

**NATIONAL ASSEMBLY**

**OFFICIAL REPORT**

**Thursday, 6th July, 2000**

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

**PRAYERS**

**ORAL ANSWERS TO QUESTIONS**

*Question No.186*

**ASSISTANT CHIEFS FOR MBOGORI SUB-LOCATION**

**Mr. Murungi** asked the Minister of State, Office of the President:-

(a) whether he is aware that Mbogori Sub-location in Igoji Division, South Imenti, has two assistant chiefs; and,

(b) whether the said sub-location is in Meru Central District or Meru South District.

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Speaker, Sir, I would like to seek the indulgence of the Chair that this Question be deferred so that I can hold some discussions with the hon. Member before I answer because I have got some conflicting reports.

**Mr. Speaker:** Is that all right with you, Mr. Murungi?

**Mr. Murungi:** Mr. Speaker, Sir, we can do that now so that he can answer the Question during the second round, with your permission.

**Mr. Speaker:** Can I defer the Question to Tuesday, if you will have time?

**Mr. Murungi:** Mr. Speaker, Sir, I thought the Minister wanted to make a brief consultation? In fact, I have got an answer here!

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Speaker, Sir, the answer I have given to the hon. Member is totally unsatisfactory. I have discussed it with the people who gave me the information and I think there are some distortions which should be ironed out.

**Mr. Murungi:** Mr. Speaker, Sir, in that case, I will go by your wise counsel.

**Mr. Speaker:** I will then defer the Question to Tuesday next week.

*(Question deferred)*

*Question No.251*

**DESTRUCTION OF INFRASTRUCTURE IN KISII**

**Mr. Speaker:** Mr. Angwenyi is not here? We will come back to that Question later. Next Question, Mr. Michuki!

*Question No.365*

**NUMBER OF FUNDS ESTABLISHED UNDER LAW**

**Mr. Michuki** asked the Minister for Finance:-

(a) how many other funds have been established under the law, apart from the Consolidated Fund set up under the Constitution of Kenya;

(b) whether he could supply to the House a list of such funds and also state their purpose; and,

(c) what the limit for each of these other funds is.

**Mr. Speaker:** The Minister for Finance is not here? We will come back to that Question later. The Question by Mr. Kombe will be deferred.

*Question No.295*

ALLOCATION OF MALINDI ADC FARM

*(Question deferred)*

*Question No.300*

AMBULANCE FOR MARIMANTI HOSPITAL

**Mr. Mwenda** asked the Minister for Medical Services:-

- (a) whether he is aware that there is no ambulance for Marimanti District Hospital; and,
- (b) when he will provide an ambulance to the above hospital.

**The Minister for Medical Services** (Dr. Anangwe): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there is no ambulance allocated to Marimanti District Hospital. However, Land-Rover No. GK S431, from the Provincial Medical Officer's office in Embu is temporarily allocated to the hospital for that purpose.

(b) The hospital will be provided with an ambulance as soon as funds are available to purchase one.

**Mr. Mwenda:** Mr. Speaker, Sir, Marimanti District Hospital was, until recently, a health centre. It is the only hospital in the district which serves a population of about 150,000. The nearest Government hospital in the area is the Meru General Hospital which is 70 kilometres away. Could the Minister be specific and tell us when an ambulance will be made available for this hospital?

**Dr. Anangwe:** Mr. Speaker, Sir, as the hon. Member has said, this hospital was upgraded recently following the establishment of a new district. It takes time to put the requisite infrastructure in place. That notwithstanding, the Ministry of Health has already negotiated for funds with the National Health Insurance Fund (NHIF) to procure 83 ambulances for each of the 68 district hospitals, seven general hospitals and eight mission hospitals. The total outlay for these ambulances is about Kshs209,914,324. The NHIF is in the process of placing orders in order to procure these ambulances. So, it is an on-going process.

**Mr. Kibicho:** Mr. Speaker, Sir, the Minister says he has negotiated for funds. But could he be specific and say whether those funds will include an allocation for an ambulance for this hospital?

**Dr. Anangwe:** Mr. Speaker, Sir, 50 per cent of the district hospitals in the country do not have custom-built ambulances. It was in recognition of this particular problem that the Ministry saw it fit to mobilise resources from NHIF to procure the ambulances that I have already mentioned. I know that to procure about 83 ambulances is a tedious process. We have already made arrangements with crown agents and GTZ in order to engage in international competitive bidding. So, give us time because we have already made commitments. When the process is over, I shall provide an ambulance to Marimanti District Hospital.

**Mr. Mwenda:** Mr. Speaker, Sir, the Minister has refused to answer the question put to him by hon. Kibicho. Is Marimanti District Hospital among the 68 hospitals which will benefit from what he is going to do?

**Dr. Anangwe:** That is the correct position!

**Mr. Parpai:** Mr. Speaker, Sir, you must have heard the Minister say they are making arrangements to get funds from the NHIF to purchase ambulances. Could he tell us whether this money is going to be a grant to the Government by a parastatal or a loan? If it is a loan, what arrangements are there to ensure that, that money is refunded to that parastatal? The NHIF will be run down like NSSF!

**Dr. Anangwe:** Mr. Speaker, Sir, the NHIF Act empowers the Minister in charge of this particular Fund to give it direction on how to spend resources in order to equip hospitals. So, there is nothing unlawful in that transaction. In respect of this particular money, an agreement has already been reached, the Board has approved it and it is within its line of operation. There is nothing out of context here.

**Mr. Speaker:** Mr. Angwenyi's Question for the second time!

*Question No.251*

DESTRUCTION OF INFRASTRUCTURE IN KISII

Mr. Angwenyi is not here? The Question will be dropped.

*(Question dropped)*

**Mr. Speaker:** Mr. Michuki's Question for the second time!

*Question No.365*

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- (a) how many other funds have been established under the law, apart from the Consolidated Fund set up under the Constitution of Kenya;
- (b) whether he could supply to the House a list of such funds and also state their purpose; and,
- (c) what the limit for each of these other funds is.

**Mr. Speaker:** The Minister for Finance is not here? That Question will be deferred to Tuesday, next week. Let us move to Question by Private Notice.

*(Question deferred)*

**QUESTIONS BY PRIVATE NOTICE**

RELIEF FOOD IN NDARAGWA CONSTITUENCY

**Mr. Kamau:** Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) How much relief food has the Government given out in Ndaragwa Constituency since the onset of the current famine?

(b) How much has been allocated to every location for distribution in Ndaragwa Division?

**The Minister of State, Office of the President** (Mr. Nassir): Mr. Speaker, Sir, I beg to reply.

(a) The Government has been giving out famine relief food to Ndaragwa to alleviate the severe food shortage caused by prolonged drought. So far, the Government has given out the following bags of relief maize in Ndaragwa Constituency. In November, 1999 it gave out 300 bags of white maize and in June, it gave out 200 bags of white maize.

(b) The allocation of famine relief food per location for distribution in Ndaragwa Constituency is as follows--- But the list I have here is very long. I would like to seek the permission of the Chair to table it.

**Mr. Kamau:** Mr. Speaker, Sir, I do not think the Minister replied to the Question. He talked about distribution as per division. Can we really believe what he is saying since I do not have that answer?

**The Minister of State, Office of the President** (Mr. Nassir): Mr. Speaker, Sir, I had just asked for your permission to table this list. If I have to read this list location by location, it will take half an hour. But if you want me to do so, I will be pleased to read the breakdown.

Relief food was distributed in Ndaragwa Constituency in November, 1999 as follows:-

<u>Location</u>	<u>Quantity X90 Kg</u>	<u>Bags of Maize</u>
Kahutha	120 bags	
Leshau	90 bags	
Mathingira	90 bags	

In June, 2000, the distribution was as follows:-

Mathingira	70 bags
Shamata	40 bags
Leshau/Karagoini	60 bags
Kahutha	110 bags

Kiriita 40  
Kanyagia 30

**Hon. Members:** Lay it on the Table!

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

**Mr. Kamau:** Mr. Speaker, Sir, I really do not know whether the Minister understood what he was talking about when he was reading those figures. The Minister should understand that between November 1999 and June 2000 the whole division got only 300 bags of maize. Could the Minister explain to the House how 300 bags of maize are supposed to be distributed to a whole division, for half a year, and whether he considers that to be adequate?

