chiefs who have been interviewed before. I believe that I have answered the hon. Member effectively and if he has evidence to the contrary we are willing to take disciplinary action against the officers who are playing those games.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, first and foremost, I want to thank the Assistant Minister for giving the assurance that the question of re-interviewing chiefs does not arise. But the Assistant Minister is definitely not in charge of his Ministry. Two weeks ago, I went to pursue salary payments for two chiefs from my place; one is called Joseph Elim Tapen, Chief of Napelilim Location who was recruited on 4<sup>th</sup> of February, 2010. The second one is Assistant Chief Lochu Cherneng Christopher, the sub-chief of Lodwar Town, who was recruited on the same day and who is working now. Their salaries have been delayed and they were coming to Nairobi. I told them that it is my job to represent them in Nairobi because I am there by virtue of the business instead of them travelling to Nairobi. I went to the Human Resources Manager at the Office of the President (OP), a Mrs. Rono, who called for the files of these two gentlemen and confirmed to me that they have not been given a Payment Change Advise (PCA) because they want to re-interview them and that they will communicate in due course.

On 1<sup>st</sup> of November, the two gentlemen came to Nairobi for the interview which did not take place. On further inquiry from the same Mrs. Rono - they even met other chiefs from Trans Mara and Narok - they were told: "Go back, we will call you again on 8<sup>th</sup> of November."

Mr. Deputy Speaker, Sir, I have a problem. This Ministry interviewed these chiefs on 4<sup>th</sup> of December, 2008. It took two years to recruit them. It has taken another seven or eight months for them not to be paid, only for them to be asked to come back. I have no problem if the Assistant Minister can assure me that, first and foremost, the original interview that gave them the appointment letters is valid. I have no problem with that and I will appreciate it. But I also want the Assistant Minister to

go further to take disciplinary action on his officers who seem to be hell bound to continue disturbing public servants who were already doing a good job back home, and that they will no longer be called to Nairobi. In the meantime, they must be reimbursed their transport, accommodation and be paid forthwith. Let the Assistant Minister reassure this House, and not only on those chiefs from Turkana, but all the chiefs that may be affected by this kind of illegal directive.

**Mr. Deputy Speaker:** You have made your point, hon. Ethuro! Assistant Minister, can you give that undertaking?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, I am rather disturbed by the statements made by hon. Ethuro because the same officer he is talking about, I have spoken to her three times today; even five minutes ago. I have asked Mrs. Rono: “Is it the case you are interviewing chiefs?” and she confirmed that it is not the case. But I do not want to spend time on this one. I think I need all the documentation because clearly it is irregular for chiefs to be interviewed in Nairobi. It is irregular for the Human Resources Department to re-interview chiefs. The best they can do is to look at documentations, which are sent by District Commissioners. The chiefs do not need to come to Nairobi because if there are documentations regarding your qualifications, your identity card and whatever else, those documentations normally are passed on to the Permanent Secretary at the Ministry Headquarters by the District Commissioners.

On the question of delays, I must admit that there are delays because of this question of personal numbers, which I personally do not understand why we have to wait for personal numbers to come from another Ministry – the Ministry of Public Service.

**Mr. Deputy Speaker:** Can you give an undertaking as the Assistant Minister?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): I give an undertaking and I want to thank hon. Ethuro for raising this issue because there just may be a case of people seeking economic rent in the process. So, can I have the documents?

Thank you.

**Mr. Deputy Speaker:** That is fair enough! The Backbencher who asked for a Ministerial Statement from the Minister of State for Defence, are you still interested in that Statement?

**Mr. Letimalo:** Mr. Deputy Speaker, Sir, I am really interested in that Statement!

**Mr. Deputy Speaker:** Minister of State for Defence, are you ready to give that Ministerial Statement?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Thank you, Mr. Deputy Speaker, Sir. We have been very ready for a very long time. Even yesterday you will remember that we were here until very late and you know we divide duties in our Ministry.

**Mr. Deputy Speaker:** Proceed and give the Ministerial Statement!

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): I will give it, but I have to give a background, because this is not a crisis.

**Mr. Deputy Speaker:** That was adequately given by your own Deputy Leader of Government Business here.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Exactly, Mr. Deputy Speaker, Sir, but you know my colleague, hon. Musila was assigned duty to give this Statement and he is the one who was fully

briefed. But I have a copy, being in the same Ministry and so, I can go ahead and give the Statement.

