

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 17th May, 2005

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker
(Mr. Khamasi) in the Chair]*

PRAYERS

QUESTION BY PRIVATE NOTICE

COMPLETION OF LAND ADJUDICATION IN MERU NORTH DISTRICT

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands and Housing the following Question by Private Notice.

(a) Is the Minister aware that 1,578 AR objection cases in Athing'a/Athanja Adjudication Section, 570 complaints and 8 cases in Kitharene Adjudication and 759 AR objection cases in Kiguchwa Adjudication Section are not being heard, and that the demarcation process in Antuamburi, Ankamia and Akaiga Adjudication Sections has been stopped due to lack of fuel for vehicles to transport Adjudication Officers from Maua Town?

(b) Is he further aware that the entire land adjudication process in Meru North District will be in jeopardy if no action is taken to provide transport, adequate equipment and enough personnel to cope with the workload?

(c) Could the Minister give specific measures he is taking and specific time frame within which the Ministry will complete land adjudication process in Meru North District that started in 1966 and has never been completed to date?

The Assistant Minister for Lands and Housing (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am not aware that the entire land adjudication process in Meru North is in jeopardy. But I am aware that it urgently requires an intensive crash programme with adequate resources to ensure its completion within a period of five years.

(c) The measures that have already been taken towards completion of the land adjudication process in Meru North include:-

(i) A crash programme was instituted in July 2003 to address the problems and expedite pending work in sections under consolidation that were started in 1966.

(ii) Five graduate Land Adjudication Officers have been posted to the district to help finalise the work.

(iii) Land Adjudication Committees were dissolved and new ones installed to address the persistent complaints by stakeholders.

(iv) Transfer of staff was effected with a view to improving service delivery.

(v) The district was issued with a new vehicle in the year 2003.

(vi) Supervision from the headquarters has been enhanced to ensure satisfactory progress is attained.

(vii) Finally, I am also pursuing special funding for land consolidation programmes in the district and others with similar programmes.

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is misleading the House and contradicting himself. For part "a" of the Question, the Assistant Minister said that he was not aware. He then went on to contradict himself by admitting that there is need to provide money and personnel to start a crash programme because we do not have such a programme. He is saying that he is not aware of what cases are pending. I visited the office of the District Lands Adjudication Officer and was given figures that I have, of the pending cases. The cases are not heard because Adjudication Officers say that they cannot carry out field work since they either lack fuel or even a car to use. Could the Assistant Minister admit that there is a problem and give us the specific measures he will take to deal with it?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I have just informed the House that I gave a new vehicle to the officers in the year 2003. The information we have on the ground is that the crash programme we instituted was put in place this year, 2005. The biggest problems we had there were objection cases which, at that time, were 815. So far, I am informed from the ground that 400 complaints have been addressed. On the issue of the funds which hon. Munya has requested, I have stated previously that we are sourcing for a special fund so as to finalise the adjudication sections which were started a long time ago, such as his, which was started in 1966. We are doing what we can within our Budgetary allocations to solve the problem.

Mr. Muriungi: Mr. Temporary Deputy Speaker, Sir, we have a similar problem of objection cases which have been going on for a long time in my constituency. However, over 90 per cent of the pending objection cases have been solved. Could the Assistant Minister consider issuing title deeds to farmers or land owners who have no complaints so that the remaining few cases can be handled by the tribunals? Those who have no objections should be given title deeds!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, the normal procedure is that once we have declared a certain area as an adjudication section and objections are raised, we have to solve the problem first before we proceed to the next stage of issuance of title deeds. So, his request would be going against the normal procedure. However, I think there is nothing impossible. We can discuss that with hon. Members and see if special arrangements can be made.

Mr. Ndile: Bw. Naibu Spika wa Muda, nimemsikia Waziri Msaidizi ambaye ni mgeni katika Wizara ya Ardhi na Nyumba akisema kwamba kukitokea matatizo yoyote, wao huyatatua. Sote tunakumbuka kwamba wakati Serikali ilitua jumba la KICC kutoka kwa KANU haikuwachukua muda kufanya hivyo licha ya kuwa na kesi kortini. Pia wakati walibomoa nyumba katika maeneo yaliyotengewa ujenzi wa barabara, walifanya hivyo mara bila kumsikiliza mtu yeyote licha ya nyumba hizo kuwa za thamani ya mamilioni ya pesa. Kwa hivyo, hatutaki kuambiwa na Mawaziri hapa Bungeni kwamba sheria haziwaruhusu kuchukua hatua fulani, ilhali sisi ndio tunaotunga sheria hizo. Wakenya watatuona kama wajinga. Je, ni lini Waziri Msaidizi ataleta sheria hapa Bungeni ili tuzifanyie marekebisho na watu wetu wapate mashamba wanayostahili kupata?

(Laughter)

Mr. Mungatana: Bw. Naibu Spika wa Muda, taabu ambazo ziko katika Wizara ni nyingi. Lakini kuhusu swali hili, taabu kubwa ilikuwa kesi nyingi zilizowasilishwa kortini kwa ajili ya usajili wa mashamba ambazo zimekuwa zikiendelea tangu 1966. Kati ya zile kesi 815 ambazo zilikuwa zimewasilishwa, tumesuluhisha 400. Kila sehemu nchini ina taabu zake. Kwa hivyo, tunajaribu

kupunguza taabu hizo na tukimaliza, watu watapata hati miliki zao.

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, the question of land adjudication is not just common in Tigania only. In my own area, adjudication has been stopped because the Government is not able to equip those offices. What policy does the Ministry have to equip the land adjudication offices, so that they can carry out adjudication in different parts of the country, especially my own area?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I sympathise with the hon. Member and empathise with you. Previous to this year, we made serious requests for funding in the Ministry, but we did not get everything that we requested for. It is our hope that this year, we will be able to get better funding from the Treasury to enable us do what we need to do.

Mr. Boit: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister was asked about the issue of land adjudication not being complete. It is not only in Sigor, or Tigania, but in the whole country. In Baringo North Constituency, my people do not have title deeds. Is he in order, therefore, to say he is looking for money when this House can allocate him money to carry out that exercise throughout the country? He is not answering the question. Maybe, he is new in the Ministry.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, the hon. Member, as well as all of us, know that we operate within budgetary constraints. What we have done in the Ministry is to try to raise and plug all the loopholes in terms of raising revenue. However, it is not all the money that we raise that comes back to us. First of all, there are several pending adjudication cases that were declared many years ago, including the ones that were declared by KANU. From 1966 to date, they have not been done. So, we are addressing one by one. Once we have the money, we shall sort out the issue.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, the problem of land adjudication is very urgent in Kilifi District. This year, the Government did not allocate a single cent for adjudication purposes in that district. Could the Assistant Minister assure this House that, in the next budget, they will allocate money, so that we can solve this problem in that area?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to assure the hon. Member that I will do that.

Mr. Muiruri: Mr. Temporary Deputy Speaker, Sir, where I come from, land adjudication and consolidation was done by the colonial Government many years back. Why has it taken so many years that, in some parts of this country, adjudication is still going on and there are problems with the issuing of the title deeds? How long will it take to cover the entire country, so that this problem is solved once and for all?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I would like to inform the House that today, in the Ministry, we hosted the President of the Royal Chartered Institute of Surveyors. One of the things that we discussed in terms of solving this problem once and for all, is the possible use of new technology. We want to map the whole country using satellite technology. Then after that, we want to see if it is possible to put everything in a computer system so that we address this problem, once and for all. What I am trying to inform the House is that, we are trying to address these issues, but it will take some time and resources. We hope in the next Budget, the Ministry of Lands and Housing will be given a bigger chunk, so that we address some of these issues.

The Temporary Deputy Speaker (Mr. Khamasi): Last Question, Mr. Munya!

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, our people in Meru North are still squatters from 1966 when the Government started adjudicating this land. We went with the Minister himself to the district and he promised the people of Meru North that there will be a crash programme. But there is no crash programme because the number of personnel as well as the equipment were not increased. Therefore, the Minister's bid was to mislead the people.

Could the Assistant Minister promise this House that within the next one month, he will

increase the number of personnel and avail other resources that are needed in the district to make this a real crash programme?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I really want to say I am sorry to the hon. Member if the crash programme that we instituted in July has not borne fruits. But I want to state that from our information on the ground, we have posted at least five new people down there. We have also provided new vehicles. But, obviously, the hon. Member must be having better information from the ground. So, we should cross-check our information with him and where we are failing, we promise to make sure that this crash programme gets finished. It was started and we had hoped that within a period of five years we would have finished the problems in Meru North.

The Temporary Deputy Speaker (Khamasi): That ends the session for Questions by Private Notice. We now move on to the Ordinary Questions.

Question by the Member of Parliament for Wajir North Constituency!

ORAL ANSWERS TO QUESTIONS

Question No.182

DEPLOYMENT OF POLICE OFFICERS ALONG PRESIDENTIAL ROUTES

Dr. Ali asked the Minister of State, Office of the President:-

- (a) whether he could explain the rationale of lining police officers along the route the President uses while travelling around the country;
- (b) whether he is aware that the police officers are assembled several hours before the President leaves his abode and have to walk to their stations after the motorcade passes; and,
- (c) whether he could stop this inhuman treatment of the officers and instead deploy them to fight crime.

The Minister of State, Office of the President (Mr. Michuki): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Police officers are deployed along the routes the President uses during tours of duty anywhere within the Republic of Kenya or outside the country to ensure that they provide maximum security to members of the public and also to His Excellency the President and his entourage. That is an internationally set standard to which police have to oblige.

(b) I am not aware that police officers assemble several hours before the President leaves his abode. However, adequate times for deployment of police officers are always allowed to ensure that all routes are adequately covered. After such functions, all security personnel involved in the coverage are always provided with adequate transport to take them back to their respective stations or formations.

(c) The manner in which the police carry out their duties during presidential visits does not amount to inhuman treatment. Indeed, that is one of the duties for which they are paid. The police are deployed to detect incidents of insecurity that may arise.

By so doing, they are preventing crime at the same time. Providing security to the President is one of the core functions of the Police Force.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, this is a very interesting answer. With all due respect to the Minister, could he tell us what those police officers do? For example, they stand 20 metres from each other along the road from State House to the airport, have no guns and there are no people. So, what security are they providing? Are they not alerting anybody who would like to hurt

the President that he is travelling along that route that day? When you see police officers standing on a certain route, you know that the President will pass there. Is that security or insecurity?

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, the hon. Member is not telling us the full story. It is so obvious why the police should be around when the President is travelling. Even if it is not matters of security, the very arrangement dignifies the office.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, given the fact that the police are supposed to guard and assist members of the public from the speeding Presidential Motorcade, has the Minister gazetted their exemption from over-speeding and allowed them to drive at an average speed of 160 kilometres per hour?

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, the reason why alarms are activated when the President is travelling is to make everybody aware. I think it is not correct for Dr. Ali to say that people are not even aware. Announcements are made to make the people aware that the President will travel on a given road and at a certain time. That is part of the whole programme and the public are informed accordingly. There is no need to exempt the speed.