**Mr. Nassir:** Mr. Speaker, Sir, I am just a Member of Parliament like the hon. Member who asked the Question. The procedure is to go to the DDC and ask for whatever you want. And this is where most hon. Members go wrong. If they do not make their demands to the DDCs, they do not expect the Permanent Secretary or myself to go there and do their job. It is the job of Members of Parliament to ask for whatever they want in the DDCs. If they do not act, and he has proof through Minutes, then he can appeal to us.

**Mr. Muiruri:** Mr. Speaker, Sir, I hope the Minister is aware that the Chairman of the Famine Relief Fund is Mr. Uhuru Kenyatta who is also the Chairman of KANU in Thika District. I hope he is also aware that, that young boy has never slept hungry in his lifetime. He was born in State House, raised up in State House, and he does not know what hunger is. Could he advise the President to kick that young man out so that things can move? As I speak now, I am aware of three children who have died in Gatundu, his own district, due to hunger.

**Mr. Nassir:** Mr. Speaker, Sir, I think by now every hon. Member knows that they are the Government. They have been elected and have a right to demand for whatever they want from anybody, whether a DC or a policeman. It is not a matter of parties. Parties only apply at election time and it does not mean that if you are a Member of KANU you will not be served.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. From what Mr. Muiruri has said, it is true Mr. Uhuru Kenyatta was born in State House and he has never gone hungry. It is true that it is not good to give food to people who do not know what hunger is. But it is important to give food to somebody who has never gone hungry so that he can take that food to the hungry rather than before when it was given to hungry people who instead of distributing it to the other hungry people, they themselves ate it first.

**Mr. Speaker:** Order, Mr. Muiruri, Mr. Ndicho and the whole House! Please, keep parochial politics out of this House and let us not divert

**[Mr. Speaker]**

national issues into petty politics. I know many of you do not want me to say that, but it is my duty to say so when hon. Members request me to do it.

**Mr. Anyona:** Mr. Speaker, Sir, this is a serious Question, and whereas I would like to agree with the Minister that Members of Parliament may have a role, it is the primary responsibility of the Government and the Ministry to design ways and means in which relief food can be distributed efficiently. So, what system will the Minister put in place to make sure that in addition to what hon. Members may request, he has an efficient system in place?

**Mr. Nassir:** Mr. Speaker, Sir, maize rations are in the custody of the DC, but there is a committee through which every hon. Member of Parliament can send his appeal. They should be people he trusts and who know the right situation on the ground, not necessarily the chief or DO.

**Mr. Magara:** On a point of order, Mr. Speaker, Sir. I think this is a very serious issue, and the Minister is not serious in the way he is answering the question. Is it in order for the Minister to keep referring to the DDC when he knows very well that the DO should give information to the head office about the calamity on the ground?

**Mr. Nassir:** Mr. Speaker, Sir, let us not go back to the old way of tackling issues. I am sure there are no Members of Parliament who do not know their rights. They have got a right to tell the DC which way to distribute the food.

**Mr. Ojode:** Mr. Speaker, Sir, is the hon. Minister, "TSS"---  
Sorry! Is Mr. Nassir in order---

**Mr. Speaker:** What did you say?

**Mr. Ojode:** Mr. Speaker, Sir, I thought he was "TSS", but he is hon. Nassir. Is the Minister satisfied that the 300 bags which were given to Ndaragwa people where we have a population of over 400,000 people were adequate?

**Mr. Nassir:** Mr. Speaker, Sir, I was not there when they met with the DC and the DO to agree on how many bags they wanted. If it is not adequate, the Member of Parliament has a right to ask for more.

**Mr. Shill:** Mr. Speaker, Sir, I think the Minister is misleading this House, because hungry people cannot wait for the DDC to give them food. It is the Government's responsibility. Is the Minister now telling us that unless people ask for food through the DDC, they will not receive any food?

**Mr. Nassir:** Mr. Speaker, Sir, I do not know which way to go. If I asked people which road they would like to follow, they would still raise complaints and that is why there is the DDC in place to listen to any complaints.

**Dr. Kulundu:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to imply that the DDC is superior to this House?

**Mr. Nassir:** Mr. Speaker, Sir, I have been a Member of Parliament for about 27 years and I have never asked any Question in Parliament because I know what is rightful to me and from whom to ask it.

**Mr. Shill:** On a point of order, Mr. Speaker, Sir. We must take this House very seriously. This business of Ministers making jokes is very bad. The Minister should not avoid my question: Is it the Government's policy that food should only be given to those people recommended by the DDC only?

**Mr. Nassir:** Mr. Speaker, Sir, as I said earlier, problems of food should be raised in the DDC on how many bags each area needs and the effects of the hunger.

**Mr. Mutahi:** Mr. Speaker, Sir, the Minister should be serious and tell the House when the DDC of Maragwa was convened and how many bags were recommended for distribution to that division?

**Mr. Nassir:** Mr. Speaker, Sir, the DDC meets every two months. Whether you like it or not, you have to go back to the DDC because Parliament cannot give you maize.

**Mr. Sambu:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House when he knows that in the Blue Book, DDCs are only authorised to have quarterly meetings? Does he know the meaning of a quarter?

**Mr. Nassir:** Mr. Speaker, Sir, I would not like to shout the way the hon. Member has just shouted. I will reply him soon or later.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. You are the one who ruled in this House that no Minister should refer a Question asked by an hon. Member here to the DDC. Kenyans know that their Questions are raised by their respective Members of Parliament. Could you repeat to hon. Nassir that he should not refer us to the DDC because here we deliberate on Parliamentary Questions and answers, and DDCs do not come in at all?

**Mr. Speaker:** I think Mr. Ndicho captures in substance a former ruling of mine. I would further say to the hon. Minister the following: I do not think the question of hunger of Kenyans is an issue we can toss between the Minister and the DDC. It is a question of life and death, and I think the Minister would better take it seriously.

**Mr. Nassir:** Mr. Speaker, Sir, I do agree with you, but I hope hon. Members will understand that the best place to air their views is the DDC. They should only come to me when it fails to deliver.

**Mr. Kamau:** Mr. Speaker, Sir, although the Minister seems not to be serious with this matter, could he assure me that if the DDC Nyandarua sat tomorrow, whatever they are going to recommend they are going to get it from him?

**Mr. Nassir:** Mr. Speaker, Sir, if I had a biro pen I could have written it down. But I would like to state that, whatever they agree in the DDC is what will happen. Members of Parliament are the leaders and DDCs are only complementing their work.

#### ISSUANCE OF EMPLOYMENT FORMS TO TEACHER TRAINEES

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) Is the Minister aware that trainees from teacher training colleges are being made to shuttle between Teachers Service Commission Headquarters and the District Education Offices in search of employment forms which are not available?

(b) Could the Minister ensure that the employment forms in respect of Migori District are issued to all who need them?

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

(a) My Ministry is aware that trainees from teachers training colleges are being made to shuttle between

the Teachers Service Commission Headquarters and the District Education offices in search of application forms for registration. The forms have now been dispatched to the District Education Offices, including Migori District, for the purpose of registration as teachers. All those college graduates who wish to teach in any school registered by the Government must be registered with the Ministry in accordance with the Education Act. The registration of teachers by TSC is a normal exercise that is carried out on continuous basis.

(b) The application for registration forms from Migori District were dispatched to the DEO on 12th June, 2000.

**Mr. Ochilo-Ayacko:** Can the Assistant Minister unequivocally state that from now henceforth teacher trainees from Migori District, and for that matter any other district in the country, will not be made to shuttle between TSC Headquarters and the DEO's office in search of these particular forms?

**Dr. Wamukoya:** Mr. Speaker, Sir, I cannot be equivocal about such a thing because exigencies may arise because of shortage of paper or other things. The forms are available at the DEO's office. Whenever the DEO has exhausted his forms he can come for more from the TSC.

**Mr. Murungi:** Mr. Speaker, Sir, sometimes back the Ministry gave the impression that from July this year they will employ all the graduate teachers, especially those who are qualified or have degrees in mathematics. These graduates have been queuing at the TSC Headquarters. Can the Assistant Minister tell this House whether the Ministry will employ these graduates this year or not?

**Dr. Wamukoya:** Mr. Speaker, Sir, there are two issues here. One is that the report about employing the teachers by July this year was erroneous. Nobody made that statement. What was the second question?

