

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 4th June, 2009

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the 11th Session of the Pan African Parliament held from 18th to 29th May, 2009 in Midrand, South Africa.

(By Mr. Bahari)

Reports of the 14th, 15th and 16th Sessions of the ACP-EU Parliamentary Assembly and the 16th and 17th ACP-EU Joint Parliamentary Assembly (JPA) meetings held in November, 2008, Port Moresby, Papua, New Guinea; February, 2009, Brussels, Belgium and April, 2009, in Prague, Czech Republic.

(By Prof. Kamar)

NOTICES OF MOTIONS

ADOPTION OF REPORT OF 11TH SESSION OF PAP

Mr. Bahari: Mr. Temporary Deputy Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the 11th Session of the Pan African Parliament held from 18th to 29th May, 2009, in Midrand, South Africa laid on the Table of the House on Thursday, 4th June, 2009.

ADOPTION OF REPORTS OF ACP/ACP-EU JOINT PARLIAMENTARY ASSEMBLY

Prof. Kamar: Mr. Temporary Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Reports of the 14th 15th and 16th Sessions of the ACP-EU Parliamentary Assembly and the 16th and 17th ACP-EU Joint Parliament Assembly meetings held in November, 2008, in Port Moresby, Papua New Guinea; February, 2009, Brussels Belgium and April, 2009 in Prague, Czech Republic laid on the Table of the House on Thursday, 4th June, 2009.

OFFICIAL RECOGNITION OF KENYAN CHAPTER OF AMANI FORUM

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I wish to give notice of the following Motion:-

THAT, appreciating the role played by the Great Lakes Parliamentary Forum, Amani Forum, in building the capacities of Members of Parliament in peace building and conflict management in Kenya and within the Great Lakes Region and the Horn of Africa; considering that the participation of Members of Parliament in regional and national Amani Forum activities have significantly enriched debate in the House, informed Committee deliberations and created strategic linkages between Parliament and other actors in the society; convinced of the need to mainstream peace building and conflict management aspects with the National Assembly of Kenya as the country emerges from post-election violence and its undertaking deliberate measures to promote reconciliation and national healing; aware that this is the only legislature in the region that has not given due recognition to that strategic regional organization; this House resolves that Amani Forum, Kenya Chapter, be officially recognized as a parliamentary organization within the national Assembly of the Republic of Kenya.

QUESTIONS BY PRIVATE NOTICE

PROCUREMENT OF CEMETERY LAND BY NAIROBI CITY COUNCIL

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Could the Minister confirm that the Treasury, through his Ministry, allocated Kshs283,200,000 to the Nairobi City Council for the purchase of land for a cemetery in the Financial Year 2008/2009?

(b) Could the Minister inform the House who the vendor was, the size, cost and the location of the land?

(c) Could the Minister clarify whether, in procuring the said land, the relevant Government procurement regulations were followed and if so, whether he could table the valuation report, sale agreement and inform the House which firm was involved in the conveyancing of the said land?

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have looked at this Question and our Standing Orders. Standing Order No.43(9) says:-

“A Question shall not be asked which makes or implies any allegation of a personal nature---“

I am rising on this point of order because this is a very weighty issue dealing with the possibility of corruption involving Kshs283 million.

The Temporary Deputy Speaker (Mr. Imanyara): We do not know that! The Question has not been answered!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, let me raise my point of order! In view of the fact that we are aware that the major player in this case is the City Council of Nairobi, what will be the impression on the integrity of this House if the Question is being fronted by hon. Linturi, my colleague in the Grand Opposition, whom we know has taken the City Council of Nairobi to court, claiming that he be paid over Kshs26 million?

I have no interest in this matter, but I would just like to be guided. Would it not be inviting what forced hon. ole Kaparo to make a ruling in this House that we should not raise Questions that attempt either to advance our personal interests or attempts to use this supreme House as a debt collecting institution?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Dr. Khalwale, do you have the ruling by the former Speaker, hon. ole Kaparo?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, that ruling by hon. ole Kaparo is in the HANSARD. I was in this House when he made that ruling. But I also happen to know – and it is a fact - that the City Council of Nairobi has been taken to court by hon. Linturi.

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

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Midiwo, is it in relation to the same issue?

Mr. Midiwo: Yes, Mr. Temporary Deputy Speaker, Sir. Further to Dr. Khalwale’s concern, this Question was before this House just about three weeks ago and it was dropped. How has it found its way back to the Order Paper?

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, it is very important for me to put this issue clearly to this House and to my brothers, Dr. Khalwale and hon. Midiwo. It is true that this Question came before the House when the Public Investments Committee (PIC) was in Mombasa compiling its report. For that reason, I was not here to ask this Question.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I have been informed that the Question is on the Order Paper on the direction of Mr. Speaker. That is to answer hon. Midiwo’s question. In relation to the issue raised by Dr. Khalwale, this is dealt with under Standing Order No.81. Mr. Linturi, if you have a personal interest in this matter, you need to disclose it to the House before asking the Question!

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, maybe, I need to explain to the House something. The issue about personal interest is so relative.

The Temporary Deputy Speaker (Mr. Imanyara): No! No! I think you need to clear the air!

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I have no personal interest in this matter. The matter that Dr. Khalwale is alluding to is as a result of a contract entered into in July, 2004, between a company in which I have shares and the City Council of Nairobi. That is even before I became a Member of Parliament!

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is only fair that you defer this Question and make a ruling. In the light of what the Member is saying, I, personally, have information that he has interest in this Question. A public officer at the Nairobi City Council has called me to explain. It would be unfair for me not to bring up those issues if this Question was to continue.

Mr. Waititu: On a point of order, Mr. Temporary Deputy Speaker, Sir. This issue is of corruption in nature. Very many Kenyans are concerned about the issue of the cemetery. It is supposed to benefit Kenyans in Nairobi. We need to get to the bottom of the matter in order to understand the truth. This Question should proceed so that we can debate the matter and know exactly what happened.

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is very unfortunate that when a Question becomes the property of the House, some Members are called by people who have some interest in the Question. That is what hon. Midiwo has stated, so that the Question cannot proceed.

This Question is before the House. The procedure is very clear. The hon. Member has said that he has no personal interest in this Question. So, I beg you to rule that this Question continues.

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. In terms of assisting the House to move forward, just the day before yesterday, the Chair gave a ruling that is relevant to this. I had made an application that there were some documents that we needed to use for purposes of supporting an application in this House. The Chair ruled that because that was hearsay, we could not delay the business of the House. That is a fresh ruling. We should also say that hon. Midiwo is also alluding to matters that are purely hearsay. The Question is before the House. Please, let the Question be answered.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Minister, you have heard the concerns of the hon. Members. In your answer to the Question, if there are any areas that you feel would unfairly prejudice officials of Nairobi City Council who are not in the House, you can indicate that before giving the reply. However, it is up to you, Mr. Minister, to tell us whether you are ready to answer the Question or not, or whether the issues that hon. Members have raised have any bearing on the answer that you will give.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I am not aware of anything other than what I have heard about at this point and time. I am ready to answer the Question.

The Temporary Deputy Speaker (Mr. Imanyara): Please, go ahead and answer!

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) It is true that the Treasury, through my Ministry, had allocated Kshs283,200,000 to the Nairobi City Council for the purchase of land for a cemetery. Out of this amount, Kshs175 million was provided in the 2007/2008 Financial Year and Kshs108,200,000 was provided in the 2008/2009 Financial Year.

(b) The vendor was Mr. Henry Musyoki Kilonzi who put a bid into this matter through his agent namely Naem Rech Limited. The size of the land in question is 120 acres. The land is located in the Municipal Council of Mavoko, Athi River, which is adjacent to Nairobi. The land was purchased at Kshs283 million.

(c) According to the documentation I have from the Nairobi City Council, it would appear that they followed the procurement regulations. The council advocate was Messrs. E. N. Omothii and Company Advocates while the vendor's advocates were Messrs. Alphonse Mutinda, Odera Osiemo and P.C Onduso Advocates. The Questioner also requested me to lay certain documents on the Table. I would like to lay the following documents on the Table:

The newspaper advertisement, minutes of the Opening and Evaluation Committee, minutes of the Tender Committee, a valuation report, the Sale Agreement, the title issued to the Nairobi City Council and the transfer from Henry Musyoki to the Council and also a letter from the vendor's advocate, Alphonse Mutinda, authorizing Naem Rech Limited to bid on behalf of Henry Musyoki Kilonzi. All these documents are available and I will lay them on the Table.

(Mr. Mudavadi laid the documents on the Table)

Mr. Linturi: Thank you, Mr. Temporary Deputy Speaker, Sir. I beg the indulgence of the Chair that I may be able to present this matter properly before the House so that it can be well understood by hon. Members, so that in their opinion, they can as well determine whether I have any interests in this matter or not. I want to start by thanking the Deputy Prime Minister and Minister for Local Government for giving a very good answer, especially to parts "a" and "b". I want to seriously look at his answer to part "c". In my view, proper procurement procedures were not followed in this matter. What was followed is a proper scheme between council officers and the Ministry to defraud and to steal money from the public. I am saying this because when the advertisement for the purchase of this land was published---

The Assistant Minister for Roads (Dr. Machage): On point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to introduce a Motion in this House when he is supposed to ask a specific question to the Deputy Prime Minister and Minister for Local Government?

The Temporary Deputy Speaker (Mr. Imanyara): I think he made it clear that he wanted to lay down the basis of the matter and I allowed him to do so.

Mr. Linturi: Thank you for your protection, Mr. Temporary Deputy Speaker, Sir. When the advertisement was placed in the newspapers, a number of bidders bid for this plot. According to my documents, 12 people bid for this plot. Out of that, the Legal Officer wrote a letter to the Ministry of Lands requesting a valuation report which was supposed to form a valuation basis for this plot. I will be laying all these documents on the Table. After the valuation report was given, the report that came from the Ministry of Lands, and went to Ms. N. Ng'ethe, gave a valuation figure of Kshs3,515,000. This is the valuation report, to me, is a letter and does not qualify to be a valuation report. During the valuation process, a Mr. Odindo and Mr. Mbarere, who were the members of the valuation team through a memo dated 11th November, wrote to the chairman of this committee that was doing the valuation. The chairman of this committee was the Legal Officer. In this memo, which I want to zero in on one paragraph, the Director of City Planning is saying that according to his opinion and that of the people serving in his department, the land they were buying was not suitable for cemetery use.

He goes further and says---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Linturi, you need to ask a question arising from the answer that has been given.

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, how do I ask a question before the matter is understood? I am trying to lay down the basis of this and demonstrate how corruption has taken root here!

Mr. Yinda: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Linturi introducing a Motion or asking a question or seeking clarification?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Linturi, the answer has been given by the Deputy Prime Minister. You need to ask a question arising from the answer that has been given.

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, if that is the case, then I will ask one question that I merit. If the Ministry of Lands did a letter to disown the valuation report that was purported to have been given by the Nairobi City Council itself, is this transaction valid or not? There are two sets of agreements that are contradictory. One is between Henry Kilonzi and Rech Naem at Kshs110 million and another one between Nairobi City Council and Henry Kilonzi at Kshs282 million. The land in question was bought at Kshs110 million and a Mr. Alphonse Mutinda did a letter when they were compromised by Henry Musyoki who purportedly learnt later that his land was sold at Kshs283 million.

Hon. Members: Ask a question!

Mr. Linturi: The truth must be known!

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Linturi! Address the Chair in the first place!

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I am asking the last question! Among the documents I have is a transfer of land that was signed between Henry Musyoki Kilonzi at a cost of Kshs110 Million which I want to lay on the Table.

Finally, I want to table a document where Henry Musyoki, who was the owner of the land, acknowledged receipt of only Kshs107 million which was payment for the purchase of the land. The last one is a document from the Ministry of Lands disowning the valuation.

The Temporary Deputy Speaker (Mr. Imanyara): Very well! You have put your point across!

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, finally, there is an agreement that was entered, one between Henry Kilonzi and Rech Naem and the other one between the Nairobi City Council and Henry Kilonzi for Kshs283 million which was even signed by the Mayor of the Nairobi City Council and a Mr. Odindo who was then a councillor.

(Mr Linturi laid the documents on the Table)

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, some of the documents he is referring to are also in the bundle that I have submitted and tabled in this House. The sale agreement and the minutes of the tender committee are all in the bundle that I have tabled here.

I am not aware of the other communication between Kilonzi and the other advocates. That information is not within City Hall. However, I have availed to this Parliament the documents from City Hall. These documents are very clear. They are composed of the agreements, transfer and valuation report. If, indeed, there is any document---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Deputy Prime Minister and Minister for Local Government! Would you like to have a look at the documents that you say are not part of the ones you have?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, I would be very happy to look at the documents I have said are not part of the documents that I have and make a comment. However, I have laid on the Table the official documents from City Hall.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. As I said at the beginning, this is a lot of money and the amount of details is such that we cannot---

The Temporary Deputy Speaker (Mr. Imanyara): Are you asking a supplementary question or revisiting the order which I ruled upon?

Dr. Khalwale: No, Mr. Temporary Deputy Speaker, Sir. Mine is a point of order. Mr. Temporary Deputy Speaker, Sir, my scrutiny shows that there was a payment of Kshs175 million in June, long before the advertisement in September. Because this is very convoluted and we need to get to the bottom of the matter, I request that as you rule that the Deputy Prime Minister and Minister for Local Government be given an opportunity to look at this matter, we refer it to the relevant Departmental Committee so that it can inform us properly. We want to get to the bottom of this matter.

The Temporary Deputy Speaker (Mr. Imanyara): Let me hear more views on this before I make a ruling on this matter.

Mr. Waititu: Mr. Temporary Deputy Speaker, Sir, a cemetery is a very important facility in Nairobi. If you visit Langata Cemetery right now you will find that bodies are being buried in graves where others were previously buried. The issue of buying land for a cemetery was in City Hall even when I was there as the Deputy Mayor. One specification of land for a cemetery was that it had to be a red-soil piece of land. However, the land that was bought, through corruption, is rocky. Could the Deputy Prime Minister and Minister for Local Government clarify why the Council left out bidders with red soil land along Kamiti Road and went all the way to Athi River to buy rocky land? Bodies cannot be covered with rocks!.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Deputy Prime Minister and Minister for Local Government, could you answer that question?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, in the documentation that we have, which shows how the tender committee operated and the evaluation process, there is a criteria for determining the kind of land they were looking for. Some of the issues that the hon. Member has raised are, indeed, tabulated in that particular document. I do not want to enumerate the criteria, because I was not in the tender committee. All

that was done by this committee and the details are given. The 12 bidders and the prices are all tabulated in the tender document.

Mr. Linturi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am very uncomfortable when the Deputy Prime Minister and Minister for Local Government rises here to mislead the House! I agree that there was a criteria but---

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order?

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, is the Deputy Prime Minister and Minister for Local Government in order to say that there was a set criteria which was the basis for the award of this tender, when the Technical Department in charge of City Planning wrote a memorandum which is signed by Mr. F.D. Odongo saying clearly that the land was not suitable for a cemetery?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, you have heard the Deputy Prime Minister and Minister for Local Government admit that he was not the tenderer and does not have the details of this transaction. You have also heard the hon. Member say that, in fact, the seller in the agreement acknowledged receipt of Kshs110 million while the Deputy Prime Minister and Minister for Local Government has told us that he paid Kshs283 million.

Mr. Temporary Deputy Speaker, Sir, while in support of your consideration to have this matter investigated further, the variance is too big for us to leave it casually. The Deputy Prime Minister and Minister for Local Government should take time and look at the documents. The matter should be referred to the relevant Departmental Committee of this House.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Deputy Prime Minister and Minister for Local Government, what do you have to say in your own admission that you have not seen a number of these documents?

Mr. Mudavadi: Mr. Temporary Deputy Speaker, Sir, I have said that the documents I have not seen are those that relate to the transaction or communication between the lawyer and the vendor. I have no qualms over the matter being referred to the relevant Departmental Committee. However, I will be very happy if this matter is investigated thoroughly so that we can get to the bottom of it.