Mr. Sasura: On a point of order, Mr. Temporary Deputy Speaker, Sir. When the Minister was in the Ministry of Transport, he ordered all public vehicles to be fitted with speed governors to reduce the speed. Dr. Murungaru even reduced the speed further. Is he in order to evade Mr. Maore's question on the speed of the presidential motorcade which takes wrong lanes and wrong sides of the round-about?

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, as I have said, the route which is used by the presidential motorcade is quite clear. For example, if the President is going to Kasarani Stadium, it is very well known that he will use Thika Road. I suggest that if Mr. Maore feels delighted to travel from the other direction, then, obviously, he puts his life in danger.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, in the rural areas, the roads are not only lined by policemen, but also by school children and those in kindergarten.

Could the Minister tell us what role those children play in making sure that the route of the President is safe?

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, to my knowledge and belief, the President that we have at the moment is not interested in the kind of things that the hon. Member is talking about. Maybe, the hon. Member is still struggling from the KANU days.

Mr. Serut: Mr. Temporary Deputy Speaker, Sir, given that police officers who escort the President are normally paid a special duty allowance, and given that those who line the routes where he passes have no control over what time he will pass, could the Minister consider paying them special duty allowance because they have to keep on waiting alongside those routes?

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, I think it is within public knowledge that the itinerary of the President is announced. Indeed, it is recorded in a booklet that is available to the hon. Member and other interested Members. Therefore, I think the hon. Member knows the answer.

Ms. Abdalla: Mr. Temporary Deputy Speaker, Sir, since the President declared Kenya a working nation, there are rarely any crowds that line upon his routes. Would I be in order to ask the Minister to reduce the number of policemen wasting their time on the roads?

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, if that is what is called "wasting time", then I beg to differ. That is because the police officers lining the routes are on duty.

Mr. Temporary Deputy Speaker, Sir, as I said earlier, that is why they are paid. Members of the general public who come to the roads do so voluntarily. They are not coerced by anybody. Perhaps, the hon. Member might wish to advertise and appeal to them not to come.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, the Question, obviously, was not meant to ridicule the Presidency. Since our roads are congested and are full of potholes, could the Minister consider airlifting the President by a helicopter from one point to another and those police officers

lining the road could be used to fight crime?

Capt. Nakitare: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member in order to suggest that the President should use a helicopter when *wananchi* want to see him? It is amazing!

(Laughter)

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, there are certain trips for which a helicopter is convenient for the President in order to reach the people, and it will be used on such occasions. But I think it is also part of the Presidential duty to travel on the road and even taste their veracity as to whether they have actually been properly made by my colleague here.

Question No.286

REPLACEMENT OF DEAD TEACHERS

Archbishop Ondiek asked the Minister for Education, Science and Technology:-

(a) if he could inform the House whether teachers who die through natural attrition are replaced instantly, and;

(b) if the answer to "a" above is negative, what its rationale is, given that the ceiling of 234,000 teachers in the payroll is budgeted for.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

Teachers who leave the service through natural attrition have not been replaced instantly because the Ministry, through the Teachers Service Commission (TSC), was carrying out a teachers' balancing exercise. This was necessary in order to facilitate addressing the areas that suffered acute shortages.

The Ministry's position on filling posts that fall vacant in the course of the year has been that of organising recruitment of teachers once in a year. However, now that the teacher-balancing exercise has been concluded, replacement of those leaving the service through natural attrition will be hastened to avoid undue suffering.

Archbishop Ondiek: Mr. Temporary Deputy Speaker, Sir, the case has been that teachers who die or retire are never replaced instantly. This always causes a lot of inconvenience to the schools. Could the Assistant Minister tell this House where they take the money which is allocated by Parliament for replacement of those teachers who die?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, as I have said, the policy now will be to replace the teachers immediately now that we have finished the teacher-balancing exercise and we know the areas which have shortages. Those are the areas that will be addressed. However, the money budgeted for those teachers who leave the service through natural attrition is considered as a saving for the Government

and is subjected to the Government financial regulations by being sent back to the Treasury at the end of every financial year.

Mr. Kagwe: Mr. Temporary Deputy Speaker, Sir, the issue of replacing teachers who have died by natural causes cannot be the subject of a study continuously, because people are going to die continuously.

Mr. Temporary Deputy Speaker, Sir, given that situation, could the Assistant Minister consider implementing a fast reaction policy of replacing those who die rather than waiting for a study to be done? We are talking about children suffering without teachers. Mukurweini Constituency, for example, is suffering terribly.

Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister, therefore, look at this issue,

not from a one-time policy study, but as a continuous policy action?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, that is what is going to happen. I think the hon. Member knows that this subject has been going on where there are very many areas that are over-staffed and others are under-staffed. That is why it was necessary to do this balancing. However, that is over now and replacements, as I said, will be done instantly.

Mr. Owino: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is talking of "balancing". Does it mean that when you find so many teachers in Machakos and so few in Nyatike, the ones in Machakos will be transferred to take places in Nyatike?

(Laughter)

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I did not hear the Member's question because there are loud consultations in the Chambers.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, hon. Members! We cannot communicate! Could you, please, consult quietly?

Could you repeat your question, Mr. Owino?

Mr. Owino: Mr. Temporary Deputy Speaker, Sir, I asked the Assistant Minister to clarify the position on the situation of balancing. If, for example, there are too many teachers in Machakos and there are very few in Nyatike, is she going to take those from Machakos to teach in Nyatike, and are they going to be effective, since they may be seeing that as a punishment?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, teachers are moved from one district to another. It might not necessarily be from Nyatike to Machakos, but they can be moved to a nearer district.

Mr. Temporary Deputy Speaker, Sir, we have a ceiling of teachers and that is what we must maintain. That is why we were trying to establish why or where most of them are. Now that we have finished that exercise, teachers are already being moved and posted from one district to another or one school to another. That, together with the recruitment which we shall carry out in August, will address most of the shortages.

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, is it logical to peg the replacement of teachers who leave service through natural attrition to the balancing exercise that the Ministry has talked about since last year? We are just from our constituencies and we know there is a shortage of teachers. When will the teachers be moved from the over-staffed districts to the under-staffed ones?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, they are supposed to have moved. If they have not, we are checking on the ground and whoever resists to move will automatically be replaced.

We cannot employ new teachers whereas there are some who should be moved and they refuse to do so. It is something we are sorting out. Our officers on the ground are now establishing who has not moved.

Mr. Abdirahman: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just from my constituency. Is the Assistant Minister in order to tell the House that she will check with the officers on the ground when she should tell us exactly when these teachers are supposed to move so that we can clarify? We have a serious staff shortage in those districts and it is important for the Ministry to tell us when exactly the teachers are supposed to report.

Mrs. Mugo: Yes, I am in order, Mr. Temporary Deputy Speaker, Sir, because, as I said, they are supposed to have moved since the beginning of the new term. They may not receive their transfer letters on the same day, but as soon as they receive their movement letters, they are supposed to move. It is now for the officers on the ground to check and tell me, "this teacher has not moved," and then the TSC must establish why. If they refuse to move just for the sake of it, then that teacher will definitely be sacked and we will employ afresh. So, please, be patient, we are doing it.

Dr. Kibunguchy: Mr. Temporary Deputy Speaker, Sir, I would like the Assistant Minister to give us a breakdown of the number of teachers who are in service, what percentage of them retire and die every year, and what the shortfall is. May be then, we can appreciate what she is talking about.

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, that is completely a different Question. It needs a different answer. I have to look for that data which I do not have here.

The Temporary Deputy Speaker (Mr. Khamasi): You are right!

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister consider issuing a standing order to direct District Education Officers (DEOs) to immediately recruit new teachers to replace those who die in service, so that we can take seriously her pledge to speed up replacement of deceased teachers?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I have answered that question several times. I have said, that as soon all these teachers take their new positions, in August, we will recruit teachers to cater for those areas which will still be having a shortfall of teachers. Right now, we are now balancing; we are moving the teachers.

Dr. Galgalo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not answered my question. I am not talking about teachers who the Ministry has already transferred. I am asking her to order DEOs to recruit teachers immediately one dies or is retired, without waiting for instructions from the Teachers Service Commission (TSC)?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, the DEOs do not recruit. We have regulations governing the recruitment of teachers. The TSC issues the orders for teachers to be recruited. We must also be systematic. As I said earlier, replacement of teachers who die or retire will be instant. We are changing from one way of doing this to another. We must give time for that change over to take place. You do not do things without organisation.

Archbishop Ondiek: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has told us that they have now done all the balancing, and that they are now in a position to send the teachers to schools.

Mr. Temporary Deputy Speaker, Sir, could she inform me when I will get teachers for schools in my constituency?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, the hon. Member knows that I have already posted some teachers to schools in his constituency. Only a few more teachers have not been posted to schools in Ugenya Constituency. We sent some teachers to that constituency following the recruitment exercise that took place last time. We will post the balance of the teachers to that area when we do the next recruitment.

Mr. Temporary Deputy Speaker, Sir, we have advertised posts for DEOs and Provincial Directors of Education (PDEs). The recruitment of teachers will also commence soon.

Question No.203

COOLING PLANT FOR FISH
PRODUCTS IN KILIFI

Mr. Khamisi asked the Minister for Livestock and Fisheries Development:-

- (a) when the Government will build a cooling plant in Kilifi to assist fishermen to preserve their catches; and,
- (b) what measures the Government is taking to assist local fishermen along the Kenyan coast access export markets for their fish products.

The Assistant Minister for Livestock and Fisheries Development (Mr. Shakombo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) My Ministry is facilitating the development of a chain of cold storage infrastructure along the coastal and the Lake Victoria regions for preservation of fishermen's catches. In the next financial

year, my Ministry has set aside Kshs3 million for the development of Vanga storage facility along the coast, and Kshs3 million for a similar facility along the lake region. My Ministry is also currently evaluating the post-harvest storage facilities in various fish landing points along the coastal region. This is aimed at assessing the viability of installing cold storage facilities to serve the large fishermen community.

(b) In the year 2004, the Government facilitated the fisheries industry to meet the international fish quality standards, which led Kenya to be listed among the world's leading fish exporters to the European Union (EU) market.

In this regard, local fishermen, both at the coast and the lake region can now access the EU market and other international markets. However, the Ministry continues to sensitise fishermen on hygienic fish handling methods in order to improve the quality of their fish products and retain their quota on the international market.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, with due respect to my colleague from the coast, he, really, did not answer my Question, particularly Part "a", which sought to find out when the Government will build a cooling plant in Kilifi. He has not answered that part of the Question.

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, Kilifi is part of Kenya. We operate on programmes. We have started with the last point in the South Coast. My colleague should appreciate that from that point, we will move towards his constituency. So, he should be a bit patient.

Mr. Kombe: Bw. Naibu Spika wa Muda, inafaa Waziri Msaidizi alijibu Swali kama lilivyoulizwa. Swali ni: Ni lini Wilaya ya Kilifi itapata mtambo wa kuhifadhi samaki? Inafaa aseme iwapo itakuwa kesho ama kesho kutwa. Haifai kusema eti tusingubiri. Tusingubiri mpaka lini ilhali samaki wanaendelea kuoza?

Mr. Shakombo: Bw. Naibu Spika wa Muda, jibu langu linaelezea mpango wa Wizara katika shughuli ya kuweka mitambo ya kuhifadhi samaki nchini.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Shakombo! I think we are getting our rules wrong. Once you start answering a Question in English, you should continue in that language until you finish.