**Mr. Deputy Speaker:** Are you ready to give it yourself, or would you rather leave it for your colleague to give it?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): No, Mr. Deputy Speaker, Sir, I can give it because I have a copy of the Statement here. But for the background information, I am sure hon. Musila will be here by the time the interrogation starts. So, I can go ahead and give the Statement if the hon. Member is satisfied.

**Mr. Deputy Speaker:** Hon. Lekuton?

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, I would really like to hear it.

**Mr. Deputy Speaker:** Okay! Proceed, honorable Assistant Minister!

#### TRAINING OF BRITISH ARMY IN SAMBURU EAST

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, on 1<sup>st</sup> September, 2010, hon. Lekuton, the Member for Laisamis, sought a Ministerial Statement from the Minister of State for Defence on issues surrounding the training of the British Army in Samburu East Constituency. I now have the pleasure to give the Statement as requested by the honorable Member. In doing so, I will respond to each of the eight questions raised by the honorable Member.

Mr. Deputy Speaker, Sir, the training of the British Army in Kenya is based on a Memorandum of Understanding on defence co-operation between the Government of Kenya and the Government of Britain. The first MoU on this issue was signed in April, 1980, and has been reviewed by the two parties every five years. The last review was done in April this year and was signed by the Minister of State for Defence on behalf of the Government of Kenya and the British High Commissioner on behalf of the British Government.

Mr. Deputy Speaker, Sir, Section 2 of the document provides for training of British forces in the areas as follows:-

- (a) Booking is to be made nine months in advance in guaranteed allocation to be confirmed by the Ministry of State for Defence, six months in advance.
- (b) The booking will specify the duration, nature of the training, equipment and size of troop taking part.
- (c) The service authorities will provide liaison staff who will undertake joint training with British forces throughout the exercise period, including planning, excursion and recovery stages within Kenya.
- (d) The Kenyan Service Authorities will be responsible for taking appropriate measures to warn against any form of interference.
- (e) Military training involving live firing, including high trajectory ammunition would require clearance from the Director of Civil Aviation through the Ministry of State for Defence.
- (f) Training will be regulated in strict compliance with existing British military safety and clearing procedures and rules, including joint annual unexploded ordinance clearance valediction exercise in order to prevent injury, death or other damage to person or property.

Mr. Deputy Speaker, Sir, using the Provincial Administration machinery, we have always cleared the training areas of human and livestock before any live firing to ensure safety of those who could have strayed into the gazetted training area.

As concerns the number of Kenyans working for the British Army, the Ministry of State for Defence is not in a position to provide an answer because we do not maintain such records. I suggest that this Question be directed to the relevant line Ministry.

Mr. Deputy Speaker, Sir, regarding the issue of social corporate responsibility by the British Army to the residents of Samburu East and its environs, I would like to inform the House that the MOU does not require the British Forces to carry out any projects. However, the following projects have been undertaken by the British Army as a sign of goodwill:-

- (a) construction a dormitory and a football pitch at Waso Secondary School;
- (b) construction of an AIC Church at Archers' Post;
- (c) construction of football pitch and perimeter fence at Gilgil Primary School; and,
- (d) construction of four classrooms, complete with furniture, at Narisero Primary School.

Mr. Deputy Speaker, Sir, regarding the issue of number of people injured, or killed, since the British Army commenced their exercises, I would like to say that the Ministry of State for Defence has not received any report of the same. Maybe, the Office of the Attorney-General can shed light on any claim of injury or death.

However, I would like to add that a qualified Kenyan officer always accompanies the British troops to ensure that necessary safety measures are observed during live firing. No cases of injury or deaths have been observed.

Regarding the issue of number of pending cases and when the victims will be compensated, it is my view that this can be answered by the Office of the Attorney-General. The same answer applies to the question on the number of women who have accused the British Army of rape.

Mr. Deputy Speaker, Sir, on the issue of allocated land, I would like to clarify that the MOU does not allocate any land to the British Army. According to the official *Kenya Gazette*, VOL. LXXIX, No.46, dated 11<sup>th</sup> November, 1977, Notice No.310, the area in question was set apart as a training area for the Kenya Armed Forces. I will table a copy of the Gazette Notice, which is attached to the written answer I am reading from.

