

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd May, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

KILLING OF JAMES MWAI NJOKA

(Mr. Gitari) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that Mr. James Mwai Njoka was killed around Canopy Bar and Restaurant in Zimmerman Estate on Sunday, 15th April, 2012?

(b) Could the Minister provide a list of suspect(s) so far arrested in connection with the murder?

(c) What measures will the Minister take to reduce the numerous cases of insecurity in the country?

Mr. Speaker: Order, hon. Members! Hon. Members, I followed the proceedings during the morning sitting and unless the position has changed, I am aware that the Minister in charge of Provincial Administration and Internal Security is, for some reason, not available today, but the Assistant Minister who normally answers Questions, hon. Orwa Ojode, is dutiful with respect to Parliamentary business. For that reason, Questions that are directed to his Ministry will be deferred beginning with this one which will be deferred to Wednesday, next week in the morning.

The Member for Kirinyaga Central, please note!

Mr. Gitari: Most obliged, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Yes, the Member for North Horr!

MEASURES TO CURB HIGHWAY BANDITRY ALONG MARSABIT-ISIOLO ROAD

(Mr. Chachu) to ask the Minister of State for Provincial Administration and Internal Security:-

(a) Is the Minister aware that a truck owned by M/s Sarimo Co-operative was attacked on 18th April, 2012 and six (6) bullets remain lodged in the body of the truck driver, Mr. Gurach Roba Gaache?

(b) Could the Minister indicate the number of incidents of highway banditry as well as the respective number of people killed, injured along Marsabit-Isiolo Road for the last two years?

(c) What measures will the Minister take to curb highway banditry along the road?

Mr. Speaker: The Communication which I have made will apply to Question No.2 by Private Notice as well notwithstanding that the Member for North Horr does not appear to be in the House. However, he will benefit from what has been extended to the Minister.

(Question deferred)

Let us move on to Ordinary Questions. Yes, the Member for Cherangany!

ORAL ANSWERS TO QUESTIONS

Question No.1161

STATUS OF CONSTRUCTION OF
ZIWA-KACHIBORA-KITALE ROAD

Mr. Speaker: Is the Member for Cherangany not here? On this one, unless I have information to the contrary, I am afraid it will be dropped and so it is!

(Question dropped)

Question No.1172

DELAYED CONSTRUCTION OF BRIDGE AT
VILLAGE SIX IN BURA TOWN

Dr. Nuh asked the Minister for Public Works:-

(a) when the construction of the bridge at Village Six in Bura Town will commence and why the bridge is not complete;

(b) whether he could provide the contract documents and state the identity of the contractor as well as the expected date of completion; and,

(c) how much money was allocated to the project and how much has been utilized so far.

Mr. Speaker, Sir, I have not received a copy of the written reply.

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, I beg to reply. I am surprised the hon. Member for Bura did not receive a copy of the written reply, but I--

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Mr. Speaker: Order, Mr. Minister! Do you have an extra copy of your answer?

The Minister for Public Works (Mr. Obure): Mr. Speaker, Sir, unfortunately, not right now.

Mr. Speaker: Fair enough! I know that the Member for Bura is actually very quick-witted! So, you deliver the answer and if the Member for Bura wants the Question deferred then I will.

(Applause)

The Minister for Public Works (Mr. Obure): Thank you very much, Mr. Speaker, Sir. I beg to reply.

(a) Construction of the foot bridge at Village Six in Bura commenced on 30th April, 2010. That project is supposed to have been completed on 30th July, the same year. This was actually a three months contract. Although the bridge is largely complete, I am aware that the approach ramp has been eroded on one side. However, I want to assure the Member for Bura that arrangements have been made for repairs to be carried out in the shortest possible time.

(b) A copy of the contract document is available and I will be able to table it right now.

(c) With regard to how much money was allocated for this particular project, I would like to confirm that the original contract sum was Kshs5,719,590.50. The amount utilized already is Kshs5,589,446 leaving a balance of Kshs130,144. I also want to confirm that additional funds have been allocated for this project to the tune of Kshs1.3 million to be able to complete work as a result of the re-designing which we had to do.

Mr. Speaker: Dr. Nuh, do you want to proceed?

Dr. Nuh: Thank you, Mr. Speaker, Sir. First, I must say that I am humbled by your kind words and high regard.

Mr. Speaker: Yes, they are well intended.

Dr. Nuh: Thank you, Mr. Speaker, Sir. Now that the Minister says that an allocation has been done and the repairs will soon be completed, can I get a timeline when the construction of this footbridge will be completed? Will it be completed in two months, three months or in the next few weeks?

Mr. Obure: Mr. Speaker, Sir, the additional work has arisen because we had to redesign this bridge after discovering that after flooding the foundations were affected. Also, during heavy rains the water levels go pretty high. I want to assure the hon. Member for Bura that the sum of Kshs1.3 million has been allocated specifically for this purpose to be able to do the ramp, the gabions and raise the level of the bridge. This, I can assure you, through Mr. Speaker, will be done before the end of this financial year which is next month.

Mr. K. Kilonzo: Mr. Speaker, Sir, I agree with the Minister that, indeed, heavy rains are pounding this country and, therefore, bridges are being swept away. People cannot get to their places because of the rains. For instance, in Mutito Constituency, the bridge on Thua River has been swept away by the heavy rains. What emergency funds has the Minister set aside to ensure that these bridges, which are being swept away by the heavy rains, are repaired?

Mr. Obure: Mr. Speaker, Sir, in this instance we are talking about footbridges and not bridges for motor vehicles and so on. If there are instances where we have done a bridge and it has now been established that the water levels are high and it needs to be raised, if this is reported to our office through our field officers, we can move in and help out.

Mr. Njuguna: Mr. Speaker, Sir, I would like to thank the Minister for the two bridges the Ministry built in my constituency very speedily. Could the Minister assure this House that the same speed will be applied on this bridge and that it is put to good use?

Mr. Obure: Mr. Speaker, Sir, yes, we would like to be efficient. We would like to do this work as quickly as possible provided that no unforeseen situations arise. I want to assure the hon. Member for Bura that we will do this very speedily.

Mr. Olago: Mr. Speaker, Sir, although footbridges are not meant for vehicular traffic they play a vital role in connecting people who would otherwise be divided by the small streams. The problem in the success of footbridges all over the Republic is that they are not being supervised by engineers of the Minister on the ground. There is the case of Tiengele Rota Bridge in Kisumu which does not have ramps on either side. When we report to the engineers they seem to be protective of the contractors and not the public. What has the Minister done to ensure that his engineers on the ground supervise the construction of these footbridges and ensure that they are operational?

Mr. Obure: Mr. Speaker, Sir, indeed, these footbridges are done through our supervision. In fact, they are designed by our structural engineers and supervision is provided by the same officers. We want to hand over the footbridges to *wananchi* when we are sure they meet certain specific standards. Although we have a shortage of structural engineers in the country, we have distributed the few we have to ensure that they are available for consultations by *wananchi* when they are required.

Mr. Olago: On a point of order, Mr. Speaker, Sir. I asked specifically if the Minister was aware about the completion or otherwise of Tiengele Rota Footbridge. Is he in order to finish without answering that question?

Mr. Obure: Mr. Speaker, Sir, I must admit that I am not very familiar with this particular footbridge that the hon. Member has talked about, but I undertake to acquaint myself with the situation on the ground.

Eng. Maina: Mr. Speaker, Sir, the Minister has said that when the water levels rise above the bridges they build, they come and try to elevate them. The whole design is to ensure that bridges are built to levels below the highest river levels. Why should the Minister admit on the Floor that bridges are built and some of them are affected by high water levels? Can the bridges not be built after proper studies to ensure that they are above the water levels?

Mr. Obure: Mr. Speaker, Sir, indeed, that is the case. I was referring to the bridge in Village Six in Bura. The feasibility study was carried out during the dry spell.

The history of that river had been established at the time, and our officers formed the opinion that the bridge would be able to stand the kind of waters expected on that river. Unfortunately, when the floods came, it was surprising. The river was flooded. That is why I am saying that, in that situation we had to move in and raise the level of the bridge. But in the majority of cases, we ensure – using feasibility studies - that the bridges are meant to accommodate the water despite the heavy rains.

Dr. Nuh: Mr. Speaker, Sir, the delay in constructing that bridge has caused us a whole financial year without requesting for other bridges, because it was ongoing. Now that I have brought to the attention of the Ministry that Bura Irrigation Scheme--- The main canal feeding the irrigation scheme has cut off many of the villages such that people have to trek for more than 20 kilometres to get to the main road.

Now that such a request is with the Ministry, could the Minister assure us that a footbridge could be in the offing in the next few weeks or few months along the main canal at Makagala- a request which the Minister is aware of?

Mr. Obure: Mr. Speaker, Sir, that request has been considered by my Ministry and I would like to assure the hon. Member that it has been accommodated. The footbridge along that canal will be done very quickly so that people can be enabled to move freely.

Mr. Speaker: I have intimation, although not a very firm information, that the Member for Kisumu Town East is actually away on official parliamentary duty. So, I will give him the benefit of the doubt and defer this Question to Thursday afternoon next week. Member for Mutito!

Question No.1179

TABBLING OF PROGRESS REPORT ON
BRAND KENYA INITIATIVE

(Question deferred)

Next Question!

Question No.1198

SNAKE BITE COMPENSATION TO NDEWA MULATYA

M. K. Kilonzo: Mr. Speaker, Sir, I am supposed to ask Question No. 1198. However, the hon. Minister, Dr. Wekesa has called to say he is away in Trans Nzoia receiving the body of a late councillor there. He has requested that we defer this Question to Tuesday, when he will be able to answer it.

Mr. Speaker: Fair! Please convey our condolences to the good Minister. We will defer this Question to Wednesday afternoon because there are too many Questions already deferred to Tuesday next week. Fair enough. Member for Sigor!

Question No 1354

PROVISION OF CLEAN WATER TO RESIDENTS
OF UTAWALA/MAVOKO AREAS

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

(a) whether she is aware that the people of Utawala Estate and the adjacent Mavoko area in Machakos County have no clean piped water, and,

(b) what plans the Ministry has in place to provide clean water to the residents of that locality?

The Assistant Minister for Water and Irrigation (Mr. Waititu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Utawala Estate and adjacent Mavoko urban area have no clean piped water system.

(b) In order to improve water supply to Utawala and the adjacent Mavoko area, my Ministry has embarked on a serious implementation of water supply interventions, which are aimed at meeting those areas water requirements up to the year 2018.