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, Mr. Kombe has asked the question in Kiswahili.

The Temporary Deputy Speaker (Mr. Khamasi): It does not matter! So, you should observe the rules. Continue answering in English until you finish.

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, in my answer, I have given my colleague the Ministry's programme of constructing fish storage facilities in the country, starting from Vanga, which is the last point to the south of the coastal strip, as well as in the lake region. I did not want to stand here and tell my colleague that we will put up the facilities as soon as possible. That would be an obvious answer.

However, I am telling him that this is a programme which is in line with what the Ministry intends to do. Furthermore, the programme has been worked out, based on the size of fish catches in the particular areas. So, we will put up a storage facility in Kilifi, in due course.

Mr. Shaaban: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister aware that the Kenya coastal line extends 200 nautical miles into the Indian Ocean, and that a lot of our fish is stolen by fishermen from foreign countries? Is he aware that the Ministry does not have the capacity to protect the fish within our territorial waters? Our fish is stolen by way of piracy by foreign countries. What is he doing to ensure that the fish within our territorial waters is protected?

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, the Ministry has the capacity to protect the fish within our territorial waters. We have bought six speedboats with a view to ensuring that our marine resources are not plundered by foreigners.

I would also like to inform the House that, for the last two weeks, I was in Canada, attending a

conference on how to regulate and control illegal fishing in high seas. So, as a country, we have started doing something in that regard. Even the international community is very much concerned about this problem, which it is trying to address.

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, every time our fishermen in Lake Victoria venture into Tanzanian or Ugandan waters, they are promptly arrested. Kenyan authorities have always been engaged in diplomatic talks with our two neighbours to secure the release of our people. Recently, fishermen from Pemba Island were found fishing in the Kenyan waters in Lamu. When they were arrested, they produced a licence which showed that they were allowed to fish in our waters.

Mr. Temporary Deputy Speaker, Sir, is it the Government policy to sell fishing licences to foreigners? Is it profitable for Kenya to sell fishing licences to foreigners or is it more profitable for us to fish and sell our own catches?

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, my colleague is aware that the East African Federation is just about to be formed. We, as the three partner states, have agreed that we will regularise that issue and the fishermen will no longer be arrested. Even now, once that kind of situation occurs, we always intervene to have them released.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister needs to be a little more serious. Two-and-half years after elections, Kenyans are tired of lip service. Could he be specific and tell the House and Kenyans, particularly in Lake Victoria, how much they are going to put in the 2005/2006 Budget to build cold storage facilities?

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, I believe it is in the Budget, and the hon. Member should wait until the Budget is read.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, last year, the Minister was quoted as saying that the Government had planned to establish two modern fishing ports in Mombasa and Malindi, complete with cold storage facilities, processing units and bunkering facilities. Could the Assistant Minister tell us how far he has gone with those plans? Or is it one of those promises that this Government has given the people of Coast Province?

Mr. Shakombo: Mr. Temporary Deputy Speaker, Sir, the programme is still on, and those facilities are going to be created.

Question No.324

LOSSES INCURRED BY KNH
THROUGH WAIVER OF BILLS

Dr. Khalwale asked the Minister for Health:-

- (a) how much money the Kenyatta National Hospital (KNH) and provincial general hospitals lost by waiver of bills for patients in the financial year 2003/2004; and,
- (b) how these hospitals will recover these funds.

The Assistant Minister for Health (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Waivers and exemptions are a safety net for providing access to health care by the poor. The Government includes waivers and exemptions in the Poverty Eradication Strategy Paper Matrix as an indicator for poverty reduction initiatives. The value of waivers and exemptions at the KNH and provincial general hospitals for the financial year 2003/2004 is as follows:-

The KNH spent Kshs169,160,156, while all the provincial general hospitals combined spent Kshs17,124,471.

(b) The hospitals will not recover the monies it waived because the exemptions and waivers were provided for. The concerned patients were poor and had no capacity at all to pay for the health care.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, in the KNH and provincial general hospitals in this country, you will find that cleaners, drivers, water attendants and other members of staff cut deals with people who are able to pay their bills so that through arrangements, they pay a smaller fraction and get their patients released. However, poor patients who deserve waivers are detained in the hospitals. They end up running to councillors and hon. Members to assist them settle their bills. Could the Assistant Minister tell us what measures he has put in place to ensure that genuine deserving cases are given waivers?

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Can we, please, consult quietly? We cannot communicate!

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, while what the hon. Member is saying could be true, every hospital and health facility has a management board. The medical board is composed of citizens who know the problems facing their people and should be able to advise on the issue of waivers. In fact, their recommendations are the ones that are used for these waivers. However, the Medical Officer of Health (MOH) should also be able to do that. If there are cases where members of staff are giving waivers to people who can afford to pay their bills, the hon. Member should let us know so that we can take appropriate action.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, many times, poor patients go to the KNH because that is, I believe, the only Government institution that offers heart surgery for valve replacement and kidney transplants. Even after these poor patients are helped to raise monies, the KNH does not carry out kidney transplants or heart valve replacements. Will the Ministry consider waiving charges on all serious diseases like heart valve replacement, and kidney transplant because they kill the patients immediately.

Mr. Konchella: Mr. Temporary Deputy Speaker Sir, the management board of the KNH is supposed to look at the issue of waivers and exemptions. The Government cannot order it to categorise the issue of waivers to particular patients. It is the responsibility of the patients to discuss with the management and try to seek whatever waivers they require, based on their abilities to pay. However, the Government cannot order such waivers because they are costly. Those particular operations are very expensive and the Government cannot afford the treatments.

Mr. Mwandawiro: Bw. Naibu Spika wa Muda, hospitali za umma na kibinafsi zimegeuzwa kuwa magereza na vituo vya polisi kwa kuwafungia wagonjwa ambao wameshindwa kulipa gharama za matibabu. Je, Bw. Naibu Waziri anaweza kueleza kama ni halali kuwazuia wagonjwa hospitalini?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the hon. Member is misleading the House. It is not true that hospitals deliberately detain patients when they fail to clear their bills. However, hon. Members should talk with the hospital management and come to some agreement.

There are patients who should be waived because they are poor, and others are partially exempted because they are not able to pay part of the bill. All this can be discussed and resolved by the management of the hospital.

Mr. Marende: Mr. Speaker, Sir, it is in the public domain that in recent years, our public hospitals have been on the decline and that they are not able to provide specialised facilities; for example, scanners and X-Rays in the KNH are no longer operational. Similarly, provincial hospitals lack facilities that they used to have five years ago. What action is the Assistant Minister taking to curb the deteriorating situation?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the Ministry has a programme to uplift all our provincial and major hospitals in the districts. This programme is being funded by development partners. We have already discussed this issue and the Treasury has agreed. They are evaluating what

is required in terms of uplifting and equipping these facilities.

Mr. Temporary Deputy Speaker, Sir, we believe that in the next two years, most of these major hospitals will have been properly equipped and rehabilitated so that they can provide the services they are supposed to offer.

Mr. Serut: Mr. Temporary Deputy Speaker, Sir, in most cases where patients are unable to pay their bills, they are asked to surrender title deeds and identification cards as lien to the hospital. These title deeds are surrendered because the patients are unable to pay their bills.

Mr. Temporary Deputy Speaker, Sir, if there is a provision for a waiver, why can the hospitals not consider waiving the amounts they are owed by these patients, instead of holding their title deeds?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I have answered this question by showing the amount of money that had been waived or exempted. Some of these people with title deeds are likely to have some wealth. This means they can pay part of the bill. It is upon the patient to discuss with the management and agree on the waiver which is being sought.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, the total amount of money which has been spent by the KNH and provincial general hospitals is around Kshs200 million. This is happening because of massive corruption at the KNH. Could the Assistant Minister assure us that this is not one of the many conduits his Ministry has perfected to further corruption?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, it is not true. The waiver at the KNH is about Kshs200 million but the collections are over Kshs1 billion. Therefore, Kshs200 million is a fraction of the total collections. These are poor patients from the slums. The Ministry believes that this is still a small figure, compared to the population and admissions of 3,000 people per day in KNH.

Question No.331

COMPLETION OF LONGISA
DISTRICT HOSPITAL

Mr. Salat asked the Minister for Health:-

(a) how much money was used towards the construction and equipment of Longisa District Hospital;

(b) whether he could confirm that the full construction plant was completed as was budgeted for; and,

(c) if the answer to "(b)" above is negative, what plans he has to achieve the full completion of Longisa District Hospital.

The Assistant Minister for Health (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Longisa District Hospital construction project was in two phases. The first phase was completed and a sum of Kshs62,553,399.30 was spent. The second phase of this project worth Kshs85 million was halfway completed and Kshs41,265,769 was paid.

(b) Longisa District Hospital is operational despite the fact that it lacks some facilities which are scheduled to be completed under the Completion of Stalled Projects Programme, currently being undertaken by the Ministry of Roads and Public Works.

(c) The outstanding works will be completed in the 2005/2006 Financial Year. Already, a team from the Ministry of Roads and Public Works has visited the hospital and has done the evaluation of the outstanding works. Preparation of the tender documents for the completion of the contract is at an advanced stage and the contract will be ready for tendering by 31st June, 2005.

Mr. Salat: Mr. Temporary Deputy Speaker, Sir, I would like to congratulate the Assistant Minister for that answer. He has said that the second phase of Longisa District Hospital Construction

Project will be completed this year. The same hospital is used by people from his district, my district and Narok South. How long has it been since the second phase of the project stalled?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, this project stalled in 1998. It has taken a lot of time to get funding to complete this project. In 2003, the Government set aside some funds to complete all the stalled projects in the country and the Completion of Stalled Projects Programme is ongoing. Funds have been allocated for the construction of Longisa District Hospital and by July, 2005, the project will be complete.

Mr. Cheboi: Mr. Temporary Deputy Speaker, Sir, the issue of tendering in Government hospitals is everywhere. The Government has allocated Kshs42 million for Kuresoi Sub-District Hospital---

Dr. Galgalo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member for Kuresoi is a Back-bencher. Is he in order to ask his question from the Dispatch Box?

The Temporary Deputy Speaker (Mr. Khamasi): Thank you for advising me on that. Hon. Cheboi, are you a shadow Minister?

Mr. Cheboi: Mr. Temporary Deputy Speaker, Sir, I am the Deputy Opposition Chief Whip.

The Temporary Deputy Speaker (Mr. Khamasi): Order! The answer is either yes or no. Are you a shadow Minister? If you are not, take your back seat.

Mr. Cheboi: Mr. Temporary Deputy Speaker, Sir, you will have to guide me on this issue. I am the Deputy Chief Whip of the overall KANU.

However, Olenguruone Sub-District Hospital has been given by the Government, Kshs42 million - thanks to the good co-operation. Unfortunately, you have gone into the issue of the preparation of---

Archbishop Ondiek: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to tell the House that there is a split in KANU and that there is an overall KANU?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Archbishop Ondiek! You are being too frivolous.

Proceed, Mr. Cheboi.