**Mr. Deputy Speaker:** Can you summarise?

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, no encroachment has been reported. As I mentioned earlier, a qualified Kenyan officer is always attached to the visiting British Forces. Amongst his duties is ensuring that the training is confined to the gazetted area.

Regarding the issue of policy on compensation on death, injuries or rape, I would like to state that none exists. Section 12 of the MOU is, however, very explicit on claims and liabilities. It is our considered view that this provision is adequate. Therefore, there are no plans of developing another policy.

Mr. Deputy Speaker, Sir, the last clarification sought is on monetary gain to Kenya. I would like to state that the Government of Kenya does not get any direct monetary value of the land leased to the British Army for the following reasons:-

(a) the land is not leased to the British Army, but they just train on an area gazetted for training of the Kenya Armed Forces and, on several occasions, they train jointly with the Kenya Armed Forces; and,

(b) according to the MOU, training of the British Army in Kenya is on reciprocal basis as training of Kenya Armed Forces in Britain is supposed to be free of charge.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Table the document.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Speaker, Sir, I table the document.

*(Maj-Gen. Nkaisserry laid the document on the Table)*

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, in order for hon. Members to get the background on the issue of Samburu British Army training fields, I will quote a British Website publication, which says:-

“The British regular exercise in Kenya run by British Army Training Unit called “Batuk”; its aim is to train battle groups in an environment similar to Afghanistan and Iraq. Further to that, it is to prepare the high intensity operation in Afghanistan battle ground---conducted battle field live firing exercise in Kenya. Kenya provides the perfect opportunity for realistic training as the British deploy elements of the Royal Artillery and Royal Engineers, who will be joining them in Afghanistan.”

Mr. Deputy Speaker, Sir, it is very clear that the Samburu land that is gazetted by the Kenya Armed Forces, which is used by the British Army, is prime for British Army training. Given that background, I would like to ask the Assistant Minister to clarify a few points.

On the issue of the number of people injured, he said that there are no such reports. Victims from the Samburu community filed a court case in the United Kingdom and, with the help of the Kenya Army, about seven years ago, about 717 people who were maimed were compensated with millions of Sterling Pounds by the British Army. How come now the Kenya Army has said that they have no reports of such deaths when Archer’s Police Post has hundreds of Occurrence Book (OB) reports of people who have lost their legs and hands through bomb accidents?

Mr. Deputy Speaker, Sir, the other point is on encroachment of land outside the gazetted training area. I have a copy of the gazetted land, and I speak Samburu very well. I know all the areas the Assistant Minister is referring to. The British Army have gone beyond the gazetted area and built permanent camps in private land which they call “group ranches”.

The other point is on the MOU. How can we, in any society where people can think of right and wrong, have foreign forces training on our soil in Samburu without an understanding between us and them, so that they should have some social responsibility? What they have here is not more than 4 million for 35 years.

Mr. Deputy Speaker, Sir, the last issue is that of encroachment. They have been to Kauro, Dadendea and Kom, which border Laisamis. They have built in Romotonyi, and I dare this Assistant Minister to deny that fact. Specifically, Maj-Gen. Nkaisserry was in the Kenya Army. He knows what I am talking about. He served in those areas.

We know that even at the moment, the British Army trains on private land owned by British citizen in Laikipia, and the owners get compensated to the tune of millions of Sterling Pounds. For example, the British Army train in Mpala Ranch. How can the Kenya Army, which owns this land, allow the British Army to train for free while the same British Army pays the white ranchers, who are very wealthy?

Mr. Deputy Speaker, Sir, in my opinion, that is sheer discrimination, and I think the Kenya Army do not care much about the people of this country, and specifically the people of Samburu. If you go to Archer’s Post today, you will be

surprised to see people without legs and hands, and the Assistant Minister has the audacity to tell us that they have no idea whether anyone has been killed or maimed by the British Army bombs.

I rest my case there as I wait to contribute later.

**Mr. Deputy Speaker:** Hon. Lekuton, to begin with, we have exactly ten minutes to 6.00 p.m. We will have to move to another Order Paper. So, this debate has to come to an end. This is a Ministerial Statement, and you are supposed to seek clarifications. What clarification did you seek? It is good for you to give the background information and, because of the sensitivity of the matter, the Chair has given you leeway, but what clarifications are you seeking from the Assistant Minister?

**Mr. Lekuton:** Mr. Deputy Speaker, Sir, can this Assistant Minister tell us that even after knowing that Samburu victims were paid by the British Government, he still insists that there were no injuries?