Mr. Temporary Deputy Speaker, Sir, as I speak here, I know that this matter has also been taken over by the Kenya Anti-Corruption Commission (KACC) for investigation. Therefore, it is perfectly in order for Parliament to scrutinise the documents further as the other agency also undertakes its investigations.

(Applause)

The Temporary Deputy Speaker (Mr. Imanyara): Very well! Indeed, these are serious issues which have been raised in the documents, and because the Deputy Prime Minister and Minister for Local Government has agreed with the hon. Members' proposal, I order that the matter be referred to the Departmental Committee on Local Authorities for it to investigate and report back to the House within three months. If the Committee completes the investigations before the three months are over, the Clerk's Office can be informed and the issue brought forward. Let the Committee investigate the matter and report to the House within three months.

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

The Temporary Deputy Speaker (Mr. Imanyara): Unless it is a point of order not related to that issue! If it is related to that issue, you can appear before the Committee when it starts sitting.

What is it, Mr. Waititu?

Mr. Waititu: Mr. Temporary Deputy Speaker, Sir, the Nairobi City Council offices are located just on the road opposite and the land we will investigate is about 10 kilometres away. Why should the Committee take three months to complete its investigation? I do not want to contradict your ruling, but three months is too long!

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Waititu! That is up to the Departmental Committee. If it can finish the work within two days or one week, well and good, but I have given it three months within which to complete its investigation.

Next Question by the Member for Bura!

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I have not been supplied with a copy of the written answer.

GOVERNMENT POLICY ON DISASTER PREPAREDNESS

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) How prepared is the Government to respond to and mitigate against disasters in light of the recent incidents where two accident victims were trapped in the cabin of a car for more than three hours as well as the recent Sachang'wan and Nakumatt fire tragedies?

(b) Has the Government prepared a policy Paper on disaster mitigation and, if so, could she table the same?

(c) What budgetary provisions has the Government made during the Financial Year 2008/2009, funds from donors and public to cater for disaster mitigation?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, the hon. Member is entitled to a copy of the written answer before you answer the Question! When did you provide him with a copy of the written answer?

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Temporary Deputy Speaker, Sir, I apologise to the hon. Member for having not received a copy of the written answer from us. However, the copies of the written answer are now ready for circulation.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Nuh, are you happy with that?

Dr. Nuh: It is okay, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The Government is well prepared to respond and mitigate against most disasters. It is, however, imperative to note that some disasters can overwhelm national capacity and require international intervention. The national level disasters are adequately addressed through national response mechanisms that involve disaster responders.

(b) The Government has prepared a national disaster management policy, which has been exhaustively discussed and agreed on by all the stakeholders. The document is

in the final stages of editing before presentation to the Cabinet for approval. The draft policy provides for proper disaster management in the country, including institutional arrangements and the code of conduct expected of the different stakeholders involved in disaster management.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Could you lower the level of your consultations?

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Temporary Deputy Speaker, Sir, hon. Members are consulting loudly!

The Temporary Deputy Speaker (Mr. Imanyara): Please, go ahead!

The Assistant Minister, Ministry of State for Special Programmes (Mr. M.M. Ali): Mr. Temporary Deputy Speaker, Sir, I was saying that the draft policy provides for proper disaster management in the country, including institutional arrangements and the code of conduct expected of the different stakeholders involved in disaster management in Kenya. A draft copy of the same is hereby tabled.

(Mr. M.M. Ali document on the Table)

In addition, the Disaster Risk Reduction Strategy was launched in July 2007, and it is already in operation. It spells out the different risk mitigation approaches. I also hereby tabled it.

(Mr. M.M. Ali laid the document on the Table)

Further, the national disaster response plan has already been operationalized. The plan outlines the standards and operating procedures during incidents of disaster, and the role of its responder. It also contains an inventory of all the disaster responders, the allocations and incidents command systems for ease of operations. I hereby table it.

(Mr. M. M. laid the document on the Table)

(c) During the Financial Year 2008/2009, the Government made the following budgetary provisions for disaster mitigation: Public funds from Government of Kenya, Kshs707 million and funds from donors, Kshs1.308 billion. The total provisions amount to, Kshs2.015 billion.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, it is quite encouraging, and I would like to thank the Assistant Minister and his Ministry for the little attention they are paying to disaster response in this country. I would like to table three documents. In 2004---

(Messrs. Jirongo and K. Kilonzo consulted loudly)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Messrs. Jirongo and K. Kilonzo! Please lower your level of your consultations!

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, hon. Members! The Kenya National Fire Brigade Association (KNFBA), a consortium of fire brigades, which are at the fore-front in fighting disasters, had sought to have a disaster policy in 2004. In 2009, the Ministry is saying that the draft policy is at its final stage. I would like the Assistant Minister to clarify how long it takes to prepare for disaster. I would like to table this document.

(Dr. Nuh laid the document on the Table)

I would also like---

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Nuh, why do you not let him respond to that?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I just want the three documents to be put in one Box!

The different players that the Assistant Minister has been saying would respond to disasters in this country seem suffer from a disconnect. I would like to ask the Assistant Minister whether they have a central unit that co-ordinates all these disaster responders. A letter that was written on 4th April, 2007, by the Office of the Permanent Secretary, that is well versed with the running of the every office of the Government tells the fire brigades:-

“Please note that matters relating to fire services are functionally handled by the Ministry of Roads and Public Works and so, you are hereby advised to contact the Permanent Secretary for further guidance.”

We all know that the fire brigade falls under the City Council of Nairobi which in turn falls under the Office of the Deputy Prime Minister and Ministry of Local Government. I would like to table this letter.

(Dr. Nuh laid the document on the Table)

Lastly, we have 510 officers fighting fire all over the country, who are very poorly remunerated. They are given a salary of below Kshs10,000; do not have an insurance cover or medical cover. They are paid only Kshs500 as risk allowance! How does the Assistant Minister expect us to believe that the Ministry at the forefront in fighting disasters in this country?

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, first of all, about the delay, I would like to agree with the hon. Member that it has taken a little long, but you will appreciate that the field of disaster is complex. New phenomena keep coming up; for example, we were faced with things we were not used to when we faced the conflict following the 2007 General Election. The Internally Displaced Persons (IDPs) issue became a new thing; it was bigger than we could have imagined. So, it was important that the document had to be revised. It was first submitted to the Cabinet and then taken to the Committee on Humanitarian Affairs. The same committee made some comments which required technical input. That is what has now been finalized and it has been tabled, as I said earlier.

As for the integration of the responders, I would like to tell the hon. Member that there are many players in disaster response but, as a Ministry---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Please, allow the Assistant Minister an opportunity to give an answer. The consultations are very loud!

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, as far as disaster responders are concerned, we have various departments and agencies that respond to disasters in the country and we must allow all of them to play a role. But as for co-ordination, I will agree with the hon. Member. We have already written to the relevant authority, so that the roles of each department are clearly defined. The Ministry of State for Special Programmes, when it comes to any disasters, should be the one in the centre while various other agencies operate and handle different aspects. This is getting due attention! Communication has already gone out and the situation will be corrected very soon.

Mr. I. Muoki: Mr. Temporary Deputy Speaker, Sir, I think I want to disagree with the Assistant Minister very much, because it is common knowledge that the Government is not prepared for any disasters. I would like him to confirm whether the emergency number 999 is working today and; if it is, then I will agree with him!

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, well, for your information, we have various numbers which are working. If he is not aware of them, I will give them in a short while. But I want to tell him that we may have had our own weaknesses in the past, but the policy which I have just tabled will take care of all those weaknesses, and disaster response will be efficiently handled.

Mr. I Muoki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister tell Kenyans what emergency numbers they have, so that they can call for help in case of any emergencies?

The Temporary Deputy Speaker (Mr. Imanyara): Order, *daktari!* He has indicated to you that he can provide you with the numbers. That was not in the Question; surely, you do not expect him to be having them. However, he has undertaken to give them to you, if you want them.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for a very good answer, but he admits the inadequacy of the state of preparedness when dealing with disasters, particularly the ones that are hardly anticipated. What is he doing to ensure, in the meantime, that entities like Lodwar Municipal Council, a whole municipality, does not even have a single fire extinguisher, have one?

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, that is a very good question. For his information, we are looking at the scenario in the whole country, and not specifically in Turkana or any other particular place. I want to assure the hon. Member that the Government is taking this matter very seriously. We have already factored in our Budget funds for procurement of equipment, so that we will effectively respond to disasters whenever they occur anywhere in the country and not only in Turkana.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Dr. Nuh!

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for admitting inadequacy again. They should have factored it in the budgetary provisions. It is public knowledge that they have only eight fire-fighting vehicles in the whole country.

What is the exact number of fire-fighters anticipated to be covered in this Budget and what does he intend to do about the remuneration of the fire fighters who do not even have a risk allowance?

Mr. M.M. Ali: Mr. Temporary Deputy Speaker, Sir, we have requisitioned for quite a number of them and hon. Members will do us a lot of service if we joined hands in requesting Office of the Deputy Prime Minister and Ministry of Finance to give us enough funds so that we can do the purchases whenever the services are required.

The Temporary Deputy Speaker (Mr. Imanyara): We will now go to Ordinary Questions.

ORAL ANSWERS TO QUESTIONS

Question No.128

PROVISION OF WATER/TOILET FACILITIES TO MOMBASA PRIMARY SCHOOLS

Mr. Yakub asked the Minister for Education what steps the Government is taking to ensure that clean water and toilet facilities are provided in all primary schools in Mombasa, considering the health hazards posed by lack of the facilities.

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

The Government has taken the following steps to provide water and sanitation facilities in primary schools in Mombasa Municipality:-

Through the Local Authority Transfer Fund (LATF) and Local Authorities Service Delivery Plan (LASDAP), Mombasa Municipal Council has completed digging boreholes in four primary schools, that is, Bahari, Kashani, Bomu and Ziwani Boys Primary Schools. All those four schools have been installed with pumps and the water is being used. The Mombasa Municipal Council in partnership with the United Nations Children Education Fund (UNICEF) is in the process of providing water and toilets to 14 primary schools. In each school, they are putting up two blocks of 10 toilets, one for girls and one for boys. A baseline survey for water and sanitation was carried out in all the districts in the country including Mombasa between December 2008 and January 2009. The data of that survey will be analysed in July this year.

The Ministry will support ten worse primary schools, that do not have water and sanitation facilities, in each district in the next financial year. Each school will be given a grant of Kshs500,000 for improvement, rehabilitation and refurbishment of water and sanitation facilities. The outcome of the analysis which will be done in July will help in identifying the ten schools.

Lastly, school health and nutrition policy and Clean Water and Sanitation Implementation Strategy which encompasses water, sanitation and all health-related issues have been finalized and will be launched by the Ministry at the end of this month.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, I wish to thank the Minister for his detailed answer, but I wish to inform him that some of the schools among the four that he mentioned have not even been started whereas some of them have not been completed.

The digging of boreholes and installation of pumps has also not been done. According to the report, Mombasa District alone has a shortage of 1,275 toilets in 96 schools.

Could the Assistant Minister make arrangements so that, between now and August, more schools will have been supplied with water and sanitation facilities beside the four he has mentioned?

(Loud consultations)

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I did not get the last part of his question because the consultations are too loud!

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Assistant Minister! Let him then make it clear!

Please, could the Front Bench consult in low tones? Mr. Yakub, could you repeat the question for the Assistant Minister because his colleagues did not give him the opportunity to hear you?

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, we have a shortage of 1,275 toilets in Government schools in Mombasa District. Between now and August, could the Assistant Minister organize to construct more toilets in the remaining Government schools in the District?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I have said that four primary schools, that is, Bahari, Kashani, Bomu and Ziwani have boreholes. Among these schools, it is only Bomu that has a problem but the other schools have water because the boreholes were dug and pumps fixed. Now there is water. The problem with Bomu is that the water that we got in the boreholes is saline, so it cannot be used. They are still using their old facility. We cannot give them a new one because the water is salty.

Regarding the last part of the question, the Ministry is making all efforts to provide water and sanitation facilities in all our schools but we do according to the availability of funds. I have indicated that in the next financial year, we are going to implement what we did the survey for.

Ms. S. Abdalla: Mr. Temporary Deputy Speaker, Sir, could the Assistant tell us whether the Kshs500,000 they have allocated in the next financial year is for water or toilet facilities and if it is enough for each school.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, I have said that that is going to be in the next financial year. It will be taken care of. Nonetheless, Kshs500,000 is quite a good amount of money and it can take care of the provision of water and sanitation.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, the enrolment in Mombasa District Government schools is around 71,545 students. Out of 396 primary schools in Mombasa, 32 do not have electricity. How will the students get water even if they have boreholes? Could the Assistant Minister make sure that the 32 schools which do not have electricity are also provided with water?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, when we do the boreholes, we will provide hand pumps. If we bring you an electric pump, we will make sure that there is electricity. That is the cost that will be included in the construction of the borehole. If we buy a hand pump, there will be no need for electricity but if it is an electric pump, it is the Ministry that will bear the cost of providing electricity.

Mr. Yakub: On a point of order, Mr. Temporary Deputy Speaker, Sir. Electricity in schools is not only used for boreholes. There are so many other facilities which use electricity.

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, the provision of electricity in schools is not the prerogative of the Ministry of Education alone. There are other stakeholders involved. These are the Rural Electrification Authority and the Ministry of Energy. Also, Members of Parliament provide electricity to schools using the CDF.

Question No.168

RAMPANT INSECURITY ALONG
GILGIL-NYAHURU ROAD

Mr. Mureithi asked the Minister State for Provincial Administration and Internal Security:-

(a) if he is aware of the rampant insecurity along Gilgil-Nyahururu Road which has resulted in an attack last week, by highway robbers, of a motor vehicle belonging to Nyandarua West District Officer I as well as the killing of a Police Corporal around February, 2009; and

(b) what urgent steps he is taking to restore and improve security in the region.

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

(a) I am aware of limited and isolated cases of insecurity along Gigil-Nyahururu Road; in which cases the police have managed very well to curb and deal with these cases effectively.

(b) Police officers drawn from both the Rift Valley and Central provinces have increased patrols along the road in question. The area is now safe for road users.

Mr. Mureithi: Mr. Temporary Deputy Speaker, Sir, I am happy because the Assistant Minister has agreed that there is insecurity along that road. However, I would like to request him to put up a police post or police station along that road and allocate it a patrol car. Right now, the police officers do not make regular patrols along that road.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir that is a genuine concern. We can establish a police post or a base with some Administration Police Officers (APs). On the other hand, we have also increased patrols. There is a vehicle patrolling along that road. As I speak now, that road is very safe.

Mr. Mureithi: Mr. Temporary Deputy Speaker, Sir, I hope the Assistant Minister will keep his promise. What is the timeframe in terms of setting up that police post or base, in order to make sure that road is safe?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, that is a good question. I would request the hon. Questioner to assist us in getting a plot. Once we get the plot, we will be able to have uni huts immediately in order for our officers to use them.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question, Ms. Karua!

Question No.182

QUALIFICATIONS OF MEMBERS OF POLICE
REFORMS TASK FORCE

Ms. Karua asked the Minister of State for Provincial Administration and Internal Security:-

(a) what the qualifications of each of the members of the newly created Task Force on Police Reforms are;

(b) why the Taskforce was necessary considering that the Government had committed to implement the Waki Report on police reforms which was adopted by the House;

(c) what became of the report of the National Task Force on Police Reforms launched by the Ministry in 2004, the members thereof as well as their respective qualifications; and

(d) how much money was spent in the 2004 Task Force, the Waki Commission, and the amount budgeted to be spent by the new Task Force.

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

(a) The qualifications of members of the National Task Force on Police Reforms are as follows.

I beg the indulgence of the Chair whether I can table the qualifications because it is a long list or you want to me to go ahead and read it.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, table it and give it to the Member because it is very long list. Just highlight the issues!

The Assistant Minister, Ministry of State Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, they are Justice (Rtd) Philip John Ransely, solicitor engineer, Solicitor of the High Court of England, Advocate of the High Court of Kenya since November, 1957; Kathurima Mi'noti is a graduate; Justice (Rtd) Sarah Ondeyo, graduate, Dr. Moses Ikiara, graduate, Mohamed Ali, graduate; Florence Simbiri Jaoko, graduate; Macharia Njeru, graduate; Mike Harries, graduate; Kyalo Mbobu, graduate and Col. (Bishop) Alfred Rotich, graduate.