**Mr. Murungi:** What plans do you have for employing the graduate teachers---

**Mr. Speaker:** Mr. Murungi, who has given you the Floor?

*(Laughter)*

**Mr. Murungi:** I am sorry, Mr. Speaker, Sir. He asked me the question then he sat down.

**Mr. Speaker:** You were having a private conversation?

**Mr. Murungi:** I am sorry, Mr. Speaker, Sir.

**Mr. Speaker:** That was private. Can we now come to the public one?

**Dr. Wamukoya:** Mr. Speaker, Sir, we realise that we are short of graduate teachers in mathematics and the sciences, but because of the embargo of July 1998, up to now while awaiting for rationalisation of the Civil Service and the TSC, we cannot employ.

**Mr. Anyona:** Mr. Speaker, Sir, there is a lot of confusion over this matter in the country. Can the Assistant Minister clarify whether we are talking about teacher trainees from private and public colleges or graduate teachers from the national universities? What is the policy? When will they be employed?

**Dr. Wamukoya:** The question of employment in the Civil Service and TSC was withheld from July 1998. There will be no employment until the Government lifts the embargo.

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. I asked him the question of clarification as to which categories of teachers he was talking about. There are teachers from private colleges---

**Mr. Speaker:** Order! I cannot even hear you. Maybe he did not hear you.

**Mr. Anyona:** Mr. Speaker, Sir, then it is not my fault. It must be the microphone because I am speaking loud enough. I can even do without the microphone.

**Mr. Speaker:** That is alright. Continue.

**Mr. Anyona:** Mr. Speaker, Sir, I was

**[Mr. Anyona]**

asking the Assistant Minister to clarify whether we are talking about teachers from teacher training colleges, private ones, government ones or from the universities because there is so much confusion. Nobody knows what we are talking about.

**Dr. Wamukoya:** The Ministry is not employing any more teachers.

**Mr. Omamba:** Mr. Speaker, Sir, the Assistant Minister said that the Ministry has given out employment forms in Migori District, but Migori comprises of four constituencies. How many students have been employed from Migori District and how many from each constituency?

**Dr. Wamukoya:** Mr. Speaker, Sir, may I make it clear that the Ministry is not employing teachers. The Ministry is registering teachers to give them licences to practice as professionals, as it applies to very many professions. The mere fact that you fill a form for registration and you get registered as a teacher does not mean that you will be employed. I have two types of forms here. One is for registration under Section 7 of the Education

Act and the other one is for employment. We are not issuing the form for employment. The form that is being given is for registration.

**Mr. Mwakiringo:** Mr. Speaker, Sir, it is only early this year that the same Ministry admitted that they were losing 40 teachers per week in Nyanza due to HIV/AIDS. With the balancing of the teachers that they will do, are they still satisfied that they will not have shortage to warrant employment of teachers so that they can balance education in the country?

**Dr. Wamukoya:** Mr. Speaker, Sir, despite the deaths, we still have enough teachers to go round the whole country and that is why the Ministry is now trying to re-distribute them.

**Mr. Ochilo-Ayacko:** Mr. Speaker, Sir, we are aware that no teacher has been employed in the last three years. It is quite unsatisfactory for the Assistant Minister to say that they are not employing teachers. Can he state when this Government will resume employment of teachers because we cannot accept an indefinite answer?

**Dr. Wamukoya:** Mr. Speaker, Sir, the embargo applies to the whole Government. My Ministry is only part of that Government and I have no mandate to say when the embargo will be lifted. The Government will do that.

**Mr. Katuku:** Mr. Speaker, Sir, the Assistant Minister says that the Ministry is not employing teachers. There is a lot of understaffing of teachers in most of the schools in the country. Does the Ministry not need to employ teachers to offset this understaffing throughout the country?

**Dr. Wamukoya:** Mr. Speaker, Sir, I have just said that there is uneven distribution of teachers. We have overstaffing in 38 districts and understaffing in the rest of the districts. The Ministry is going through the exercise of redistributing these teachers. I can assure you that investigations done showed that we have enough teachers to go around.

**Mr. Shill:** Mr. Speaker, Sir, the Assistant Minister has agreed that we have very many teachers and some districts are better served than others. What will he consider doing if those teachers in overstaffed areas refuse to go to other districts? Will he sack them and employ the trainees who are ready to go to other districts which are understaffed?

**Dr. Wamukoya:** Mr. Speaker, Sir, may I be allowed to deal with that situation as it arises at that time.

**Mr. Sambu:** Mr. Speaker, Sir, the Assistant Minister did say that there is an embargo. Who has placed this embargo on the Kenya Government? I thought we were a sovereign nation and that our expenditure is planned and approved by this House. Who has placed the embargo so that we cannot employ these teachers?

**Dr. Wamukoya:** Mr. Speaker, Sir, my Ministry is under the Government of Kenya, and we had been directed not to employ teachers until the embargo is lifted.

#### INTRODUCTION OF SCHOOL-FEEDING PROGRAMME IN MAKUYU

**Mr. P.K. Mwangi:** Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) When will the Ministry introduce a school-feeding programme in Makuyu Division?

(b) What assistance does the Minister have in store for schools in the area in order to control the high rate of absenteeism of pupils from schools as a result of the current famine?

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

(a) The Ministry has no plans of introducing a regular school feeding programme in Makuyu Division as the area was not included in the current phase of the programme.

(b) Realising that the drought situation was causing stress to school-going children in many areas, and in consultation with the World Food Programme (WFP) and the Office of the President, the Minister for Education has mooted and expanded the school-feeding programme as a window of opportunity in the plan of operations of the GOK/WFP. But due to limited resources, only nine out of 12 districts targeted were taken on board for a period of three to six months.

However, with emerging needs and to curb the rising rate of absenteeism, the Ministry is exploring possibilities of including Makuyu Division along with other areas in the expanded school-feeding programme.

**Mr. P.K. Mwangi:** Mr. Speaker, Sir, here is a division where teachers are being paid hardship allowance, and here is Government which in its manifesto says that it will provide education to all, but it is denying education for school-going children from arid areas. The situation in Makuyu Division is serious, and right now, I am coming from my constituency where I visited Mathengeta Primary School, and a class of 40 pupils

had only 12 pupils, as they had all gone to pick coffee from the surrounding farms throughout the area. As a matter of urgency, because of famine, I urge the Assistant Minister to establish a school-feeding programme within Makuyu division in order to uplift the standard of education in that area. When will that programme start?

**Dr. Wamukoya:** Mr. Speaker, Sir, I agree with my colleague, and I have said that the regular School-Feeding Programme which has been going on for many years excluded Makuyu division, and the current phase which started in 1996 is ending in the year 2001. Then, there is the second programme, the one which we are calling the Expanded School Feeding Programme which is running between three and six months depending on the area, and that was also mooted recently and it is currently going on, and it excluded Makuyu Division. But then, I have told the hon. Member that we are now considering adding Makuyu District in the new Expanded School Feeding Programme, and my Permanent Secretary wrote a letter yesterday to the WFP requesting if we can include Makuyu Division.

**Mr. Speaker:** Who do I give the final chance? The best friend of Mr. P.K. Mwangi is Mr. Nyanja!

**Mr. Nyanja:** Mr. Speaker, Sir, he sits on my right-hand side. I would like the Assistant Minister to tell this House, as a matter concerning the whole nation, what criteria did the Ministry use to have excluded Makuyu Division and Ndeiya, in Limuru, because they fall in the same category? This is because there is no point in paying teachers hardship allowance when they are teaching nothing, but empty desks. That is a very serious matter, as we stand here now.

**Dr. Wamukoya:** Mr. Speaker, Sir, my Ministry does things in an organised way, and the above areas which are getting food aid were based on rankings of 32 districts in 1999 by a multi-agency known as Rapid Assessment Mission co-ordinated by the Office of the President which carried out a food security assessment survey. So, that came out from a survey that was done and recommendations made.

**Mr. Speaker:** Well, we must now go to the next Question. Next Question, Mr. Nguni!

PERMANENT EMPLOYMENT FOR TELKOM  
KENYA LTD EMPLOYEES

**(Mr. Nguni)** to ask the Minister for Information, Transport and Communications:-

- (a) Why has the Telkom Kenya Limited retained over 20 Kenyans as temporary employees for periods ranging from one year to two years at an all inclusive pay of Kshs120 per person?
- (b) When is the Telkom Kenya Limited likely to accord these temporary employees permanent appointments?