Secondly, can he deny or confirm that the British Army has built permanent camps outside the gazetted areas?

Thirdly, can he also deny or confirm the fact that the white ranchers benefit from the British Army training to the tune of millions of shillings while the Samburu people languish in poverty?

**Mr. Deputy Speaker:** Hon. Letimalo, use your time as wisely as you can, otherwise you will be cut short.

Proceed, please.

**Mr. Letimalo:** The Assistant Minister has said that he has no report of any deaths or injuries. When this matter was deferred, I talked with my constituents and a list of names was texted to me. They informed me that 12 out of 19 people have died. I have their names here:- Makindo Longorosi which is a Samburu name, Iwanjamoyo, Tabiarabo Tobiko, Logoinyo, and others---

**Mr. Deputy Speaker:** Table the names!

**Mr. Letimalo:** These are just names which have been faxed. My concern; what is the Government's take here? Are you ready to sacrifice lives of Kenyans just because you are getting free military uniforms from Britain and the officers in the Kenya Army are training in Britain free of charge? That is why you are sacrificing Kenyans!

Mr. Deputy Speaker, Sir, when the British Army trains on individual ranches, they pay. When they carry out their military exercises beyond the specific area, which is community or community ranches, they don't pay. There is a lot of disparities. Why do we have double standards? I request the Chair to refer this matter to the relevant Parliamentary Committee to investigate so that it can come up with its recommendations.

**Mr. Chachu:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister, in his Statement, stated clearly that he is not aware of any deaths whatsoever. However, the Member for Samburu East, hon. Letimalo, has tabled a list of Kenyans who have died. We are talking about lives of Kenyans. This is not a joking matter and our Government is clearly stating that not a single life has been lost in Samburu. I think it is critical for us to establish the truth about this matter because we are talking about the life of Kenyans. I think it will be in order for you to refer this issue to the relevant committee to get to the bottom of it. This issue has been raised during every session by Members of Parliament from northern Kenya.

**Mr. Ethuro:** Thank you, Mr. Deputy Speaker, Sir. I rise to speak as the Secretary-General of the Pastoralists Parliamentary Group and the hon. Assistant

Minister of State for Defence is my own Vice-Chairman, but on this one, he is wearing a Government hat.

First, I want to confirm to you that this Statement has not answered what is being sought. He is asking for information from another department while you know that the Cabinet is collectively responsible to Government. When they are asked about the number of people injured or killed, they say this may be obtained from the Office of the Attorney General. In terms of pending cases for rape, they say it may be obtained from the Attorney-General. The same applies to the number of women who have been abused by the British Army.

Mr. Deputy Speaker, Sir, the people of Samburu demonstrated up to the British High Commission and we saw it. We saw the kind of formation that is taking place. How can you deny that there were no such rape cases when the women marched and demonstrated the product of that kind of action? Two, what compensation have you given to the people of Samburu and other areas where you are training your army? That is usually the dry season and the grazing lands for the pastoralists of northern Kenya are used. I also want to agree with the rest of the Members that this must be referred to the relevant departmental committee so that we can interrogate General Oyundu when he is coming to disarm our people.

**Mr. Deputy Speaker:** Hon. Assistant Minister, you have exactly three minutes to make your point.

**The Assistant Minister, Ministry of State for Defence** (Gen. Nkaissery): Mr. Deputy Speaker, Sir, I will be very brief before I give my colleague who has not spoken. First and foremost, hon. Lekuton alluded to the issue that the British are training these troops to go and fight in Afghanistan. Training is universal. You train to go and fight wherever you want. So that is really not a major issue. If we can study the list that was tabled by the hon. Member--- Before I give hon. Musila a chance, I have no objection if this issue can be referred to the relevant departmental Committee, if they feel they can get much from there.

**Mr. Deputy Speaker:** You have only two more minutes.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Thank you, Mr. Deputy, Sir, for allowing me to make some clarifications. There are many clarifications sought which I cannot in all fairness do in two minutes. The hon. Lekuton who requested this Statement has been very supportive and I have discussed with him many of the issues that have been raised.