Mr. Temporary Deputy Speaker, Sir, they are all graduates, except one person.

(b) The Waki Report made general recommendations on areas which needed to be considered for reforms. The recently appointed task Force on Police Reforms is mandated to examine the current operational, institutional, policy and legislative framework under which the police operate and recommend comprehensive reforms needed to transform the current police force into an institution that can meet the expectations of Kenyans. The recommendations expected from the said task force will touch on the recommendations of the Waki Report and many other reports on police reforms, and will also prepare a draft reform Bill to embrace any necessary changes. The task force will also develop an implementation matrix clearly indicating short-term, medium-term and long-term reform priorities and budgetary requirements.

In a nutshell, the National task Force on Police Reforms seeks to operationalise the Waki Report and any other report on police reforms. It will also seek additional views from members of the public, professional bodies and institutions and security experts before coming up with a comprehensive report.

(c) The task force launched in 2004 was an internal Ministerial initiative to address weaknesses. It was an in-house initiative to address weaknesses in the structure and the operational framework of the police. The recommendations of the task force were submitted to the then Minister of State for Provincial Administration and Internal

Security. It has been the basis on which several operational and administrative reforms have been undertaken by the police.

(d) The amount spent on the 2004 task force, the Waki Commission and the expected expenditure of the current one is as follows: The 2004 task force, used a total of Kshs2.1 million and the Waki Commission spent Kshs25,214,456. We are still preparing the budget for the current task force and I will table it once it is completed.

Thank you.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, it is becoming usual with the Government these days; “this answer is incomplete”. If you look at part “c” of my Question, I had asked what became of the National task Force on Police Reforms launched by the Ministry in 2004; who were its members and their qualifications. So, we have not been told who the Members of the 2004 task Force were and their qualifications.

Mr. Temporary Deputy Speaker, Sir, let the Assistant Minister give us that. But before he does so, I have noted from his answer that the highest ranking official of the current task Force is a retired Judge of the High Court whereas Justice Waki is a Judge of the Court of Appeal. The Waki Tribunal of Inquiry also had a very senior retired police officer from New Zealand. By comparison, the Waki Tribunal had better qualified people to evaluate police reforms than the current task force. So, could he tell us why the Government is engaging in a money-wasting exercise for a lesser or inferior task force to evaluate the work of a superior task force? If it is the making of a matrix, I was the Minister in charge of these reforms and the mediation committee and we had drawn a matrix which had been submitted to the Cabinet. So, what matrix are they going to prepare or is this just a cover-up to stall the reforms?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I want to assure my colleagues that the reforms will not stall. I have said clearly that we are using both the Waki recommendations and any other reforms that have been suggested, whether in-house or through the Ministerial task forces. We are putting all of them together.

Mr. Temporary Deputy Speaker, Sir, I also do agree with Part “c” of the Question because I had also ordered for the names and qualifications. I seek the indulgence of the Chair for that particular one. I will bring that information on Tuesday, because they are still working on it.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, those task forces cost a lot of money and the country never comes to know what it is that they talk about. I have a request to the Assistant Minister. Recently, Prof. Philip Alston also made specific recommendations about the police force. Could you kindly undertake to table that report by Prof. Philip Alston so that we can read it alongside the report of the current task force that you have formed to enable us hold the Government to account in case you choose to do what you did recently in Geneva?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, my friend, Dr. Khalwale, is very right. We are not going to hide anything. I promise this House that all the reports will be brought here for hon. Members to peruse and make recommendations.

Mr. Temporary Deputy Speaker, Sir, for the other task forces that have already been formed--- We have done very well, by the way. That is because some of the reforms we have been talking about, like good housing for the police force, are being implemented. Some of the police officers are now being housed! Some of the reports were recommending salary increases for police officers and we have done that. Some of

the reports were also recommending insurance cover for members of the Police Force. So, a number of those reports---

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

(Mr. Ojode remained standing in his place)

Mr. Ojode: What is it, Dr. Khalwale?

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, Mr. Ojode! Order! Please, take your seat!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, we cannot sit back and allow the Assistant Minister to mislead the House that they are implementing the recommendations of those task forces, when he know that none of those reports have been laid on the Table of this House! You will remember that there was the Kiruki Commission Report on the "Artur Brothers" which was never laid on the Table. There was the Report of Sharawe on North Eastern Province which was also never laid on the Table. So, how can you say that you are implementing their recommendations when we do not know what was supposed to be implemented?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, once the task force completes its job, we are going to give it to the experts to peruse and make recommendations. I have promised this House that we will bring those reports. Some of them are in the public domain. We are not hiding anything! The Office of the President cannot hide any report! For what purpose and yet, we are using taxpayers' money?

Mr. Temporary Deputy Speaker, Sir, let me assure Ms. Karua that we are going to bring the report to this House so that she can have an input on it.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Subject to your providing the list of names relating to part "c" of the Question tomorrow at 2.30 p.m.---

Mr. Ojode: Tomorrow is Friday, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Imanyara): I am sorry.! I meant Tuesday at 2.30 p.m.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I will lay the names required by part "c" on the Table on Tuesday.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, in order to be able to ask proper supplementary questions, and as a sign of good faith, could the Assistant Minister, alongside with that, having said that the Government has nothing to hide, also table the Report on the Kiruki Commission on the "Artur Brothers", the Report of the Grand Regency Commission, the Sharawe Commission on North Eastern Province and also Prof. Alston's Report, so that we can better be apprised on the use of those commissions?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I do not have anything to hide! But if I am asked a substantive Question to table what she wants, I have no problem!

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

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Order!

Next Question by the hon. Member for Mumias!

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

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Washiali! What is it, Ms. Karua?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I am just seeking your indulgence. The Assistant Minister, in his answer, has said that he will lay those reports on the Table, but they were being evaluated by experts. I am asking you to use your discretion that I do not need to ask a substantive Question. It arises out of his answers! Let him lay those four reports on the Table, because he has expressed willingness to do so by saying that the Government is transparent. We would like to see that, indeed!

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

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Ethuro! You cannot raise a point of order on a point of order, and you know that!

Mr. Ethuro: It is a point of order, Mr. Temporary Deputy Speaker, Sir.

(Laughter)

The Temporary Deputy Speaker (Mr. Imanyara): All right! I will allow you!

Mr. Ethuro: Thank you, Mr. Temporary Deputy Speaker, Sir. I just wanted to remind the Assistant Minister that he is at liberty to present any document he wishes to Parliament, so that we can know. Parliament has already provided for that. Under Order No.4 – Papers – he can do that!

(Applause)

The Temporary Deputy Speaker (Mr. Imanyara): Are you enriched, Mr. Assistant Minister?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, any report which has already been received publicly by the appointing authority, if I am asked to lay it on the Table, I will. But I cannot lay something on the Table which has not been received officially by the appointing authority!

Mr. Temporary Deputy Speaker, Sir, if there is any report which my colleagues want me to lay on the Table, let them do a Question and I will lay it on the Table!

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Assistant Minister! You are the one who referred to all those reports! You have been referring---

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Assistant Minister! Order! In your answer to the Question, you referred to, at least, six reports! So, it is only fair that you lay them on the Table. So, I direct that, rather than Tuesday, I will give you until Thursday next week to file and lay all the reports that you have mentioned on the Table in your answer to the hon. Member's Question.

(Applause)

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir. I want to be on record. If I am asked to lay on the Table any report which has already been received publicly by the appointing authority, I will do so!

The Temporary Deputy Speaker: Order, Mr. Assistant Minister! Order! Maybe, you did not hear my directions. My direction was as follows: You mentioned those four

reports in your answer to the hon. Member's Question and because you offered to file a report, I am giving you until Thursday to table all those four reports!

(Applause)

Next Question by the hon. Member for Mumias!

Question No.135

MEASURES TO PROTECT KENYANS FROM
UNSCRUPULOUS AUCTIONEERS

Mr. Washiali asked the Minister for Justice, National Cohesion and Constitutional Affairs what steps he is taking to make Kenyans conversant with the laws guiding auctioneers, in order to protect them from unscrupulous auctioneers.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The Government recognizes its responsibility to provide access to justice in order to protect and promote human rights of all Kenyans. In my Ministry, certain initiatives are being put in place aimed at enhancing access to justice generally. In realization of that responsibility, the Government has established the National Legal Aid and Awareness Programme. To this end, the National Steering Committee on Legal Aid and Awareness was appointed by the President on 30th November, 2007. The Ministry launched the National Legal Aid and Awareness Programme on 18th September, 2008. The broad objective of the programme is to improve access to justice for all in Kenya, especially the poor and marginalized.

One of the ways through which the programme will achieve its objectives is through creation of legal awareness. Plans are underway to develop a national awareness strategy that will ensure legal information and awareness get to all target groups across the country. At the initial stages, the programme will operate on a pilot basis. There will be six pilot sites including Nairobi, Mombasa, Kisumu and Eldoret. With the rolling out of the pilot projects, members of the public aggrieved by the auctioneers will be able to seek information on the legal options available to them.

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for that elaborate answer. However, what is the frequency of complaints he gets from the public? What has he done to discipline errant auctioneers?

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, since 2003, we have received several complaints from the public. In 2003 we received 110 complaints. None of them is pending today. They have all been dealt with and concluded. In 2004, we received 111 complaints and none is pending today. In 2005, we received 91 complaints and none is pending. In 2006, we received 88 complaints and one is still pending. In 2007, we received 75 complaints and none is pending. In 2008, we received 75 complaints and 12 of them are still pending. We have so far received 33 complaints this year and 18 of them are still pending.

The Auctioneers Act, being the relevant law, has specific provisions on what should happen to the auctioneers that have contravened the law. One of the actions we can take is withdrawal of their licences. Sometimes, they are fined for what they have committed or omitted. Some of them have their licences completely revoked. So, those are the available remedies spelt out in the relevant law.

Ms. Odhiambo: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister clarify when he will bring an amendment to the relevant law so that we can have more severe penalties with regard to auctioneers who overstep their boundaries?

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, what my learned friend has raised is very important. The penalty now available is a fine of only Kshs100,000 even in cases where an auctioneer has committed an offence whose value actually exceeds that amount of money. So, this is the right time to look at these laws. I would like to inform the House that we are not only looking at issues to do with penalties, but also the composition of the board. This is because some of the hon.Members are in the board of auctioneers. So, we will look at the Auctioneers Act holistically, so that we can have a better law that will make Kenyans enjoy the services of auctioneers.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I concur with the Assistant Minister---

The Temporary Deputy Speaker (Mr. Imanyara): You are on a point of order!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to answer the Question partially? He has not answered the substantive part. The hon. Member would like to know when he will bring the amendments for stiffer penalties to the House.

Mr. Cheptumo: Mr. Temporary Deputy Speaker, Sir, I started by agreeing that the amendments are necessary. As to when we shall bring the amendments, one has to be specific on dates. I do not want to mislead the House by giving a date that I will be unable meet. I have said that we will look into the matter and bring the amendments at the right time.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Washiali, ask your last question!

Mr. Washiali: Mr. Temporary Deputy Speaker, Sir, I am satisfied with the Assistant Minister's answer.

Question No.170

PROVISION FOR KAMUKUNJI CONSTITUENCY
ROADS IN 2009/2010 BUDGET

Mr. Mbugua asked the Minister for Roads:-

- (a) if he could indicate the provision for Kamukunji Constituency roads in the 2009/2010 Budget; and,
- (b) table documents showing the total amount spent on roads in the constituency in 2008/2009.

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

(a) As the hon. Member is aware, the 2009/2010 Budget is still under preparation. I am, therefore, not able to say conclusively the provision for Kamukunji Constituency. Nevertheless, the Ministry, through the District Roads Committee (DRC) and the Provincial Engineer, has received a proposal for the 2009/2010 Annual Roads Works Programme as follows. There are seven items in the programme which total to Kshs15.8 million. If the hon. Member wants the details, I am ready to table the document.

(b) May I table a list of the total amount of money spent on the roads in Kamukunji Constituency in 2008/2009 Financial Year. The total cost was Kshs16.82 million.

(Dr. Machage laid the document on the Table)

Mr. Mbugua: Mr. Temporary Deputy Speaker, Sir, it is worthy to note that for the last 15 years, the roads in Kamukunji Constituency have been in a deplorable state. Since the Assistant Minister has not given us a satisfactory answer, could he tell us what he will do to make sure that the roads in Kamukunji Constituency are motorable?

Dr. Machage: Mr. Temporary Deputy Speaker, Sir, with your indulgence may I read the seven items. Pothole patching will be done along the 0.7 kilometre Marbi Street at the cost of Kshs800,000. On Waundo Street---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, the hon. Member has not asked you to do that because you have already done it. He just wants to know when you will make the roads motorable.

Dr. Machage: Mr. Temporary Deputy Speaker, Sir, I assure the hon. Member that I am willing and ready to do the work he wants at a cost of Kshs16.8 million once this House allocates me that money. I have requested to be allocated the money so that I can do that work.

Mr. Mbugua: Mr. Temporary Deputy Speaker, Sir, I think the Assistant Minister is taking me for granted.

The Temporary Deputy Speaker (Mr. Imanyara): Ask him the question!

Mr. Mbugua: Mr. Temporary Deputy Speaker, Sir, I have asked him what he will do to make the roads in Kamukunji Constituency motorable.

The Temporary Deputy Speaker (Mr. Imanyara): But he has told you that he is waiting for this House---

Mr. Mbugua: Mr. Temporary Deputy Speaker, Sir, the roads are not motorable. He has talked about Kshs16.8 million to do the streets. Eastleigh is not motorable at all. What is he doing?

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Mbugua! The Assistant Minister has told you that he has made a request for a certain amount of money in order to fulfill your wishes in Kamukunji Constituency.

Let us move on to the next Question!

Question No.142

COMPULSORY ACQUISITION OF
MR. RICHARD MWOREI'S LAND

Mr. Kapondi asked the Minister for Roads:-

(a) if he could confirm that the Government compulsorily acquired a one acre piece of land in Mt. Elgon District belonging to Mr. Richard Kirui Mworei and used it as a Works Camp for 15 years; and,

(b) what is owed to Mr. Mworei resulting from the acquisition and when he will be paid.

The Assistant Minister for Roads (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, I seek the indulgence of this House to answer this Question later on because I do not have adequate information. I have agreed with the hon. Member that the information sought is very important. I beg that I be given two weeks from now to get that information.

The Temporary Deputy Speaker (Mr. Imanyara): Is that so, Mr. Kapondi?

Mr. Kapondi: Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): So, the Question will be on the Order Paper two weeks hence.

(Question deferred)

Question No.143

NUMBER OF ENERGY PROJECTS IN POKOT CENTRAL

Mr. Litole asked the Minister for Energy:-

(a) if he could state the number of projects undertaken by the Ministry in Pokot Central for the last 10 years;

(b) if he could explain the apparent neglect of Pokot Central District by the Ministry in its development agenda; and,

(c) If he could give an assurance that the Ministry will triple the Rural Electrification Fund for Pokot Central's subsequent budget.

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

(a)The Ministry has undertaken six grid extension projects and two solar installation projects in Sigor at a cost of Kshs175 million. The projects will be carried out at Kababich Market, Kababich Mission Health Centre and Kababich DO's Office at a cost of Kshs19.5million.

Elisar Secondary and Primary Schools, Kshs4 million; Endera Market and environs, Kshs3.8 million; Kapkabuk Secondary School, Kshs23.2 million and Sigor Market, Kshs100 million. These projects are completed. At Lomut, a project worth Kshs14.5 million is ongoing. This leaves a balance of about Kshs3 million in the current financial year for Sigor Constituency. Solar projects have been undertaken to completion as follows: Daniel/Kamboni at Kshs4.3 million, and Chesa Girls Secondary School, Kshs5.9 million.

(b) Pokot Central District has not been reflected.