Mr. Cheboi: Mr. Temporary Deputy Speaker, Sir, Archbishop Ondiek is an old hon. Member of this House. However, Kshs42 million was given to Olenguruone Sub-District Hospital. The unfortunate thing is that the Kshs42 million was used to tarmac a quarter-kilometre road and to install electricity in the hospital instead of constructing a theatre and paediatric wards. Is it the Ministry which is supposed to do the tendering, or the local administration of that hospital; the Chairman and the Hospital Committee?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I do not have the details of this particular problem, but I suppose that the money was allocated because the project was identified and funded, based on the priorities of the hospital. However, I do not know why the essential requirements were not taken care of, but I can find out.

Mr. Serut: Mr. Temporary Deputy Speaker, Sir, who is responsible for the tendering process in the district hospitals? Is it the Ministry of Health or the District Health Management Board?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the tendering process is supposed to be done by the Medical Officer of Health (MOH) in consultation with the District Health Management Board.

Mr. M.Y. Haji: Mr. Temporary Deputy Speaker, Sir, if my memory is serving me well, Longisa District Hospital is more than 14 years old, and up to now, it has not been completed. Could the Assistant Minister assure the House, during this financial year it will be completed?

Mr. Konchella: I can assure the hon. Member that it would be completed.

The Temporary Deputy Speaker (Mr. Khamasi): Last Question, hon. Salat.

Mr. Salat: I am very thankful to the Assistant Minister for that answer. However, I would like to know if, upon completion of phases one and two, Longisa District Hospital could be officially opened by His excellency the President?

Mr. Konchella: Mr. Temporary Deputy Speaker, I am sure the hon. Member knows that there are protocols to follow if he wants His Excellency the President to officially open this hospital. However, I would like to confirm that the Ministry would like to ensure that the hospital is opened once it is ready. I am ready to open the hospital upon completion.

The Temporary Deputy Speaker (Mr. Khamasi): Next Question,

Question No. 124

LIVESTOCK CESS COLLECTION
IN 2003/2004

Mr. Wario asked the Minister for Local Government:-

(a) whether he could inform the House how much money was collected as livestock cess in the year 2003/2004 in the country; and,

(b) how much of the cess collected was ploughed back to the pastoral areas

The Temporary Deputy Speaker (Mr. Khamasi): Minister for Local Government? Any response from the Government side?

Mr. Bahari: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Tarus was here and he must have read the Order Paper. Is it in order for the Assistant Minister to disappear when the Question was just about to be asked?

The Temporary Deputy Speaker (Mr. Khamasi): Can we have any response from the Government side?

The Assistant Minister for Health (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I will pass on this information to the Ministry and ensure that they do respond to this Question later.

The Temporary Deputy Speaker (Mr. Khamasi): Question deferred. That is the ruling from the Chair.

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

The Temporary Deputy Speaker (Mr. Khamasi): Yes, what is it?

Mr. Wario: Mr. Temporary Deputy Speaker, Sir, this the second time this Question has come when we are preparing to adjourn. Since the last Adjournment up to now, this Question has not been answered. Again, the same thing is happening. Is this an error of omission or commission? Is it in order for the Assistant Minister to dodge my Question and the House to take the issue lightly?

The Temporary Deputy Speaker (Mr. Khamasi): Order, the hon. Member for Bura.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order Mr. Bahari! You do not stand on a point of order after another point of order has just been raised and has not been dealt with. This is why you must be ready to go to Mombasa for a workshop to learn.

Hon. Wario, the Chair does not control the Ministers. Ministers have a responsibility to come to this House and answer Questions. If they are not here, surely, the Chair cannot go and drag them from wherever they are to come here and answer Questions. What the Chair can do is only to defer the Question and make sure that on the opening day, the Minister comes and answers the Question.

(Several hon. Members stood)

up in their places)

Order, hon. Members! If it is on this issue, I have already made a ruling, you are all out of order. The Question is deferred until when Parliament resumes.

(Question deferred)

Next Question, the hon. Member for Alego-Usonga.

Question No. 281

GAZETTING OF FORESTS IN
ALEGO USONGA CONSTITUENCY

Mr. Weya asked the Minister for Environment and Natural Resources,
(a) whether he is aware that there is no gazetted forest in Alego Usonga;
(b) when will Mbaga, Akara, Aloo and Ng'iya hills in Alego be gazetted forests; and,
(c) what action he has taken to promote afforestation in Alego Usonga Constituency.

The Temporary Deputy Speaker (Mr. Khamasi): The Minister for Environment and Natural Resources!

Hon. Raila Odinga, would you want to respond to this?

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, both the Minister and the Assistant Minister for Environment and Natural Resources are out of the country. Therefore, I beg that the Question be deferred.

The Temporary Deputy Speaker (Mr. Khamasi): Fine. That is understood! So, we will defer the Question until the House resumes!

(Question deferred)

The next Question by the hon. Member for Aldai has also been deferred! He is bereaved. The Question will be revisited when the House resumes!

An hon. Member: Tomorrow!

Question No.318

PAYMENT OF DUES TO
MR. KENNETH MUGAMBI KONAH

(Question deferred)

POINTS OF ORDER

MEMBERS WILL RAISE ISSUE OF
PRIVILEGES AND IMMUNITIES LATER

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I stand under Standing Order No.45(i) on a question of privilege. The Constitution of the Republic of Kenya, particularly Section 56 allows the National Assembly to create Standing Orders. I may read:-

"(a) May make Standing Orders regulating the procedure of the Assembly (including particular orders for the orderly conduct of proceedings).

Mr. Temporary Deputy Speaker, Sir, Section 57 of the same Constitution of the Republic of Kenya states that:-

"Without prejudice to the powers conferred by Section 56, Parliament may, for the purpose of the orderly and effective discharge of the business of the National Assembly, provide for the powers, privileges and immunities of the Assembly and its committees and members."

Mr. Temporary Deputy Speaker, Sir, in pursuant of that, Chapter 6 of the Laws of Kenya, the National Assembly Powers and Privileges Act, Part (ii) Sec.4 reads:-

"No civil--

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sungu! That is a matter you have already seen the Chair about. Probably, this is not the opportune time to raise it! I have several hon. Members who want to seek Ministerial Statements and Ministers who want to issue Ministerial Statements. We will allow that to happen, and then your issue will be considered by the Chair at a later stage!

I have a few hon. Members who have requested to seek Ministerial Statements. Let me, first of all, start with those who want to seek Ministerial Statements and end by Ministers who would like to issue Statements!

Mr. Salat, please, proceed!

EVICION OF SETTLERS FROM NAROK FOREST LAND

Mr. Salat: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State, Office of the President, on the Government's intention to evict those who have settled on forest land in Narok South, and yet there is a court injunction barring anybody from carrying out the eviction. As I speak, Narok County Council rangers are currently re-grouping to carry out the exercise.

We are concerned because we do not know whether the exercise will be fair, bearing in mind that there has been no identification of those who are holding genuine title deeds and those who are not. Furthermore, people have not been sensitised on the eviction exercise, thus giving rise to speculation that a certain politician is out to victimise members of a particular community.

The Minister of State, Office of the President (Mr. Karume): Mr. Temporary Deputy Speaker, Sir, we will issue a Ministerial Statement later.

Hon. Members: When! When!

The Minister of State, Office of the President (Mr. Karume): As soon as Parliament re-opens.

Hon. Members: We are not closing!

The Minister of State, Office of the President (Mr. Karume): Then, we will issue it this week.

(Applause)

EVICION OF NAROK RESIDENTS BY COUNCIL ASKARIS

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Local Government concerning the planned evictions by council askaris in Elgenyo, Ngaroni, Sisian, Sierra Leone, Ololunga and Muloti divisions, and yet the residents of those areas hold title deeds for their lands. The planned eviction has created a lot of tension and apprehension among the residents of that area. That may lead to conflict, and yet the matter is before a court of law.

Mr. Temporary Deputy Speaker, Sir, could the Minister tell us whether county council askaris of Narok are above the law? Who is the "big" person who is behind that eviction order? Could the Minister for Local Government tell us where that order came from?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, if I heard the hon. Member well---

Mr. Temporary Deputy Speaker, Sir, I wish I knew whether the House will sit tomorrow. I would have issued the Statement tomorrow. But in the event that the House will not sit tomorrow, may I undertake to issue the Statement as soon as the House reconvenes.

OUTBREAK OF DISEASE IN KIBWEZI

Mr. Ndile: Bw. Naibu Spika wa Muda, nasikitika kwamba Bunge linataka kuahirishwa leo, na kesi yangu ni tofauti sana. Ningependa kupewa Taarifa kutoka kwa Serikali kwa sababu watu zaidi ya 100 wamekufa huko Kibwezi kutokana na ulaji wa mahindi mabaya. Ningejua ikiwa Bunge litaahirishwa leo---

Ndio maana nataka usaidizi wako. Ningeomba Taarifa hiyo wiki jana, lakini nilikuwa safari. Sikutaka kuja hapa kusema kitu cha uongo. Nilichunguza na kupata kwamba watu 100 wamefariki. Watoto sasa hawaendi shule. Watu wameanza kuogopa. Nauliza Bunge hili lifikirie.

Tunaweza kufikiria ni mahindi, halafu kesho twende nyumbani tufe. Ukienda kwangu saa hii, makaburi yamejaa na watu wanaendelea kubeba majembe

Bw. Naibu Spika wa Muda, nauliza ushauri wako kwa sababu hali hiyo ni mbaya. Mimi mwenyewe, nilizika mtu Jumamosi. Nauliza Waziri aende achunguze ugonjwa huo tena. Inaweza kuwa sio vile watu wanafikiria. *Ebola* ilianza hivyo na watu hawakujua. Ugonjwa huo umetokea Kibwezi kwa mara ya pili. Waziri anaweza kuwa anatudanganya. Nasikitika kwa sababu---

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Ndile, can you now tell us what Ministerial Statement you are seeking? Be brief and concise!

Mr. Ndile: Bw. Naibu Spika wa Muda, najaribu kueleza kwa sababu sijui ni Wizara gani itaweza hiyo shida. Madawa yanatakikana---

An hon. Member: Special Programmes!

Mr. Ndile: Hiyo ni moja! Kuna madawa yanatakikana, chakula kinatakikana, maji yanatakikana! Kuna ndovu wamemaliza kila kitu na watu wanakufa! Sijui nitaanza na Wizara gani. Watoto pia hawaendi shuleni.

Hon. Members: Serikali!

Mr. Ndile: Nauliza Serikali yote sasa!

(Laughter)

Waheshimiwa, mnaweza kucheka, lakini jaribuni muone vile mnaweza kunisaidia!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ndile! You cannot stand up and expect the Minister to issue a Ministerial Statement. Surely, you need to be specific since that will help you. You cannot expect every Minister from the Cabinet to come and give you Ministerial Statements. Be specific on the issues you want addressed so that you can be helped.

Mr. Ndile: Asante, Bw. Naibu Spika wa Muda. Ninaomba Afisi ya Rais iangalie jambo hili. Wewe ndiwe umeniambia kwamba huna uwezo wa kuwalinda hawa Mawaziri na kule nje hawatunzwi. Sasa nimeshindwa kwa sababu nimeingia gizani tena. Sasa sijui niko wapi!