The interventions include the development of additional water sources in the aberdares and transmit the water through tunnels and pipelines. The project will deliver an additional 138 million litres per day for distribution to Nairobi and Mavoko areas. Water distribution networks will also be upgraded to improve existing water services. The above project, when completed, will complement the existing supply to Mavoko and Nairobi water supply network, which is currently delivering 8.5 million litres per day to Mavoko. The borehole sources serving Utawala area presently produce 120,000 litres per day.

Mr. Litole: Mr. Speaker, Sir, I am happy that the Embakasi people today, with the assurance of the Assistant Minister, will be a happy lot.

Mr. Speaker, Sir, there are over 800,000 people in Mavoko and Utawala. However, now that the Ministry is having piped water, could it also consider connecting the sewerage line from Jomo Kenyatta International Airport to that area, so that the people could be healthier than before?

Mr. Waititu: Mr. Speaker, Sir, I come from the area and I am well aware that we have a new sewer pipeline from Jomo Kenyatta International Airport that will also carry the sewer from Utawala and Mihang'o area. It is only that we are waiting for money to fund the project from Utawala and Mavoko. Otherwise, the main pipeline is already completed.

Mr. Mureithi: Mr. Speaker, Sir, I am very grateful to hear that the people of Utawala Estate and Mavoko will be able to enjoy clean water. But the Ministry of Water and Irrigation was allocated quite a sizeable amount of money in order to provide Olkalou with water. Up to now, Olkalou Town does not have water, leave alone a sewerage facility.

Considering that it is going to be the county headquarters, what will the Assistant Minister do so that those people can also enjoy like his constituency? That is because he has said that he comes from the same constituency?

Mr. Waititu: Mr. Speaker, Sir, I think that is a different Question. But I am ready to answer if he asks the Question.

Mr. Speaker: Member for Kamukunji!

(Mr. Mureithi stood up in his place)

Order, Member for Ol Kalou!

Mr. Hassan: Mr. Speaker, Sir, I wanted to extend that question to the neighbouring Kamukunji Constituency, where we have been facing some serious and chronic water shortages.

Could the Assistant Minister tell us the reasons for that and what action his Ministry is taking to ensure that water supplies are enjoyed by those communities in Kamukunji?

We also have a serious problem of sewage pouring into the streets to the point where businesses have closed in some parts of Airbase, and also children are not able to go to some of those schools.

Mr. Waititu: Mr. Speaker, Sir, the hon. Member is well aware that there have been many road constructions in Eastleigh. They have seriously interfered with water piping networks and also sewerage. The debris from the roads have been entering the sewer and causing sewerage blockage.

Mr. Speaker, Sir, Thika Road has also been affecting the water supply to Nairobi. Our people are on the ground trying to repair the damage, so that water can be released to many areas of Nairobi. Otherwise, we have water in the dams. Our dams are full and we have no shortage of water.

Mr. Pesa: Mr. Speaker, Sir, the Assistant Minister has said that they are constructing more areas where they are going to get water from and he has talked of getting almost 135 million litres.

Mr. Speaker, Sir, Residents of Nyayo Estate around Embakasi have not had water for the last three months. We have been relying on water vendors. We are not even sure whether those water vendors are supplying us with clean water.

Is the Assistant Minister going to cover that area, when the next phase starts to work?

Mr. Waititu: Mr. Speaker, Sir, Nyayo Estate is facing a shortage of water because of rationing. We have been supplying water to Nyayo Estate three times a week. Therefore, for those people who have storage, it has not been a big problem.

Mr. Pesa: On a point of order, Mr. Speaker, Sir. I do not think somebody can ration water for three months. Residents in Embakasi have not had water for the last three months. Is that rationing? Is the Assistant Minister in order to mislead the House that---

Mr. Speaker: Order! Order! Even using the word "order" does not make it a point of order!

Mr. Litole: Mr. Speaker, Sir, the Assistant Minister happens to be the hon. Member of Parliament for that area and is a prospective candidate for governorship. I think he has to go the much he can before that time. When will this money be put into the Budget? Is it this financial year or 2019? Could he answer that question?

Mr. Waititu: Mr. Speaker, Sir, it is true we are planning to implement the new water project in the next financial year. But the hon. Member is also aware that we have four new boreholes that have started operating. It is my sincere hope that when we put in money next financial year, we shall completely take care of the water problem in Mavoko and Utawala.

Mr. Speaker: Next Question!

Question No.1380

LIST OF MINERS IN TAITA-TAVETA COUNTY

Mr. Mwachugu asked the Minister for Environment and Mineral Resources:-

(a) whether he could table a list of all miners in Taita Taveta County and indicate which among them have valid mining licences,

(b) whether he could state the names of person(s) or institutions that gave consent for the miners to be issued with licences; and,

(c) what measures the Government has taken to ensure that regions with natural resources like minerals are guarded and residents are not exploited by cartels since 2006.

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

(a)The following is a list of prospectors and miners with valid licences issued to them by Taita Taveta County Council carrying out prospecting and mining activities. I beg to table it.

(Mr. Murgor laid the document on the Table)

(b) The following persons or institutions gave consent to the prospectors and miners to get licences in Taita Taveta. These are:- Taita Taveta County Council, Lualenyi Ranch, Kasigau Ranch, Mkuku Ranch, Paul Mwashamba Wundanyi, Maugu Ranch, Kenya Wildlife Service (KWS), Choke Ranch, Kutima Ranch, Oza Ranch, Peter Mwacheda Ranch, Mwasui Ranch, Joseph Kihara Ranch, Saidi Sheshe, Agnes Mkandoe Mwamirwa, Wushumbu Ranch, Kishushe Ranch and Mgeno Ranch.

(c) According to the Mining Act, Cap. 306 of the Laws of Kenya, all minerals are vested in the State which holds them on behalf of the citizens. However, the Mining Act requires that consent be sought from the land owner before prospecting and mining activities may be sanctioned. The law also provides for compensation of land owners in case of any damage to the property or degradation of land which has taken part in the course of prospecting and mining.

The Government is in the process of finalizing a new Minerals and Mining Bill which addresses the issue of benefit sharing of any revenue accruing from the extraction of mineral resources.

Mr. Mwachugu: Mr. Speaker, Sir, given that one has got to get consent from the land owner before a licence is issued, under what circumstances do we have certain miners on the list given by the Assistant Minister where information on the consent is not available? This implies that they were given a mining licence without the consent of the owners.

Mr. Murgor: Mr. Speaker, Sir, I am not aware that consent was not given by the owners. I am aware that mining licences are given by the Ministry or those authorized institutions. So, before they are issued, it is assumed that consultations have taken place on the ground.

Mr. K. Kilonzo: Mr. Speaker, Sir, many places in this country have minerals, but the Government is not doing enough to protect the illiterate land owners from exploitation by these cartels. Could the Government tell us what comprehensive plan it has to ensure that the locals are not exploited?

Mr. Murgor: Mr. Speaker, Sir, I have just read in my answer that soon we will be introducing a Bill before this House which will take care of land owners. They will be fully compensated before the mining can take place.

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House that the Bill they are yet to table here will address the issues of exploitation of land owners by these cartels? I have had the privilege to see it and it primarily talks about the distribution of resources between the national Government and devolved governments. What about the exploitation of the people?

Mr. Speaker: Order! Order, hon. Member for Mutito! I think the Assistant Minister is in order. If he says that a Bill is in the offing that will address some of these concerns, if it does not cover the area you want it to cover, then, obviously, you will be at liberty to move an amendment to the Bill. So, he is in order.

Mr. Muthama: Thank you, Mr. Speaker, Sir. In the mining industry, there are different categories of licences such as prospecting and special licences. The fees paid for those licences range between Kshs2,000 and Kshs200,000.

Mr. Speaker, Sir, there are also other licences issued by municipal or county councils. In addition, there is also a levy which is being applied also by the same county council or municipal councils. Therefore, after the miner has paid all those licence fees, he has every right to mine.

For example, I mine in Tsavo West National Park and pay other fees to the Kenya Wild Service (KWS).

Mr. Speaker, Sir, my question is: Which authority should be adhered to, to license the miners in this country because when you look at all those steps, fees is being paid? You will still find private owners of the land demanding fees, which is not regulated.

Mr. Murgor: Mr. Speaker, Sir, some institutions such as county councils are authorized to issue licences because of the location of those minerals. That is in line with the Ministry to recognize and give authority to those county councils or institutions. So, some fees is paid there and some for licences and permits. That is in order. Also, with consultation from the ground, some agreements may be made with the local communities or individuals in whose land those minerals are found.

Mr. Speaker: Last question, hon. Mwadeghu!

Mr. Mwadeghu: Mr. Speaker, Sir, there was a gazette notice which banned or prohibited mining in Tsavo East and Tsavo West. Under what circumstances are my colleagues, like hon. Muthama, mining in Tsavo East and Tsavo West? What is that special treatment?

Mr. Murgor: Mr. Speaker, Sir, I am not aware about that specific situation. I wish the---

Mr. Mwadeghu: On a point of order, Mr. Speaker, Sir. Hon. Muthama has just confirmed that he is mining in Tsavo East and Tsavo West, and the Assistant Minister is saying that he is not aware. They are the ones who issued him with that licence. Under what circumstances were they issued with mining licences, yet there was a gazette notice banning mining in Tsavo East and Tsavo West?

Mr. Murgor: Mr. Speaker, Sir, what I am not aware of is the gazette notice banning mining. So, I cannot really address that issue, even though I am aware that we licensed them.

Mr. Muthama: On a point of order, Mr. Speaker, Sir. I want to ask the Assistant Minister whether he is in order not to know that. The gazette notice that was issued declaring that no mining activities should take place in Tsavo West and Tsavo East National Parks, excluded five companies which were there before the gazette notice.

Mr. Speaker: Order, Member for Kangundo! Would it not have been appropriate for you to stand on a point of information?

Mr. Muthama: Mr. Speaker, Sir, I stand to be corrected.

Mr. Speaker: Fair enough! Mr. Assistant Minister, will you accept information from the Member for Kangundo?

Mr. Murgor: Yes, Mr. Speaker, Sir.

Mr. Muthama: Mr. Speaker, Sir, before the gazette notice, the five companies which were issued with licences from 1992 to mine in Tsavo West National Park were allowed to continue mining. For example, my company purchased the rights to mining from the previous company that was---

Mr. Olago: On a point of order, Mr. Speaker, Sir. I do accept that the House will appreciate that hon. Muthama is an authority in mining in this country. There is no doubt about that, but is it in order for him to bring an issue where he is involved without declaring his interest?

Mr. Speaker: Order! Order! Member for Kisumu Town West, I am afraid you are out of order. Maybe you were not following proceedings, but the Member for Kangundo did disclose his interest very early as he started to interrogate the matter.

Proceed, Member for Kangundo!