(c) It is not possible to give an assurance that the Ministry will triple the rural electrification funds for Pokot Central District as allocation will be based on the total funds provided in the Budget, which will be allocated to all constituencies, based on the

existing Constituencies Development Fund (CDF) criteria. However, Pokot Central District and other ASAL districts will also benefit from a special allocation for solar electricity supply to secondary schools, boarding primary schools, dispensaries and health centres.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Litole: Mr. Speaker, Sir, what the Assistant Minister is referring to is what the Pokots have received since the time this country got Independence. It has not got anything else from that time up to now.

The Assistant Minister has talked about special allocation. I would like to be told how much that special allocation is. These are areas---

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have asked how much the allocation is. Could you tell him, Mr. Assistant Minister?

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, the allocation for solar installation, which was for the ASAL districts, was Kshs300 million for all the 22 constituencies.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question, by the Member of Parliament for Turkana Central!

Mr. Litole: Mr. Temporary Deputy Speaker, Sir, I have not asked my last question.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have just asked your last question!

Mr. Litole: That was the first question, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, Mr. Litole! I looked around. You did not stand up. We are on the next Question.

Proceed, Mr. Ethuro!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, before I ask the Question, I have not received the written answer. Nevertheless, I will ask the Question.

Question No.145

CRITERIA FOR AWARD OF STATE COMMENDATIONS

Mr. Ethuro asked the Minister of State for Culture and National Heritage:-

(a) whether he could table the number, names and home districts of Kenyans awarded State commendations since Independence, indicating the various categories; and,

(b) whether he could outline the criteria for such state awards and commendations.

The Temporary Deputy Speaker (Mr. Imanyara): Do you demand a written reply?

Mr. Ethuro: Of course, yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Minister of State for Culture and National Heritage! Who is answering this Question from the Front Bench?

The Minister for Co-operative Development and Marketing (Mr. Nyaga): Mr. Temporary Deputy Speaker, Sir, may I seek your indulgence? I will contact the appropriate Minister, so that he may provide this particular answer. I do not know where he is, but we will make calls to him. This is a very important Question that needs to be answered. So, I undertake to give the message to the Minister.

The Temporary Deputy Speaker (Mr. Imanyara): When will the answer be provided? When do you intend to have the Minister answer the Question?

The Minister for Co-operative Development and Marketing (Mr. Nyaga): Mr. Temporary Deputy Speaker, Sir, I will walk out shortly and call the Ministry. I am sure that they will be ready by Tuesday.

The Temporary Deputy Speaker (Mr. Imanyara): I will come back to the Question.

Next Question, Mr. Abdul Bahari!

Question No.157

DEPLOYMENT OF CLINICAL OFFICER/AMBULANCE
TO SERICHO HEALTH CENTRE

Mr. Bahari asked the Minister for Public Health and Sanitation what urgent steps she will take to deploy a Clinical Officer and provide an ambulance to Sericho Health Centre, considering that many expectant women have died as a consequence.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami) Mr. Temporary Deputy Speaker, Sir, I beg to reply.

My Ministry is currently in the process of recruiting additional medical personnel, including Clinical Officers, through the Public Service Commission (PSC). As soon as the recruitment process is over, Sericho Health Centre will be considered together with other needy cases in the country. If we get enough funds in the 2009/2010 financial year, Sericho Health Centre will be considered for an ambulance.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, this is a very depressing answer, because of the casual manner in which the Ministry has treated it. If you look at my Question, you will see that I have said many expectant women have died as a consequence. It looks like this Ministry is used to this, and it does not care. So, can the Assistant Minister be definite? Can he care about Kenyans? That is what he is supposed to do. He is telling me: "If we get enough funds---" I do not know what that means. Can he clarify?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I sympathise with my colleague, Mr. Bahari. We have challenges in the health sector. One of those challenges is inadequate human resource. We have constantly asked the Treasury to provide us with adequate funds, so that we can give services to the people. We continue asking the Treasury to consider giving us enough money to enable us give service to the people. If the Treasury gives us the money that we have already asked for, we intend to give Garbatula District three ambulances. So, I would really like to have the indulgence of the hon. Member.

Mr. Chacha: Mr. Temporary Deputy Speaker, Sir, this is a situation whereby public transport is not available. Pregnant women have been dying and the Assistant Minister is giving a conditional response, in which he says that he will only support Garbatula if funds become available. This is a situation that warrants the Ministry to even deploy an old vehicle from another district hospital to save the situation. So, could he consider providing a vehicle to Garbatula District, even if it is an old one, to save those women?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I want to reiterate that I sympathise with the situation in Garbatula. I want to seek the indulgence of the hon. Members. If we get money, we will give the first priority to Garbatula District.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, you are being requested. Have you sought money? That is the gist of the question.

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I did mention that we have sought money from Treasury to buy three ambulances for the district. We shall buy the ambulances for Garbatula District as soon as we get the money.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the Ministry promised, at the beginning of this financial year, that they would recruit 1,600 medical staff. Towards the end of financial year, we have not seen this happen. So, could the Assistant Minister be more affirmative and tell us when exactly they intend to recruit these staff, before the year ends?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, we did indicate the fact that we were recruiting, through the PSC, about 1,600 medical staff. That is what is actually going on. I hope that the September, the PSC will have completed the recruitment process and forward the staff to us, so that we can distribute them countrywide.

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

The Temporary Deputy Speaker (Mr. Imanyara): Are you sure it is a point of order and not a supplementary question that you want to raise?

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, I think the Assistant Minister is misleading the House, because these are staff who had been budgeted for in 2008/2009, and they will be recruited in September, 2009, when we will be well into the other financial year.

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, these are the same personnel that are being recruited by the PSC. The process has been quite slow. We have asked them several times to speed up the process. We hope that they will complete this process by September, this year.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Mr. Bahari! We have a large number of remaining Questions.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, as we speak, today--- I received a phone call and was told that one pregnant mother had to be rushed to a medical facility that is 100 kilometres away, so that she could be assisted. I received that information today, and it can be confirmed. Now that the Assistant Minister has said that he will consider giving three ambulances to Garbatula District in the next financial year, in the mean time, could he rehabilitate one of the Four-Wheel-Drive vehicles that they use at the Ministry, so that it can quickly help these expectant mothers?

Dr. Gesami: Mr. Temporary Deputy Speaker, Sir, I will look into that issue and see whether we can allocate one ambulance for that purpose.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question!

Question No.167

CONSTRUCTION OF MORTUARY AT
LARI HEALTH CENTRE

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

(a) what steps she is instituting to construct a mortuary at Lari Health Centre which was opened in 1952; and,

(b) what budgetary allocation the Government has factored for this vital facility during the 2008/09 Budget Estimates.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) My Ministry has no plans to build a mortuary at Lari Health Centre. Currently, there is a mortuary at Tigoni District Hospital which is meant to serve Lari, Kabete and Limuru which formed the former Kiambu West District. Health centres have no provision for mortuary facilities since their level of healthcare provision does not ordinarily require them. Patients requiring specialized or any other enhanced management are referred to sub-district or district hospitals.

(b) There is no budgetary allocation for the construction of a mortuary at Lari Health Centre during the year 2008/2009 Budget Estimates since this is not a priority in health centre care service delivery by my Ministry.

Mr. Temporary Deputy Speaker, Sir, let me add that I know there is a new district. When the self-management team in that district decides to upgrade the health centre to a district hospital, then all the facilities for a district hospital will come along with that upgrade.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I wish to appreciate the impressive answer given by the Minister. I recognize her contribution on the new status of Lari District. I would like to request the Minister to consider the fact that Lari District has a population of about 200,000 people. Most of the people in my constituency are not able to transport bodies to Tigoni Hospital. Even when they try to take some to Githunguri, it also becomes very difficult. In the circumstances, could she reconsider her position by way of giving a very humane consideration to this very important matter?

Mrs. Mugo: Mr. Temporary Deputy Speaker, Sir, I also feel the need the hon. Member is expressing but we go by the rules and regulations which are laid down. As I said, health centres and dispensaries do not qualify for that facility. However, since it is a new district, I have no doubt that the District Health Management Board and the District Health Management Team will soon recommend for the Lari Health Centre to be upgraded to a sub-district or a district hospital. If that is done, the facility will definitely be there. However, it is not possible to construct a mortuary in a health centre. The nature of treatment in a health centre hardly ever needs a mortuary. They are meant for management of not very sick people. When they are very sick, we move them to the right institutions which are hospitals.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Mr. Njuguna!

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, the response is satisfactory but I would urge the Minister to give priority to the situation in my district when they embark on elevation of health centres to district hospitals at the Ministry headquarters.

The Temporary Deputy Speaker (Mr. Imanyara): But she has told you as much! She said it is up to you. When the Board recommends that and they receive it, they will do that.

Next Question!

Question No.189

COMPLETION OF LAND ADJUDICATION
IN IGEMBE CONSTITUENCY

The Temporary Deputy Speaker (Mr. Imanyara): At the request of the Member who is facing an emergency situation, the Question will be deferred to Tuesday next week.

(Question deferred)

Next Question by Mr. Charles Nyamai!

Mr. M'Mithiaru: On a point of order, Mr. Temporary Deputy Speaker, Sir. Question No.189 has not been asked.

The Temporary Deputy Speaker (Mr. Imanyara): I was made to understand that you sought that it be deferred.

Mr. M'Mithiaru: Mr. Temporary Deputy Speaker, Sir, I have not sought deferment from anybody.

The Temporary Deputy Speaker (Mr. Imanyara): Then go ahead and ask the Question!

Question No.189

COMPLETION OF LAND ADJUDICATION
IN IGEMBE CONSTITUENCY

Mr. M'Mithiaru asked the Minister for Lands:-

(a) why the process of land adjudication/demarcation which started more than 40 years ago in the adjudication unit of Akirang'ondu, Amwathi 1, Amwathi 2, Naathu, A/Kiongo, Athiru Ruujine and Kawiru has not been completed; and,

(b) whether he could give a definite time-frame within which the process will be completed and the title deeds issued.

The Temporary Deputy Speaker (Mr. Imanyara): Where is the Minister for Lands?

Mrs. Mugo, where is the Minister for Lands? Who is answering this Question?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, you know I am equally very senior in this position; the

Permanent Assistant Minister. I can see there is miscommunication between the Ministry and the Questioner; I beg your indulgence. The Assistant Minister was around and he answered the other Question, then left. I will communicate with the Minister and I want to assure you that the Question will be answered on Tuesday. I apologize on their behalf.

The Temporary Deputy Speaker (Mr. Imanyara): Given the information that had come to me, Mr. M'Mithiaru---

Mr. M'Mithiaru: On a point of order, Mr. Temporary Deputy Speaker, Sir. I never communicated to anybody and I even got a written answer; so, I do not really know what is happening. Maybe, the Minister for Lands is the one who approached the Chair on this issue.

It is a grave matter because it is an issue that touches on land and there is very high corruption at the Ministry of Lands. I, however, have no objection to the Question being deferred.

The Temporary Deputy Speaker (Mr. Imanyara): Given the circumstances, because somebody approached the Chair as I was seated here and requested that this Question be deferred to Tuesday, that is the reason there is no Assistant Minister to answer it. I will, therefore, reluctantly defer this Question to Tuesday next week. It will be prioritized and appear as the first Question under Ordinary Questions.

(Question deferred)

Question No.190

COMPENSATION FOR VICTIMS OF
ATTACK BY STRAY LEOPARD

Mr. Nyamai asked the Minister for Forestry and Wildlife how much compensation had KWS paid to Messrs. Ndolo Kathuva and Mutinda Ngala who hail from Yatta Division in Kitui District who were attacked and seriously injured by a stray leopard.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The two; Mr. Mutinda Ngala and Mr. Ndolo Kathuva have not been paid any monies by my Ministry. Their compensation claims progress is as follows:

Mutinda Ngala has not yet returned the compensation claim forms that initiate the compensation process. He was issued with the claim forms on 23rd September 2008 and advised to fill and return them to the Kenya Wildlife Service (KWS) area warden. Follow up reports by the Warden, Mutomo, indicate that the claimant had travelled to Mombasa with the forms. Compensation for his injuries will be initiated as soon as he returns the compensation claim forms to the Warden, Mutomo.

Mr. Temporary Deputy Speaker, Sir, Mr. Ndolo Kathuva's duly filled compensation claim forms were submitted to the Warden, Mutomo on the 24th March 2009. The claim could, however, not be processed because the claimant did not attach a copy of his national identity card for verification. Mr. Kathuva has been contacted to submit a copy of the identity card. His compensation process will start as soon as he submits this document.

Mr. Nyamai: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for his answer. However, I would like to inform him that the biggest challenge we had, even when these people were attacked by the leopard is that, it took four days for the wildlife centre at Mutomo to respond.

What is the Assistant Minister doing to improve response in such cases, particularly in low ASAL districts which are currently under serious attacks from wildlife? Yesterday, we lost about 11 goats to hyenas and a buffalo is already harassing people; they cannot sleep. What is it that the Ministry is doing to improve the response?

Mr. Nanok: Thank you, Mr. Temporary Deputy Speaker, Sir. As you may be aware, most of our wildlife is found outside the protected areas. It is important that communities living close to wildlife dispersal areas report to the Ministry for immediate action.

Dr. Nuh: Mr. Temporary Deputy Speaker, Sir, the process of filling forms and taking them to the District Compensation Committee is very tedious. Most of the time, the people who are injured by wildlife are very poor and cannot afford to pay the fare to the district headquarters to forward their claims. What is the Ministry doing to simplify the claiming system for people who are injured by wild animals?

Mr. Nanok: Mr. Temporary Deputy Speaker, Sir, the process of seeking compensation is clearly stipulated by the law. Cap 376 of the current Wildlife Act is very clear on this. Normally, the wardens explain to those who are affected after they have healed how to fill forms and they are assisted to fill them. If you find that this process is so tedious, I believe that we can bring it here to be simplified. Any hon. Member who feels that the process is tedious is free to bring amendments to the law. This law has already been enacted by this House.

Ms. Odhiambo: Thank you, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister tell us why the Government does not compensate owners of domestic animals which are attacked by wild animals, for instance, when a lion kills camels or cows? What are they going to do to rectify that?

Mr. Nanok: Thank you, Mr. Temporary Deputy, Speaker, Sir. The present Wildlife Law, Cap 376 of the Laws of Kenya, indicates that it is only human beings that can be compensated upon injury or death. We realized that this was a weakness in the Act. Previously, I have said in this House that we have finalized reviewing the Act and the new Bill that is now pending approval by the Cabinet, and which His Excellency the President referred to during his Opening remarks of this Third Session, will be brought here for enactment. I believe that some of the issues that the hon. Member has mentioned will be addressed. We will have time to make sure that all issues of compensation are included in that Act.

Mr. Nyamai: Thank you, Mr. Temporary Deputy Speaker, Sir. My Question was how the Assistant Minister can improve the post which is in lower Yatta raise an alarm. That was not answered. However, as he answers that, could he consider setting up a KWS post at Kanyangi Shopping Centre which is nearer and can easily serve the whole district?

Mr. Nanok: Mr. Temporary Deputy Speaker, Sir, I invite hon. Nyamai, who is my friend, to come to my office so that we can discuss the best way we can help his people.

Question No.199

CONSTRUCTION OF BADASA WATER DAM PROJECT

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

(a) why the construction of Badasa Dam Water Project in Marsabit, a major initiative funded by the Government during this financial year has not commenced;

(b) the budget of the project as well as the contractor contracted to implement the project; and,

(c) the planned dates of commencement and completion of the project.

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

(a) Badasa Dam Water Project is one of the five large dam projects which my Ministry is implementing during this Financial Year, 2008/2009. The tenders for the construction of this dam were received this year but one of the renderers lodged a complaint with the Public Procurement Oversight Authority (PPOA), which directed re-tendering of the project in December 2008. The re-tendering process commenced in January and was concluded in April 2009.

(b) The contract for the construction of this project was awarded to M/s Midroc Water Drilling Company Limited. The project was allocated Kshs250 million this financial year to start off.

(c) The project site has been handed over to the contractor who has scheduled to commence work this month, June 2009, and to complete the work by December 2011.