(Laughter)

The Minister of State, Office of the President (Mr. Karume): Bw. Naibu Spika wa Muda, kwanza, ninatoa pole kwa mhe. Ndile na watu wa Kibwezi kwa sababu ya kupoteza wenzao kwa kifo. Hilo ni jambo baya sana. Lakini kwa vile Wizara yangu ndiyo inahusika na mambo ya chakula kwa walio na njaa, kuna chakula cha kutosha katika wilaya nzima. Hata nilimpigia simu Bw. DC, Kitui, jana na pia leo na nikamuuliza ni kitu gani kilichosababisha vifo hivi.

Bw. Naibu Spika wa Muda, niliwatuma watu wangu kule pia na ripoti inasema kwamba hakuna mtu ambaye amekufa kwa sababu ya kula chakula ambacho sisi tunapeana kwa sababu ya njaa. Kile kimetokea ni kwamba kuna wakulima wengine wachache huko ambao walivuna mahindi mabichi. Sijui mahindi hayo yalihifadhiwa kwa njia gani---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Minister! Are you issuing the Ministerial Statement?

The Minister of State, Office of the President (Mr. Karume): Yes, Mr. Temporary Deputy Speaker, Sir.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Ndile! Can you be patient until the Minister finishes and then you can respond?

Proceed, Minister!

The Minister of State, Office of the President (Mr. Karume): Bw. Naibu Spika wa Muda, unajua kufa kwa watu sio kitu rahisi na ndiyo sababu nikaona si vizuri niseme nitatoa ripoti baadaye. Ingefaa niseme yale ninayoyajua sasa. Kwa hivyo, hawa watu wamekufa sio kwa sababu ya chakula ambacho tumepeana.

Bw. Naibu Spika wa Muda. vile tumeambiwa na pengine mhe Mbunge anajua, watu wachache walivuna mahindi mabichi halafu wakayala. Mimi nimetoa amri kwa DC na watu wote huko kwamba hayo mahindi yachukuliwe na yatupwe. Tumebadilisha haya mahindi na yale mazuri kutoka Wizara yangu na hayo mambo yanaendelea namna hiyo.

Bw. Naibu Spika wa Muda, kuhusu mambo ya dawa, nitamuona Waziri wa Afya ili ajaribu kusaidia na mimi nataka kulihakikishia Bunge hili kwamba hakuna mtu hata mmoja ambaye amekufa kwa sababu ya njaa ama kula mahindi ambayo tunapeana. Wamekufa kwa sababu ya kula mahindi ambayo hayajakauka walipoyavuna yakiwa mabichi na yakawa kama sumu.

Mr. Ndile: Bw. Naibu Spika wa Muda, nataka kumjulisha Waziri kwamba nimepakana na Mhe. ole Metito na kwangu hakuna mavuno yoyote kwa sababu mvua haikunyeshwa. Hatujapata mvua kwa muda wa miaka minne na ile mimea iliyokuzwa ndovu wameikula na wameimaliza.

(Laughter)

Kwa hivyo, nimefanya uchunguzi na nikapata kwamba mahindi ambayo yanaua watu ni yale yanayotoka kule viwandani. Watu wa kusiaga wanaangalia na wanakuta ni mabaya. Waziri anatuambia kwamba ni mahindi mengine ambayo yanasababisha hivi vifo na nilimwambia aende akafanye uchunguzi. Niambie kama tutaenda kesho ama kesho kutwa? Watu wanaumia!

Mrs. Mwendwa: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want to bring to the attention of the Minister the fact that there has been no maize in Ukambani for the last four months due to failure of the rains. I think the last time people harvested maize was last year and---

(A mobile phone rang)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Whose phone is that?

Hon. Members: Out! Out! It is Mr. Ogur's!

(Mr. Ogur ran out of the Chamber)

(Laughter)

Mrs. Mwendwa: Mr. Temporary Deputy Speaker, Sir, I wanted the Minister who is very generous in distributing food, to carry out some investigations to find the origin of this wet maize. It must have come from outside Ukambani and we were never informed. Even last time when we lost a lot of people in all the districts of Ukambani except Mwingi, we were never informed of the origin of that maize and I suspect it is from outside Ukambani.

Mr. Mwandawiro: Asante sana, Bw. Naibu Spika wa Muda. Nampongeza Waziri kwa kufanya kazi nzuri leo. Hili tatizo limetokea tena. Hii ni mara ya pili watu kufariki na ninapakana nao katika wilaya ya Taita-Taveta. Naomba jambo hili lichukuliwe kwa uzito kwamba utafiti kamili ufanywe ili hii hali isijirudie mara nyingine.

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, when the docket of Special Projects was created in the Ministry of State, Office of the President, we believed one of the reasons behind it was to enable the Government to respond to such disasters and calamities. Now, we have this problem in Ukambani. Two weeks ago in Merti and Garba Tula divisions of Isiolo there was flooding and many people lost their homes and schools were washed away and up to now, this Ministry has not responded. What is the role of this Ministry in responding to disasters which occur from time to time?

Mr. J.M. Mutiso: Mr. Temporary Deputy Speaker, Sir, I also represent an area in Makueni where we have lost about two members of our community because of this aflatoxin. I would like to inform the Minister that we have reports from Loitokitok that we have a porous border and maize is coming into Ukambani region through that border.

So, I would like to urge the Minister to put in place mechanisms to monitor the porous border from Loitokitok, Emali to Ukambani because this is the main route where maize which is not fit for human consumption passes through. Otherwise, I commend him for the good work he is doing.

The Minister of State, Office of the President (Mr. Karume): Asante sana, Bw. Naibu Spika wa Muda. Kuhusu swali ambalo limeulizwa na Mhe. Ndile kama tunaweza kuenda kule na yeye kesho, nitaenda kule haraka. Hata watu wanajua kwamba nikisikia kuna mahali watu wamekufa ninakimbia kule kila wakati kuangalia. Kwa hivyo, nitachukua kikosi changu. Hata nitaomba Wizara ya Afya vile vile watupatie watu tuende pamoja na wao. Tutaenda kuchunguza vile mhe. wa Kitui Magharibi, Mama Mwendwa, alivyosema; kwamba pengine kuna mahindi ambayo yametoka mashambani. Tutachunguza hilo jambo. Vile nilivyosema hapo mbeleni, hivi vifo havisababishwi na yale mahindi tunapeana kwa sababu ya njaa. Vile huyu mhe. Mbunge ambaye alisomea katika eneo la uwakilishi Bungeni langu alivyosema kwamba pengine haya mahindi yametokea upande wa Kilimanjaro, inaweza kuwa kweli kwa sababu pia nimesikia fununu kama hiyo. Pengine yametoka Tanzania. Watu ambao wanafanya magendo kidogo ndio wananunua na kuleta mahindi hayo. Tutachunguza mambo haya sawa sawa na hata tutauliza polisi wachunguze mambo haya ili tujue kiini cha hili tatizo kwa sababu hatutaki mtu wa Kenya hata mmoja, hata mtoto afe na sio kwa sababu ya ugonjwa lakini kwa sababu ya chakula kibaya kinacholetwa na watu ambao hawajali maisha ya watu. Unajua kuna watu wanajali tu juu ya pesa. Hawajali maisha ya wananchi. Kwa hivyo, nitaona nimechunguza mambo haya.

Kuhusu Isiolo ambako mvua imenyeshwa sana, Mhe. Mbunge alikuja na Dr. Kuti, Waziri

Msaidizi wa Afya walikuja kwa ofisi yangu na tukapanga safari ya kwenda huko. Hata walisafiri kwa helikopta. Walipata kwamba ni familia 270 ambazo zilikuwa zimepatwa na janga la njaa. Hata tulituma chakula cha familia 300 zaidi ya zile tuliambiwa.

Bw. Naibu Spika wa Muda, siwezi kuzungumza juu ya mvua kwa sababu hiyo ni kazi ya Mwenyezi Mungu. Wakati lori za kusafirisha chakula cha msaada zilikwama, Serikali ilitafuta helikopta ya Jeshi ambayo ilisaidia kubeba vyakula hivyo. Nilienda huko kushuhudia jinsi chakula hicho kilisafirishwa. Tuliwapelekea chakula watu ambao walipigwa na polisi.

Kwa hivyo, Wizara yangu inajaribu na hatujasahau watu wa Wilaya ya Isiolo. Hata kama Wizara yangu imewafanyia watu wa wilaya hiyo mengi, nitatembea huko tena.

(Applause)

MINISTERIAL STATEMENT

RANKING OF MPs BY THE INSTITUTE FOR CIVIC AFFAIRS AND DEVELOPMENT

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to make the following Ministerial Statement. You will recall that a few weeks ago, the hon. Member for Lang'ata rose on a point of order drawing the attention of the Speaker on a report that Non-Governmental Organisation (NGO) had made on the participation of parliamentarians in the National Assembly. The Speaker issued a Communication from the Chair that went far to clarify certain issues which were contained in that report. I discussed the matter with the Speaker and agreed that a professional response will be made from my Ministry regarding the efficacy of that study and the extent to which it can guide or misguide Kenyans on the participation of hon. Members in this National Assembly.

The Statement I have made will be laid on the Table of this House, but I will make a summary of it since it is long. Subsequently, it will be issued to the media for the guidance of the nation.

The Institute for Civic Affairs and Development, an NGO based here in Nairobi, recently released a study which purported to measure the level of participation of hon. Members in the Ninth Parliament. The method which was used, the data generated and the interpretation arrived at by that NGO left a lot to be desired. Indeed, a cursory look at the study could easily lend its conclusion as an attempt to lie with statistics.

(Applause)

The Ministry of Planning and National Development, while appreciating the need to measure the level of participation of hon. Members in the National Assembly feels duty-bound to advise on the most reliable statistical and scientific methods that need to be used for this purpose.

Mr. Temporary Deputy Speaker, Sir, some of the issues on which ranking was done in the study regarding the participation of hon. Members were quite subjective. How does one determine if the contribution made by an hon. Member was in good faith, had positive intention or could be judged by five people who did the research? This is an area where adequate definition as to what "good faith" means should be provided and how the assessors went about implementing the good faith.

Secondly, there may have been inconsistencies by the five researchers who did the ranking of the hon. Members' performance. These kind of results are subject to a lot of variation to the extent that their reliability is definitely questionable.

Mr. Temporary Deputy Speaker, Sir, statistics is all about large numbers. As a result, the larger the number of observations or measurements made, the closer to reality to the statistics derived converge. A panel of between 20 and 30 experts, and not five experts, as was the case in this study, should have been constituted to rank the quality of the contributions of the hon. Members. This would have removed any form of variation that may have been sustained in the sample used, as is in this assessment due to the small number of five people. It also raises the question of their competence in judging the relevance, factualness and objectivity of the contributions made.

In any case, as Mr. Raila and the Speaker observed, the HANSARD is not the only media through which participation of hon. Members can be judged in the National Assembly. The study should also have considered only contributions for the Sessions which hon. Members attended. As it were, it exposes all hon. Members to equal participation irrespective of whether they had official engagement out of Parliament, either abroad, on official mission in the country or away due to illness.

In addition, the study fails to recognise the position of the Ministers in managing their Ministries and attending various functions outside Parliament. For this reason, the measure used is biased towards hon. Members who consistently attend parliamentary sessions. These are mainly Back-benchers or Assistant Ministers who have to be in the National Assembly to answer Questions on behalf of Ministers.