**Mr. Speaker:** Is Mr. Nguni not here? The Question is dropped!

*(Question dropped)*

GRAIN HANDLING CHARGES AT  
KENYA PORTS AUTHORITY

**Mr. Sifuna:** Mr. Speaker, Sir, I beg to ask the Minister for Information, Transport and Communications, the following Question by Private Notice.

- (a) How much is M/S Grain Bulk Handlers Limited paying the Kenya Ports Authority for handling charges per metric tonne?
- (b) How much was the Kenya Ports Authority (KPA) getting for handling charges per tonne before M/S Grain Bulk Handlers Limited took over?

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

- (a) M/S Grain Bulk Handlers Ltd are paying the KPA a net US\$2 for handling charges per metric tonne.
- (b) The KPA was getting a gross amount of US\$13 for handling charges per metric tonne before M/S Grain Bulk Handlers Ltd started operations. The US\$13 was gross, and I mean that they had to deduct claims, labour and other charges, which after deducting those overheads, they ended up with a net of about US\$1.5.

Currently, discussions are going on between the new management of the KPA and M/S Grain Bulk Handlers so that re-negotiations of the rate can be agreed.

**Mr. Speaker:** Yes, Mr. Wamae.

**Mr. Wamae:** Mr. Speaker, Sir---

**Mr. Speaker:** Sorry, Mr. Wamae. The Questioner has not even had the first opportunity to ask a



supplementary question, and so I will come to you after the Questioner.

**Mr. Sifuna:** Mr. Speaker, Sir, it is for the first time that you have done me a favour. Now, the Government guaranteed the KPA to put up these facilities, and I know that a lot of taxpayers' money was used. Could the Assistant Minister tell this House whether he is satisfied that US\$2, from US\$13 dollars, is adequate enough to pay the KPA? Is that fee appropriate, or is he satisfied with the rate of US\$2 per metric tonne?

**Mr. Keah:** Mr. Speaker, Sir, the construction of M/s Grain Bulk Handlers Limited facility is financed mainly by the International Finance Corporation (IFC) and other international shareholders.

**Mr. Sifuna:** On a point of order, Mr. Speaker, Sir. The hon. Assistant Minister, maybe, did not get my question properly. I said that the Government guaranteed Kenya Ports Authority (KPA) to put up this facility and it was, therefore, not necessary for it to grant permission to M/s Grain Bulk Handlers Limited to put up the same facility. Is the Assistant Minister satisfied with the charge of US\$2 per tonne and denying the Kenya Government US\$11?

**Mr. Keah:** Mr. Speaker, Sir, the answer as to whether or not I am satisfied lies in the fact that there are currently negotiations to arrive at an amount which I presume will be more than US\$2. There are currently negotiations between KPA management and M/s Grain Bulk Handlers in order to effect a new rate of tariff. Indeed, this was provided for in that agreement which arrived at US\$2.

**Mr. Wamae:** Mr. Speaker, Sir, is the hon. Assistant Minister aware that this is one of the corrupt deals that reduced the port handlers charges from US\$13 to US\$2? It was not a fair deal for the Government nor for the port. Would the Assistant Minister refer this matter to the Kenya Anti Corruption Authority (KACA)? What other action will he take to make sure that this matter is rectified as a matter of urgency?

**Mr. Keah:** Mr. Speaker, Sir, I started off by saying that the US\$2 charge is a net figure of all the charges. The US\$13 was charged by KPA as a gross figure. The KPA had then to deduct its operating expenses and arrive at a net figure. That net figure is the one to be compared with US\$2. So, when you compare US\$2 with US\$13, you are not comparing similar amounts.

**Mr. Kaindi:** Mr. Speaker, Sir, the Assistant Minister must explain to this House clearly. M/s Grain Bulk Handlers Limited is taking 30 per cent of the core business from KPA. That to this House, is privatisation. Is the Assistant Minister satisfied that taking 30 per cent of the core business from KPA is enough compensation, when you take into account the US\$2 that Mr. Sifuna has talked about? Is he satisfied that Kenyans are getting a fair deal? Thirty per cent of the core business of KPA is going to M/s Grain Bulk Handlers.

**Mr. Keah:** Mr. Speaker, Sir, I am not sure of that and I do not have the exact figures in terms of the business taken by M/s Grain Bulk Handlers Limited *vis-a-vis* that taken by KPA. But KPA itself was a principal negotiator and approver of the M/s Grain Bulk Handlers Limited construction. Indeed, the land on which M/s Grain Bulk Handlers Limited has been established was leased by KPA to it. So, KPA is fully in the picture and it was aware of what was happening. Be that as it may, I clearly said that when you compare the US\$2 with the US\$13, there is obviously a gross unfairness. This is like comparing oranges and eggs. In this case, you are comparing a net figure of US\$2 against a gross figure of US\$13, out of which you need to deduct the operating expenses.

**Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. I am sure you have heard the very long answer which is answering neither hon. Sifuna's question nor hon. Kaindi's question. Is the Assistant Minister satisfied or not about the difference of US\$2 and US\$13? The Assistant Minister should not give us more stories because he has said enough. Is the answer yes or no?

**Mr. Keah:** Mr. Speaker, Sir, the stories are part of the "yes or no" answer. Two US Dollars cannot be compared with US\$13. But when you compare a net figure of US\$2 and a gross figure of US\$13, you are not comparing likes.

**Mr. Sifuna:** Mr. Speaker, Sir, the hon. Assistant Minister is trying to mislead this House. In the first place, he cannot mislead the House by telling us that the US\$2 per metric tonne is a net figure when M/s Grain Bulk Handlers Limited is making billions and billions of money. Where is it getting this money from? Assume that one vessel only carries over 25,000 metric tonnes. When you calculate this, it means that KPA is losing US\$275,000, at Kshs78 to the Dollar exchange rate. This means that KPA is losing Kshs21 million per vessel. What criterion was used to arrive at this US\$2 per metric tonne?

**Mr. Keah:** Mr. Speaker, Sir, with due respect, that arithmetic may be correct. But from a practical point of view, the ships that have been docking there do not carry that capacity of 25,000 metric tonnes. So far, they have been carrying a load of 10,000 metric tonnes or thereabout. Since M/s Grain Bulk Handlers Limited started operating, on average one ship of a carrying capacity of 10,000 metric tonnes has been docking in almost every two weeks. So, the arithmetic is highly hypothetical, but it is correct. The issue here is US\$2 against US\$13. I

understand and appreciate the concern of the hon. Member, but we must compare the net figure of any freight and handling charges paid to KPA, to US\$13, minus labour, handling and demurrage charges.

**Mr. Speaker:** Order! You see, Mr. Keah is an accountant. Probably---

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

**Mr. Speaker:** Mr. Sifuna be orderly before I bring order to you. Mr. Sifuna may as well be an accountant, but you see, all these figures are boring the House. In any case, time is up. So, Dr. Kulundu, would you like me to defer your Question to Tuesday, next week?

**Dr. Kulundu:** Mr. Speaker, Sir, next week I will not be in this House.

**Mr. Speaker:** Okay, very well. I have remembered and so, I will give you the next five minutes. We move to DT. Kulundus' Question.

PARALLEL IMPORTATION/LOCAL  
MANUFACTURE OF HIV/AIDS DRUGS

**Dr. Kulundu:** Mr. Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

Now that HIV/AIDS has been declared a national disaster in Kenya, when will the Government allow parallel importation and/or compulsory licensing for local manufacture of anti-HIV/AIDS drugs?

**The Minister for Medical Services (Dr. Anangwe):** Mr. Speaker, Sir, I beg to reply.

Following the declaration of HIV/AIDS as a national disaster, the Government is considering all options to ensure that Kenyans have access to the necessary drugs at affordable prices.

**Dr. Kulundu:** Mr. Speaker, Sir, that answer is a bit vague and uncharacteristic of the Minister. On 10th May, this year, President Clinton issued an executive order which basically exempts sub-saharan countries that take HIV/AIDS seriously, like Kenya does. This order essentially exempts these sub-saharan countries from the provisions of the World Trade Organisation (WTO). Therefore, we in Kenya can benefit from importing these pharmaceuticals from countries such as Thailand or South Africa at greatly subsidised prices or even go further still and compel some of these multi-nationals that are here in Kenya like Welcome (Kenya) Limited, Pfizer and Glaxo to locally manufacture these drugs at affordable prices for Kenyans. Is the Minister aware of this executive order from President Clinton?