Mr. Muthama: Mr. Speaker, Sir, I want to inform the Assistant Minister that the five companies were there before the gazettement and were given the rights to continue mining. What was gazetted prevented new prospecting from taking place in Tsavo East and Tsavo West national parks.

Mr. Speaker: Fair enough! The matter must then rest there.
Member for Samburu East!

Question No.1382

REHABILITATION OF ARCHERS
POST-WAMBA-KISIMA ROAD

Mr. Letimalo asked the Minister for Roads what plans the Ministry has to upgrade Archers Post-Wamba-Kisima Road in Samburu East to bitumen standards.

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

My Ministry has awarded a contract for preliminary and detailed engineering design of the road with a view of upgrading it to bitumen standards. The design will be completed in August, 2012, after which, we will source for funds for tarmacking the road. Meanwhile, my Ministry through the Kenya National Highways Authority (KeNHA), has awarded a contract for the spot improvement of the road at a total cost of Kshs107,706,700.

Mr. Letimalo: Mr. Speaker, Sir, I want to believe that the Assistant Minister is aware that this road was in the development plan for the financial year 2010/2011. How come that it is still at the designing stage?

Dr. Machage: Mr. Speaker, Sir, that is true. It is after we got a sum of Kshs89,300,000 for the tendering of the design contracting that we were able to start the work. That is why it delayed from the time you know.

Mr. Njuguna: Mr. Speaker, Sir, from the response given by the Assistant Minister, it is clear that some funds have been allocated to improve the condition of this road. Could he, therefore, indicate to this House when the works will start?

Dr. Machage: Mr. Speaker, Sir, the contract for the routine maintenance of the spot improvement of the road has been awarded for the improvement of the whole road. It includes the following scope of works: Provision of preliminaries---

Mr. Speaker: Order, Assistant Minister! Let us use our time optimally. The hon. Member asked: "When will work commence?" Simple!

Dr. Machage: Mr. Speaker, Sir, I expect the work to be started now and completed by August this year.

Mr. Speaker: Good!

Member for Samburu East!

Mr. Letimalo: Mr. Speaker, Sir, while I appreciate the answer given by the Assistant Minister, could he tell the House what distance he intends to cover when they are doing the spot improvements?

Dr. Machage: Mr. Speaker, Sir, I expect to cover about 124 kilometres.

Mr. Speaker: Member for Samburu East, are you satisfied?

Mr. Letimalo: I am satisfied, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Member for Nyakach!

Question No.1451

IMPLEMENTATION OF AGREEMENT BETWEEN EDUCATION MINISTRY
AND NATIONAL UNION OF TEACHERS

Mr. Ochieng asked the Minister for Education:-

(a) whether the Ministry entered into an agreement with the Kenya National Union of Teachers (KNUT) to increase teachers' house allowance in 1996; and,

(b) whether the Government will honour the terms of the said agreement to avert any future strike by the teachers.

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

(a) No, there was no agreement entered between the Ministry of Education and the KNUT to increase the teachers' house allowance in 1996. However, the Government increased house allowance for teachers in 1997 and 2001 respectively. The 2001 rates are still applicable to date.

(b) Any future agreements regarding the increments of salaries and allowances for teachers and other public servants will have to be negotiated with the Salaries and Remuneration Commission established by the Kenya Constitution, 2010.

Mr. Ochieng: Mr. Speaker, Sir, could the Assistant Minister tell us; in the two increments of 1997 and 2001, how much was it and is he satisfied that these increments can take care of the current inflation?

Prof. Olweny: Mr. Speaker, Sir, the increments that were given to teachers were varied according to their grades and the teachers were satisfied. So, I cannot say whether I was satisfied or not. The teachers remuneration committee in which the Kenya National Union of Teachers (KNUT) was represented agreed on the rates. That was given in the Legal Notice of 1997. The legal notice gave all the rates for the various grades. The Legal Notice of 1997 was revoked in 2002 by a Kenya Gazette Supplement, in parentheses, legislative supplement No.62. So, the new rates as per 2002 are the ones that are applicable today. The teachers agreed to them and when the negotiations were done for the teachers for the new salaries, the house allowances were not talked about and the teachers were satisfied.

Mr. Yakub: Mr. Speaker, Sir, Mombasa and Kisumu are now cities. Could the Assistant Minister confirm whether the teachers in those cities are paid the same rate with those in Nairobi?

Prof. Olweny: Mr. Speaker, Sir, the rates that were given at that time as per 2002 depended on where they were. However, the fact that Kisumu is a city today according to the Act we passed here; if those rates have to be adjusted for the teachers in those cities, it will be done by the Salaries and Remuneration Commission.

Mr. Olago: On an point of order, Mr. Speaker, Sir. The question by Hon. Sheikh Dor about Kisumu and Mombasa being of equal status with Nairobi is a matter that is public knowledge. It is contained in the City and Urban Areas Act making these two towns cities. That being the case, is the Assistant Minister in order to allege that he is not aware if the house allowances for Kisumu and Mombasa are now in the same grade as Nairobi?

Mr. Speaker: Very well, Prof. Olweny, you need not respond to that.

Prof. Olweny: Mr. Speaker, Sir---

Mr. Speaker: Order! You need not respond to that. You were answering a question by Sheikh Dor and he asked you whether or not the two cities are being paid at the same level as Nairobi City Council and you said that today you are not aware. That is a good answer. If you are not aware, you are not aware!

Dr. Khalwale: Mr. Speaker, Sir, the teachers are very hopeful, especially after what the Assistant Minister has said that the Salaries and Remuneration Commission is going to look into that matter. The same hope of teachers is that the Salaries and Remuneration Commission is alive to the fact that this Government has presided over a rising cost of living for all *wananchi*, teachers included. Could he confirm that if the Salaries and Remuneration Commission recommends higher rates to be paid to the teachers, he will back-date it to the time when the new Constitution came into force?

Prof. Olweny: Mr. Speaker, Sir, I cannot confirm that because what will be paid depends on what will be indicated by what will have been agreed on at the time when the Commission will be working.

Mr. Ochieng: Mr. Speaker, Sir, there have been several agreements that were done by the Ministry and the Kenya National Union of Teachers (KNUT). Some of them have not been honoured by the Ministry of Education. So, does the Assistant Minister want to tell us that all these pending issues will be transferred to the Salaries and Remuneration Commission or will they complete them before they transfer them to the Commission when it takes off?

Prof. Olweny: Mr. Speaker, Sir, as far as I am concerned, there is nothing pending between the Ministry of Education and KNUT because the negotiations for house allowances in 2002 were implemented. That is the rates that they are getting up to today. The negotiations for the salaries in 2003 have been done in instalments up to last year. The last instalment was given to teachers last year. If they want to start fresh negotiations, let them wait for the Commission. If they agree, they will be given.

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to deny that everything has been negotiated yet the teachers are threatening to strike in a few months time?

Mr. Speaker: Order! The Assistant Minister has not denied. He has said that whatever agreements there have been between the Government and KNUT have been fully performed. If there is a full performance, what else does he have to do? Mr. Ochieng, obviously, nothing!

Question No.1498

NON-PAYMENT OF RETIREMENT DUES TO JARSHO DIRMA JALDESA

Mr. Bahari asked the Minister for Agriculture:-

(a) whether he is aware that Mr. Jarsho Dirma Jaldesa retired from Muhoroni Sugar Company on 30th June, 2007; and,

(b) why the Company has not paid his retirement dues.

The Minister for Agriculture (Dr. Kosgei): Mr. Speaker, Sir, I apologize that the hon. Member does not have a written response although we sent it to Parliament on Friday. It may have gone astray, but if you permit me, I will give him a copy.

I beg to reply.

(a) I am aware that Mr. Jarsho Dirma Jaldeza was an employee of the East African Sugar Industries Limited, now Muhoroni Sugar Company, which is in receivership. He was employed in 1972 and served the company until March, 2001 when the company was placed under receivership. He was subsequently rehired in the year 2002 and retired in June, 2007.

(b) As far as his dues are concerned, he has been paid his dues of the years that he was rehired when the company was under receivership, that is, Kshs100,709. For the period of 20 years before that, he and other employees would not have been paid because, under receivership, the company has to consider all the pending bills. However, we have gone into this research in details and also, we are working with a few lawyers and have come to the conclusion and given the directive that not only Mr. Dirma, but that all the employees who worked there until 2001 will be paid all their dues by the end of this financial year.

Mr. Bahari: Mr. Speaker, Sir, I do appreciate the effort made by the Minister. I am grateful for the retrospective action that she intends to take. I am satisfied with the answer.

Mr. Speaker: Fair enough! The matter must rest there.

Hon. Members, Question No.1424 is deferred to Thursday, next week because the hon. Member for Mwala is away on official Parliamentary business.

Question No.1424

UPGRADING REHABILITATION OF MAKUTANO-KITHIMANI

(Question deferred)

Mr. Speaker: Hon. Member for Kamukunji!

Question No.1340

NON-COLLECTION OF GARBAGE BY NCC

Mr. Hassan asked the Minister for Local Government:-

(a) whether he is aware of the failure by the Nairobi City Council to provide basic services such as garbage collection;

(b) whether he is also aware that garbage has piled up in many areas of Kamukunji, posing a threat to the health and well being of both residents and visitors; and,

(c) what action he is taking to ensure that the Nairobi City Council collects garbage timely and improves the sanitation situation in the constituency.

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Speaker, Sir, first, let me apologize for not being in the House this morning. There were quite a number of developments within the Ministry, including the resignation of the substantive Minister. For that reason, may I ask for permission to be allowed to transact business in the House?

Mr. Speaker: You may proceed. I am satisfied with the explanation and even the apology made.

The Assistant Minister for Local Government (Mr. Nguyai): Thank you, Mr. Speaker, Sir.

I beg to reply.

(a) I am aware that the City Council of Nairobi has faced challenges in the provision of basic services. I would like to inform the House that the solid waste collection services were adversely affected by the downing of tools in September and October, 2011 by the Council's hired solid waste contractors.

This was occasioned by delayed payments due to cash flow problems. The said contractors have since been paid and normal solid waste collection services have resumed.

(b) The solid waste piled up in Kamukunji has been cleared in the last two months, and not only of October and November but even as of now.

(c) The City Council of Nairobi has taken the following measures to ensure timely and efficient solid waste management services not only in Kamukunji Constituency but also the entire city. We have introduced 24 hours solid waste collection system, monthly clean ups on every Saturday of the month and massive environmental public sensitization is being carried out to curb illegal dumping which has been prevalent in Kamukunji and other parts of the City.