With regard to the injuries that might have been caused, obviously those people can file claims against the Government through the Attorney-General. That is why we say that the records should be there. On the encroachment, I am holding here a Gazette Notice No. 46 of November, 1977, which set aside the area of land that is the training area. It was not for the British Government. It is for military training; that is for Kenyan training. But we then make agreements with the British which I am ready to table the MOU between Kenya and the British Government. The understanding is that they can use the area that the Kenya Army trains in. If there are any people who are outside this area, which is clearly mapped, which measures 130,000 hectares, then we need to know. But I want to emphasize that we always have liaison officers who train with the British Army whenever we allow them there so that they do not go outside the area. But if for any reason, anyone has gone outside this area, we would be more than pleased to know and take action.

Mr. Deputy Speaker, Sir, my friend, Mr. Ethuro raised the issue of private ranches. If ranches are private, that is like your home and you are allowed, you can

rent it to whoever wants so long as the Government agrees with your rates. We do not want to enter into the issues of private ranches.

I think I need to finish because I allowed this gentleman---

**Mr. Deputy Speaker:** Order! Hon. Assistant Minister, you have only one more minute.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): So Mr. Deputy Speaker, Sir, if it is a private ranch---

I think it is incumbent upon the hon. Members to listen just like we listened to them. The fact that I said something you do not like, it is not out of order.

If there is a private ranch and the Government agrees that training can be done there, there is no reason and we cannot control the rates.

Finally, Mr. Ethuro talked about rape. This is a very serious allegation but Mr. Ethuro knows how to prove rape. If you show us people who were born years ago and you say that this is the product of rape, surely, how would you expect us to get involved in that? Rape should be reported the moment it happens and not when a child is born. That is very clear.

On the people who have died, it is unfortunate that accidents can happen. But if anybody has died as a result our ammunition or British Army ammunition, we do not mind if cases are filed and definitely action will be taken.

**Mr. Deputy Speaker:** Order, hon. Assistant Minister!

Hon. Members, given the seriousness of this matter which has been in the public domain in this country for a very long time--- Indeed, some of us who share certain grazing rights and resources with the people who are affected, do understand. The Chair directs that the relevant committee moves with speed and carries out its functions as mandated in our Standing Orders.

Hon. Members, Order No.8 is deferred. Many of you will wonder why. We now move to the Supplementary Order Paper. Order No.8 is deferred because the Government side was not ready to move it. The reason the Chair has taken the liberty to allow Question Time as well as the Statements to take long was because we did not have any substantive business to transact.

Order Nos. 8 and 9 are deferred.

## COMMITTEE OF THE WHOLE HOUSE

### THE COMPETITION BILL

*(Bill deferred)*

### BILL

*Second Reading*

### THE WILDLIFE (CONSERVATION AND MANAGEMENT (AMENDMENT) BILL

*(Bill deferred)*

We have a Motion for Adjournment. Hon. Members, before the Deputy Leader of Government Business moves this Motion for Adjournment--- This Motion



is for Adjournment of the House for a period of less than nine days. The Motion for Adjournment will run for a maximum of half an hour.

So, the Deputy Leader of Government Business can now move the Motion for Adjournment. Any other business, including Ministerial Statements, is deferred to other dates. We have got to live within the Standing Orders and we have got a Motion for Adjournment today.

Proceed, Deputy Leader of Government Business.

## MOTION FOR ADJOURNMENT

### ADJOURNMENT TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

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

THAT, this House do adjourn until Wednesday, 10<sup>th</sup> November, 2010, at 9.00 a.m.

In your communication earlier today, you did indicate that the House and the Committee on the implementation of the Constitution have organized a training workshop for hon. Members to discuss the issues related to the implementation of the Constitution, and how Members of Parliament will be involved in that process. You did indicate the importance of that meeting.

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Ethuro) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, I heard hon. Members loudly applaud the opportunity to go out there and discuss. I do not wish to belabor this point. This is a really procedural matter. Since the Vice-Chairperson of the Committee that is inviting us is also in the House today, I ask that Mrs. Odhiambo-Mabona seconds this Motion and takes the opportunity to explain the matter further.

As I do that, I also want to take this opportunity before I sit down to table a statement that I would have read earlier on the order of business for next week which partly covers this and obviously what will be discussed by the House Business Committee. I do not need to take the time of the House reading out this because we will come back here on Wednesday after the workshop, and I am sure hon. Members will support this. So, I will table this Statement so that it will be available for hon. Members. I will now ask Mrs. Odhiambo-Mabona to second the Adjournment Motion.