**Dr. Anangwe:** Mr. Speaker, Sir, I am aware and even the contents of that particular executive order have been discussed by African Ministers of Health when they met recently. In addition, the issue that the hon. Member is raising has to do with the parallel importation. According to the agreement by WTO, the trips do not bar a country to engage in parallel importation. In our country though, in order to import drugs from one source you need a licence and once you import those drugs, they have to be subjected to scrutiny by the National Quality Control Laboratory. Thirdly, once that drug has been imported and examined by that laboratory, it has to be registered under the Pharmacy and Poisons Act. So far, that particular approach has been employed in respect of other drugs. It is not an issue as of now because the law allows and the trips do not bar us from engaging in parallel importation. In respect of compulsory licensing, I heard you very clearly, but you have the wrong notion of that particular term and let me go to the relevant authority and this is WHO to make you aware of what that particular term is. You have taken it literally but this is a legal jargon.

**Mr. Speaker:** Address me, Mr. Minister!

**Dr. Anangwe:** Mr. Speaker, Sir, it is *omundu khu mundu!*

(Laughter)

**Mr. Speaker:** Continue, please!

**Dr. Anangwe:** Mr. Speaker, Sir, it was *omundu khu mundu* so, I was charged and I forgot to address you. That particular term is a legal jargon and I have an authority here and this is WHO from which we derive advice. The term "compulsory licensing" is used when the judicial or administrative authority is allowed by law to grant a licence without permission from the holder on various grounds of general interest, absence of working public health, economic development and national defence. Compulsory licensing will only be possible once we have enacted the Industrial Property Bill in which there is a section that will allow us to be able to realise that.

**Mr. N. Nyagah:** Mr. Speaker, Sir, fewer than 32 per cent of people world-wide have got access to anti-viral drugs. Given the fact that 15,000 are getting affected with HIV/AIDS and in Kenya alone we are losing people at the rate of 500 per day, is Kenya prepared to do it the South African way, where we can actually

manufacture the anti-viral drugs with or without the patency laws? Are we that brave enough to save the 2 million people who are already infected with HIV/AIDS?

**Dr. Anangwe:** Mr. Speaker, Sir, the Industrial Property Bill must be passed first to give us the requisite authority to be able to do that. If we do so without that particular authority, we shall be accused of having infringed the patent law.

**Mr. Muturi:** Mr. Speaker, Sir, I heard the Minister say that they have been able to use parallel importation in respect of other drugs. However, given the declaration of HIV/AIDS as a national disaster in this country, is the Minister compelled sufficiently by the enormity of the scourge to permit parallel importation?

**Dr. Anangwe:** Mr. Speaker, Sir, I have said that this country is not barred from engaging in parallel importation to the extent that that particular opportunity is not being exploited. It has nothing to do with the law. It might have to do with the market forces within the pharmaceutical industry. When it comes to the enormity to the problem of HIV/AIDS, I share your concerns. We are ready to take the requisite action as soon as this particular Industrial Property Bill is passed by this House.

**Mr. Wamae:** On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Minister to refer to the Industrial Property Bill when he is fully aware that his colleague, the Minister for Tourism, Trade and Industry, is the one who is sitting on that Bill? The Departmental Committee has gone through it and it is supposed to be brought back to this House for approval. When our people are dying at such high rates, is it necessary for the Minister of Tourism, Trade and Industry, to continue delaying that Bill?

**Dr. Anangwe:** Mr. Speaker, Sir, I cannot comment on that question since I am not responsible for the work of the Minister of Tourism, Trade and Industry.

**Mr. Speaker:** Next order!

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

**Mr. Speaker:** I did not give you a second chance?

**Dr. Kulundu:** The Minister only answered one of my questions.

**Mr. Speaker:** Are you appealing to my generosity?

**Dr. Kulundu:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Very well, proceed!

**Dr. Kulundu:** Thank you very much, Mr. Speaker, Sir. It is rare to enjoy that generosity of yours. The Minister was very wordy in his answer. I think we are also losing track of what we are saying here. What concrete steps has the Kenyan Government put in place, leave alone compulsory licensing, with respect to parallel importation, since AIDS was declared a national disaster? The Minister was not very clear about this. We cannot be waiting for another Ministry to implement trips, the Industrial Property Bill and so forth. What concrete steps have you as a Ministry put in place to make sure that Kenyans have access to these world-renowned anti-viral drugs?

**Dr. Anangwe:** Mr. Speaker, Sir, I think he was not listening. I have said that parallel importation is allowed. To the extent that that particular opportunity has not been taken, it has to do with the politics of the pharmaceutical industry.

**Mr. Speaker:** Next Order!

## MOTION

### ADOPTION OF ANTI-CORRUPTION SELECT COMMITTEE REPORT

THAT, this House adopts the Report of the Anti-Corruption Select Committee laid on the Table of the House on Tuesday 9th May, 2000, and further recommends that the Attorney-General introduces a Bill entitled The Anti-Corruption and Economic Crimes Bill, 2000, contained in the Report.

*(Mr. Kombo on 5.7.2000)*

*(Resumption of Debate interrupted on 5.7.2000)*

**Mr. Kombo:** Mr. Speaker, Sir, continuing from where we were yesterday, I would like to---

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir. I

have now seen the papers that he laid on the Table. I would like the hon. Member who is contributing now, to tell me and this House why he did not summon me? He has used those papers to malign my name in the Report! I would like him to say why he did not summon me? It was my right to be summoned! He cannot condemn me without asking me to defend myself!

**Mr. Speaker:** Order! I think hon. Members must recollect what I said yesterday. Let us treat this debate seriously. I enforce the rules of the House on your behalf and benefit. I look upon every Member to assist the Chair in the enforcement of the rules of this House. Proceed, Mr. Kombo!

**Mr. Kombo:** Mr. Speaker, Sir, I just want to say that yesterday, throughout my contribution, I emphasised that we should deal with issues---

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir. I would like him to answer me! I am entitled to that!

*(Loud consultations)*

**Mr. Speaker:** Order! Mr. Biwott, you have put your case across. He has heard it. It is his onus to respond to you. But you do not expect him to respond to you without talking! Do you? Proceed!

**Mr. Kombo:** Mr. Speaker, Sir, I have to repeat that from yesterday, I have insisted that the debate should be above trivialities. We should be discussing issues. The issue at hand is one of corruption and bad governance. I can go as far as saying that the issue is one of morality. We are discussing a moral issue. So, really, those who would like to engage in trivialities will be left to continue. But I think as the House, we should insist on dealing with the issues. At the end of the day, the issue will be between good and evil. The issue will be between those who are for corruption and those who are against corruption! To me, those are the issues that people should address. When I thought about the moral crisis that we will go through, I was reminded that, at the end of the day, hon. Members will have to take sides and positions. They will either be for or against corruption. Those who would like to be neutral reminded me of one philosopher called Dante, who said: "The hottest spot in hell is reserved for those who remain neutral in a moral crisis."

*(Applause)*

So, yesterday, I had reached a position where I wanted to discuss the Goldenberg issue. I would like to continue from there.

**Mr. Speaker, Sir,** I had said that the Goldenberg issue was a regime of transactions and financial activities---

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir. I believe I deserve an answer from him, as to why he did not summon me! How can he accuse me without summoning me? I want to know the reason why he did not summon me?

**Mr. Speaker:** Order! By the way, I thought what hon. Biwott raised was noted by the hon. Member so that he can respond? It is, of course, a matter that has not only been addressed in this House, but also outside this House! A lot of people who have been mentioned in what is now called, "The List of Shame", have not been called to defend themselves. It is not something that we can just put under the carpet. I was expecting hon. Kombo to take the opportunity to respond!

**Mr. Kombo:** Mr. Speaker, Sir, as you have rightly said, there may be many cases. I will wait until I hear all of them and then, deal with them once and for all! I will not deal with every individual who comes up with a complaint!

**Mr. Speaker:** Mr. Kombo, I think that is a wrong approach. Are you suggesting that every person who would like you to explain why you did not call them should now stand up?

**Mr. Kombo:** Mr. Speaker, Sir, I am also assuming that hon. Biwott will be given a chance to make a presentation! When he does, he can raise those issues! In my reply, I can deal with them! Why should he put questions to me now?