Decentralization of services has been extended up to the ward level with workers charged with the responsibility of street sweeping and clearing of storm water drainages; and enhanced supervision and monitoring of anti-dumping teams that has enhanced the environmental by-laws. However, without the effective support of City residents, the council cannot succeed. I, therefore, appeal to all city residents to play their part in keeping their areas clean.

Mr. Hassan: Thank you, Mr. Speaker, Sir. I am terribly disappointed by the answer the Assistant Minister has given. The answers that I got were prepared on 29th November, 2011. This means that this is an automated answer which has no bearing on the realities facing our City. The City of Nairobi is the dirtiest city in our country if not in our continent. I think the NCC has failed. Could the Assistant Minister tell us what the City Council is doing to address the huge pillage of sewage, for example, outside or just behind the Pumwani Maternity Hospital? In many parts of Eastleigh, Gikomba and Muthurwa and in other areas where Members of this House live or reside, there are huge pile-ups of garbage which is a clear indication that the NCC has failed in this particular job.

Mr. Nguyai: Mr. Speaker, Sir, presently, the daily pile up of garbage is to the tune of 2,000 metric tonnes a day. We have now decentralized up to ward level and have a total of 508 lorries collecting garbage. We are trying our very best with the resources available.

Mrs. Shebesh: Mr. Speaker, Sir, I am amazed that the Assistant Minister can stand up and mislead not only the House but the nation, and especially Nairobi residents who are in shock to hear that garbage is collected in Nairobi. What the Assistant Minister has said is far from the reality. However, maybe he would like to highlight where these garbage is collected, are the 800 lorries he has talked about owned by the Nairobi City Council or are they private people who have been given contracts and deals, through the NCC to collect garbage? Could he tell us clearly what the NCC has done and not what the contractors they have given deals do?

Mr. Nguyai: Mr. Speaker, Sir, once again, I will say that the challenge of collecting 2,000 metric tonnes is big. We have a tabulation of collection which I can make available to the honourable Member because it is pretty long. However, just to touch a few of the major areas where collection is done, there is Burma Market, Eastleigh Second Avenue, Gikomba Market, Machakos Country Bus Station and General Waruinge Street. Since the list is long, I can avail a copy to Members for scrutiny.

Dr. Khalwale: Mr. Speaker, Sir, could the Assistant Minister confirm to the House whether the Ministry has subcontracted the collection of garbage so that it becomes clear to residents, since they pay between Kshs200 and Kshs500 per month privately to these trucks so

that it is clear that the trucks that collect money after collecting garbage have been subcontracted by the Ministry? If so, could he tell us how residents would recognize the trucks from the subcontracted companies?

Mr. Nguyai: Mr. Speaker, Sir, the Ministry has not subcontracted. However, the NCC has subcontracted the service. I do not have the details of each and every subcontractor who collects garbage here. If you want substantive information on that, it can be provided even from my office.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. According to our Standing Orders, Questions are meant to seek for information and also press for action on the part of the Executive. If the Assistant Minister is not able to give information that will make residents wiser in knowing that they are not being short changed by paying for services that they have already paid for through taxation and rates that they pay, then it is only fair he says that he will provide the information so that *wananchi* can know where they stand; either to pay or not to pay at all.

Mr. Nguyai: Mr. Speaker, Sir, for all intents and purposes, that is a substantively different question and that is why I gave that answer. As far as information on the dumpsters of Kamukunji is concerned, that is where I kept the realm of my answer.

Mr. Konchella: Thank you, Mr. Speaker, Sir. I would like to ask the Assistant Minister a question and I would like him to be very honest. I had the Mayor of the City Council of Nairobi, the Permanent Secretary, Ministry of Nairobi Metropolitan Development and the Permanent Secretary, Ministry of Local Government in my Committee this morning. So, what the Assistant Minister is telling this House is not true. He had 200 vehicles in the 1960s and 1970s but they are only 26 today. I have a list of all the vehicles and their defects. Those vehicles are lying in the garages. Why can the Assistant Minister not consider, because he cannot turn the clock back, zoning Nairobi and privatize garbage collection so that the City can remain clean since this is an embarrassment to the people of Kenya, East Africa and Africa?

Mr. Nguyai: Mr. Speaker, Sir, the issue of solid waste collection is complex. It obviously, requires not only short-term measures but also long-term measures. One of the long term /medium term measures is the implementation of a project in collaboration with the Japan International Agency (JICA). We signed a solid waste management in March---

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir. I am not sure that you are privy to what hon. Konchella said earlier on which is why I am raising my point of order. Hon. Konchella said that from the information the Assistant Minister has given, he has misled this House regarding the number of trucks. In his answer, he said they were 800. Today, the information coming from the committee is that they have 20 trucks. So, is it in order to continue with an answer that has given the wrong indication in terms of the number of trucks that collect garbage in this City?

Mr. Nguyai: Mr. Speaker, Sir, I talked about the number of lorry loads and not trucks. Again, going back to the question by hon. Konchella, I said there are short-term, medium-term and long-term measures. Long-term measures include the financing of a new sanitary land field which is due to commence between 2015 and 2017. It will have a whole integrated system of garbage collection that looks comprehensively into the issue of solid waste management.

Mr. Hassan: Mr. Speaker, Sir, is the Assistant Minister suggesting that the people of Nairobi and Kamukunji have to wait until 2015 to 2017 for their garbage sanitation problems to be dealt with by the dysfunctional Nairobi City Council (NCC)?

Mr. Nguyai: Mr. Speaker, Sir, I just gave short, medium and long term solutions. In the short term, we shall continue with and enhance the 24-hour waste collection system. We will

also enhance the monthly solid waste collection system. We will make sure that collection at the ward level is further enhanced.

Mr. Speaker: Fair enough! Hon. Members, we have now come to the end of Order No.6.

Next Order!

PRIME MINISTER'S TIME

Mr. Speaker: Order, hon. Members! On Wednesdays, at a time like this, we would be well into the Prime Minister's Time and in this regard, I wish to make the following Communication.

COMMUNICATION FROM THE CHAIR

ABSENCE OF RT. HON. PRIME MINISTER

You will recall that last Wednesday, the 25th of April, 2012, I informed the House that the Rt. Hon. Prime Minister was out of the country, and will not be able to either make a Statement or reply to questions put to him as per the provisions of Standing Order No.40, Paragraphs 1 and 2. Similarly, the Office of the Clerk is in receipt of a letter from the Office of the Prime Minister dated 2nd May, 2012 informing the office that the Rt. Hon. Prime Minister is still abroad and he is, therefore, not in a position to be present today for the Prime Minister's Time.

Hon. Members, beyond the aforesaid, I have no further communication from the Office of the Rt. Hon. Prime Minister.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I beg for your indulgence. It is on record that the hon. former Minister for Finance and Deputy Prime Minister and the hon. former Minister for Local Government and Deputy Prime Minister have both defended the position that they cannot vacate the position of Deputy Prime Minister. In so saying, they have cited none other than the National Accord. I believe they were doing this so as to assign the importance to those offices because they know that the Grand Coalition Government cannot function without those offices. Therefore, if those two hon. Members are still alive in the country and working, why is the Office of the Prime Minister not referring business to hon. Uhuru Kenyatta and hon. Mudavadi, so that the country can move on even when the Prime Minister is out of the country?

Mr. Speaker: Order! Dr. Khalwale - and perhaps for the benefit of all hon. Members - I wish again to recap the provisions of Standing Order No.40(3) which states:-

“In the absence of the Prime Minister, a Deputy Prime Minister designated by the Prime Minister may make a Statement or answer questions under this Part.”

Now I have, in the communication which I have made just a while back, indicated that I have received two letters – one last Wednesday and another this Wednesday from the Prime Minister's Office, asserting that the Rt. Hon. Prime Minister is out of the country. Beyond that, I have not received any other communication. That, therefore, tells you that even as I make that communication, I had in mind the provisions of Standing Order No.40(3). If the Prime Minister chooses not to delegate or designate any of his deputies to come and deliver statements as anticipated by this Standing Order, then it is up to the Prime Minister to take responsibility, and for the House to determine what other remedy it has if it thinks it has a remedy. It will not be for me to compel the Rt. Hon. Prime Minister to exercise his choice of what he wants to do. That is

where we are. So, even as I made that communication, I was very well aware of the provisions of Standing Order No.40.

Away from that, Dr. Khalwale, other than saying what you have said - which is of public notoriety - I am not aware that the two deputy prime ministers know that the Coalition Government will not work. That is an assertion you are making. So, you own it. It is your opinion and I do not share that opinion.

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I am seeking for a Ministerial Statement. I wish to seek for a Ministerial Statement---

Mr. Speaker: Order! We have not come there as yet.

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. Now that the deputy prime ministers are no longer ministers and that the only job they have now is to deputize the Prime Minister and they have not availed themselves here to deputise the Prime Minister, would I be in order to ask you to find their positions as deputy prime ministers unworthy of being carried into this House and redundant, for that matter?

(Laughter)

Mr. Speaker: Order, hon. Ogindo! You will be out of order. Indeed, I have, for the benefit of the House, recited Standing Order No.40 and in particular Paragraph 3, which speaks for itself and, therefore, to the extent that you want to divert from the express provisions of Standing Order No.40, you are out of order.

(Dr. Khalwale stood up in his place)

Mr. Speaker: Order, Dr. Khalwale! This matter of Prime Minister's Time under Standing Order No.40 must rest now where it is.

POINT OF ORDER

DELAYED DELIVERY OF STATEMENT ON BAN OF MEAT EXPORTS TO UNITED ARAB EMIRATES

Mr. Chachu: On a point of order, Mr. Speaker, Sir. Last week on Wednesday, 18th April, I sought for a Ministerial Statement from the Minister for Livestock Development on the ban of Kenya's meat exports to the United Arab Emirates. The Ministerial Statement was to be delivered on Thursday last week and, as of now, it has not been delivered. I want to know when that Ministerial Statement will be delivered by the Minister concerned.

Mr. Speaker: Order! Hon. Chachu, you had a request for a Ministerial Statement which has not come?

Mr. Chachu: That is correct, Mr. Speaker, Sir.

Mr. Speaker: Which is the Ministry responsible?

Mr. Chachu: Ministry of Livestock Development, Mr. Speaker, Sir. It was to be issued on Thursday last week. I have waited for the whole of this week and it is yet to be issued.

MINISTERIAL STATEMENTS

STATUS OF UNDELIVERED MINISTERIAL STATEMENTS

Mr. Speaker: Leader of Government Business!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, during the earlier sitting this morning, I informed the House that in consultation with the Clerks-at-the-Table, I intend to give this House the most up to date position on all the outstanding Ministerial Statements. I do have a draft and I hope hon. Chachu will bear with me. But in the meantime, because his request was made only last week, I think I will endeavour to have the Minister coming to issue a Ministerial Statement.