Mr. Chachu: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank the Assistant Minister for a very precise and informative responsive. However, if the project is supposed to commence in June, 2009, after a whole financial year, how can this Ministry address water problems in this country when a single procedure like tendering takes a whole year?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, the Ministry is also wondering about this because it is the work of this House to make sure that it creates laws and regulations. It is only this House that can look at the Procurement Law and make sure that we reduce the days that are required to effectively effect a tender. We must follow the laid down procedures. If the law says that we must wait for 21 days, we should wait for 21 days. If it says that we wait for 90 days, then we should wait for 90 days. However, I want to assure the hon. Member that we are very fast. By December, we had re-tended the works and today, I can confirm that we paid the contractor so that he could start work on this contract.

Mr. Bahari: Thank you, Mr. Temporary Deputy Speaker, Sir. Badasa Dam is in Marsabit where 20 litres of water costs Kshs60. I do not think that anything like that happens in any other part of this country. Why is the Assistant Minister blaming the law when in the first instance, they are the ones who came up with the law? The Bill was successful. Why should he blame this House?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir let me tackle the most important part of the question. It is true that there is acute shortage of water in Marsabit. In fact, we have received 800 cubic meters of water during the rainy season. That is high peak period. In a dry season, we received 300 cubic meters to be shared amongst a population of over 30,000 people.

According to our projection for 2030, that town will be having over 81,000 residents. That is why we have taken up this issue and we do what has not been done for a long time. The supply they are receiving today was effected in 1970 and augmented in 1995. You can see that since we took over, about one year ago, we have made sure that in the next three years, the residents of Marsabit will not suffer again. You should commend the Ministry for that.

Mr. Chachu: Mr. Temporary Deputy Speaker, Sir, I appreciate what the Ministry of Water and Irrigation is doing in Marsabit. That is surely commendable. However, I would like the Assistant Minister to outline the budget for the three years for Badasa Dam.

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, in this financial year, we have set aside Kshs250 million and the contractor has received Kshs100 million today. He will receive the remaining amount by next week because we are closing the financial year this month. The contract sum for the whole project is Kshs2.3 billion which will be paid by 2011 when the final certificate will be presented to the Ministry.

The Temporary Deputy Speaker (Mr. Imanyara): We will go back to Question No.145 by Mr. Ethuro!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, this is the second time I will be asking this Question and yet, I have not received a copy of the written answer.

Question No.145

CRITERIA FOR AWARD OF STATE
COMMENDATIONS

Mr. Ethuro asked the Minister of State for National Heritage and Culture:-

- (a) if he could table the number, names and home districts of Kenyans awarded State commendations since Independence, indicating the various categories; and,
- (b) if he could further outline the criteria for such state awards and commendations.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I have contacted the concerned Minister and I am very sorry that he could not be with us today. He has requested if he could be allowed to answer the Question on Tuesday, next week when he will be available with a detailed answer that will make the hon. Member for Turkana Central a very happy man. I undertake to produce the Minister here on that day!

The Temporary Deputy Speaker (Mr. Imanyara): What do you have to say, Mr. Ethuro?

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I always expect answers that make me happy. So, I am looking forward to it. However, the relevant Minister was in the House until my Question was called out. Due to the respect I have for that Minister who is my good friend, I accept that the Question be deferred to Tuesday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Very good! The Question is deferred to Tuesday!

(Question deferred)

Is there any Ministerial Statements to be made today?

MINISTERIAL STATEMENTS

COMPILATION OF TASKFORCE REPORT ON ACTIVITIES OF PYRAMID SCHEMES

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, last week Dr. Khalwale asked me to make a Ministerial Statement on pyramid schemes.

A petition was delivered to hon. Dr. Khalwale by some victims of pyramid schemes to be presented to Parliament. By that time, I was already in the process of taking necessary action to address previous petitions which had been presented by different groups of the victims. This is because some of the schemes had been registered with my Ministry as co-operative societies. I appointed a taskforce on 14th January, 2009 to look into the plight of the pyramid schemes victims. The taskforce commenced work on 9th February, 2009. Subsequently, they held many public hearings in various parts of this country, where presentations and representations were made by the victims, their lawyers and families.

Alongside the public hearings, the taskforce also organised registration of victims in all district co-operative offices countrywide. The taskforce also interviewed some directors and promoters of pyramid schemes with a view to verifying some of the information that had been gathered during the public hearings. Some of the directors and promoters who were unable to attend the interviews were represented by their lawyers, while some did not turn up.

In addition, the taskforce visited relevant Government offices, where I am told valuable information relating to the activities of pyramid schemes was availed. The taskforce now is in the process of compiling the final report which should be presented to me by the middle of this month.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Any clarifications on that?

We will start with Dr. Khalwale.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for the effort he is currently undertaking to get to the bottom of this issue. However, I would like to seek the following clarifications before he tables his report.

First, what protection is the Minister offering to the officials of the victims of pyramid schemes whose lives are under threat, as evidenced by Mr. Kinyua, who had his eye gorged out by thugs?

Secondly, could the Minister undertake to impound the travel documents, including passports of the directors of these companies, because now that that noose is closing on them, some might run away with public assets?

Thirdly, is the Minister convinced that he is in control and in charge, given that his Government is offering protection to some of the perpetrators of these heinous schemes to the extent that they are arrogant and do not want to appear before this taskforce? With your permission, because the poor people of Kenya who were conned have no other recourse than to rely on this petition, I would like to mention just a few names of some of the people who have been mentioned before this taskforce, but have defied to appear before it. Could the Minister confirm that these people I am naming have not defied his taskforce because of protection from his Government and himself? These people are Mr. Njeru Ndwiga, Mr. Gideon Mwiti---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Khalwale! As a Member of this House, you know the provisions of the Standing Orders!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, that is a former Member of this House. The others are Mr. Stanley Murage who was the former advisor to the President in the Ninth Parliament; Mr. Andrew Ligale, who was a former Member of Parliament; Dr. Ndakwe who is being protected by specific PNU Ministers; Ms. Mary Odinga, who is a former Ambassador; Mr. George Donde and a certain Zachariah.

Lastly, could the Minister clarify whether in view of what I have said; that these people are being protected by the Government, therefore, his taskforce is toothless? Could he consider handing over this matter to a Parliamentary Select Committee so that we can assist these victims?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, in the Statement that the Minister has made he has not told us the steps he will take to protect the Kenyan public.

Mr. Temporary Deputy Speaker, Sir, he has also admitted that those schemes were registered as co-operative societies. Could he clarify what measures he will take to punish the officers within his Ministry who allowed a fraudulent organization to be registered as a co-operative? What action has he taken and who has he punished up to now?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I just want to make a follow up on the issue that Mr. Mungatana has raised and maybe, bring in a new dimension.

The Temporary Deputy Speaker (Mr. Imanyara): If you have a new one, you can raise it but do not repeat Mr. Mungatana's clarification.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I am bringing a new dimension. The Minister has talked about these pyramid schemes being registered as co-operative societies. What precautions is the Ministry putting in place to carry out due diligence so that in future, when co-operative societies are registered, enough due diligence is carried out so that we do not end up with these fraudulent schemes coming up as registered co-operative societies?

Mr. Linturi: Mr. Temporary Deputy Speaker, Sir, I would also want the Minister to clarify whether among the people that are being protected and who have not appeared before the taskforce is one by the name, Mrs. Kimunya, the wife of the Minister for Trade. She has refused to appear before the taskforce. Could he, please, confirm whether she is one of the people that have refused, despite some--?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, let me start by saying that I do not wish to pre-empt the work which is being undertaken by the Nyenze Taskforce because it is a very difficult job. It is a very difficult task that they are engaged in; one that hopefully, if nothing else, will help Kenyans in future so that they do not get involved in this kind of thing. Let me also confirm that I do not have the final report but I will have it in the next two weeks. But indications are that they have identified 169 such schemes and we believe others are still going on. So, part of this exercise, we hope, is to stop Kenyans from being cheated in future.

Let me start with the first question: What protection am I providing to people like Kinyua and others? It is very difficult to provide specific protection. I am aware of Mr. Kinyua's problem. I am even aware that he has court cases pending as a result of the action he has been taking on this particular subject. I have raised this with various security agencies so that we can see what we can do because of possible repercussions that could come up.

May I plead with Dr. Khalwale to allow me to get the report because I do not have the names. Many names have come up because this was a public hearing and many people went there. So, some of the names he is mentioning, yes, have come up but I am waiting to see the report because there was a process of clarification, consultation and verification that was taking place. Once the report is out, I will be able to be more specific. I am sure the taskforce will be recommending impounding of documents if that makes sense after the verification and discussions that they have been holding.

The other question was: Am I in control? The Government is a very big animal. I was under pressure as the Minister in charge of co-operatives because out of the 169 schemes that have been identified, about 16 at the last minute converted to co-operatives. They took advantage of the co-operative law and continued to cheat and take money from the public, not only through the churches but also from co-operatives. But in the case of co-operatives, I wish to confirm that very quickly, our officers discovered what was going on and most of them were stopped. They were liquidated and stopped. Some went to court and we have had court cases going on. Having, therefore, been under pressure from people who lost billions of shillings, as a Ministry, I had to take action. It is expected after this that the initial report that will come from this taskforce will be used to address the various areas that have been identified. I have no problem if Parliament wants to pick it up in order to address it, if there are any loopholes and areas that need clarification or more specialized follow up than a co-operative Minister's taskforce can do. I have no problem and I will lay the Report on the Table once it is ready for Parliament to follow up. I think it is only fair that we should be transparent because, at least, we know of 20 Kenyans who have committed suicide as a result of losing money. We know of many homes where divorce has occurred. We know many separations in families have taken place because the wife never told the husband or *vice versa*. I am not toothless because the report will come out. I will make it public because I committed myself from the beginning that it will be public. The House is at liberty and I will also pass it on to the other wings of the Government to follow up the specific areas that will be necessary to be followed up. Obviously, a report like this makes recommendations that need to be followed up.

My friend, Mr. Mungatana, raised the issue of what I am doing to protect the public in future. One of the things is to get this report out. Once it is out and the publicity that will go with it because I am sure there will be a lot of publicity; the very fact that many Kenyans have recorded their claims, the participant public in the hearing shows that public interest is there. That alone and the message that will come out of it will educate the Kenyan public to be careful of these kind of people who come with clever schemes. For example, they will know that there is nobody on earth who can give you a return of 10 per cent unless it is stolen goods.

Mr. Temporary Deputy Speaker, Sir, the action we have taken internally, as a Ministry, having learnt the hard way, is to tighten the rules of how to assess who is a co-operative. Our officers are being retrained to be more careful and not be cheated by these “clever” people in future.

I was also asked to talk about debt and I have explained that our officers are being retrained. They have also been interrogated by this particular taskforce. They have been questioned at the highest levels of the Ministry and their information will be part of that report. I am sure because the team that we appointed is capable and able.

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

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

Mr. Linturi wanted to know specifically whether Mrs. Kimunya was mentioned. I really do not have the specific names at this point. But as I said, in the next two weeks, I will be able to even have the names that were mentioned. But I think because it was a public hearing and people heard it, even FM radio stations quoted this thing, this is in the public domain at the moment. May I plead with the House to give me, at least, two weeks so that I can come with a detailed report and after that, we can carry it forward for the benefit of our people.

Thank you.

(Applause)

POINTS OF ORDER

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Kambi Kazungu!

Mr. Kambi: Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kambi Kazungu! Hon. Members, you will recall that we said that we are only taking Ministerial Statements that are ready. We cannot take some more because of time constraint. Hon. Members, please, bear with us. We can resume taking requests for new statements next week

Next Order!

Ms. Noor: On a point of order, Mr. Temporary Deputy Speaker, Sir. I gave my notice yesterday and I needed to be given a chance before we go to next Order!

The Temporary Deputy Speaker (Mr. Ethuro): Notice for what?

Ms. Noor: Mr. Temporary Deputy Speaker, Sir, requesting for a Ministerial Statement.

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for---

(Laughter)

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

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. Ordinarily, when the House or hon. Members request for Ministerial Statements, it is on serious matters that are happening and are gripping the nation. We cannot say that we should--- I am not challenging your ruling but, for example, we have hawkers who have a problem in this City.

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

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I am just requesting if you could be kind enough to revisit that issue. There are issues which are gripping this nation and the Ministers need to do something.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Mungatana, as you may have realized, the Chair is quite sympathetic to hon. Members. I was equally consulting when you were communicating. You must also remember that the Order of the day is based on time. Knowing the interest demonstrated by hon. Members, the Chair is willing to consider, but let us be brief, make our points very clear and not statements and long speeches. So, I will allow you on condition that you are going to curtail your long speeches.

We shall start with Ms. Noor, Mr. Kazungu, Mr. Ogindo and finish with Mr. Mungatana.

WITHDRAW OF DEROGATORY REMARKS ABOUT WOMEN
BY NYANZA PROVINCIAL COMMISSIONER

Ms. Noor: On a point of order, Mr. Temporary Deputy Speaker, Sir. I sought a Ministerial Statement on human rights violations remarks made by the Provincial Commissioner (PC), Nyanza Province, Mr. Paul Olando on *Madaraka* Day regarding the rape of women in Kuria District by the security agents during the peace mission. I was notified that he has apologized on the same and I wish to withdraw my intention.

INFRINGEMENT ON FREEDOM
OF THE MEDIA

Mr. Kambi: On a point of order, Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Ministry of Information and Communications. The Prime Minister is on record as having said that the Government hired a foreign firm Intertek, to test poisonous maize so as to counter a test by the Kenya Bureau of Standards (KEBS). Yesterday, the issue of how Intertek was procured and paid was discussed in

this House and the Speaker directed that it be answered by the Prime Minister next Wednesday.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kazungu! What are you seeking from the Minister?

Mr. Kazungu: Mr. Temporary Deputy Speaker, Sir, on the issue involving taxpayers' money, it is not right for the media to be prevented from investigating a foreign company which is operating in Kenya and using Government money. What protection rights are there to enable the media to unearth corruption and report on companies that should be banned from doing business with the Government due to shady operations?

The Temporary Deputy Speaker (Mr. Ethuro): From which Ministry are you seeking that Ministerial Statement?

Mr. Kazungu: Ministry of Information and Communications.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I will report that but I am not clear about what I am supposed to ask the Minister for Information and Communications to issue a Ministerial Statement on.

The Temporary Deputy Speaker (Mr. Ethuro): Just communicate to the Minister and refer to the HANSARD of today and you will get the information.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Is the Minister supposed to be harassing the Press? It is not clear from what the hon. Member has said.

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are complicating the life of the Chair. The Chair had granted this as a generous opportunity because of time constraints. Let the Minister responsible look at the HANSARD and consult the hon. Member for further clarification.

APPOINTMENT OF MS. P. N. KOMORA
AS DIRECTOR OF CMA

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Finance on the appointment of Ms. Priscilla Njeri Komora as the Director of Capital Markets Authority (CMA) for three years with effect from 9th March, 2009 vide gazette notice number 3502 of 9th April, 2009.

Mr. Temporary Deputy Speaker, Sir, until her retirement on 27th February, 2009, Ms. Komora was the Controller and Auditor-General of the Kenya National Audit Office. In the Ministerial Statement, first, I would like the Minister to clarify why he appointed Ms. Komora to the Board of an organization to which she was an auditor and against international best practice.

Secondly, could he also clarify what the required qualifications for such an appointment are? Thirdly, how does he intend to deal with conflict of interest arising from this appointment, especially considering that her deputy, Mr. A.S.M. Gatumbu was appointed as her successor and in effect, will be auditing CMA?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I will contact the Deputy Prime Minister and

Minister for Finance but may I plead that he be given time until the week after because the Budget is coming and so, he is tied down in preparing it which is an important Parliamentary procedure?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! I do recall that yesterday, we said that all of us are busy in one way or the other, despite the Deputy Prime Minister and Minister for Finance being busy with the Budget. He also has an Assistant Minister. When can he issue the Ministerial Statement? Budget is an annual exercise that should have been planned in advance.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I am sure it is possible in that case, given your instructions by next Thursday.