**Mrs. Ngilu:** On a point of order, Mr. Speaker, Sir. I think you have been treating hon. Biwott in a special way in this House! I think hon. Biwott knows very well that he has not only been mentioned in this particular Report, but he has also been called to appear before the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) so many times! Hon. Biwott's name is in all those Reports! Why is it that he is "special" now and talks about this particular Report?

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir.

First of all, the hon. Lady here is misleading the House! I have only been called once by the PIC. I went there over this very same issue! I was very happy because they got the facts right! I am now asking the hon. Member, who is the Chairman of this Committee, to explain to this House why, when he got those letters that he is now relying on, he did not call me? He did not call Mr. Simba or Mr. Savage, who was the author of the letter for clarification! That could have helped the situation! I demand an answer! If he cannot answer me, then he must accept the fact that he was maligning my name!

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. I think this whole issue is one that has to be resolved by the Chair and the House on the basis of our own rules. If an allegation is made, or if a fact is stated that provisions of the Standing Orders in terms of summoning witnesses were not complied with, or the provisions of the National Assembly Powers and Privileges Act in the same context were not followed, or that the rules of natural justice were not complied with, then clearly, it is the responsibility of the Chair to establish that and then make a decision. I do not think that we are going to expect every Member to complain and expect hon. Kombo to answer. I think it is a matter of principle.

**Mr. Speaker:** Order! Order! First of all, for the second day running, hon. Ngilu is taking personally, the Chair.

**An hon. Member:** No! She is right!

**Mr. Speaker:** Order! Order! If you are right, the law is very simple. Every organisation has rules which must be followed. In those rules, there must be somebody to arbitrate and that person must be given the due respect. This House has given me the role of an arbiter and it is this House that can take it away from me and not an individual person. It is the collective will of the House.

**An hon. Member:** Is it Mwenje again?

**Mr. Speaker:** Order! Order! Some hon. Members think that the rules must only apply to one person and would not apply to them, but that would not happen. There are two things in this House we must choose and I am saying this with all seriousness; this House must choose either to live within its rules, or to turn itself into a "ruleless" organisation. The rules are yours and you are actually the ones who are supposed to ask me to enforce them. I enforce them on your behalf. If you please that there would be no rules in this House and you make that resolution now, I will sleep here, so that you continue as you please. But until that resolution is made, I am sworn to protect the rules and dignity of this House. I will continue to do so without intimidation. I was asked to rule on the Powers and Privileges Act and other rules, but I cannot rule what has not come to the fore. First of all, the Motion itself by Mr. Kombo is not yet even proposed from the Floor. So, anybody who wishes ultimately, to raise any legal or technical positions, must patiently wait until the issue has been proposed from the Chair. That is the rule.

(Applause)

**Mr. Obwocha:** It applies to Mr. Biwott!

**Mr. Speaker:** Mr. Obwocha, would you, please, obey the rules of the House that when Mr. Speaker is on his feet, you will keep quiet? That applies for all of you, please.

**Mr. Obwocha:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Can we now allow Mr. Kombo to proceed?

**Hon. Members:** Yes!

**Mr. Speaker:** All of you, please, understand that this is Parliament and it is a political House. We are dealing with politicians and this is a political debate. I am sure you are not politically agreed, but you must tolerate one another. Above all, you must respect the rules of the House. Proceed.

**Mr. Kombo:** Mr. Speaker, Sir, since hon. Biwott wants to be given special treatment, I would like to tell him that, as far as we were concerned, with regard to what was in the Public Accounts Committee (PAC) and Public Investments Committee (PIC), a *prima facie* case had been established. When that happens, *ex-parte* evidence is taken everyday in court. Other than that, I would wait for his contribution and then we can continue with the debate.

(Applause)

Mr. Speaker, Sir, let me move on to Goldenberg issue. I had said yesterday that Goldenberg issue is a regime of transactions and financial activities by a number of related parties that were used to defraud the country. I will deal with them at the principal point of view and you will see that, in fact, the moneys we are talking about

in Goldenberg, nobody would ever know the truth how much really was lost. I think the sums are colossal and it would just be impossible to know. Some of the transactions or activities that encompass Goldenberg are pre-shipment activities, what is popularly known as "Export Compensation"; Central Bank overdrafts to politically-correct banks, Forex C activities and even cheque kiting comes under this regime and put together, we are talking about "Goldenberg issue".

Mr. Speaker, Sir, the entire gravy train was set into motion when the export compensation on the phantom gold and diamond was set in place. That is where the problem started. Chronologically, there were enabling legislations that ensured that, that gravy train moved on at a fast speed. In 1990, Government officials approved a scheme of huge exports of gold and jewellery. Around the same time, in 1990, the Government introduced what it described as an incentive facility in the form of pre-shipment. Under this incentive scheme, the Central Bank would then make money available to exporters to assist them, prior to their being paid by their customers from overseas. The Minister for Finance then, who was also the Vice-President, approved an enhancement of export compensation claim to 35 per cent. The gazetted percentage was 20 as provided for by the June, 1985, Local Manufacturers Export Compensation Act, Chap.482, Laws of Kenya. So, the Minister approved an extra 15 per cent.

The laws of Kenya are being changed without passing through this House. This was also being done in spite of advice from the Attorney-General that it was *ultra-vires*.

At this stage, I want to produce letters showing that the Attorney-General did give that advice.

*(Applause)*

Mr. Speaker, Sir, a gentleman by the name of Mr. Mulili from the Customs and Excise Department, wrote a letter dated 19th December 1990, to the Attorney-General and said the following:-

"The Permanent Secretary, Office of the Vice-President and Ministry of Finance, has advised that the decision had been taken to

**[Mr. Kombo]**

include the rate of export compensation in respect of exports of diamonds; jewellery, exported by the above mentioned company, and the company is Goldenberg International Limited, from the present 20 per cent to 35 per cent. As you can see, the letter directs me to effect payments pending the publication of an appropriate Legal Notice. However, the relevant Act Cap. 482, has no provision for payment before the order is published. I have, therefore, attached the amendment I consider necessary to enable us pay export compensation as directed, for you to clear for the Minister's signature."

Mr. Speaker, Sir, I want to lay this letter on the Table.

*(Mr. Kombo laid the letter on the Table)*

Then, the Attorney-General: in his wisdom, replied as follows:

Thank you for your letter reference---

The letter is titled: "Attention: Mr. P.M. Mulili; Increased rate of export compensation; Messrs. Goldenberg International Limited.

It reads as follows:

"Thank you for your letter Ref.C/EXP/1, dated 10th January, 1991. I have carefully considered your proposal and the provisions of the Local Manufacturers' Export Compensation Act, Cap.482, of the Laws of Kenya and I regret to advise that to amend the First Schedule to that Act, in the proposed manner, would be *ultra-vires* as Section 3 under which the first schedule is made, presently stands enacted and the rate of compensatory payment must relate to all eligible goods exported from Kenya. Different rates of compensatory payments cannot be made for different goods as you are proposing to do. The way that can be done is through an amendment to Section 3, enacted by Parliament, enabling the Minister to make an order providing for different rates of compensatory payments. Finally, as you rightly point out in the last paragraph of your letter, there is no provision under the Local Manufacturers' Export Compensation Act, which allows the Commissioner to effect payments pending the publication of an appropriate Legal Notice. In view of the foregoing, I am not able to clear the draft for your Minister's signature."

The letter is signed by A.H. Buluma, Chief Parliamentary Counsel and it is copied to the Attorney-

General, but it is from the office of the Attorney-General.

So, this letter goes to---

**The Vice-President** (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. I do appreciate the presentation made by the hon. Member. But, may I also bring to the attention of the House the fact that, indeed, 20 per cent export compensation for gold was in the Act. That is clear. The 15 per cent was itself based on a recommendation of an Inter-Ministerial Committee, but not a Treasury matter. The letter which I also want to lay on the Table of the House--- There is a letter which was sent from the Office of the President calling Members, including the representative of the Attorney-General for that meeting.

I also want to say this: Although a letter was written, I want to explain something here!

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

**The Vice-President** (Prof. Saitoti): Not at all! I have to explain about the 15 per cent here! I was not given---

**Mr. Speaker**: Order! Order! Mr. Murungi, as lawyer, the Vice-President is on a point of order.

**Mr. Murungi**: But we are questioning him!

**Mr. Speaker**: Order! Whether you question that, you have to question him after I have realised whether he is out of order or not. You will be entitled to challenge it and bring it to my attention that he is wrong, then I will make a ruling. Proceed!