Mr. Speaker: Hon. Members, we will now take Statements which are ready for delivery, beginning with the Leader of Government Business.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I did not see the Member for Chepalungu in the House but the Ministerial Statement I want to make---

(Loud consultations)

Mr. Speaker, Sir, I will appreciate if I could have the benefit of quieter consultations because this is an important Ministerial Statement.

Mr. Speaker: Order! Order, hon. Members! Shall we lower the level of our consultations, so that we hear the Leader of Government Business?

(Dr. Nuh stood up in his place)

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

Dr. Nuh: Mr. Speaker, Sir, with all due respect to the Leader of Government Business, hon. Isaac Ruto is attending to a burial of his father-in-law and he had confided in me that he would be comfortable if this Ministerial Statement could be issued next week. I had shared the same with the Attorney-General (AG) because my perception was that the AG would deliver the Ministerial Statement.

So, I kindly request that the hon. Member who requested for the Ministerial Statement will be comfortable if it comes up next week.

Mr. Speaker: You have made your point, Dr. Nuh. At least you endeavoured to make effort to ensure that communication reached the Front Bench.

So, Leader of Government Business, do you want to accommodate that request?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Speaker, Sir. If the hon. Member for Chepalungu expressly made that request, I will defer it for him because this Ministerial Statement is important. Since he is the originator, it is only fair that he be in the House, so that he can interrogate the Ministerial Statement itself. So, I have no difficulty having to wait until next week.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Thank you for being magnanimous. At least the Member for Bura had made effort to communicate to you, through the Attorney-General.

Yes, the Attorney-General!

SELECTIVE DEMOLITION OF BUILDINGS

IN EASTLEIGH

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I beg to provide a Ministerial Statement in response to a request by the Member for Kamukunji, hon. Yusuf Hassan, on the demolitions that took place in Eastleigh.

Following the direction of the Chair that I issue a Ministerial Statement on this matter, on behalf of the Government, I wrote to the Minister for Lands, the Minister of State for Defence, the Minister for Local Government, and the Minister of State for Provincial Administration and Internal Security; for them to issue my Office with supporting statements on their various roles in the said demolitions.

Mr. Speaker, Sir, the Ministry of State for Defence, and the Ministry of Lands, wrote back to me and stated that they were not involved in the exercise and they were, therefore, not in a position to provide any Statements. The Ministry of State for Provincial Administration and Internal Security, and the Ministry of Local Government, responded as follows:-

The problem of illegal structures encroaching on airports' land and flight paths started way back in 2004, with complaints from various airports within the city.

Several complaints have been addressed to the Provincial Administration by members of the public on the threats posed by many of these illegal structures. Over the years, the KAA issued notices to people settled on those lands to vacate but their occupants never complied and instead more structures were erected and the population increased tremendously.

By a letter dated 19th October, 2009, the National Security Advisory Committee (NSAC) directed the Provincial Security and Intelligence Committee (PSIC), Nairobi; to liaise with the KPA to demolish structures in Mitumba and Maasai Villages, and all other structures surrounding the airports.

This necessitated a security mapping exercise, which was done by the Nairobi PSIC, on the security challenges posed by illegal structures adjoining the flight paths in the three airports. These are classified as potential hotspots. This informed the setting up of a multi-sectoral committee, which brought together the PSIC, the KAA, the City Council of Nairobi (CNN) and the Kenya Civil Aviation Authority (KCAA).

The role of the Provincial Administration was to facilitate the exercise by virtue of being the chair of the Security Intelligence Committees. The role of the PSIC in demolitions, therefore, was basically to provide security backup to the parties seeking to demolish structures encroaching on its land.

Broadly speaking, therefore, the role of the Provincial Administration is – and in this case was – to ensure security and safety of persons and property.

The Moi Air Base is a very important military installation in this city. The security of the base's operations is important, especially because of the recent influx of refugees within the larger neighbourhood and the threats of terrorism posed in our region. Several illegal developments have been identified within the restricted areas of the Moi Air Base and its general neighbourhood.

The building next to the landing point of the Air Base was located off First Avenue, Seventh Street, Eastleigh, opposite the California Estate. The building, so critical to operations of aircraft landing because of its balcony, protrudes across the Air Base fence. The building was already, at the time of demolition, occupied.

Development had been approved by the City Council of Nairobi (CNN) for three levels but this building was built to four levels, thus rendering the development illegal. The occupation

of the building had been undertaken without the authority or the knowledge of the Air Base and was, therefore, highly suspect in as far as the security organs were concerned. This building was along the flight funnel and often, aircraft had to overshoot the landing point to avert any danger posed by this building.

With regard to buildings near the gate of Moi Air Base, these developments were located to the West of the Air Base. They were accessible from First Avenue. They comprised a development which is beyond the approved policy of up to two levels because they border the Air Base's restricted area. The windows of these buildings critically overlooked the Air Base. Above all else, these developments encroached onto the Air Base's own land.

On the building located on the 13th street, this development is illegal. It was implemented contrary to the Nairobi city Council's approval, it being five levels. The development critically interferes with aircraft communication with the Air Base facilities. The development is a major Air Base security concern. Its height can easily facilitate malicious intent of harming the operations of the Air Base aircraft.

The development was to be removed completely as a matter of priority. The landing of the Presidential jet on this Air Base has recently presented a major challenge to the pilots, not only due to the size of the aircraft but particularly because of the proximity of the buildings in question to the runway. Therefore, this building poses a clear and present danger to the peace and security of the Chief of Staff of our Defence Forces.

Secondly, the Air Base is also a training institution for pilots, and the building is a major threat to instruction of learner pilots. The developments in Eastleigh which were affected by the demolitions had been identified as having been interfering with the safety and security of the Moi Airbase, Eastleigh. As a result, an inventory of the development showed that either the building structures did not have the approvals necessary or were developed contrary to the approvals or irregularly encroached on the military airbase land.

On the basis of the foregoing non-compliance with the law, especially the Physical Planning Act, the Civil Aviation Regulations which also cover military flight operations, the Government directed that the structures be dealt with in order to restore and ensure the safety and security of the aircraft operations in and out of this airbase.

Mr. Speaker, Sir, in actual fact, the Government consistently owned up to the demolitions, including directing and supervising the exercise for the reasons that I have indicated. Prior to the operation, enforcement notices had been issued to the respective building/structure owners within the provisions of the Physical Planning Act, Cap.286 of the Laws of Kenya.

To date, some of the non-compliance structures still stand in certain areas around the airbase because the operation ceased during the Departmental Committee on Land and Natural Resources and Administration and National Security proceedings and partly because some of the owners have since obtained court orders.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Hon. Members, we will allow a maximum of five interventions beginning with the Member for Kamukunji.

Mr. Hassan: Mr. Speaker, Sir, I appreciate the effort taken by the Attorney-General in responding to this particular question. My question covered the demolitions in Nairobi, but more specifically in Eastleigh.

I just wanted to raise one or two points regarding the answers he has given. The first question that I want to raise is the fact that Moi Airbase, Eastleigh has existed for many years in

harmony with the neighbourhood that bears the name of Eastleigh. I do not recall or have any record in which any incident affecting the Airbase has taken place in the many years that it has existed because the people of Eastleigh value and respect the security of the base that exists in their midst, despite the many problems it causes to the residents.

The second element is that all these buildings were built many years ago and they were approved by the Nairobi City Council. Many of the residents who have built houses there have title deeds. It is quite surprising that the Attorney-General says that many of those buildings had not been approved because these are not small structures that you would not see every day. They have existed for many years.

The other element that---

Mr. Speaker: The Member for Kamukunji, you have done two already!

Mr. Hassan: Mr. Speaker, Sir, the other point the Attorney-General has raised, on which I would like a clarification is that I am not aware as the Member of Parliament that there has been a recent influx of refugees into Eastleigh. At no time has our Government designated Eastleigh as a refugee camp. So, I am rather surprised that he describes that there has been a recent influx of refugees that could pose a threat to our national security.

Thank you, Mr. Speaker, Sir.

Mrs. Shebesh: Thank you, Mr. Speaker, Sir. Maybe for clarity, the Attorney-General should tell the investors who put in millions of shillings and got approval from the NCC whether they are the risk or it is their building because their building was approved. So, is it the people who own the building who are suddenly a risk to the security of the Chief-of-Staff of the Armed Forces of the republic of Kenya?

Mr. Njuguna: Mr. Speaker, Sir, could the Attorney-General inform this House what steps the Government has taken to make sure that no fresh illegal structures will be put up on this corridor, thus avoiding future demolitions and suffering of our people?

Dr. Monda: Mr. Speaker, Sir, the Attorney-General should tell the House why the Government watched while the buildings were being started, constructed and completed. People invested huge sums of money in those building which the Government demolished later on. Why did the Government witness and allow the construction?

Mr. Mbuvi: Mr. Speaker, Sir, could the hon. Attorney-General explain to this House why the law is applied selectively in our own country? There was a time a dual carriage highway was to be constructed starting from Nyayo Stadium roundabout to Athi River. A number of buildings were earmarked for demolition including the Panari Sky Centre, Capital Centre and the Sameer Business Park but the Government hurriedly formed a task force to stop these demolitions.

During the Syokimau, Kyang'ombe and Mitumba Villages demolitions, we never saw any task force being formed by the Government. Why is the law protecting the rich only?

(Applause)

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I thank the Member for Kamukunji. I want to state that from the material presented to me by the various Ministries, the offending buildings were constructed in the recent past. Therefore, it would be incorrect to say that they have existed for several years. They are recent buildings and that is why---

Mr. Hassan: On a point of information, Mr. Speaker, Sir.

Mr. Speaker: Order! Attorney-General, do you want information from the Member for Kamukunji?

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I have to decline further information.

Mr. Speaker: Fair enough! Proceed.

Dr. Monda: On a point of order, Mr. Speaker, Sir. Would I be in order to request the hon. Attorney-General to tell us without generalities how long those buildings have lasted so that we consider them too new to warrant demolition?

Mr. Speaker: Order, Dr. Monda! You will be out of order because you will be asking a question.

Proceed, Mr. Attorney-General!

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I want to be very honest in response to the various questions that have arisen. As I said when I appeared before Mr. Musyimi's Committee, there has been system failure; there has been a failure in the way the NCC gave its approvals; there has been failure in the oversight provided by the Ministry of Local Government; there has been failure in the way the Ministry of Lands maintained records; and there has been failure in the manner the Office of the Attorney-General processed the complaints relating to many of these buildings.