FREQUENT CONFRONTATIONS BETWEEN HAWKERS
AND LAW ENFORCERS IN URBAN CENTRES

Mr. Mungatana: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the question of hawkers not just in Nairobi but in this country. There were problems in Kisumu, then a senior politician intervened and the relocation of hawkers was stopped. Subsequently, there was a problem in Kitui, another senior politician intervened and the hawkers were not relocated. Subsequently, there were riots in Mombasa in which two fire trucks were burnt as a result of confrontation between hawkers and the municipal council *askaris*. Yesterday, the confrontation went a notch higher. In fact, one innocent by-stander lost her life because of the confrontation in the city between the hawkers, city *askaris* and other administration officers.

Mr. Temporary Deputy Speaker, Sir, I would like the Deputy Prime Minister and Minister for Local Government to clarify the following: Why is the Government using excessive force against innocent Kenyans who are trying to make an honest living? Secondly, what was the policy of the Government at the time the Late Mr. Maitha was handling the Ministry of Local Government? How did he handle the hawkers differently that they are not being handled so now? Thirdly, does the Government have a policy? If so, why is the Deputy Prime Minister and Minister for Local Government not applying it now because it was applied before if it is existent?

If the policy is in existence on how to handle hawkers within our cities, could he table that policy document as soon as possible? Finally, regarding the damage that was occasioned to the properties of the hawkers, could he do an assessment of the damage that was caused to those people and what plans does he have to compensate those people, particularly those who were injured in the fracas and those who lost their lives?

The Minister for Co-operative Development and Marketing (Mr. Nyagah): Mr. Temporary Deputy Speaker, Sir, I wish to confirm that I will pass this message to my colleague, the Deputy Prime Minister and Minister for Local Government and sometime next week, he will be able to respond, given the importance and the seriousness of the matter.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! Sometimes next week is no time. Give us a date because you have to commit yourself to the House.

The Minister for Co-operative Development and Marketing (Mr. Nyagah): By Wednesday next week, Mr. Temporary Deputy Speaker, Sir.

MOTION

ADOPTION OF REPORT ON FACT FINDING VISIT TO PRISONS

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, I beg to move: -

THAT, this House adopts the Report of the Departmental Committee on Administration, National Security and Local Authorities during its fact finding visit to the Nairobi City Council and Langata Women Prison on 24th October, 2008; and the Kamiti Maximum Security Prison on 4th December, 2008, laid on the Table of the House on Wednesday, 3rd June 2009.

Mr. Temporary Deputy Speaker, Sir, following meetings with a number of stakeholders such as the Association of Local Government Authorities of Kenya (ALGAK) and the Kenya Alliance of Residents Associations (KARA) sometimes last year, there arose a need for this Committee to pay a visit to the City Council of Nairobi to familiarise itself with issues of operation, because, what was coming out in our meetings was that there was serious laxity and inefficiency at the City Council of Nairobi. Further, there was rampant corruption and the repressive Cap.265 of the Local Authorities Act was weighing down the operations of the Council.

Mr. Chairman, Sir, when we visited the City Council offices---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kapondi, you are the Chairman. I am the Temporary Deputy Speaker.

Mr. Kapondi: I am sorry, Mr. Temporary Deputy Speaker, Sir. When we visited the City Hall, after having a meeting with the councilors, we realised that there was a serious need for this monster called Cap.265 to be amended. More or less, the councillors who are doing a very critical job for this country and who are directly accountable to the electorates, have very little say in terms of operations at the council. At the end of it all, they end up taking the blame. You will agree with me that even Members of Parliament have been questioning the usage of Local Authorities Transfer Fund (LATF) funds.

What is coming out very clearly is that when it comes to the operations, the Minister for Local Authorities who has a lot of powers, delegates the same powers to the executive officers who run the councils more or less single handedly. The councillors have been left as entities without any serious work, thus leaving them open to a lot of ridicule from members of the public. So, this Committee feels that there is that urgency to address this issue, so that councillors take charge of the respective councils, so that service delivery is affected. In that way, the blame game between the councillors and the executive officers in the council will more or be less streamlined.

Mr. Temporary Deputy Speaker, Sir, after our visit to the Nairobi City Council, we decided to proceed to Langata Women Prison. One reason there was that necessity was that there has been a lot of hue and cry about the conditions of the prisoners, warders and convicts in prison.

What we did realise is that Langata Women Prison appears to be a model institution in the country in terms of congestion. There was not much congestion. There are quite a number of facilities as a result of contributions from NGOs, particularly Faraja Trust. It has done a fantastic job. It has pumped in a lot of money. It has also provided quite a number of facilities. It is one of the penal institutions in this country that has beds and mattresses. Generally, the conditions at this institution are habitable.

One critical aspect that is looming large in that institution is on the state of security. This is because part of the land of the prison has been grabbed by outsiders. The mode of grabbing took an approach where prison bosses wrote letters to the Commissioner of Lands to the effect that they did not need that particular piece of land. This gave outsiders and other groups, the opportunity to seize land that is adjacent to the prison. As a result of that, a number of structures have come up. These structures are posing serious security risks.

There are some high-rise buildings just overlooking the wards where the convicts live. This poses a serious security risk because it is very easy for outsiders, if they have evil designs, to organize for rescue operations for hardcore criminals. This is can be possible if those criminals are connected outside. They can even organize petrol bombing of the institution.

The Committee, therefore, suggest very strongly that this issue be looked into and prison authorities consider undertaking surveillance system through CCTV instead of the normal physical surveillance by warders around the institution.

Further to our visit to Langata Women Prison, we undertook a visit to Kamiti Maximum Prison. This was necessitated by an event that happened sometimes last year which was captured on camera and relayed widely through the media. There was serious allegation of torture by warders. There was also a serious disciplinary problem in the offing. There was conflict between warders and convicts. These were matters of serious concern.

What came out very clearly in Kamiti Maximum Prison is the fact that very little has been done by the Government to expand the facilities in these institutions. Basically, the structures that exist are the same ones that were put up by the colonialists. The congestion problem is more serious in Kamiti. For example, one block, that was initially meant to hold 117 convicts and remandees is currently holding about 800. That is really posing a serious human risk, both to the warders and to the prisoners.

Mr. Temporary Deputy Speaker, Sir, an issue that is of great concern in Kamiti, and this one affects basically all penal institutions, is related to the death row convicts. In Kamiti alone, there are around 300 convicts who are on death row and who have exhausted all appeals. What they are waiting for is the hangman's noose. But, unfortunately, for the last 20 years, there has been no execution or hanging in this country. So, that means that those convicts have been staying there with no hope of coming out. Out of frustration and idleness, because they cannot be subjected to any work according to the prison rules because they are dangerous criminals, it now gives room to those convicts facing death row to hatch plans to destabilize the prison institutions. That is one basic reason why last year, there was a serious uprising and disciplinary problem in our prisons.

So, Mr. Temporary Deputy Speaker, Sir, what the Committee strongly felt is that, unless the review board, which is supposed to grant Presidential clemency – because that

is their only hope that gives those people an avenue of coming out if their records are clean in prison--- If they meet regularly so that those cases are considered, then the congestion problem and the problem of death row convicts staying there without knowing when they will come out or when they will face the hangman's noose will go down.

Finally, Mr. Temporary Deputy Speaker, Sir, it is important for this House to consider--- I know there have been attempts before to consider a legislation that does away with the death sentence. If that legislation is considered and the death sentence is banned--- As a country that is progressing towards the developing countries, we need to take precedence from other countries. Considering the fact that our judicial institutions have certain weaknesses; considering the fact that many Kenyans have been crying about police reforms, some of the convicts who end up facing the hangman – who is not there – are people who failed to have a competent lawyer because of poverty. Therefore, they are left at the mercy of the weaknesses that we have in our institutions. There was one very clear case in Kamiti of a boy who is now facing the hangman's noose because he stole a loaf of bread. He has been there and has exhausted all the machineries of appeal. Such a case, which was considered to be robbery with violence, may not necessarily be under that category because it is something petty. But, unfortunately, there he is!

So, Mr. Temporary Deputy Speaker, Sir, the Committee feels very strongly that the death sentence should be removed from our Statutes because of the weaknesses that we have in our institutions. As long as those weaknesses are there, it is not morally right to pass such very harsh sentences and if we have to uphold it, why can we not execute it instead of just leaving a population of around 3,000 people countrywide, who are facing the hangman's noose? We are leaving them in abeyance, feeding them, clothing them and leaving them idle, maybe, to tutor other criminals. That is because that interaction is there in prisons between death row convicts, those facing life sentences and others with even lesser sentences.

Mr. Temporary Deputy Speaker, Sir, those are some of the considerations that we came up with. The Committee felt very strongly that for us to move forward; for us to get rid of the rot that we have in our prison institutions, we need serious reform measures.

Further, Mr. Temporary Deputy Speaker, Sir, as regards the housing problem in the prisons, one issue that came out very clearly, particularly in Langata, is that there was a block that is incomplete. It has stayed like that for the last many years. Nothing has been done about it and the reason is that the Commissioner of Prisons is just a Commissioner of Prisons. He has no teeth and powers to carry out housing projects. Instead, housing is done by the Ministry of Public Works without consultations with the prison authorities. That is something that needs to be looked into. If we are serious about providing housing--- For your information, the conditions under which prison warders live in this country are so deplorable. In fact, that is one reason why there is that animosity between the prison authorities and the convicts. The prison reforms, so far, appear to favour the convicts and not the warders. So, that has made it even easier for the warders to engage themselves in petty businesses within the prison so as to have an extra buck that can assist them to improve their welfare. It is something that the Government has to look into very seriously. It is something over which measures should be taken as a matter of priority because time and again, a number of commissions have been set up to look into the issues affecting prison warders and convicts. For example, we have the Madoka Report. But those reports have not been implemented in time and when they are,

they are done in piecemeal and very selectively. So, the Committee feels very strongly that we need to move fast so that we get things right in those institutions. These institutions are very important because they keep people who are perceived to be wrongdoers, but are critical in the development of our country.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move and ask one of my colleagues, Mr. Kiilu to second.

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, I beg to second this Motion.

First of all, I would like to commend the Mover of this Motion for the able manner in which he has presented this Report. Our findings upon visiting the Nairobi City Council and Lang'ata Women Prison form part of this Report. The recommendations that have been made by this Committee will be useful if adopted and implemented by other local authorities and penal institutions in this country. This is because they apply equally.

The most crucial issue which kept coming up now and again is the need for an urgent review of the Local Government Act which gives the Minister for Local Government a lot of sweeping powers over the performance of civic leaders and chief officers. As you know, the civic leaders in Nairobi and other local authorities are the policy makers. However, the implementation of their policies is limited in the sense that they must be in good books with the chief officers who take instructions from the Minister for Local Government. Therefore, there is an urgent need to review this Act so that enabling provisions are made. If this is done, there will be a harmonious working relationship between the civic leaders and the chief officers.

Mr. Temporary Deputy Speaker, Sir, looking at the tenure of a Mayor or a County Council Chairman, which is 18 months, I think it is a very short time for any serious leader to come up with resolutions, programmes and start implementing tangible projects in the local authority. This is because at the end of the first year, the person will be busy planning for his campaigns to come back. This gives no room for the implementation of the council's programmes. At the end of the day, the local people continue to say: "Look, this civic authority is doing nothing for us". So, we need to review the law so that the tenure of civic leaders is extended. They should also be directly elected and stay in office for a longer period so that we can assess their performance. This will make them not waste time and resources campaigning at the expense of service delivery.

With regard to reforms in the local authorities, I hope the Ministry will start thinking seriously on the type of local authorities this country should have in future. The tradition has been that wherever a district has been created, an equivalent county council for that district is also created. The last two years have seen a creation of so many districts even within a constituency. One wonders whether it is necessary to create a local authority for every district. For example, in Makueni Constituency which I represent, I have three districts. Should I have three county councils for each of the districts? Do we have the resources to support them? So, as we talk of reforms in this area, this country needs to look at what kind of local authorities we need to have.

With regard to the Kenya Prisons Service, a lot has been said about the need for reforms in this area. It is an important service in terms of the administration of justice. Apart from the areas we visited with my colleagues, I had an opportunity to visit some prisons in this country. I can assure you that the kind of reforms we have been talking about are nothing but cosmetic. Those reforms are only tangible here in Nairobi,

particularly, Lang'ata Women Prison where the women prisoners are well dressed. However, if you visit other prisons, for example, Eldoret, Kitale, Bungoma and Naivasha Maximum Prison, you will find that the warders and prisoners live in dehumanising conditions. It is no wonder that the prisoner and the warders at that lower level compete for attention.

If you visit Naivasha Maximum Prison, you will find about 50 men staying in an open hall without facilities. This is dehumanising to the officers. This is the case and yet we know that housing is a very important element for the officers to work efficiently. Is it not time that prisons, which generate a lot of money in the form of Appropriation-in-Aid (A-i-A) from their farms and industries--- The Government should return a portion of the A-i-A to the prisons for the improvement of housing and other facilities. We have qualified personnel, for instance, masons in the prisons who could use the money that is ploughed back to improve the welfare and general living conditions of the officers.

Mr. Temporary Deputy Speaker, Sir, if you look on the television how women inmates at the Lang'ata Prisons dance, you will think everybody is properly dressed. However, if you visit other prisons, you will realise that some prisoners never leave their cells because they are forced to walk naked. Is it not time these reforms became real?

Last year, as part of implementing the Madoka Report, a Commissioner and a Deputy Commissioner were appointed. The appointment of officers to those two offices does not amount to reforms in the Kenya Prisons Service. What is required is institutional reform and not removing one person and replacing him with another. The moment these officers settle down, it will be business as usual. We have said in our Report that we need to see holistic change in our prison services. We need to see things move and not just being talked about.

Finally, congestion in our prisons is an issue of concern. Some of the people who are filling our prisons are prisoners on death row. These people are kept in the cells at the expense of the society. They do not contribute to the welfare of this nation. Is it not time the relevant section of the law was reviewed so that instead of having these people on death row, their sentences are commuted to life imprisonment? That way, they could be used to generate something for the Exchequer.

With those few remarks, I beg to second the Motion.

(Question proposed)

Ms. Odhiambo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity.

In supporting this Motion, I wish to urge this Committee, and other Committees in future, that, despite the good work that they are doing, it would be useful if they spent less time and less resources and, instead, just gave us a report of two sentences, one indicating that this is the same old story and another one indicating "implement", the reason being that we have heard these stories before. We have heard the stories of the problems in the prisons. So, what this Committee did was simply to affirm what I have been hearing since I was in nursery school, and this is beginning to sound like a broken record.

It is time that, as a country, we became serious about reforms. We keep starting piecemeal reforms, which we abandon midway. Therefore, they become stillborns that do

not achieve what they were intended to achieve. I would want to speak, for instance, on a mammoth programme that was initiated by the Government, namely the Governance, Justice and Law Sector Reform Programme that actually had about seven Government Ministries, including the Prisons Department, civil society and development partners. As soon as the development partners withdrew their support, the Government also withdrew its support to its own programme.

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

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

Mr. Temporary Deputy Speaker, Sir, it is time we owned Kenyan programmes, because reforms are for this country, and not for donors. It is us who bear the brunt of poor, or ineffective, reform programmes. I would want to indicate that one of the things that I have seen in this Report is the objective for which they were carrying out the fact-finding mission. One of these is that the Committee was to look into the conditions under which prisoners and warders live. That is one of the reasons as to why they visited Langata Women Prison, for instance. I know that the Committee meant well, especially since it is headed by my good friend, Mr. Kapondi.

I would want to encourage the Committee to wear very strong gender lenses in future. Committee Members spend a lot of time speaking to warders. All that the Committee has said in this Report about women prisoners is in about four sentences, and it does not even address itself to the challenges that women prisoners are facing. There are many women with children in prison. I know that the civil society organisation that is mentioned does a lot of work, but that is not sustainable, because that is actually the role of the Government. So, what the civil society organisation is doing is only a stop-gap measure.

Mr. Temporary Deputy Speaker, Sir, what is the Government doing to address the issue of mothers who are in prison with children who are not prisoners? That is traumatising to children. That is why, as a country, we will be breeding a generation of children who have been made convicts by their circumstances, and not by any of their own actions.