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

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, in supporting the Motion, I would want to say that as a Committee we deemed it necessary, as a House, to sit together to understand the Constitution better.

We promulgated the Constitution on 27<sup>th</sup> August, this year. As the English men and women say: "The proof of the pudding is in the eating". We have come to a

moment of the eating of the pudding that we made. It is important for us that as we eat the pudding we all understand its contents.

Implementation is very core for us. I just want to refer to Article 261 of the Constitution in Chapter 18. The core of it is that it requires us, as a House, to implement certain legislation within a given timeframe under the Sixth Schedule. If we do not do that, then we will have a complicated procedure where we must raise two-thirds of the House to extend the period prescribed in respect of any of the matters that need to be enacted.

If we do not do that, then Parliament will be dissolved. Because we do not want to put the country in a crisis, it is important for us to carry all the Members of Parliament together. Therefore, we need to be very clear about timelines. What are the issues that have 30 days period? For instance now we have a matter that has only 22 days and there are other matters that have 90 days; others have one year and five years. So, we will focus a lot especially on issues that we need to get together and on mechanisms that we can employ to shorten that time.

With those few remarks, I beg to second.

*(Question proposed)*

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, I stand to support this very important Motion.

In doing so, I wish to draw the attention of hon. Members that this country is in a new constitutional dispensation. This constitutional dispensation requires this House to put in place certain legislation, so that we are in a position to move as per the requirement of the Constitution.

When you look at Schedule Five of the current Constitution, there are certain timelines that must be met. Unless we meet those deadlines we cannot get anywhere. The only way we can do that is if the committee on implementation of the Constitution brings Members of Parliament on board so that they understand what is required in order for this Constitution to be implemented.

It is very important that we, the representatives of the people, do proceed as per the directive of the Speaker this afternoon; we should congregate at the KIA to be brought on board with regard to what will happen in line with Schedule Five of the Constitution.

With those few remarks, I support.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, I also stand to support this Motion. I just want to say that at this time when we are in the process of the implementation of the Constitution, there are key issues that need to be addressed, one of them being the timetable on the various legislations that we are supposed to come up with, some within one year, 18 months, four years and five years. So, we need to be up to speed all of us.

I also want to say that there are certain things that have not probably been understood well. It is not because we have not read the Constitution but because of certain interpretations. So, I think, as Members of Parliament who are required to get the process moving, we need to really be together on what we are supposed to do.

I want to cite certain institutions that need to be put in place. Some of them have already been established. What is required is to make appointments to them. If you read what is going on out there, it is said that we are required to pass legislations, because we are being overtaken by time, and Parliament will probably be dissolved.

So, we need to move together so that we understand that some of these things do not really require legislation. We should also understand why no legislation has been brought to this House since we started the implementation process; we have to have the Commission on Implementation of the Constitution in place before we get the process going.

With those few remarks, I support. Thank you.

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, I want to also join my colleagues in supporting this Motion for Adjournment so that as hon. Members, we can have a chance to go and be enlightened more on the good things and significance of this Constitution and the matters that appertain to the same. It is clear that with the coming of the new Constitution, Kenya has dramatically changed. The mindsets and the attitudes of people are changing and changing fast and so it is imperative that hon. Members get a clear uninterrupted opportunity for them to also be brought at the fore of what Kenyans expect of this new constitutional dispensation. It is now true that Kenyans and hon. Members appreciate there is so much good in this new set of laws than they were able to appreciate when we campaigned and went across the country. At that point in time, we had divergent views and, unfortunately, much of those views focused on a very few clauses of this Constitution, leaving aside a majority of clauses which had what Kenyans had always yearned for. I am delighted to note that the President is, kind of, setting the pace. The other day the President was kind enough to put out an announcement in writing that even the Commission that will be involved in implementing the Constitution should be formed. Vacancies for the commissioners were advertised and members of that commission will be recruited through a process that ensures full disclosure. I want to appeal and implore Members of the various Committees and Kenyans in general; and especially the Commission on Implementation and Oversight of this Parliament, to ensure that, unlike in the old days when political parties used to be told: “We want persons to form a committee of five, seven, ten or eleven members...” What political parties would do is, for instance, get a few members, sit together in corner and say: “These are the members who should be recruited into that committee”, without due consultation. I think the President has shown the way. Can we ensure that, as we move forward, all commissions and committees are given a chance to recruit through advertisements and announcements so that we get the best for this country?