Mr. Temporary Deputy Speaker, Sir, the study made various analysis on the data from the HANSARD. However, some of these analysis may be considered invalid as a matter of fact. There are several grounds on which the observations made may not qualify statistically for an assertion of strong evidence.

If we consider Section 1 of the report which presents comparative analysis by gender, female hon. Members are a minority of 18 persons out of 205 males. When one female makes a contribution, she accounts for 5.6 per cent of her category, while in the same proportion we are talking of 11 male Members of Parliament. The smallness of the number of female hon. Members makes it impossible to make this kind of comparison. It would be logical if the number of female hon. Members was, at least, in the region of 30 to meaningfully compare their participation to their male counterparts. It proves difficult in the present situation to say that female hon. Members contributed better than their male counterparts as the study avers. The comparison has no statistical significance.

Mr. Temporary Deputy Speaker, Sir, the fact that the Assistant Ministers made substantial contributions to Bills in the House goes to the credit of the Government. It illustrates the fact that Assistant Ministers were representing their Ministries effectively. In addition to the excellent performance by the Assistant Ministers in contributing to the Bills, it is also indicated that Ministers made substantial contributions to Motions and were, in fact, leading. It follows that the Government performed well on its part and cannot be tied up in the same bundle with other hon. Members.

Mr. Temporary Deputy Speaker, Sir, in any case, were Ministers to dominate parliamentary debates over and above other hon. Members, the Westminster model of parliamentary procedure which we have inherited would lose its effective balance of power *vis-a-vis* the Executive branch of Parliament.

In conclusion, it is considered that the above factors should have been taken into consideration during the design of the study for objectivity and fairness to the hon. Members. It is for this reason considered, that the results presented in the Report are misleading and do not reflect a true and fair position on the performance of the hon. Members whether Ministers, Assistant Ministers or Back-benchers. If the Institute for Civic Affairs and Development wishes to carry out an effective study which is well designed, it should seek the services of a statistician specialized in the design of such studies. Moreover, the Central Bureau of Statistics (CBS), which is a public institution in my Ministry, is always ready to help those who wish to carry out research in good governance and performance improvement in the Government. While we have not been informed about the

background of the researchers, we feel that the ranking should have been done by a large number of specialists; close to 100, on various issues raised in Parliament and not by five isolated, so-called, researchers. The five investigators can be considered as respondents to a survey interview and, hence, the issue of high variation arises. This should be considered along the line of a survey interview of 100 respondents which will give a true or fair position of the issues. I, therefore, ask the media to portray the correct position of doing this kind of investigation and not take a biased, ill-advised and unscientific approach which may sensationalise what happens in Parliament, but may not necessarily give the Kenyan people the right picture of the true participation of hon. Members of Parliament in this august Assembly.

Mr. M.Y. Haji: Mr. Temporary Deputy Speaker, Sir, I think the hon. Minister has given a good explanation, but the House would have wished to know whether the people who did this study got in touch directly with hon. Members of Parliament. Was there some monetary gain from what they reported? Secondly, is the performance of an hon. Member of Parliament only based on his contribution in the House or the development projects that he initiates and other things that he does for the people who elected him? I think this is an area which the Minister should have clarified in his response to the issue. I am sure that, that report is today being sold. Therefore, the idea behind it was to make monetary gain out of that report.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Y.M. Haji, what you have asked the Minister to clarify is mostly in his Statement. Prof. Anyang-Nyong'o, you may want to respond.

The Minister for Planning and National Development (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Speaker, Sir, Mr. Y.M. Haji is right. I did not read the whole report, but all his concerns are expressed in the report. I believe that when the Press publishes what I have said, they will reflect that.

Our concern is simply to appeal to those who want to measure the performance of hon. Members of Parliament to come to the CBS and be given the right method and procedure to use. They should not use a biased sample. This was not even a sample. This was a single verbatim report of the discussions in the National Assembly which is not the only medium to judge the performance of hon. Members of Parliament. The performance of hon. Members of Parliament is judged by the committee system in the National Assembly, the meetings they attend abroad on behalf of the Kenyan people, the civil society that they address almost on a daily basis in meetings here and there, meetings in their constituencies and the way in which they run the CDF and other things.

Mr. Temporary Deputy Speaker, Sir, I think the Central Bureau of Statistics has all kind of data that can help any NGO which wants to measure the performance of hon. Members of Parliament, to do it objectively and scientifically.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Angwenyi, you were the number one.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I do not know how they determined that I was number one. I am shocked to hear the statement from the Minister who is a professor of a university. He knows that research can be done by one person, two people, five people, 100 people or even 1,000 people. The findings of one person who does a research can be as important as a research done by 1,000 people.

Mr. Temporary Deputy Speaker, Sir, secondly, I thought the Minister in charge of planning and development would have suggested ways of improving this type of research. For example, how do they capture what we do in our constituencies or committees so that they can access this kind of information and performance. This will ensure that they do not have to rely on the debates on the Floor of the House. That would have been a more pro-active reaction to that research instead of being defensive. That is the clarification I would like to seek from the Minister.

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr.

Temporary Deputy Speaker, Sir, Mr. Angwenyi needs not be defensive of his drum major instinct. Could I just repeat a paragraph that I read which in plain English should be understood by Mr. Angwenyi. I said the following:-

"Statistics is all about large numbers. As a result, the larger the number of observations or measurements made, the closer to reality to the statistics derived converge. A panel of between 20 to 30 experts should have been constituted to rank the quality of the contributions of hon. Members of Parliament".

If they chose the HANSARD as the only medium of analysis, which they did, they needed 20 to 30 people to make that medium choice more reliable statistically. This would have removed any form of variation that must have been sustained in the sample used in this assessment due to the small number of five people who did the assessment.

It also raised the question of their competence in judging the relevance, factual and objectivity of the contributions made. It makes a lot of difference in making any inference about a population, when the sampling framework is faulty.

Mr. Temporary Deputy Speaker, Sir, this is a professional view of a professor and the Minister for National Planning and Development.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, while the non-scientific approach by this particular NGO as so ably elaborated by the Minister is acceptable, does the Minister agree that we as a House, also have a duty to reach out to that NGO and others in order to tell them what to do and where to look for information? We live

in an age of transparency and we need to be more positive and agree that we have to subject ourselves to scrutiny and this kind of assessment. Let us look into our Standing Orders. How can we blame this NGO and yet they had no access to the work of hon. Members in committees? This is very important work. Should we not make the work done by this committees public, so that people who want to assess us can gather information from the committees? Are there any plans by the Minister to advise that NGO and others on what approach, we as a House would like them to adopt when assessing us?

The Minister for Planning and National Development (Prof. Anyang-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I appreciate that very positive contribution of the hon. Member for Kabete. I do agree that the Ministry will organise a rendezvous with all NGOs and civil society organisations that will be interested in carrying out this kind of research. It is in that regard that in conclusion I said that the CBS, a public institution in my Ministry is always ready to help those who wish to carry out research in good governance and performance improvement in the Government. While we have not been informed of the background of the researchers, we feel that the ranking they made should have been done better. We are open to them to come to us to participate in formulating their research modules, since the CBS is a public institution. Secondly, given what Mr. Muite has suggested, I will take it as my responsibility to organise a workshop or a meeting with all NGOs and civil society organisations which are interested in measuring good governance or helping the Government improve its performance.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I agree with the Minister that those reports were lies. They could not have been correct, because they did not consider what an hon. Member does outside this House or in House committees. Until committee reports are tabled, they will never know what happens in committees. After all, who is supposed to supervise an hon. Member of Parliament? It is the electorate and not NGOs. I do not think they are entitled to supervise us by any standards. I think we are supervised by the electorate who finally decide who has done well so that they can vote him or her back to the House - as they have always done to me - and those who should go home. Could the Minister bring legislation to ensure that such reports are vetted by his Ministry before they are published? This will ensure that we get proper reports rather than those that mislead the electorate. Could the Minister tell us what actual steps he will take to make sure that the public get proper information, statistically and otherwise?

The Minister for Planning and National Development (Prof. Anyang' Nyong'o): Mr. Temporary Deputy Speaker, Sir, the NARC Government was elected on a manifesto whose theme was "Democracy and Empowerment." We cannot control or guard public expression of ideas. We do give freedom in an open society where people are free to express their ideas and carry out research freely. We are, nonetheless, open to discuss with people how best to do this. My Ministry's policy is to be at the service of the Kenyan people using a very highly respected Central Bureau of Statistics (CBS), which is the best of its kind in Africa.

It is also my Ministry's policy to have an open-door policy for anybody who would like to seek advice as to what the Government is doing. But when they go out there and say things which are erroneous, we will take it upon ourselves to correct it and not to gag them. But we do believe that freedom should be accompanied by responsibility.

The Temporary Deputy Speaker (Mr. Khamasi): Well, we have come to the end of that session. Hon. Sungu, did you have a point of order?

POINT OF ORDER

POWERS AND PRIVILEGES OF MEMBERS

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir. I stand on a point of order under Standing Order No.45(i) on a matter of privilege. Privilege is the cornerstone of parliamentary democracy and rule, and it is the only thing that prevents Parliament from being invaded from any quarter.

Did I did quote the relevant sections of the Constitution of the Republic of Kenya which enable this honourable House to enact the Standing Orders as well as the National Assembly Powers and Privileges Act. I have referred to some sections of Cap.6 of the National Assembly Powers and Privileges Act, and in particular, Part 2, Section 4 which states:

"No civil or criminal proceedings shall be instituted against any Member for words spoken before or written in a report to the Assembly or a committee, or by reason of any matter or thing brought by him therein by petition, Bill, resolution, Motion or otherwise."

I also referred to Section 12 which says:

"No proceedings or decision of the Assembly or the Committee of Privileges acting in accordance with this Act shall be questioned in any court."

I was also about to refer to Section 29 of the same Act which says:

"Neither the Speaker nor any officer of the Assembly shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or invested in the Speaker or such officer by or under this Act or the Standing Orders,"

Finally, Section 31 says:

"No prosecution for an offence under this Act shall be executed except with the written sanction of the Attorney-General."

Mr. Temporary Deputy Speaker, Sir, the matter at hand is of serious consequence and this House must confront it. I am raising this issue deliberately with the knowledge of the question of *sub judice*; that I am not going to be party to any incident. But this House is under attack from outside, and I am calling upon the Temporary Deputy Speaker and hon. Members of this House to stand out and stand firm for parliamentary democracy; that no action, decision or anything done in this House shall be questioned by anybody else or any power outside this House!

(Applause)

Mr. Temporary Deputy Speaker, Sir, we were elected to represent the interests of the citizens

of this country and the basis on which we make laws and on which parliamentary procedure and practice started is based on privilege. The judges sitting in the High Court can make any decision on this House if we allow anything that we do in this House to be decided in that court. They will do anything if we allow them to direct this House to do this or that.

Mr. Temporary Deputy Speaker, Sir, I submit that this House cannot be under the direction of any other authority other than the Speaker, the Clerk and hon. Members of this House by resolution.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I beg to move this Motion and ask hon. Muite to second it.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! There is no Motion yet, you are seeking permission under the relevant Standing Orders that you have quoted and, indeed, you are right; those Standing Orders give you permission to move the Motion without any notice. However, having listened to you and having eloquently presented your issue, I want to state here that the Constitution is quite clear on those issues and it does not need anybody to have special brains to understand what it says about this matter. Our Standing Orders are very clear on that issue.