One of the aspects of the urgent reforms that we need to look into is the issue of living conditions of warders. Again, we sound like a broken record. I have had occasion to visit some of those places. I was shocked that our warders live in worse conditions than the conditions in which cows and donkeys live in this country. One of the reasons as to why the previous reforms fell flat on their face was because we were looking at the conditions of prisoners at the expense of the warders. Any reform must address the issue of warders and that of prisoners. As we improve the living conditions of prisoners, we must also address ourselves to the living conditions of the warders.

Mr. Temporary Deputy Speaker, Sir, the issue of protection of human rights of prisoners must also be looked into. Even though somebody is a prisoner, he is still human, and his dignity must be preserved. For instance, yesterday, as I contributed to the debate on the issue of the Kenyans who were convicted in China, and who have no legal

aid, an annoyed member of the public wrote to me and asked why I was defending criminals. Even if one is a criminal, as a human rights lawyer, I know that one still has – and is entitled to one's rights, because, at the very least, one is human. Even when one is detained, one's rights must be protected and preserved.

I now want to speak about remandees, some of whom, unfortunately, spend a lot of time in remand only for them to be subsequently found not guilty. It is very unfortunate. Again, some of these situations arise because most of them have no access to legal aid. I know many civil society organisations, including the Legal Resources Foundation (LRF), which are doing a commendable job. However, this, again, is a core function of the Government. I know that even though the Ministry of Justice, National Cohesion and Constitutional Affairs has started a pilot project in this respect, it must actually stay on course. Let us not abandon this programme the same way we have done with all other programmes.

Mr. Temporary Deputy Speaker, Sir, from the way that scheme is actually conceptualised, it seems to want to rely heavily on civil society in future. The Government must re-conceptualise that theme; at the end, it is the Government that must take up the primary responsibility of giving legal aid to its own citizenry. Some people might actually think it is fancy. An African country like Zambia actually affords legal aid to her own citizens. That is why even one of the reports that were appearing in the newspapers today shows that it is one of the most progressive and most peaceful countries. Why? Because, even if you are wrongfully charged, you are able to quickly access justice. If you are wrongfully charged and you are not able to access justice, you will tend to be violent, because you will want to find other methods of getting justice. That is why the Government must provide legal aid to suspects, as a matter of right.

When Mr. Kapondi was moving the Motion, he alluded to the fact that you actually find children in remand, some of whom are detained with adults. There are many children in such situations. Whenever we did rounds in the past, when I was working with the CRADLE we would actually find--- In one of the prisons in Mombasa, we found a six-year child who was actually in prison for stealing food. When we interrogated the case, we discovered that the child was put in prison in order for him to get food, because he had no parents.

Mr. Temporary Deputy Speaker, Sir, as we undertake prisons reforms, we must look at other reforms in the social security sector, so that we do not put children in prison, so that they can get food. Where children have no parents, the Government should find systems that will take care of such children. You can see that one of the things that have actually been pointed out in that regard is that we have 97 penal institutions – ninety-four for adults and three for male youth offenders. There is no mention of a penal institution for young women. I know that they are worth one, and I want to believe that it is there.

Again, despite that fact, you find that there are children who are still placed in adults' penal institutions. Even where we have penal institutions for children, you find that those institutions are in a very terrible state. The Government must work hard, because we are creating a generation of very angry children. That is why we are living with a time bomb.

Mr. Temporary Deputy Speaker, Sir, again, I will speak on what the seconder of the Motion said – that our mayors need a longer term, because this country is tired of the theatrics of politicians. This is not just in Parliament. We know that after you become a

mayor, within minutes you start campaigning to recapture your seat. So, mayors never have time to implement any agenda. They do not even have time to develop agenda, because they know that they will never implement them.

As I conclude my contribution, I would like to speak on two more issues. One of them is that of convicts on the death row. From the figures contained in this Report, we can see that there are so many convicts on the death row. The Mover alluded to the fact that, because the prisons are full, we should do away with the death penalty. I agree with him, but not because the prisons are full, but rather, because this is a human rights issue that nobody should be killed. Even when you are a murderer, you should be tried. If you are found guilty, we should give you life imprisonment. We are barbaric if we take the life of somebody because he took away a life.

Mr. Temporary Deputy Speaker, Sir, my own father was murdered. The persons who murdered him have not been tried or jailed to date. Therefore, I have a first-hand experience. However, I would not urge that the death penalty be given to somebody. Life is a God-given right and we should not play God.

Mr. Temporary Deputy Speaker, Sir, the issue of slum upgrading was raised and it was said that it could be a security threat to prisons. The warders were feeling that maybe, it should not be undertaken. I would want to say that indeed, the issues that they are raising are important. However, the right to housing is also equally important. I would, therefore, urge that we find better ways of ensuring that Kibera Slum be upgraded. At the same time, this should not encroach on security issues of prisons. This is possible because I have seen it in other developed countries where they have prisons right within residential areas. All they do is to make sure that they enhance the security systems around them.

With those few remarks, I beg to support.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make my contribution.

First, I want to commend the Chairman, Mr. Kapondi, for a job well done. I think this Committee could not have had a better Chairman than Freddy. This is because he has experienced what he has written about. It is on record that he is among the first people who were elected when he was in remand. That shows that the people of his constituency have confidence in him. No wonder the Committee Members elected him the Chairman.

Mr. Temporary Deputy Speaker, Sir, this is the Committee that also supervises Nairobi Metropolitan Development. That is why I had to come all the way from Athi River, where I was handing over fire fighting equipment to Mavoko Municipal Council to come and support this Motion. It is very clear that Cap. 265 that governs local authorities needs thorough amendment and review.

One of the reasons the local authorities are not performing is because the mayors and chairpersons are elected by councillors. They, therefore, hold them hostage to their needs. Any time the mayor makes a decision that the councillors do not want, they say: "We will see you in the next elections". We need to remove that so that mayors are elected directly by the people of the area. That would make them accountable to the people and the process will be transparent.

There is one municipality which is very notorious; Mombasa Municipal Council. Anytime they have elections, some tycoons take councillors to Dubai. Others take them

to Tanga in Tanzania and they are only brought in on the day of the elections. The elections are, therefore, not transparent. Nobody knows on what basis they have agreed to support the different camps. We need direct election of mayors.

Mr. Temporary Deputy Speaker, Sir, another thing is the term in office. A mayor is elected for a term of two years in the first instance. That is a very short time. By the time he gets to know his office, the councillors are on his back demanding that he listens to them or they will not vote for him or her. So, we need mayors and chairpersons elected for five years just like Members of Parliament.

The other issue that has come out clearly is the payment of councillors. Everywhere you go, councillors insist that they want to be paid from the Consolidated Fund. They also want to be paid a fixed salary instead of the current allowances that they draw. They are even having problems with banks. When they go to banks, they are told that they earn allowances not salaries. We need to start paying our councillors from the Consolidated Fund. This will also ease the burden on local authorities. That is one of the recommendations of this Committee.

Mr. Temporary Deputy Speaker, Sir, if we have mayors and chairpersons elected directly by the people, it will mean that we must also give them powers. We must make them executive mayors and chairpersons so that they are able to handle and run their local authorities. The people should hold them responsible for the day to day performance and running of office.

With regard to the Nairobi Metropolitan Development which is supervised by this Committee, since I joined that Ministry we have identified traffic jam as our priority number one. We are wasting over Kshs24 billion on fuel alone during traffic jams. Every person, on average, is wasting two hours stuck in traffic jam; at an average speed of 30 kilometres per hour in urban areas. We are looking at ways of making the Nairobi Central Business District (NCBD) a one-way street. We have identified Moi Avenue and Tom Mboya Street to be converted into one-way streets. The bus stop at Kencom will be removed because it is causing chaos there. I have instructed my officers to deal with this matter as a matter of urgency so that we can sort out traffic jams in the NCBD.

Mr. Temporary Deputy Speaker, Sir, however, that will not reduce traffic jams in the city. We have also identified Mombasa Road - Uhuru Highway - Waiyaki Way. The road from Athi River to Nyayo National Stadium will be okay once we complete the inter-change at Athi River. There will be a fly-over there and so from Athi River past the Jomo Kenyatta International Airport (JKIA), it will take less than five minutes. Most of the time, the jam starts from South B fly-over. We have identified the Nyayo National Stadium roundabout as the main culprit. I have given instructions to my officers to start designing a fly over or inter-change in that area so that we eliminate the jam as we wait to do the other things that will take time. These include the mono-rail, which is supposed to start from Athi River to JKIA, through town, to Limuru. Another one will come from Kayole to Buru Buru all the way to Kikuyu. This will take time as we look for the funds but in the meantime, we are trying to do the best we can do in the circumstance. We are doing things that do not require a lot of money.

Mr. Temporary Deputy Speaker, Sir, it is our intention that we also have the bypasses; the Southern, Eastern and Northern bypasses. Design work is going on on the bypasses. For example, if you take the Northern by-pass it is supposed to start at the place the American Embassy used to be, all the way to Langata, Kibera, cutting across

Dagoretti, Karen, all the way to Kikuyu and back to Naivasha Road. That will take care of the traffic coming from Mombasa Road.

Mr. Temporary Deputy Speaker, Sir, the southern by-pass is supposed to pass through the airport, City Cabbanas, Embakasi and all the way to Thika Road. That will take care of the traffic coming from there. We, again, have the northern by-pass which is supposed to join Thika Road, Kiambu Road, Limuru Road and then all the way to Naivasha Road. If those by-passes were to be done, we would decongest the city centre and the traffic jams would be a thing of the past.

We are also considering staggering working hours. Unfortunately, there is no legislation on this. We have to appeal to employers. During the morning rush hour, traffic jam is in one direction while the other side of the road is empty. In the evening, we all face the other side of the road while the other side of the road is empty. If employers could stagger working hours--- There is no law that says that all offices should open at 8.00 in the morning and close at 5.00 p.m. Some offices can open at 6.00 a.m, some at 7.00 a.m, some at 9.00 a.m and some at 10.00 a.m. Some can close at 3 p.m, others at 4.00 p.m, others at 5.00 p.m, others at 6.00 p.m, others at 7.00 p.m and others at 8.00 p.m. We are even thinking of having a 24-hour economy. If we have a 24-hour economy, there will be no specific working hours. Those are some of the things we are looking into.

We are also looking at having flyovers, inter-changes and under-passes. We are also looking at how we can remove heavy commercial vehicles from Mombasa Road during rush hours, which has been identified as the main cause of traffic jams. We also intend to maintain road discipline. Anybody who has a driving licence was taught at the driving school that you should keep left on the highway unless you are overtaking. If you go to our highways, you will find old lorries carrying stones and sand, smoking and being driven on the outer lane instead of the inner lane. This slows down all the traffic. We will also maintain road discipline.

One thing that the Committee did not look at is the privatization of our jails. If you go to other jurisdictions, you will see that they have started privatizing jails. In other words, you can give the jails to private organizations to run them and the Prisons Department would receive a lot of money if it were to do this. The other thing we need to copy from other jurisdictions is like, for example, what happens in Israel. I am told that once you are convicted, you are given a timeframe to report to the jail so as to avoid congestion in the jail. So, you can be convicted and be told that the jails are congested, you report six months from the date you are convicted. I am told that people actually report to the jails. They do not run away. Can we try something like that here? Can it work? I think we need to start thinking outside the box.

Coming to the reforms that are happening in the Prisons Department, I agree that changing one Commissioner with another is not a way of bringing reforms. Having beauty contests is not a way of bringing reforms. Having television sets in the prisons is not a way of bringing reforms. These are good but they are not reforms. Having "Moody Hopper" buses are not reforms. The main purpose of prisons is correction. That is where reforms should be so that whoever goes to prison comes out a better person. Those who have stayed in death row as the committee has pointed out, the longest is 34 years, that person should be released. We need to have a timelimit like in other jurisdictions where life sentence means 15 years and below. The moment we have no time limit, somebody can stay there for a long time. The last time some people were hanged was in 1982 after

they plotted the 1982 coup. Others are still there. Why do we not commute their death sentences into life sentences, and say, “life sentence” means “25 years or whatever we come up with”.

Mr. Temporary Deputy Speaker, Sir, there are so many things I could have said about our intentions to create a flea market where we close a road on a Sunday or Saturday and allow hawkers to come in. These plans were ready, but when the hawkers invaded the Central Business District (CBD), I stopped them. We can think about that once the hawkers move out of the CBD.

Mr. Temporary Deputy Speaker, Sir, there are so many things I would like to speak about but Maj-Gen. Nkaisserry is really disturbing me by saying that he also wants to contribute.

Therefore, I will stop there and support the Motion.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Report.

First of all, I would like to commend the Committee for doing an excellent job by bringing this very important Report. However, if you look at the oversight responsibility of this Committee, you will find that it covers a very big area with regard to Government functions. This Committee plays an oversight role over the Office of the President, Ministry of State for Provincial Administration and Internal Security, Ministry of State for Public Service and the Office of the Deputy Prime Minister and Ministry of Local Government. Since the formation of this Committee, I am not very sure whether this is the first Report I have seen that is very detailed.

Mr. Temporary Deputy Speaker, Sir, I think the Committee has made important observations during its visits to prisons. I think the Government needs to look into these recommendations very carefully. It is important that a Prisons Service Commission is established to enable the Prisons Service to function well. I do not see in the Report where the Committee said it met the Prisons Service Board and it presented this and that information. I think it is important that this Committee goes back and makes some recommendations with regard to the Prisons Service Board. The Committee should recommend that if you want to appoint a Commissioner of Prisons, then the Prisons Service Board should shortlist the candidates for this Parliament to approve and the President to appoint. I think the Committee should have taken that approach. We should be systematic when making recommendations for the betterment of the services in this country.

Mr. Temporary Deputy Speaker, Sir, the Prisons’ land has been stolen - if I could use that very strong word - by people who had been entrusted to take care of the property. Since this is corruption, the Committee should have come up with strong recommendations and apportioned blame on whoever was in charge. The buck stops with the Minister who was in charge of the Prisons Department at that particular time. So, this Report leaves a lot to be desired. Since this is a Report of Parliament, as Parliamentarians we should eliminate corruption involving land and money.

If you look at the kind of uniform that the Prisons Service officers put on today and where they live, you will realise that the Committee did not come out strongly and say that this Ministry has failed and the Government should allocate a lot of money to the Prisons Department in order to improve its services. They went to see prisoner A, B, D

and G but I do not care about a prisoner. If he has committed a crime, he should actually be hanged but because we are a civilized society, we want to abolish - I agree with the Committee - the death penalty. We need to look at the best way of correcting our citizens. So, with regards to the recommendations for the prisons, the Committee needed to go down and do a thorough job. But under the circumstances, I have no problem. This the beginning point and I think there is room for improvement.

Mr. Temporary Deputy Speaker, Sir, with regard to Nairobi City Council (NCC), the most shameful thing about the recommendation or observation of the Committee is that the Government owes the NCC Kshs6.4 billion. How do you expect the NCC to render services to citizens, collect garbage, clean Nairobi River, provide some services in the medical sector, help primary schools, poor children and poor families when the Government owes the NCC a whooping Kshs6.4 billion? This cannot be accepted! It is unacceptable and when this Report is adopted, the Ministries concerned must pay the City Council its dues.

We have a State corporation called Telkom which owes the NCC over Kshs200 million. I think the Minister who is in charge of the City is, in fact, trying to blow himself by saying "Nairobi metropolis". We want the NCC, as small as it, to be paid its own dues so that we can talk about the bigger metropolis. So, I would recommend and my colleague is here and that is why I wanted to talk so that I can tell him, he should push for this money to be paid to the NCC and we will demand services. You cannot expect NCC to provide services if it is not paid her dues.