With those few remarks, I beg to support.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I only have two points. I wanted to say that despite getting a chance to go away to discuss the important issue of the Constitution, Parliament needs a couple of days’ break so that we can go through the weekend and discuss that important matter of the Constitution. I want to say that we were getting a bit jittery. I said here yesterday that it is my wish as a leader in this country not to use the Floor of this House to “lynch” each other because I predicted that at the end of the day, witch-hunting will lead to all of you being “lynched”. I stand to be corrected when the last person is leaving!

Secondly, I want to plead with the House that we ought to be a bit sensitive to issues that affect our people. As I speak, I feel pain that we shall be moving to court tomorrow to stop the disbursement of the Constituencies Development Fund (CDF). That is because we believe the CDF is going to be disbursed based on wrong poverty indices, doctored indices and we think that the basis of stopping a debate is not the right way of doing things. You cannot use this House to gag the wishes of the representatives of the people, particularly if they are bringing out pertinent issues. We

will be seeking the authority as we wait to appeal to the House to follow its own rules. You cannot submit a Motion, it passes the Legal Department of Parliament, it goes through the House Business Committee (HBC), it is debated for a few days then it is declared unconstitutional. In my view, something is fishy!

**Mr. Letimalo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Chief Whip to revive a debate which the Chair has already made a ruling on? Is he in order?

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I am not out of order. This is a Motion for Adjournment and I am free to say anything. Maybe, the hon. Member is new. But I have no problem. He is in the learning process.

I do not mean to disparage anybody but I think if something is wrong and it is not spelt out, we cannot afford--- What I am saying to hon. Members, as I finish, is that it is those false poverty indices that shall be used on the Equalization Fund, 15 per cent and the 85 per cent. We are giving away the rights of our people as we watch. It cannot be done without debate. We can tolerate each other. We ask the Chair that we need a *Kamukunji* and agree. Nobody has a problem with another constituency getting anything but we have a serious problem if it is being rammed down the throat of our people. I think all of us are equal and that is why people have gone through so much. I think of the days when I slept in the snow in Washington DC in 1989 to force economic sanctions on this country. We were doing it to arrive here! I would be wrong if I do not express why we wanted freedom to our people. It is important and we need to tolerate each other; we do not need to leave Parliament where we are paid to go to court because we think Parliament is becoming intolerant.

With those few remarks, I beg to support.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion and I have been given motivation to speak because of listening to the Whip speaking here. I have been thinking to myself that the more reason why we need to take a break in this Parliament is because I think the President and the Prime Minister must decide whether they have a Government that is working together. We cannot have a Coalition Government where you have Ministers being ripped apart on cameras by House Committees and by Motions and then you have Assistant Ministers who disagree with their Ministers on issues. Then now, you have Whips disagreeing with rulings of the Speaker. I really believe that the President and the Prime Minister now must also take political responsibility because I think Kenyans are tired. If we want to talk about implementation, on Monday when we go to this retreat, we must be clear that implementation needs a cohesive nation. We do not have a cohesive nation! I really believe that we are fueling discontent within ourselves, amongst our populace, through what we are doing in this House; through actions by the Government and actions from hon. Members from Committees and even from Speaker's rulings. We are fueling discontent in this House.

*(Applause)*

I did not know that there is a Session where you can say anything. I am losing confidence in this House for failing to hold a cohesive nation. I am losing confidence because hon. Members have failed to represent their peoples' interest but instead represent particular interests of ethnic groups, regions or partisan politics. So, as we go for a break to discuss implementation, let us ask those who are holding positions of leadership in this country to take time to recollect and think about what their true roles and responsibilities are and we have to bite the bullet. If Ministers have to keep

stepping aside, let them also bite the bullet. If they think all their Ministers are corrupt, they can sack them. We are many people in the Back Bench who can fill the vacancies. We do not have to have corrupt Ministers. We can fill these positions. I do say with all due respect that we think all communities in this country have a right of representation.

**Mr. Mbau:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to give credence to what my colleague is saying but I think for the Principals to take political responsibility it is good for them to be informed alongside what she is saying. It is not that we are enough Backbenchers who would want to replace those who are corrupt, we have already passed a Constitution. We are saying let us have leaders and it a question of---

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, Mr. Mbau!