As far as I am concerned, this matter is *sub judice*; it is a matter that is before court. However, I feel very, very strongly that the courts should not control the manner in which Parliament conducts its business.

(Applause)

This matter is weighty and is not a simple one. It is a matter which hon. Members should be ready to debate constructively and, therefore, I would like to defer this matter to be considered at a later date when all hon. Members have been given notice because I think it is a serious matter which requires very, very careful consideration and thought. So, for the time being, I think we will defer this matter and discuss it at a later date, but I think I have expressed my opinion about what should be the case.

(Applause)

Yes, what is it, Mr. Maore?

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, would I be in order to ask for your indulgence to seek the intervention of the Attorney-General, so that he could insulate the hon. Member from being charged with contempt, just as he is insulating the criminal conduct of the First Lady?

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): Your second comment was not very necessary, but the first one was very important. I have already done what you have exactly said; the Chair has communicated with the Attorney-General who will take the most appropriate action.

(Applause)

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker,

Sir, I do not intend to question your ruling on this matter. However, the law of *sub judice* is respected by the House. But here, we are talking about the separation of powers between the three arms of the Government; the Legislature, the Judiciary and the Executive. As far as that is concerned, when Parliament is doing its work, which is legislative and stated clearly in the Constitution; that Parliament is the supreme organ or authority in this Republic. Would I, therefore, be in order to say that this House is completely within its powers to deal with this issue, because it is dealing with a matter which was already before the House before it went to court? Is it right? Are we not violating the principle of separation of powers if we restrain ourselves to dealing with issues which are *sub judice*?

The Temporary Deputy Speaker (Mr. Khamasi): Thank you, hon. Raila for not questioning my ruling. When the Report was being presented to this House by the Chairman of the Committee, it was not being presented by hon. Sungu *per se*. He was presenting the Report on behalf of Parliament. Therefore, effectively, what the Chair has observed is that it is actually Parliament that is being taken to court. It is Parliament that faces the risk of being jailed! This is not a simple matter that we would wish to deal with in an off-the-cuff manner. We really need to give it thorough consideration and thought by way of debating it exhaustively. However, as I said before, the Speaker has already held consultations with the Attorney-General (AG) and appropriate action has already been taken.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I agree entirely with you that these are very weighty issues and, perhaps, we need another occasion to debate the policy issues. However, there is an urgency with regard to hon. Sungu's plight. The matter is now in the public domain and, as we sit here, he faces the real prospect of being sent to prison for contempt of court. I bear in mind what you said about consultations going on between the Speaker and the Attorney-General who is not present today. However, the Minister for Justice and Constitutional Affairs is present - I hope he is not walking out. Could we, please, have some assurance that these consultations you have just mentioned are about hon. Sungu being protected from being jailed for contempt of court? Could we also be assured that this Parliament is protected?

The Temporary Deputy Speaker (Mr. Khamasi): Well, I do not know how else I can give assurance. Perhaps, in view of what you have stated, we have the Minister for Justice and Constitutional Affairs here and I will give him a chance to respond on this matter.

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, as you just said, this is a very sensitive matter and we have to respect the territorial boundaries of both Parliament and the Judiciary. I think this is not a matter that we would like to respond to of the cuff. I think the approach taken by the Speaker that this matter be given due consideration and appropriate action be taken in accordance with the law and the doctrine of separation of powers is the proper way to go about this matter.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! I do not think we want to make a debate out of this. I have already made a ruling and we will move to the next Order.

MOTIONS

ADOPTION OF TWELFTH PIC REPORT

THAT, this House adopts the Twelfth Report of the Public Investments Committee (PIC) on the Accounts of State Corporations laid on the Table of the House on

Wednesday, April 13, 2005.

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

The Temporary Deputy Speaker (Mr. Khamasi): Is the Chairman of the Public Investments Committee in? Where is hon. Muturi? What is it hon. Maore?

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I had talked to hon. Muturi earlier on and he told me that he would not be in a position to move the Motion today.

The Temporary Deputy Speaker (Mr. Khamasi): What are the reasons for him not being able to move the Motion today?

Mr. Maore: The other hon. Members of the Committee were not ready to bring the Motion to this House today. However, he is ready himself.

The Temporary Deputy Speaker (Mr. Khamasi): The Motion is then deferred until the next Sitting.

(Motion deferred)

ADOPTION OF SESSIONAL PAPER
NO.3 ON SPORTS DEVELOPMENT

THAT, this House adopts Sessional Paper No.3 of 2005 on Sports Development laid on the Table of the House on Thursday 28th April, 2005.

The Temporary Deputy Speaker (Mr. Khamasi): Is the Minister not in?

The Minister for Planning and National Development (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, the Minister for Gender, Sports, Culture and Social Services is out of the country on official duties.

The Temporary Deputy Speaker (Mr. Khamasi): Very well. The Motion is also deferred until the next Sitting.

(Motion deferred)

Next Order!

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. On the Order Paper---

*(Hon. Members consulted loudly
as Mr. Ochilo-Ayacko
walked into the Chamber)*

Mr. Temporary Deputy Speaker, Sir, I heard the Chair call out the next Order. However, I wish to draw the Chair's attention to the fact that the Order Paper talks of "not later than 6.00 p.m." I wonder whether that is the next Order the Chair has called out. Again, I have just seen the Minister, who was supposed to be out of the country, walk in!

The Temporary Deputy Speaker (Mr. Khamasi): Order, Members! I had already deferred the Motion. The Minister will have to wait until the next Sitting to move his Motion.

The next Order is the Motion for the Adjournment of the House. We have only 30 minutes for this Motion. At the time we were adjourning, hon. Kiunjuri was on the Floor and he had only three minutes left.

MOTION FOR THE ADJOURNMENT

ADJOURNMENT OF THE HOUSE TO
A DAY OTHER THAN THE NEXT
NORMAL SITTING DAY

THAT, this House do now adjourn until Tuesday 7th June, 2005.

*(The Vice-President and Minister
for Home Affairs on 12.5.2005)*

*(Resumption of Debate
interrupted on 12.5.2005)*

The Assistant Minister for Energy (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker, Sir. May, I first, thank hon. Sungu for having seen the light and, therefore, having come back home. You can see where he is seated today!

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member, who is also my good friend, in order to insinuate any motive in my sitting here when the Speaker ruled that any hon. Member can sit on either side of the House? Does he not know that I am also a Member of the Government?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Sungu! He said that with a light touch! I could see him look at you with a smile when he was saying that.
Proceed, hon. Kiunjuri!

(Laughter)

The Assistant Minister for Energy (Mr. Kiunjuri): Thank you, Mr. Temporary Deputy Speaker. Hon. Sungu will be protected if he sits on the Government side of the House.

Mr. Temporary Deputy Speaker, Sir, we cannot avoid the issue of constitution-making.

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. This House deserves better treatment than the casual one we are now receiving. Is the Assistant Minister in order to say that one is properly protected when one sits on the Government side of the House?

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, even chicken go under the wings of the hen for protection!

We cannot dodge the issue of constitution-making. The matter will occupy us even as we go for recess. However, those people who are calling for mass action should be reminded that we have phases that lead to war. The war, demanding for a new Constitution, began a long time ago; in fact, 15 to 17 years ago. We entered the first phase when we formed a Commission and charged it with the responsibility of collecting and collating views from the people. The battle started in Bomas of Kenya; in fact, it was just one phase of the war. The second phase of the war is now in Parliament where we have to discuss the Draft Constitution after it has been laid on the Table of this House. However, the real battle will be fought at the referendum stage. I want to ask my brother to wait for the actual war that will be fought during the referendum.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

Mr. Sirma: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute in support of the Motion for Adjournment of the House.

All of us have been working round the clock despite the fact that many reports in the media

seem to indicate that hon. Members work for very few days. The media has been very unfair to Members of Parliament. I want the media to correct its viewpoint about Parliament because making laws is not about how long we sit in the House or how many Bills and Motions we pass, rather it is about how we deliberate on those issues.

As we proceed on recess, there are many projects that we need to look into at the constituency level. For example, we have to set up constituency offices. However, the Government has not released funds to us to do so. It is a pity that our constituents think the Government has already released funds for that purpose. I urge the Minister for Finance to make sure that we get these funds as soon as possible so that we set up constituency offices.

Mr. Temporary Deputy Speaker, Sir, I am happy that, while on recess, hon. Members will attend a seminar in Mombasa. This seminar will give us an opportunity to learn more about the Standing Orders which we have continued to violate in this House. It is my hope that, when we come back, there will be less cases of raising frivolous points of order. I also hope that we will restore dignity and decorum of this House. It is sad that the dignity of this House has been eroded by some of us.

Mr. Temporary Deputy Speaker, Sir, as we proceed on recess, I hope the Government will seriously address the issue of insecurity in this country. The level of insecurity in this country is alarming. Although the Government is disarming Pokots, the security situation is no better in Pokot District and surrounding areas. I am saddened to see innocent Pokots suffer while the actual culprits are left to go scot-free. I witnessed an incident whereby a pastor's cows were driven away by the Government agents as communal punishment. I do not know whether this Government has machinery to identify the actual culprits because they are known. The exercise of disarming Pokots is very dehumanizing. The Pokots are not happy at all. I urge the Government to carry out that exercise with a human face.

Mr. Temporary Deputy Speaker, Sir, I wish to also talk about the issue of the constitutional review process. A constitution is not a document for a few individuals in the Government. It is a document for all Kenyans. Some individuals in the Government want the present status quo maintained for their selfish needs. We want a constitution that we will help our leaders to govern properly. Kenyans do not want a constitution which the Government will use to oppress them.

During the Eighth Parliament, hon. Members, now on the Government side, believed in a people-driven constitution. However, everything has now changed. They want a Parliament-driven constitution. Are they morally right to change their stand because they are now in the Government? We want to reach a consensus, so that we get a good constitution for this country. The wrangling in the constitutional review process does not augur well for the stability of this country. Kenyans want a people-driven constitution.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute in support of this Motion. We are lucky that we will give the Treasury the opportunity to prepare the Budget. We do hope that when we come back, we will have a Budget that we will be more or less happy with, especially with regard to our priorities. We talk a lot about issues that will receive more priority than others, including water, health and so on. Let us hope that the next Budget will reflect these priorities because there have been constant cries from hon. Members of Parliament.

Secondly, I expect that we will have few issues about equity in terms of the way resources distribution. This has been an issue, especially with regard to projects that are supported by donors. Some hon. Ministers, who have the power to negotiate with donors, through their Permanent Secretaries, sometimes have directed resources to specific parts of the country, including their own respective constituencies. I really hope that there will be more consultations before donor resources

are allocated.

On the Budget also, I would like to say that we need to ask a few questions with regard to the principle of guillotine. I do not think it is fair for us to discuss votes of a few Ministries and we do not do so for the majority of the Ministries. In many ways, we are saying that those particular Ministries can go ahead to spend resources that they have allocated for themselves without us questioning whether or not, indeed, those allocations have been done in the way we, as a Parliament, would have liked.