Mr. Speaker, Sir, I do not think that the solution now lies in the past. I propose that the answer lies in the future and it is as follows. Going forward, there is a commitment at the highest level of Government - that this matter has been discussed in the Cabinet - that this process must never be allowed to occur again.

The Government must not be put in a situation where it has to demolish the property of its citizens or the property of investors. However, in this very unhappy situation, this was a necessary evil and the Government has assumed responsibility for it. It will not happen again because illegal structures will not be allowed to flourish. As regards the question about refugees, this word in the Statement is used not in its technical sense of persons to whom refugee status has been granted in Kenya. It is used in the sense of persons who have gained residence in Nairobi and Eastleigh in particular, who are neither citizens of Kenya nor persons legally permitted to be in Kenya.

Mr. Speaker, Sir, I think every hon. Member of this House knows that we are living at a time when terrorism poses a very clear and present danger. There is not a week that we have not had to confront this particular problem. The Government is concerned---

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

Mr. Speaker: Order, Member for Kamukunji! Kindly, allow the Attorney-General to finish and then you can raise further points of order if you so desire!

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, it is the duty of this House to support the security forces of this country as they endeavour to keep our country safe. They keep our countrymen, and particularly the women, safe. The women are the backbone of our society. We must support the security forces as they try to keep our country safe. The security agencies of this country have made an assessment in which they believe that those buildings pose a very serious security concern. In our very humble opinion, this House should grant that opinion the professional respect that it calls for.

Finally, as to the comment by the hon. Member for Makadara, this Government does not discriminate against the rich, the poor or any sectors of the society. This Government is

committed to an impartial, fair and just administration of the rule of law. I do not know that there has been any application of the law in a special manner as regards those demolitions.

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

Mr. Speaker: Order! Order! Attorney-General, have you completed your responses?

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, that was my last comment save for the question by Mrs. Shebesh. This Government values its citizens and its investors. The investors have not – and I have not suggested that in my report - done anything that, in the circumstances of the matter, can be attributed to them. I have said there was system failure and it is a failure that we are correcting. Where the demolitions have occurred without requisite notice, as I said before Mr. Mutava Musyimi's Committee, there will be prompt and fair compensation.

Mr. Speaker: Mr. Attorney-General, I have not heard your response to the issue raised by the Member for Makadara; that the Government is applying itself selectively.

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I have assured the hon. Member that nothing of the sort has happened and nothing of the sort will happen. The Government will continue to apply the law fairly, independently, impartially and for the benefit of all its citizens, particularly the weak, the poor and the vulnerable.

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

Mr. Speaker: What is it, Chair of the Committee on Defence and Foreign Relations?

Mr. Keynan: Mr. Speaker, Sir, I would like the Attorney-General to confirm or deny that the intended demolitions are---

Mr. Speaker: Order, Mr. Keynan! Note that you have stood on a point of order!

Mr. Keynan: I was going to ask a question.

Mr. Speaker: Order! That will not pass now. We have closed that window.

Mr. Njuguna: On a point of order, Mr. Speaker, Sir. The Attorney-General has not responded to my concern on fresh constructions by the mighty in the society along the same corridor. He had not.

Mr. Speaker: Order! I heard the response to that. He said that will not happen again. It will not be allowed to happen. He reiterated that point.

Mr. Kigen: On a point of order, Mr. Speaker, Sir. The hon. Member for Makadara did clearly specify what happened where a task force was set up to look into the proposed demolition of structures along Mombasa Road. When it came to the other demolitions, there was no such task force formed. He asked: "Why was that so?" The Attorney-General did not answer that question. Is it in order?

Mr. Speaker: Mr. Attorney-General, that will be valid.

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

Mr. Speaker: Order, Member for Makadara! Your job has been done for you very ably by the Member for Rongai.

Mr. Mbuvi: I have some documents to table---

Mr. Speaker: Order, Member for Makadara!

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I am not aware of the task force that the two hon. Members have made reference to. However, I would imagine that the only reason the Government would set up a task force is if there was lack of clarity on any issue.

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

Mr. Speaker: Order, hon. Members! Mr. Attorney-General, please, proceed!

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, in the demolitions that were the subject matter of the question by the Member for Kamukunji, there was never any doubt as to the correct legal position. There was never any doubt that the houses had been constructed without requisite approval and that the owners have failed to respond within the required period notice.

(Mr. Keynan stood up in his place)

Mr. Speaker: What is it now, Mr. Keynan?

Mr. Keynan: Mr. Speaker, Sir, is it in order for the hon. Attorney-General to mislead Kenyans and this august House, when we know that the intended demolitions are skewed and heavily driven with malice to the extent that particular communities have been profiled, their businesses targeted in order to protect the perpetuation and dominance of particular communities and prevent other Kenyan communities from engaging in legal businesses within the City centre and its environs?

The Attorney-General (Prof. Muigai): There have been no demolitions in the Central Business District of the City. There have been no demolitions in the City centre. Therefore, I assume that the hon. Member must be mistaken in that respect.

Mr. Speaker, Sir, as far as the policy of the Government is concerned, the Government values every community living in this country. That is not only the indigenous communities that have lived there throughout history, but even the communities that have settled in this country. They are valued by the Government, they are protected by the Government and their property is protected. There is no policy of the Kenya Government to, in any way, inhibit the commercial growth of any of our population. Indeed, it is the stated policy of the Kenya Government to support all the communities in their commercial ventures, particularly those who have not historically been active in business and commerce. I assure the hon. Member that there was no skewed demolition. If you take statistics, they affected everybody from every corner of this country. The good news is that, that dark chapter is behind us. It will not happen again because the Government will not allow any more illegal constructions to be made.

(Several hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! We must now move away from delivery of Statements.

(Mr. Mbuvi stood up in his place)

Order, Member for Makadara! You know that when you want to be recognized or to “catch the Speaker’s eye” on a point of order, you do not just stand up! You stand up and shout ‘Point of order’.

Mr. Mbuvi: Point of order, Mr. Speaker, Sir!

(Laughter)

Mr. Speaker: Order, Member for Makadara! Please, be guided! Member for Gwasssi, please, proceed!

POINTS OF ORDER

SCUFFLE AT HOPE INTERNATIONAL CHURCH

Mr. Mbadi: Thank you, Mr. Speaker, Sir. I rise to seek for a Ministerial Statement.

(Mr. Hassan stood up in his place)

Mr. Speaker: Order, Mr. Hassan! We have moved on!

(Mr. Hassan remained standing up in his place)

Order, Mr. Hassan!

(Mr. Hassan resumed his seat)

Proceed, Mr. Mbadi!

Mr. Mbadi: Mr. Speaker, Sir, I wish to seek for a Ministerial Statement from the Minister for Provincial Administration and Internal Security with regard to the event which took place on Sunday, 22nd April, 2012 at the Hope International Church situated in Garden Estate of Nairobi, a church associated with Mr. Maina Njenga. In the Statement, I would request the Minister to explain the following:-

(a) Explain who Mr. Joseph Njoroge Thuo, the person found in the church compound with a gun, is and clarify if he is a licensed gun holder. If so, when was the licence issued and under what circumstances.

(b) Provide details of the accomplices of Mr. Joseph Njoroge Thuo at the time he was at the church and clarify whether they are licensed gun holders and the person(s) they are working for.

(c) Explain how Mr. Joseph Njoroge Thuo and his accomplices got their way to the church compound armed and, finally, explain the connection between this incidence of Sunday, 22nd April, 2012 at Hope International Church and the grenade attack at another church in Ngara Area of Nairobi on Sunday 29th April, 2012.

Mr. Speaker: Leader of Government Business, when this Statement be forthcoming?

(Mr. Midiwo stood up in his place)

Order, Chief Whip! Lets us hear the Leader of Government Business first.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): These are, indeed, grave matters and I would wish to seek the indulgence of both the House and Mr. Mbadi that this Statement is made next Thursday, so that thorough preparation is made because it touches on a serious matter of national security. I was able to personally visit this church in Ngara and there is nothing as terrible and as worrying as seeing blood inside a church.

Mr. Speaker: Fair enough! Thursday next week!

(Mr. Midiwo stood up in his place)

What is it, Mr. Midiwo?

Mr. Midiwo: On a point of order, Mr. Speaker, Sir. In relation to the same Statement sought by Mr. Mbadi, I wish that when the question is answered that the issue of the same person, Mr. Thuo, be addressed in the wider picture of the claims of assassinations on other political leaders, including Maina Njenga, who is the Mungiki leader and the Prime Minister of the Republic of Kenya. We want to---

(Prof. Githu stood up in his place)

Mr. Speaker: Order, Chief Whip! Let us hear the Attorney-General, but note that the Chief Whip is on a point of order.

The Attorney-General (Prof. Githu): On a point of order, Mr. Speaker, Sir. The House is aware that the matters the gentleman makes reference to are already the subject matter of judicial proceedings.

(Applause)

This House has repeatedly assured the Judiciary as the Executive has that we will respect its independence and its integrity.

Mr. Speaker: Order, Attorney-General!

(Mr. Midiwo stood up in his place)

Order, Chief Whip! I will not allow that matter to escalate beyond what it is. The request for a Ministerial Statement by Mr. Mbadi is clear in terms of its target. It seeks information with respect to the bombing that took place on Sunday, 22nd April, 2012 at Hope International Church in Garden Estate of Nairobi. Therefore, the matter that is raised now by the Chief Whip is away and distinct from the subject matter that Mr. Mbadi had sought to address. So, the Chief Whip has the right to raise that matter by way of a request for a Ministerial Statement, but not within the rubric of the Statement asked for by Mr. Mbadi.

(Applause)

So, Chief Whip, if you comply with the Standing Orders, of course, the House will hear you.

Mr. Midiwo: I will do so tomorrow, Mr. Speaker, Sir.

Mr. Speaker: Fair enough!

(Dr. Khalwale stood up in his place)

On this matter raised by Mr. Midiwo?

Dr. Khalwale: The matter raised by Mr. Midiwo!

Mr. Speaker: The matter raised by Chief Whip, I have dealt with and it is settled, Dr. Khalwale! I will not revisit it and the caution not to let it escalate beyond where it is applies to you equally.

Any other hon. Member with a request that has been approved? There is none!

(Mr. Hassan stood up in his place)

Order, Mr. Hassan! If you want to address a new matter; to revisit a matter that we have dealt with in this sitting earlier on, no!

Mr. Hassan: It is a new matter!

Mr. Speaker: That you may proceed and do!

UPSURGE OF INSECURITY IN NAIROBI

Mr. Hassan: Mr. Speaker, Sir, I had requested a Ministerial Statement on the insecurity in our city some few weeks ago. The Minister of State for Provincial Administration and Internal Security had said that he would respond to it today. I think it is an urgent matter given what has happened in our city in the last week or so. Therefore, I just wanted to emphasize the urgency and the importance of the matter.