**The Vice-President** (Mr. Prof. Saitoti): Mr. Speaker, Sir, what I do want to say is the fact that, the payment of 15 per cent was envisaged, but it was not export compensation as such. I want to read out something for him. This is a letter that was written to the Permanent Secretary, Mr. Mbindyo, by the Permanent Secretary, Ministry of Environment and Natural Resources, on behalf of the Inter-Ministerial Committee. It reads as follows:

"In summary, we recommend the immediate grant of 15 per cent special bonus as an incentive to gold exporters over and above the 20 per cent export compensation."

**Mr. Speaker**: Order now!

**The Vice-President** (Prof. Saitoti): Mr. Speaker, Sir, what I wanted to say before I sit is, that, that one was never envisaged to be paid under export manufacturing---

**Mr. Speaker**: Order! Order!

**Hon. Members**: Order! You should sit down when you are told "order"!

**Mr. Speaker**: Order! Order! One thing that I am not is judge. I am only Mr. Speaker, Sir, to apply the rules of the House, but not to judge. Fortunately, the Attorney-General, who is the Chief Legal Advisor of the Government, including Parliament, is sitting here.

**An hon. Member**: Is he?

**Mr. Speaker**: Yes! Including Parliament!

**An hon. Member**: No, no! It does not include Parliament!

**Mr. Speaker**: Order! To the best of my knowledge, Parliament has not employed a legal counsel for Parliament and neither to me!

**Hon. Members**: But the Attorney-General is not the legal advisor!

**Mr. Speaker**: Order! By they way, I may be legally trained, but I am not paid by this Parliament to offer legal services. So, you must understand the difference between being Speaker and a legal counsel.

Anyway, Mr. Muskari Kombo, since the Attorney-General is seated here, he will listen to you. I also remember other fora---

**An hon. Member**: But the Attorney-General is neither---

**Mr. Speaker**: Order! Mr. Angwenyi!

**An hon. Member**: That is not Mr. Angwenyi!

**Mr. Speaker**: Who is he?

*(Laughter)*

Who is he? Order! Order! Hon. Members, ordinarily, hon. Members must be quiet when the Speaker is communicating. That is how it used to be before you came here! So, please, let us listen to these matters.

The Attorney-General, as the prosecutor, will listen to these matters and he will advise the House as best as you legally can, on matters of law. Proceed!

**Mr. Mwenje**: On a point of order, Mr. Speaker, Sir. It appears as if there are some missing names from this list. Incidentally, yesterday, you ordered me out of this House when I was not in. I was surprised, because I was not in here. From where I was, I just heard you call out my name and order to leave the Chamber. You have

now mistaken another hon. Member for somebody else. I hope you now realise that you ordered out the wrong person yesterday, because I was not even in here.

*(Laughter)*

**Mr. Speaker:** Order! Order! Mr. Mwenje, have you finished?

**Mr. Mwenje:** No, I have not, Mr. Speaker, Sir. At the same time, I am lost. You have made several rulings in the past. Now we seem to be lost somewhere in the middle of the game. I have seen a document which shows that, sometime back, this House made a resolution on the same issue being discussed here. I wonder which of the two resolutions regarding this matter is binding. Is it the previous one or the one to be passed this time? I have seen a resolution that was passed by this House on the same issue, a copy of which is in my possession. When that resolution was being made then, the person who was in the Chair happened to be you. You made a ruling on this same matter then. I now need your guidance as to exactly---

**Mr. Speaker:** Mr. Mwenje, what is it, exactly, that you are complaining about?

**Mr. Mwenje:** Mr. Speaker, Sir, there was a resolution by this House on this matter in 1995, when I also happened to be here. The House then, actually, looked at the Goldenberg issue and made a resolution, whose copy I am prepared to avail to this House.

**Mr. Speaker:** What does that resolution say, Mr. Mwenje?

**Mr. Mwenje:** Mr. Speaker, Sir, the resolution I am referring to was made on 19th April, 1995. It reads as follows:-

"THAT, the Report of the Public Accounts Committee (PAC) on the Government of Kenya accounts for the Year 1992/93, which was laid on the Table of the House on 30th March, 1995 to the exclusion of paragraphs 38, 39, 48 and 112, and recommendations appearing therein, taking into account the fact that the Government policy on grant of export compensation for export of gold and diamond jewellery was done procedurally."

Mr. Speaker, Sir, what I have read out is just the resolution that was made by this House. At the same time, you also made some ruling. You ruled that, under Standing Order No.74, reference shall not be made to question a particular matter that is *sub judice*. This ruling was referring to the same matter we are dealing with here. I do not know what your current ruling would be, in view of what is happening here.

Under Standing Order No.74, it is not proper for us to discuss this matter. Mr. Robert Shaw says in one of his books: "If you cut all the trees to look for the devil and find that the devil is bigger than you, you might find it very difficult to kick it out." The Chair must now guide us whether it would help us to break all the rules to catch the devil. Since yesterday, we have been breaking the rules to discuss some hon. Members of this House without bringing substantive Motions. I do not know where we actually belong as far as this matter is concerned.

*(Loud consultations)*

**Mr. Speaker:** Order! Order! Hon. Members, it is, really, below your dignity not to listen to issues being raised here.

**Mr. Jirongo:** And below your dignity, too!

**Mr. Speaker:** Mr. Jirongo, I order that you withdraw from the Chamber, now.

**An hon. Member:** But why?

**Mr. Speaker:** If you question me, you will follow!

*(Mr. Jirongo withdrew from the Chamber)*

**Mr. Speaker:** Order! Order! Hon. Members, I do not know whether we really want to debate this Motion, or we just want to make it impossible for us to proceed. Mr. Kombo, I am not aware of what you are, really, getting at. I, however, hope that, as you said yesterday, you are cognisant of the various rulings of the Chair in matters that are *sub judice* on matters that are before court. I am waiting patiently to understand what you are getting at.

To answer you, Mr. Mwenje, I cannot stop Mr. Kombo from saying his piece when I have not even gotten the gist of what he is saying. I, however, hope that you will respect the rules of the House. I hope that nobody is trying to cut trees to look for the devil. First of all, I do not know how the devil looks like, or where he resides. I am, however, told by those who know something about theology that the devil resides within human beings. I do



not know exactly where within a human being the devil resides; I only know that it resides somewhere within a human being. So, let us proceed.

**Mr. Obwocha:** On a point of order, Mr. Speaker, Sir. I was a Member of PIC in 1995. When the paragraphs of our Report referred to by hon. Mwenje came to this House---

**Mr. Speaker:** Mr. Obwocha, why are you making this issue a debate? I have not even digested it.

**Mr. Obwocha:** Mr. Speaker, Sir, is hon. Mwenje in order to mislead this House that there was a ruling to the effect that those paragraphs should not be discussed when we know the particular paragraphs were dealing with specific issues on the Goldenberg issue, which was then in court, and that the Chair ruled that matters that were in court could not be discussed exhaustively, or in detail?

*(Loud consultations)*

**Mr. Speaker:** Hon. Members, what is all this? I do not understand what this is all about. Let Mr. Kombo come to anything that is contentious. If he does, any hon. Member here is at liberty to object and seek my ruling on it. Until we come to that bridge, I cannot cross it.

**The Minister for Tourism, Trade and Industry** (Mr. Biwott): On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Let the Attorney-General raise his, first, Mr. Minister.

**The Attorney-General** (Mr. Wako): On a point of order, Mr. Speaker, Sir. Maybe, I should refresh hon. Members' memory on this issue. Indeed, there was a communication from the Chair on 11th June, 1996, which touched on paragraphs 34 to 37 of the PAC Report being referred to, concerning the unsupported expenditure of K£7,387,374-75-74, which was the equivalent of Kshs14 billion, of which part was Kshs5.8 billion. On that day, you made a ruling that the *sub judice* rule applied. That has, indeed, been the understanding by Parliament since that time. That has been a matter of concern, particularly, to PAC, which wrote to me and said the following:

"The case relating to Messrs Goldenberg International Limited has taken too long to resolve, hence denying Parliament the chance to deliberate on that issue."