Mr. Temporary Deputy Speaker, Sir, the issue of the Constitution has been spoken about by all hon. Members. However, I would like to say that one of the problems with this process is that we have two extreme positions. Both NAK and LDP have taken extreme positions. By taking very extreme positions both NAK and LDP are not helping this process very much. I would like to say that this process has also been tribalised. Even progressive hon. Members of Parliament who would have supported positions objectively have decided to support positions on the basis of what particular people belonging to their ethnic groups believe in. It is unfortunate. I have constantly spoken about the need to go back to the example of the Third Parliament, when we had Kenyans who stood to be counted and were not supporting hon. Members of Parliament, or positions that were taken by the so-called leaders from their respective ethnic groups. We had Mr. Chibule wa Tsuma from the Coast Province; Mr. Koigi Wamwere from Kikuyuland; Mr. James Orenge from Luoland; Ms. Chelegat from Kalenjinland and Mr. Anyona from Kisiland. We had nationalists. However, this constitution review process has been compromised by those kinds of Kenyans. I would like to appeal to hon. Members of Parliament, from both sides of the House, that we begin to identify critical Kenyans who are not driven by ethnicity; Kenyans who are not necessarily following tribal sentiments with regard to what kind of positions they take in this Parliament. This is critically important. Until we have this kind of group, the majority of the people will be misled by persons who, apart from their own selfish interests, have no interest of the country at heart.

Mr. Temporary Deputy Speaker, Sir, as we go for the National Prayer Breakfast Meeting--- I stood recently on a point of order to say that the purpose of these meetings is only if they make a difference in terms of whether we change the way we think and practise. These prayer meetings remind me of the days of KANU. There were prayer meetings every time in Kibaki. These meetings were even broadcast, but unfortunately, it looked like those prayers were about scheming the evils for the next week. Hon. Members have attended prayer meetings for the last two years. However, as soon as they are out of those meetings, they are out at each other scheming all sorts of evils.

I hope that prayers will make a difference. My real prayer is that we will think as a country, and begin to identify people who think as Kenyans, and not as hon. Members of ethnic groups. Only that kind of group will save this country from the kinds of problems we are in. I hope that we will have the time, during this recess, to identify Kenyans who will not really follow tribal chiefs for purposes of it or for purposes of holding power for ethnic groups, power which never really benefits a community, but individuals and friends of those individuals. These are persons who will think about the long-term interests of this country. I am sure there are many Kenyans who are interested in this kind of thing. This is my prayer. If the National Prayer Breakfast Meeting could help us arrive at this, and if we could use our break to bring together Kenyans who think as Kenyans, I think we will have made a difference. This recess will be a fruitful one.

Mr. Temporary Deputy Speaker, Sir, with these few remarks, I beg to support.

Mr. Maore: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. First, I would like to say that we are now in the middle of the Ninth Parliamentary Term. Two and a half years have gone by since we came to this House. We will have the Budget Speech read next month. If you listen to the lamentations and groaning of Government Members, you will know that they talk and behave as if they lost in the last general election. They talk

and behave as though we are in an election year. We are asking them, on behalf of Kenyans; that, this "Tower of Babel" behaviour should make sense to them. They should relax and deliver what they promised Kenyans. They should sit down and do business as a united force. The moment this does not happen, we will have many problems.

Ministers are now involved in wrangles and are not monitoring what is going on. Tribalism is at its worst. No wonder, the Government was counting on Members of the NARC Summit to give them tribal votes. Upon assuming power, the monster of tribalism has continued to hit this Government to date, and is threatening the national fibre of this country. If you have a kit which is stitched with false patches, it is bound to come down when one is covering oneself with it at night. The old patches are likely to come off. We have seen the Government getting very desperate to the point of looking for the "KANU General" who brought the regime to disrepute. The Government is hunting for former KANU Government Members to help it work. The Government has been saying: "*Tunataka kufanya kazi nao.*" If you asked Government Members which work they should be helped with, they would not really say. We are asking for national direction by the NARC Government. It is the one which got the mandate to run the country.

Mr. Temporary Deputy Speaker, Sir, in less than two years' time, the Government will have a national referendum on what it has done. After assessing the balance sheet of its performance, you will not see the same players carrying the tribal votes in the basket, heading the same direction. This is what has brought us this national fever, which is a mood for elections. We put the challenge squarely to the Cabinet and the President, to steer the country into unity. One of the best promises that the NARC Government made, which my constituents were happy with, was that of reducing insecurity, and more specifically, the story of the cattle rustling. When we hear the Swahili people say: "*Ukiona mwenzako akinyolewa, na wewe tia chako maji*", is because of such incidences. We have seen it happening in Samburu among the Pokots, Turkanas and Rendilles. The story of cattle rustling is back.

We want to ask the Government to keep the promise of stamping out cattle rustling so that people can live in peace and harmony, and keep the little wealth they have without interruptions from stronger neighbours. The task of disarmament which is being carried out should be done decisively, without sparing any community because if you disarm one community and leave another one armed, you mess up the balance of power. If you disarm the Pokots and leave the Turkanas, the Turkanas will take massive revenge and you will not have helped in bringing peace in the region. You do not keep peace by the goodwill of a neighbour who is an enemy. You keep peace by the strength you have.

So, if you want to disarm people, you should disarm them without any discrimination. We are happy to hear that the Ugandan side is also reciprocating by doing disarmament on its side. This is the right move.

With those few remarks, I beg to support.

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, I have very few points to make. As we go on recess, it is important that we ask ourselves several questions. First, we should ask ourselves about the management of our security. There have been a lot of problems in this country. Young people have been killed by police officers and we are not sure if they are being killed because they are criminals or if it is just happening because of the inefficiency on the part of the police force. I think we have to move a step forward to find out whether our security forces are doing their work they way they should. Sometime ago, it was illegal to shoot-to-kill. But nowadays, it is a habit. It has become almost a norm; that one has to shoot-to-kill. We should understand that human beings are the same and that one is innocent until proven guilty. I know that a number of innocent lives have been lost in such a manner. Police officers have killed people without being sure if they are criminals or not. It is high time that we asked ourselves a number of questions.

Mr. Temporary Deputy Speaker, Sir, first, we should ask ourselves why thieves are organising themselves in groups of ten to 20 people, and committing crime without police officers knowing. As

far as I understand the management of security, it is common knowledge in every area and section of the city that thieves have their own managers. The managers are known. It is important for us to know if the police officers are involved in the crimes committed or not.

(Loud consultations)

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, could we have some order in the Front Bench? We are deliberating on a serious matter!

The Temporary Deputy Speaker (Mr. Khamasi): Yes, we will have some order!

Mr. G.G. Kariuki: This matter is taken for granted by some hon. Members in the Front Bench. We want them to understand that we have a problem in this country. Those people who are killed are sometimes parking boys. We want to know why people are being killed when they have not committed any crime and why they cannot just be arrested or detained. The police officers' work is very sensitive because thieves also kill them. No country can give in to criminals the way it is happening in this country.

I think the Government should rethink and see whether the behaviour of police officers and thieves can be reorganised. Thieves have their leaders in every corner of this country. We know who they are and the police need to know who they are. We should not rejoice in killing our own sons and feel grateful that police officers are working hard when their work is to arrest and not to kill.

My other issue is on famine. Why do we have to wait until an hon. Member raises the issue of famine? We have administration officers and many other Government officers, paid with public money in every part of this country, who ought to know which areas should be given relief food. Food should not be considered as a gift. It is everybody's right to be given food. It is up to our administration to make sure that everybody has something to eat. The issue of wildlife menace has not been addressed. It is only a few months to come and this country will be in a crisis posed by wildlife menace.

(Several hon. Members stood up in their places)

Mr. Temporary Deputy Speaker, I have not finished!

The Temporary Deputy Speaker (Mr. Khamasi): Your time is up!

Mr. H.M. Mohamed: Asante sana, Bw. Naibu Spika wa Muda, kwa kunipa fursa ili niunge mkono Hoja hii. Nafikiri ni muhimu kwetu kuzuru maeneo yetu ya Bunge ili tukajishughulisha na miradi ya maendeleo. Ni jambo muhimu sana kwa Serikali hii kuwapa Wabunge pesa za CDF. Hata hivyo, pesa hizi huchelewa kuwafikia wananchi.

Ningependa kuona pesa za mwaka wa 2004/2005 ambazo hazijatolewa, zikitolewa wakati wa likizo ili tutekeleze miradi mbalimbali ya maendeleo katika maeneo yetu. Wakati huu tunajaza fomu. Hatuhitaji kujaza fomu. Tunataka pesa ili tutekeleze miradi ya maendeleo.

Bw. Naibu Spika wa Muda, ningependa kuzungumza juu ya shida ya ukosefu wa chakula na mvua katika eneo Bunge langu. Hatujapata mvua kwa muda wa karibu mwaka moja. Mvua tuliokuwa tunatarajia inyeshe mwezi uliopita haikunyesha. Tunatarajia mvua nyingine kunyesha mwezi wa Desemba. Kwa hivyo, ni wazi kwamba hivi karibuni wananchi watakuwa na matatizo mengi. Watu na mifugo watakuwa kutokana na njaa. Wakati huu, watu wangu hawapati chakula cha kutosha. Ni huzuni kwa sababu watu wangu wameanza kufa kwa sababu ya njaa. Hata hivyo, nikiambia Serikali kuwa watu wangu wanakufa kwa sababu ya njaa, ninachukiwa na kuitwa mwongo. Serikali haichukui hatua mara moja.

Bw. Naibu Spika wa Muda, ningependa kuandamana na Waziri ambaye anahusika na chakula cha msaada ili aone vile hali ilivyo katika eneo Bunge langu. Ninaomba Serikali hii iwapelekee watu

wangu chakula na maji ya kutosha. Tungependa tutengewe pesa za kuchimba mabwawa ili tusitegemea chakula cha msaada kila mwaka. Jambo la kutegemea chakula cha msaada limetufanya tuwe watumwa katika nchi yetu. Ningependa kuzungumza juu ya usalama katika nchi hii. Jambo muhimu zaidi katika nchi yoyote ni amani. Tutapata maendeleo ya kila aina ikiwa tutakuwa na amani.

Bw. Naibu Spika wa Muda, nchi hii ni nzuri sana. Watu wengi wangependa kuja kuweka rasilimali zao hapa nchini. Hata hivyo, hali ya usalama ni mbaya sana. Tukitazama mambo yanayotokea hapa nchini, hasa katika miji mikubwa kama Nairobi na Mombasa ni ya kushtusha sana. Kwa mfano, juzi kule Mombasa, magaidi waliwaua mabawabu sita. Kuna haja gani ya kumuua bawabu? Bawabu ana pesa gani? Ni mtu maskini ambaye anakesha usiku kucha akihisi baridi ili apate mshahara wake wa Kshs5,000 kwa mwezi. Hicho ni kitendo cha aibu sana. Tukitazama runinga mara [kwa mara tunawaona watu ambao wamepigwa risasi au kuchomwa moto.

The Temporary Deputy Speaker (Mr. Khamasi): Your time is up!

Mr. H.M. Mohamed: Bw. Naibu Spika wa Muda, kwa hayo machache naunga mkono Hoja hii.

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! We have come to the end of the debate on this Motion. I will now put the Question.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 7th June, 2005, at 2.30 p.m.

The House rose at 5.10 p.m.