**Mr. Mbau:** Is the hon. Member in order to say that we want them to step aside?

**The Temporary Deputy Speaker (Mr. Ethuro):** Order, hon. Mbau! That was not a point of order.

I also want to inform you on the normal adjournment debate, you can say as much as you wish. However, on this particular one, if you look at your Order Paper, the last paragraph on the Limitation of Debate on a Motion for Adjournment of the House says:-

“Provided that when the period of recess proposed by any such Motion does not exceed nine days, the debate shall be limited to a maximum of 30 minutes and shall be strictly confined to the Question of the adjournment”

**Mrs. Shebesh:** Thank you Mr. Temporary Deputy Speaker, Sir, although I do not think I have gone against that. If I have, then I apologize but I do believe I have made my point clear.

I am saying the issue of equality in this country should not be debated by Members here anymore because I think every Kenyan in this country has the right to representation and revenue allocation. Therefore, we should be a bit more responsible when making some utterances in this House.

I support.

**Mr. Kathuri:** Mr. Temporary Deputy Speaker, Sir, I also stand to support this Motion.

Today, when you were contributing in the course of the afternoon, you also made a comment that: “As per the old Constitution...” I do not know whether the new one --- I stand to be corrected because I am quoting you verbatim. This is a clear indication that we have not mastered the new Constitution well. I rate you very highly but that being the case, I think it is very important for us to accept that there is a lot that we should learn and understand. It is true we focused our attention on very few clauses in the Constitution. It is very important for us to address ourselves to those other areas where we did not pay a lot of attention. At the end of the day, we will have to implement the Constitution in totality.

The other day there was a comment by the Chief Executive Officer of the Kenya Revenue Authority (KRA) about our tax agenda. It is an issue which I think is not so clear to many of us, I, included. Those are the issues we need to sit and agree on and how they are expected to be handled.

Mr. Temporary Deputy Speaker, Sir, we have heard about chiefs and whether they are going to be retained or not. This is an issue that comes up every other day from many quarters. We are always asked but when some of us are answering this way and others this way, I believe this is an issue that we need to discuss, agree and

move forward. However, on top of that, just as one of my colleagues has commented, there is no way we can go to the implementation stage when we are divided. When we are witch-hunting each other, implementation will be impossible. We would rather even think of how we are going to implement and think of how we are going to become cohesive so that we can tackle the only agenda of the Constitution when we are not fighting. The moment we start fighting, we are going to lose it.

It is also very sad that a few minutes ago, there was the issue of some Ministers being implicated in the Kabete Veterinary Laboratory issue. When you hear Ministers' names being mentioned, some of these issues are the things we want to see behind our backs. We want to have a new Constitution in place. It is very sad! I wish the Minister was able to name them. Unfortunately, it did not come out as to who these Ministers are. These are some of the issues which I believe will be addressed by the new Constitution, if it is implemented properly. There is no way we can get a new Kenya if we are not going to sit down and agree on how we are going to implement the new Constitution. There are no two ways other than us sitting down together, agreeing and then we move forward.

I support.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to make a very small contribution on this very important Motion.

First, let me thank the Mover of this Motion for the manner he has presented it to this House. Secondly, let me thank His Excellency the President for the manner he has very gallantly come out to fight corruption in this nation. In addition, I should also thank the Prime Minister for coming out very openly to indicate to the nation that he would not support any individual who is caught in any corruption deals. I would urge the two to continue working together for the interest and smooth running of our Government.

Mr. Temporary Deputy Speaker, Sir, I would also like to extend my support to the Director of the Kenya Anti-Corruption Commission (KACC), Mr. P.L.O. Lumumba who has started so well. We should urge him to maintain the same vigour and spirit and make sure that prosecutions are mounted as quickly as possible.

Finally, the best gift the Grand Coalition Government can give to the Internally Displaced Persons (IDPs) is to make sure that by 31<sup>st</sup> December this year, all of them are settled so that they can enjoy Christmas just like any other people in this country. We want them to enjoy at the end of the year.

With those few remarks, I fully support this Motion.

**The Temporary Deputy Speaker** (Mr. Ethuro): There being no other hon. Member wishing to contribute, I will put the Question.

*(Question put and agreed to)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, it is now time to interrupt the business of the House. The House, is therefore, adjourned until Wednesday, 10<sup>th</sup> November, 2010 at 9.00 a.m.

The House rose at 6.30 p.m.