Mr. Speaker: Which Ministry is it?

Mr. Hassan: Mr. Speaker, Sir, it is the Ministry of State for Provincial Administration and Internal Security.

Mr. Speaker: Leader of Government Business, when can we get this Statement? I think it is on Machakos Bombing.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I think the earlier request can be dealt with earlier because this supersedes what the other request by Mr. Mbadi. I think there is already an undertaking to make this Statement on Tuesday by the Minister in charge of security.

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

COMMUNICATION FROM THE CHAIR

DEFERMENT OF BUSINESS ON ORDER PAPER

Hon. Members, that brings us to the end of Order No.7. Before we proceed to the next Order, which is Order No.8, I wish to communicate as follows. That Order No.8 pertains to what is ordinarily described by our Standing Orders in particular Standing Order No.38; Government Business. The Leader of Government Business as well as the Minister for Finance have been in communication with me and they have indicated that they are unable to move the business at Order No.8 for the reason that there are consultations that they thought would take place before this afternoon. There is preparation that they needed to make that they have not been able to do. So, in those circumstances, exercising powers of discretion conferred upon me by Standing Order No.36, I defer business at this Order to tomorrow afternoon at 2.30 p.m.

MOTION

EXTENSION OF PRESCRIBED PERIOD FOR ENACTMENT OF BILLS

THAT, aware that pursuant to Article 261(1) of the Constitution and the Fifth Schedule thereof the following Bills now pending before this House, namely: the Public Financial Management Bill, 2012, and the County

Governments Bill, 2012 were required to be enacted by this House not later than 27th February 2012; further aware that these Bills seek to implement critical and fundamental aspects of the Constitution; noting that owing to delays in the consultation, drafting, publication and presentation of the Public Financial Management Bill, 2012 before the 27th of February 2012 and that the House passed the County Governments Bill, 2012 on 23rd of February, 2012; aware that His Excellency the President, pursuant to Section 46 of the former Constitution as saved in Section 3 of the Sixth Schedule to the Constitution declined to assent to the County Governments Bill and submitted a memorandum indicating specific provisions of the Bill to be reconsidered by the House; noting that the Honourable Speaker has certified that there exist exceptional circumstances in accordance with Article 261(3)(b) of the Constitution, this House resolves to extend the period prescribed in respect of the enactment of these Bills for a period of five months commencing on 27th February 2012.

(The Motion was deferred)

MOTION

ADOPTION OF REPORT ON ELECTION RULES OF MEMBERS OF EALA

Mr. Keynan: Mr. Speaker, Sir, I beg to move:-

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the proposed Rules of Procedure for the Election of Members to the East Africa Legislative Assembly (EALA) laid on the Table of the House on Wednesday, 25th April, 2012, subject to referral of the Rules to the Committee of the Whole House.

On that day, 8th March, you made a Communication to the House regarding the procedure of elections of the members to represent the Republic of Kenya in EALA. You reminded hon. Members that the five year term of the present EALA membes, in particular the Kenya Chapter and the whole of the East African Community, will come to close on 4th June, 2012. You then stated that it was imperative for the House to commence and conclude the process of the elections of the members of EALA ahead of the inauguration of the Assembly on 5th June, 2012.

Mr. Speaker, Sir, you also referred the Members to the provisions of Article 50 of the Treaty for the Establishment of the EAC, which contemplates a situation where the National Assembly of each partner State will come up with the Rules of Procedure that will govern the election of the Members to EALA. These Rules of Procedure were published by the National Assembly just to enable both the Members and the public to participate. Article 50 talks about election of Members of the Assembly. The National Assembly of each partner State shall elect, not from among its Members, nine Members of the Assembly, who should represent as much as it is feasible the various political parties represented in the National Assembly, shades of opinion and other political interest groups in that particular partner State, in accordance with such procedure as the National Assembly of each partner State may determine. Secondly, a person shall be qualified to be elected to represent any of the partner States if that person qualifies to be

a Member of Parliament in that particular partner State. Therefore, in our case, this person must be a citizen of the Republic of Kenya and must be qualified to be elected a Member of Parliament. We all know what an individual needs to have to qualify to be elected or nominated as a Member of Parliament. Fourthly, one is not an officer in service of the Community, namely, the EAC and fifthly, the person has a proven experience or interest in consolidating and furthering the aims and the objectives of the EAC.

Article 2(6) of our Constitution provides that any Treaty or convention ratified by Kenya shall form part of the laws of Kenya under the Constitution. Therefore, the Treaty for the Establishment of the EAC is part of the Kenya's law and it governs the Members election to EALA. One of the reasons that informed the rules that we have come up with is what happened in 2006. As the leadership of this country and in particular as Members of this august House, we must always bear in mind that Kenya is a premier nation that has over the years struggled to lead from the front and God has been on side. God has been on our side when all other neighbouring States have been affected by the culture of militarism, the culture of civil wars, the culture of political instability and the culture of lack of infrastructural development. This country has been lucky and therefore, any of these misfortunes did not happen to the Republic of Kenya. Therefore, Kenya as an entity---

[Mr. Speaker left the Chair]

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

(Loud consultations)

Madam Temporary Deputy Speaker, I will appreciate if the Members consult in low tones.

The Temporary Deputy Speaker (Dr. Laboso): Order, Members! Please, lower the volume of your consultations to allow the Member to be heard.

Mr. Keynan: Madam Temporary Deputy Speaker, one of the reasons that informed the Kenyan people, in particular the leaders of this country, to front the revival of the defunct EAC was because in our own wisdom and minds, we were of the view that Kenya is a premier nation. What makes Kenya a premier nation is what we need to appreciate and understand as the leadership of this country. About 60 per cent of the GDP of the EAC is Kenyan. Therefore, that gives us a very important role economically. Kenya is an infrastructural hub. You can see the kind of infrastructural modernization that has been going over the last few years and, therefore, we are unique as far as infrastructural development is concerned.

Look at the economic role that we play and the kind of investment opportunities that are available in this country. You should also look at the kind of technological advancement in this country. Our emphasis, and in particular this is one of the core-objectives of the Ministry of Foreign Affairs, is not only to act as an interface between Kenya and the outside world but to project Kenya, as much as possible, as an economic hub. This is not achievable if we do not project this country as a country governed by the rule of law and a country that engages in its governance civilized and accepted mechanisms in sorting out some of its national duties.

The emphasis of the Republic of Kenya today is economic development. Economic development is not something that somebody can just wake up and implant. It is something that

must be reflected on, designed, implemented and contextualized within the national policy. For example, we have the Vision 2030 which is anchored on three pillars, namely, economic, social and political development. Politically, as I have said, luckily, over the last few years, we were not affected by some of the instabilities that have bedevilled the neighbouring States. We have had elections, notwithstanding the descriptions whether they were flawed or not, since we got our Independence. It is because of this that Kenyans, particularly the leadership, must reflect that in 19689, the GDP of the Republic of Kenya was at par with that of South Korea, Malaysia, Ireland and many other countries. Today, the GDP of the Republic of South Korea is eighty times that of Kenya. The one of Indonesia is 79 times that of Kenya. What happens is the question that we need to ask ourselves. This is why, in my opinion and the opinion of my Committee Members, economic integration cannot be sustained without the will and the determination of both the leadership and the citizenry of that particular republic.

It is because of this that Kenya as a conferencing hub, a diplomatic hub, in East, Central and the whole of Africa, has the highest number of diplomatic representation. This is something that we need to be proud of. Kenya has the highest concentration of humanitarian institutions and organizations south of Sahara. It is because of this that we must lead from the front. It is because of this that jealously, we must protect the premierness of the Republic of Kenya. This cannot be substituted by creative political imaginations, party-based rivalries, even cocoons and clear deviations from the rule of law. I say all this because there is an unfortunate event that happened in 2006 in trying to come up with our representatives to EALA. We deviated from the rules and the standard established nominating rules as a premier nation. What happened? A litigant went to the East African Court of Justice. What was the consequence? This particular petition was ruled in favour of the petitioners and the Kenyan taxpayers today have to cough hundreds of millions of shillings as a penalty by the court. If we were prudent in our decision making, if we were considerate in the actions that we took, we would have saved the taxpayers the over Kshs400 million that today the Kenyan taxpayers have to cough.

It is because of this that I want to implore the leadership, in particular the leadership of the political parties, to walk the talk and go beyond the petty regional thinking and party-driven mechanisms and think naturally about the image of Kenya. There is no way that all of us, the 40 million Kenyans, are going to agree on the nomination or the election of nine Members. There has to be sacrifices. The *modus operandi* has been established. How are we going to lead from the front and project Kenya as a leading investment, diplomatic, humanitarian, infrastructural and transport hub, an economic power and a cultural hub, if the very act of putting in place some of these petty things cannot form part of our national interest?

I want to urge the Members, particularly, the leadership of the political parties, to walk the talk and ensure that we have these representatives on or before the term of the current Members of EALA comes to an end on 4th June. It will be a fallacy and unforgivable if again Kenya as a premier nation this time around delays the inauguration of EALA simply because of our party-driven politics.

Madam Temporary Deputy Speaker, I want to appeal to leaders that this process is so urgent. We are already late. The other countries have already elected their representatives and they are waiting for Kenya. They are waiting for the big brother. This big brother is busy on so many irrelevant and petty issues. It is involved in the politics of the day, of course, tribally drive, regionally centred, with no philosophies, with everything else. We need to walk the talk as Kenya.

Madam Temporary Deputy Speaker, look at our domestic debts today, look at our external debts, if we are not careful, this country is on a brink of economic collapse. I dare say - and I want to be challenged on this - we have become a country of borrowers, we have become a country of net importers. What happened to our primary industries? What happened to Kenya as the leading exporting country? It is simply because we have changed everything else and from morning to evening, we are engaged in unending political squabbles. This is not the image we want our youngsters to inherit from us. You have seen Kenya being the peace centre. As a peace making nation, we have engaged and ensured that warring communities within our neighbours have come together and formed stable nations. I want to appreciate the sacrifices made by the people of Kenya for the sake of the South Sudan and Northern Sudan. It is something that we have nurtured through the Comprehensive Peace Agreement. Why should we not be the first country to benefit from investment opportunities in Southern Sudan? Why are we the last to tarmac the road from Lokichogio to Juba? Why do we have to struggle today to use Kampala when the distance is shorter here? It is not a lost opportunity. It is simply because we have given politics the centre stage instead of concentrating on economic development.