On the issue of plots, not only in the Nairobi City Council--- and that is why I think the Chairman and the Committee should not dwell on NCC but on all local authorities. When councilors are elected, it is like they are given a blank cheque for them to write for themselves plots. They must "eat" plots. They must allocate themselves plots all over. This has to stop! A policy must be produced by this House or a law should be made by this House that no council land--- Council land is under trust. It is entrusted to the council to take care of it on behalf of citizens. But when councilors come in, they start allocating themselves plots for sale. This is part of corruption! Do you know why? Because our councilors are underpaid and we need to change Cap.265 so that we can request the Government to pay councilors better money so that they do not just grab the plots. It is unfortunate that they allocate the plots to themselves. It is like their own property. The councilors sit for a general meeting and allocate themselves plots; the land entrusted to them by the public. That recommendation should have been very firm!

Mr. Temporary Deputy Speaker, Sir, under these circumstances, I suggest that our councillors countrywide should be paid better from the Consolidated Fund. Let every councillor be given some good money and let the local authorities represented by specific councillors give them their allowances. Salary should come from the Consolidated Fund.

What is amazing is that public officers serving under local authorities are disrespectful of councillors because they owe their loyalty to the Permanent Secretary who actually manages the Local Authorities Transfer Fund (LATF) which never reaches the people. I suggest that we remove LATF from the local authority and let it be part of the Constituencies Development Fund (CDF) so that we can manage it. The LATF is being managed by the Ministry headquarters and it is part of the grand corruption in that Ministry.

Public officers serving under local authorities must fall under it. He or she should not have direct loyalty to the Ministry. You do not transfer a thief! What the Permanent Secretary in the Ministry of Local Government does is that when the Clerk and Treasurer loot the local authority, they are transferred. They should be sacked. In my own county council, Ole Kejuado County Council, the clerk and the treasurer colluded with some other people within three months of appointment and stole Kshs23.8 million. They were appointed in March and by June they had stolen that amount. The Minister only transferred them. Can you imagine that? That is not the only money. The LATF money which was given to Ole Kejuado County Council is about Kshs50 million but you cannot see any single project.

Mr. Temporary Deputy Speaker, Sir, this Committee should bring serious recommendations to this Parliament. It is like giving this country good medicine and it is only Parliament that can do that.

Finally, I would like to talk about the issue of vested interests. I think in all authorities, there are certain vested interests and this revolves in the parent Ministry. This Committee should identify those vested interests and address them. I want to conclude by saying that I commend the Committee for a job well-done.

With those remarks, I support.

Mr. Muthama: Ahsante, Bw. Naibu Spika wa Muda. Mimi nitachukua muda mchache kwa sababu naona wakati umeenda ili Mwenyekiti aweze kuchangia kwa kufunga. Jambo hili ni ngumu sana na limezungumziwa sana. Ningependa kusema kwamba ingelikuwa ni jambo la maana sana kwa hii Ripoti kutiliwa maanani kabisa. Hii ni kwa sababu kidumbwe dumbwe cha taabu zilizoko magerezani ni kukosa mwelekeo. Mwenyekiti wetu ni shahidi wangu nikisema alipofungwa gereza hakuwa na kazi ya kufanya. Ukimwangualia kwa makini utamwona ni kibonge cha mtu ambaye anangefanya kazi ya kuisaidia Serikali hii. Haikuwa jambo la busara kumfungia ndani ya jela bila kazi. Pengine kama angefanya kazi angeiletea nchi hii faida kubwa sana.

Mahabusu wa Uchina husambazwa kote ulimwenguni kufanya kazi ya ujenzi wa barabara. Wao hawaigharimu Serikali yao gharama yote kama vile kupewa madawa na chakula bila kufanya kazi. Wafanyakazi wa kampuni nyingi za kujenga barabara kutoka China huwa ni wafungwa.

Kwa hivyo, badala ya kuwajaza mahabusu wetu katika miji mikubwa na kuwalisha bila kufanya kazi, ni lazima tuwahusishe katika ujenzi wa taifa. Tunajua taifa hili letu ni maskini sana. Hatuwezi kuendelea kuwapa chakula watu walio huru na pia mahabusu. Wafungwa hawa tunawapa dawa, malazi, maji na kila kitu. Ingelikuwa ni jambo la maana kama watu hawa wangelima mashamba yetu kule Tana River, Lamu na sehemu zingine. Haifai mashamba hayo kupewa wageni ilihali tuna wafungwa wa kutosha kufanya kazi. Kwa mfano, wafungwa 20,000 wanaweza kufanya kazi nzuri sana. Ukiwapa ekari 20,000, kila mfungwa atakadiriwa kufanya kazi katika ekari moja. Tukifanya hivyo, tutapata chakula cha kutosha hapa nchini na kuwapa wagonjwa wetu katika hospitali zetu. Jambo hili litachangia pakubwa kuokoa mamilioni ya pesa za Serikali zinazotumika kuwalisha hawa watu.

Jambo la pili ni kwamba, chakula watakacholima kitawalisha Wakenya, hasa wakati wa kiangazi. Wakati huu Serikali yetu inahangaika kulisha wananchi wake. Kama wafungwa wetu wangepanga kazi mashambani, basi tungekuwa na chakula kingi hapa

nchini. Tukiwaweka wafungwa hawa katika miji mikubwa hatufaidiki hata kidogo. Kwa kufanya hivyo, tunapata gharama kubwa ya kuwalisha.

Ripoti hii inaonyesha kuwa kuna watu waliohukumiwa kifo. Wengi wao wanaomba msamaha. Wanajisikia kwamba wamebadilika na kuwa watu wazuri. Hukumu ya kifo inazungumzia katika vikao vingi na nina hakika kuwa litaletwa hapa Bungeni. Sheria ambazo tunabuni sasa zinabatilisha sheria za hapo awali. Ni dhahiri ya kwamba, hata Mungu hawapendi wauaji. Kwa hivyo, wale ambao wanaua watu wengi wasifikirie kwamba watasamehewa kuambatana na sheria zetu. Kuna baadhi ya watu wanaofikiria kwamba wakiua watasamehewa kufuatana na miswada inayojadiliwa Bungeni. Kabla ya miswada hiyo kupitishwa, bado wanaendelea kuua wakitarajia kusamehewa.

Wafungwa wengi wamezungumza sana kuhusu shida zao. Ikiwa Serikali inaweza kuwalipa vizuri mahakimu na majaji, basi tunaweza kuwaajiri wengi ili kuchunguza upya hukumu za wafungwa wetu katika jela zetu. Ni aibu kuona jaji au hakim mmoja anasikiliza kesi nyingi kwa siku. Ni vigumu kwake kuweza kutoa uamuzi mwafaka katika kesi hizo sote. Je, atasikiliza kesi wakati gani na kutoa hukumu? Ingekuwa ni vizuri kwa Serikali yetu kuwaajiri mahakimu wengi. Ni lazima tuwe na majaji wa kutosha katika wilaya zetu.

Kwa hayo machache, ninaiunga mkono Ripoti hii.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute and support this Report. First of all, I would like to congratulate my near-namesake, hon. Kapondi, who has truly lived the experience in prisons, which composes a large part of this Report.

Scanning this Report, Mr. Temporary Deputy Speaker, Sir, it comprises of important content that is also substantially generic and given the time that the Committee assigned itself for the visit-- I can see that they went to Langata Women Prison for one day. I think on the same day, they went to the City Council of Nairobi. They visited Kamiti Maximum Prison for one day.

Mr. Temporary Deputy Speaker, Sir, I think it would have been more detailed, more specific and a little bit more clear if some more time was taken to unearth some of the details that have been reported in other reports by the oversight boards of the City Council of Nairobi and other reports that have been done by the private sector stakeholders on the performance of the City Council. It would have allowed the Committee to harvest from some of the branches, for instance, the water provider within the city, which should have provided an example of how some of the reforms carried through an Act of Parliament--- It is the example of how the Water Act, 2002 has facilitated a measure of autonomy and, therefore, an improvement, although it is currently faced with some challenges.

You will remember, Mr. Temporary Deputy Speaker, Sir, that the Water Department was one of the key departments cited as inept and very frustrating to the city residents. The fact that it was changed substantially should have informed the Committee to dwell a little bit more on some of the other areas.

Mr. Temporary Deputy Speaker, Sir, despite the fact that it is a very good Report that deserves our support, perhaps, the Committee should have also interacted and harvested from the other stakeholders, apart from the councilors. That is because reading through this, it appears that you did not spend enough time to talk to other stakeholders,

apart from the councilors, who called for some of the interests that are heavily tilted to other elected officials.

Nevertheless, Mr. Temporary Deputy Speaker, Sir, this Report cites some areas that I would say need clear focus and, therefore, implementation. For instance, they should have tackled the question of corruption that bedevils our local authorities. What my friend here, Maj-Gen. Nkaiserry, has mentioned has happened in other local authorities and officers are only transferred. That involves the officers or the civil servants and it also happens within departments where we have councillors.

Mr. Temporary Deputy Speaker, Sir, the other important aspect is the question of the election of mayors and the durability of their positions. It is a circus that, every year, Kenyans experience. It ranges from town councils, to municipalities and to the City Council when the election of mayors and chairmen of departments is conducted after two or three years. The duration is actually not adequate to allow a focused and a clear mayor or a chairman of a local authority to implement an agenda that can endure.

Mr. Temporary Deputy Speaker, Sir, the question of appointments is cited here on the section on prisons. That actually comes in the wake of the need for us, as hon. Members, to embrace the totality of reforms in all sectors; in local authorities, in prisons, in the Government and in Parliament, so that there is accountability and a vetting process that actually brings out the best.

There is also the question of the quality of leaders particularly at the civic level. We should face this boldly. Even as we focus on Parliament, we should also set minimum qualifications for one to be a councillor. I worked for four years as the Chairman of the Nairobi Water Company. I know the challenge councils face one problem that depletes the potential, and adequacy that is necessary to account for public resource is the failure to scrutinise details. This is to the extent that councillors may attend full council meetings or be chairpersons of key departments, but fail to contribute, scrutinise or recommend matters of governance that will be needed to make the local authorities perform.

Mr. Temporary Deputy Speaker, Sir, I will talk about the question of debts owed by local authorities. I had an experience at the Nairobi Water Company. I remember the challenges we faced with Government departments such as the police stations and Telkom (K), convincing the officer in charge to part with a cheque. Many of these departments are allocated money meant for utilities and levies imposed by the local authorities, but because there is no mechanism for them to be obliged to pay, they either divert their accounts or the money is returned to the Treasury for failure of payment. Therefore, an important aspect of this Report should have included, among other things, a recommendation on how these debts should be collected. For the Nairobi City Council to be owed a debt of Kshs6.4 billion is so significant that it will impact so positively if the money was availed. In the last four or five years, there have been good allocations to corporations and Ministries to meet their basic requirements, including utilities.

In conclusion, with regard to the question of housing, one would have expected this Committee to come out very clearly and say that the houses in which prison warders live should be declared unfit for human habitation. They ought to have done that very clearly and strongly. We cannot talk about reforms by giving out television sets. Because of the current wave of crime and impunity that covers politicians, big businessmen and the so-called investors who are paying their way out of courts and prisons, they live like

they are in six star hotels in our remands. It is important to emphasize more on the need to remunerate and recognise the human rights of prison workers. They should live in conditions that are universally accepted. This Committee should have sharpened its teeth to bite a little bit deeper on the flesh of corruption, abuse and the degradation that we have subjected our employees to. That is not different from what is happening in some of the plantations and industries in this country where we have casual labourers. There is need to encourage this Committee and appreciate the commitment of its Chairman. We should also note that this Committee comprises of individuals who have served as District Commissioners, Provincial Commissioners and investors in the Nairobi City Council. In fact, one of them was recently elevated to an Assistant Minister in the Office of the Deputy Prime Minister and Ministry of Local Government.

Mr. Temporary Deputy Speaker, Sir, in view of the need to encourage the committee, I support this Report. However, we urge the Committee to go a little bit deeper next time, and be ruthless, as a watchdog Committee, because you are not a department of any Ministry.

With those remarks, I beg to support.

The Minister for Education (Prof. Ongeru): Mr. Temporary Deputy Speaker, Sir, I rise to comment on what I think is a very fundamental and important Report by the Committee. I will be extremely brief.

I had the rare distinction of working as the Medical Officer in charge of all the prisons, the police and the army in 1967 and 1968. So, I am fully conversant with the type of conditions in our prisons. I used to travel extensively, looking at the conditions of our prisons.

Mr. Temporary Deputy Speaker, Sir, one of the things that is coming out quite clearly is that, since we are desirous of elevating the living conditions of the workers, particularly of prisoners and prison warders, the amount of funds generated from the various prison activities should be ploughed back in order to improve the lot of prison warders, who are in a very difficult situation. I know that the Mover wants to have some minutes to reply; so, we should conclude this debate.

Secondly, the issue of merit in promotion of the warders must be looked into. Some warders have been stagnant in their positions for as long as 30 or 34 years, without any inkling of a promotion. I suspect they have been demoralised due to lack of a programme that recognises talent and awards promotions.

Mr. Temporary Deputy Speaker, Sir, I was once the Minister for Local Government. I was responsible for creating the Local Authorities Transfer Fund (LATF). At that time, the incomes of all local authorities were so meagre that the local authorities were hardly meeting even their own recurrent expenditure. There was no single cent left for them to apply to development activities in their various areas. Therefore, it was a hand-to-mouth situation.

When we were creating the LATF, it was supposed to be 5 per cent of National Budget, but at that time the Treasury decided that it would be at 2.5 per cent. If you notice, one of the programmes that came out quite beautifully was the beautification of all our towns. We had a pilot programme in 25 towns, including Nairobi and Mombasa. What am I saying? I am saying that if these funds were appropriately applied, then development in our local authorities would have been such that they would have realised a difference in terms how they have been running.

Mr. Temporary Deputy Speaker, Sir, there was, of course, the question of the calibre of councillors and officers appointed to run the councils. Therefore, capacity building in various areas was an important feature. One of the problems that we encountered was that of being unable to supply even basic commodities like water to informal settlements such as Kayole, Kariobangi, Mathare, Kasarani, amongst others. These areas required clean water supply.

So, what has happened is that the LAFTF has not been properly utilised. The City Council of Nairobi, for instance, had the capacity to collect levies amounting to between Kshs350 million to Kshs400 million per month from rates and other sources, but they were unable to do so. They were only collecting about Kshs90 million per month. At some time, when I pushed them, as the Minister for Local Government, they were able to collect up to Kshs250 million per month, and they had the capacity to collect up to Kshs350 million.

Mr. Temporary Deputy Speaker, Sir, if they collected that kind of money monthly, they should have been able to create a fund at the level of Kshs4.8 billion to Kshs6 billion. They are already owed Kshs6 billion, in addition to the Kshs6 billion they are able to collect. So, the Nairobi City Council should never look to the Government for any subvention, because they have the capacity to generate their own income.

Again, the Committee should be looking for ways and means of enabling local authorities to raise their funds in order to be able to sustain their operations. If you add their collection to the LATF money that they get, they will have more than adequate funds that they may require in order to offer good services.

Mr. Temporary Deputy Speaker, Sir, I do not want to continue, I just wanted to scratch at the surface what the Committee needs to look into.

With those few remarks, I beg to support this Motion. I think in any way and whatever we do, we must be reform oriented.

The Temporary Deputy Speaker (Prof. Kaloki): I now call upon the mover to reply!

Mr. Kapondi: Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to thank my colleagues for the enormous support they have given this Report. It is true that we had few days to do this work. But, given the kind of input and the issues we have touched, they are issues that have been raised over and over again. It is good that the House appreciates the need for us to move swiftly to see that these things are not repeated year in, year out, by this or the next Committee. It would not make sense.

This House owes councillors. Councillors are elected just like us but unfortunately their hands are tied. When it comes to doing their work, they are left at the mercy of the executive officers because of the monster called Chapter 265. This House has an obligation to dispense with this Chapter. Reforms should be done in that area so that the concerns of the House about the utilisation of the Local Authorities Transfer Fund (LATF), which is much more than the Constituencies Development Fund (CDF) is addressed. The work done by the CDF is seen. I think we need to move swiftly in areas of corruption and reforms so that this country is a better place.

With those few remarks, I beg to support.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, it is now time for us to adjourn the House, and the House is, therefore, adjourned until Tuesday, 9th March, 2009, at 2.30 p.m.

The House rose at 6.30 p.m.