Madam Temporary Deputy Speaker, how are we going to realize the dreams of having an industrialized and highly developed economy within the realm of not only Africa, but in the world? That is because the world has become a global village. These issues cannot be realized. Elections come and the next day, we are in an election mood. I want to appeal to Kenyans; you have been taken for granted for many years and, in particular, by the political class, including myself. You are not going to eat politics. You need food, you need sugar, you need tea and you need maize meal. Those will not come from Heaven. They will come if we work very hard. How do we work hard? It is if we do business. You cannot do business unless you know there is a conducive investment climate. Let me say we have one of the most educated society. You know recently, Kenya was voted as the best in human resource capital in the whole of Africa by the UN.

Madam Temporary Deputy Speaker, this is not a mean achievement. This is as a result of the gains that the Kenyan public has made over the years. But, again, this has to be directed. How are we going to benefit from this? I am emphasizing on this because of the significance of the East African economic bloc. As a premier nation, our President, two days ago, was in Arusha as the Chairman of the East African Community (EAC).

Madam Temporary Deputy Speaker, it will be wrong. It will be immoral if Kenya is not going to be the first country to comply with Article 50 of the East African Treaty. I want to remind them again and repeat this: Other partner States have already done theirs. Therefore, what everybody is waiting for is whether we will have a repeat of what happened in 2006, delay the whole process, be ashamed, be named by our brothers in the region or lead from the front, comply with the rules - because we are the ones who set the rules - nominate our Members, elect them here and move to the next stage.

Madam Temporary Deputy Speaker, the essence of economic growth--- No country - and I want to say this--- You remember, those of you who have seen the framework of the European Union, the framework of the European Union was borrowed from the defunct East African Community. Where are we and where are they today? Look at the kind of industrial take-offs those countries have experienced over the last 40 years. Where are we? We are here with our stagnating economy, with one of the highest unemployment rates, under-employment, high crime rate and all sorts of issues. Those are issues that the political class must address. Otherwise, we will not have any moral audacity to say we are the national leaders of this country.

Madam Temporary Deputy Speaker, I see Members--- Look at the kind of Questions that we ask every day, they are security related. We say: “This has happened. There is cattle rustling.” That is happening because of high unemployment, under-employment and lack of economic opportunities. Those are all the dividends Kenyans have to get simply because of investing in poor leadership.

Madam Temporary Deputy Speaker, how do we justify the over Kshs400 million simply because of lack of prudence, poor judgement and complete disregard of the rule of law that today affect the taxpayer? In fact, it will have been prudent if the very same individual who caused this shame that necessitated the petitions to go to the East African Court of Justice to have been adjudged, committed and made to refund that money. That is a waste of money. It is because of that, that today, as a country--- I want to remind Members that there is an issue that has come. I do not know where the Minister for Finance who was here has gone to.

Madam Temporary Deputy Speaker, we have the EALA Kenya Chapter. I want to say this and I want it to go on record - the membership of the Kenya EALA Chapter remained the most haunted group in the whole region. The reason is this: They are not facilitated contrary to other countries that have major economic resources. Why should this happen to our representatives when we are a premier nation, economic hub and economic power house? That group has complained and even recently, their issue went up to the highest level. I want to share this with my colleagues because this has come to my Committee. The membership of the EALA Kenya Chapter has had so serious grievances that are an impediment to their performance. They sought an appointment with none other than the Prime Minister and His Excellency the President. Letters have been exchanged but to date, those issues still remain the way they were. How do you expect them to project and promote the interests of Kenya in the region, when they are seen as lesser representatives in the region, and instead of being proud representatives of the region’s economic giant? It is something that we need to correct as a region. Why is it happening?

Madam Temporary Speaker, with shame, I want to say this: We lag behind in our own remittances to the East African Community. Kenya has defaulted. Is this the way we want to project our country when we have outstanding dues for the last three years! How does that really project Kenya? That means we are there in the Treaty just as a hobby without really taking into account the economic gains that we can get.

Madam Temporary Deputy Speaker, I am glad that the Chairman of the Budget Committee is here. Our number one trading partner, as a country, is Uganda. The planners and designers of our foreign policy did not even think of having a chancery in Uganda. It is only this year that we said: “Until you factor something for a chancery in Uganda, we are not going to look at your Budget.” It is just our next door neighbour. That should have been given priority in the construction of chanceries and other facilities. That is because our emphasis is on economic diplomacy. You can compare that mismatch? I am glad that this year, they have factored the same. I want to also thank the Chairman of the Budget Committee and his team for accepting the same.

Madam Temporary Deputy Speaker, these rules are for our country. I know that when somebody mentions some of those serious economic ills, it irritates. But, nonetheless, we will continue to comment about it because Kenyans are here by right. They have to know. They have to be informed. That is why we are here as the representatives of the people of Kenya. When we look at these rules, we looked at them purely against the rule of law. We looked at the dealings

within the confines of the East African Community. We also looked at some of the loopholes and lacunas which made us actually pay today over Kshs400 million as a penalty.

Madam Temporary Deputy Speaker, in designing these rules, the parties will play a significant role in determining who becomes a Member of Parliament.

Madam Temporary Deputy Speaker, the key word in the Treaty is “elections”. The hon. Member of Parliament here is expected to vote for a candidate; it is not a nomination; it is not something that you are just going to pass by a vote. Those individuals who will have been determined and nominated must be subjected to voting. They must be voted for by hon. Members here. We will consider constituting an electoral college; there will be ballots. I am just saying this so that we avoid the kind of acrimony that we had in 2006. Once again, I want to appeal to the leadership of political parties to take this into account and remember that whatever products they present to this House, eventually the vote of the hon. Members here will determine whether that person will be our legitimate representative or not. As I said, again, the parties have been given the role to decide and nominate, in the first instance.

Madam Temporary Deputy Speaker, we are aware that countries like the newly independent State of Southern Sudan, the Sudan, Somalia and many other countries have applied to join the East African Community (EAC). It is because of the stability, the economic prominence, the rule of law, the constitutionalism and the parliamentary practices that we have in the region. That is why other entities have developed interest to become members of EAC. How do we have them if the very groups who are there do not completely adhere to the rules that they have set for themselves?

Madam Temporary Deputy Speaker, with those few remarks, I beg to move and I request hon. Midiwo - sorry, hon. Ogindo to second.

Mr. Ogindo: Thank you, Madam Temporary Deputy Speaker. I want you to find my Chairman grossly out of order because hon. Midiwo is not even an hon. Member of this Committee.

Mr. Keynan: I request hon. Ogindo to second!

Mr. Ogindo: Madam Temporary Deputy Speaker, as I second, I want to say that the East African Legislative Assembly (EALA) is a very important organ in the region. It is a precursor to the long awaited East African Federation Political Union. Kenya, being what it is, is a major stakeholder and a potential beneficiary of such an eventuality. On that account, it becomes incumbent on us to take this matter very, very seriously.

Madam Temporary Deputy Speaker, it is with a lot of regret that Kenya, which is a premier member of this community, is the one lagging in its subscription. Our representatives there are one of the most miserable. It is important that the Government takes seriously its commitment to subscribe to the EALA.

It is also regrettable, like my Chairman says, that our next door neighbour, Uganda, which is our leading trading partner in the region, what we have is a Chancery by name, but not a Chancery by design and yet we rake so much benefit from the trade we have with Uganda. If diplomacy is not for that, then I do not know what it is for. I want to implore further that the issue of our Chancery in Uganda be addressed.

Madam Temporary Deputy Speaker, we came up with rules that seek to get us out of the quagmire that we found ourselves in, in earlier nominations. Today, we have been very meticulous in defining how we get our membership into EALA.

Madam Temporary Deputy Speaker, I think at this point, it is important for the House to appreciate that it is going to play a very significant role in this. But ahead of that, one of the rules

that we have generated is the one that defines how these positions are going to be allocated. I want to refer the House to Page 19, Rule No. 6, which says:-

“A party shall be entitled to nominate for election under these rules any number of candidates not exceeding three times the figure arrived by multiplying the number of elected members of the National Assembly of that party by nine and dividing the result by the total number of elected Members of the National Assembly.”

Madam Temporary Deputy Speaker, in other words, what this means is that, for example, my ODM Party, which has 99 hon. Members in this House, so, you want to multiply that by nine and divide by 222. That gives you four. It means that ODM as a party will now be entitled to nominate not more than 12, when you multiply 4 by 3, and then four of them shall be elected.

Madam Temporary Deputy Speaker, it goes further to say that when making those nominations, it would be incumbent on the party to ensure that such nomination takes into account other factors like gender, special interest and regional balance. I think with that, it now becomes imperative for hon. Members of the National Assembly to be clear about their party membership because we want to give Caesar what belongs to him. I want to put on notice hon. Members of the House, so that we do not have people disowning decisions of their parties, to declare in writing if at all they do not belong to ODM or any other party if, indeed, they have truly changed their loyalties, so that we do calculations with new figures other than the record that we have.

(Dr. Khalwale consults loudly)

Madam Temporary Deputy Speaker, I would request that you protect me from Dr. Khalwale who has engineered a lot of misfortune in ODM.

(Laughter)

(Dr. Khalwale stood up in his place)

Dr. Khalwale: On appoint of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, Dr. Khalwale?

Dr. Khalwale: Madam Temporary Deputy Speaker, I would not want to interrupt my hon. brother, Martin Ogindo, but he has made a very serious allegation.

Madam Temporary Deputy Speaker, because this can have security related implications on me that I am bringing down ODM, could he substantiate and if he cannot substantiate, he apologizes and withdraws?

Mr. Ogindo: Madam Temporary Deputy Speaker, I think I would not want to waste the time of the House by substantiating the obvious.

Madam Temporary Deputy Speaker, you have seen hon. Khalwale has kept permanent company to the former Minister for Local Government ever since he indicated his intention to leave ODM, and there is pictorial evidence and even audio evidence.

(Laughter)

Madam Temporary Deputy Speaker, I believe that suffices.

Madam Temporary Deputy Speaker, having said that, it is my conviction and that of the Committee that, indeed, we want to persuade the House to adopt these rules, because time is of essence in this process. The sooner we do this, the better for us. We want to lead by example in this process. Other countries have already made and adopted their rules. I want to persuade the House to adopt these rules, so that we can proceed and nominate our Members to the East African Legislative Assembly (EALA).

Madam Temporary Deputy Speaker, with those few remarks, I beg to second.

(Question proposed)

QUORUM

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I am sorry, we have no quorum.

The Temporary Deputy Speaker (Dr. Laboso): Ring the Division Bell!

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, since we are unable to raise quorum after allowing the first eight minutes and a further five minutes, therefore we adjourn the House. The House is, therefore, adjourned until tomorrow Thursday, 3rd May, 2012 at 2.30 p.m.

The House rose at 5.10 p.m.