So, that particular ruling by the Chair, which the PAC then, correctly, interpreted, means that Parliament cannot touch on the issues relating to M/S Goldenberg Limited. If I may say so, I have been, keenly, listening to the hon. Member referring to that matter but, so far, he had touched only on very general policies. So, I just want to, really, caution him that he should not now touch on the "people" of this case, because these are matters which are before court. Apart from the rule of *sub judice*, which applies, the fact of the matter is that, as I speak here, there are very many cases before the court relating to this matter; a major constitutional reference has been filed to stop all the Goldenberg-related cases. That application will come up for hearing from 17th July, 2000. In support of that constitutional application, are various paragraphs which make reference to what has been going on in this House as far as the Goldenberg issue is

**[The Attorney-General]**

concerned. Therefore, in addition to other grounds, the defendants claim that they cannot get a fair hearing in court today. Therefore, we have to be very careful so that whatever happens here does not affect the constitutional application that is before the court today.

Mr. Speaker, Sir, yesterday, there was concern that the Goldenberg case has taken a long time to be heard in court. I would like to inform this House that part of the delay, if I may say, is due to what went on before some Committees here, and which formed the basis of a constitutional application about fair trial. You may recall that the Government was ready to hear the case from 11th September, 1997, and two weeks before that was done, the Governor of the Central Bank of Kenya (CBK) appeared before the PAC and made some remarks on the Goldenberg case which was in court. The Saturday before, the International Monetary Fund (IMF) made some remarks and that became a constitutional application which took more than one and half years to settle through the Chief Magistrate's court. Therefore, we want that case to continue. So, my plea is: Please, do not touch on a matter that is before the court.

**Mr. Speaker:** Order! Mr. Kombo, you have heard what the Attorney-General has said and I think it also ties with what Mr. Mwenje has said. I think it is in the national interest that we uphold the rules. It is also important that the accused persons charged with various offences in various courts do not take advantage of what we do or meet to do here to get themselves either out or in. We have to allow everybody to feel that there is fair play. So, please, with that can you continue?

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. I think it is the question of management of these issues. With respect to the provisions of Standing Order Nos.73(4) and 74, in my view, the correct position would be that we start by assuming that those two are in place.

**Mr. Speaker:** Mr. Anyona, can you read out what the Standing Orders say, so that the general House and Kenyans understand what you are saying?

**Mr. Anyona:** Mr. Speaker, Sir, there are two issues here. The first issue is that in the debate---

**Hon. Members:** Read out the Standing Orders!

**Mr. Anyona:** Mr. Speaker, Sir, they can read their Standing Orders; they have their copies! Standing Order No.73(4) is about discussing the conduct of an hon. Member. In the course of the debate, some kind of discussion over the conduct of an hon. Member is going to arise. How do we deal with that? Standing Order No.74 is on what the Attorney-General and the Chair have been talking about; that is matters before court. The Chair has actually dealt with both issues in its ruling of 11th June. All that I was trying to say is that if we start from that ruling that is in place, then Mr. Kombo would be on a safe ground; he will know the areas to avoid and the ones he can explore.

**Mr. Speaker:** What is bothering me these days is that you have ceased debating between yourselves and started debating with the Chair. Who said that Mr. Kombo is immune to my ruling referred by you or any other hon. Member for that matter? Until that ruling is reversed by the House or the Speaker, it remains valid and enforceable. We will continue on that ground so that the hon. Member knows the rules of the House and the previous rulings of the Chair, and if he does not, he will be informed. So, please, let him now continue. I would like to ask the House to debate between yourselves. Keep the Chair out of this, unless it has to arbitrate!

**Mr. Wamunyinyi:** On a point of order, Mr. Speaker, Sir. The Goldenberg case has been pending before Mrs. Kidullah's court, who is now supposed to prosecute. This case was being prosecuted by Mr. Chunga, who is now supposed to hear the case. In view of this and as far as I am concerned, this case is not in court.

*(Applause)*

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir!

**Mr. Speaker:** Order, Mr. Biwott! Mr. Wamunyinyi, you are addressing an absolutely wrong forum. There is no case before me, and to the best of my knowledge, you are not a lawyer for any of the accused in those cases, but I can recommend that if you may wish to offer the services, you offer them at an appropriate forum. This is a wrong forum!

**Hon. Members:** On points of order, Mr. Speaker, Sir.

**Mr. Speaker:** All of you are overruled! Now, we have to go into business. Proceed, Mr. Kombo.

**Mr. Kombo:** Thank you very much, Mr. Speaker, Sir. I think hon. Wamunyinyi was only responding to what the Attorney-General had said. He was trying to put the blame on the delays to the House. Hon. Wamunyinyi really pointed out that---

**The Attorney-General (Mr. Wako):** Mr. Speaker, Sir, I wanted to let that pass, but since he has referred to it, is hon. Wamunyinyi in order to allege that there is no case in court when in fact, there is a case in court and there are legal procedures to be followed under the instances he has quoted to enable the case to continue?

**Mr. Speaker:** Order! As Kenyans, if you really care about what is called "justice taking its course", and if we, as a Parliament would like not to [Mr. Speaker] be accused of having done certain things that may lead to miscarriage of justice, let us be very careful here. Let us not fall into a trap upon which this Parliament can be blamed rightly or wrongly for a certain course of events in courts. Let us give Mr. Kombo a chance. Proceed, Mr. Kombo.

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir. My point of order is important!

**Mr. Speaker:** Order! Proceed, Mr. Kombo!

**Mr. Kombo:** Thank you, Mr. Speaker, Sir. Again, I will lay those letters on the Table for hon. Members to peruse.

*(Mr. Kombo laid the letters on the Table.)*

I am trying to give the chronology of events at principle level. I am not even discussing cases that are in court, but I am trying to show how the gravy train started and how it was moving. That is all I am trying to do.

**The Minister for Tourism, Trade and Industry (Mr. Biwott):** On a point of order, Mr. Speaker, Sir. Was the hon. Member in order to mislead this House about the past PICs and PACs as enough *prima facie* when in fact, I disputed them on 6th October last year? Would that not have been enough for them to call me? In my

dispute at that time, I had also argued that nobody called me. He is misleading the House, and as far as I am concerned, he has not answered me yet.

**Mr. Speaker:** Order! I do not know whether it is a contest between the two of you. The best judge, of course, is not the Speaker, but the House. To all those who are making this presentation, if you are challenged to state a fact or the reasons upon which you arrived at a particular fact and you deny the House the opportunity to hear those reasons, you are not denying it to the Speaker or the person questioning you; you are denying it to the House. It will be upon those facts that the House will make a decision. So, please, can I be left at peace now?

Proceed, Mr. Kombo.

**Ms. Karua:** On a point of order, Mr. Speaker, Sir. My point of order is on Standing Order No.88(3). You had previously asked hon. Members to leave the Chamber when they raise frivolous points of order. Hon. Biwott, under the guise of raising a point of order is introducing matters which he could easily bring in when he gets the chance to contribute. This has been going on since yesterday. I am asking the Chair to look into this matter, so that this House is not seen to apply double-standards and instead name hon. Biwott for gross disorderliness.

*(Applause)*

**Mr. Speaker:** Order! I have listened very carefully to what you have said. I will go a step further and say it will apply to Mr. Biwott and everybody else, with equal force and from now.

Proceed, Mr. Kombo.

**The Assistant Minister for Education, Science and Technology (Mr. Karauri):** On a point of order, Mr. Speaker, Sir. I am seeking the guidance of the Chair on this matter. This is because the Mover might take three or four days moving the Motion. This will cause a lot of anxiety and hon. Members might be unruly. Although there is no limit to this debate, could I be in order to ask the Mover to try to be brief because this House has read the report? He should not take many days moving it.

**Mr. Speaker:** Order! I will not do what the law does not allow me to do. The law does not allow me to stop, Mr. Kombo from moving the Motion. If he thinks that he wants to debate this issue for one year alone, he is quite at liberty to do so. But in the process of taking one year, he may not have an audience or the audience will have been so upset with him, that as soon as he sits down, they vote the Motion out of the House. So, it is really up to him to be brief or not.

**The Vice-President (Prof. Saitoti):** On a point of order, Mr. Speaker, Sir. I think what I am saying is not frivolous because it relates to the resolution of this House which was made through exhaustive discussion. This is because the Government policy on export of gold and diamond jewellery was discussed exhaustively in this House. On 19th April, 1995---

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

**The Vice-President (Prof. Saitoti):** No! No! This is important. I want to know whether this resolution is valid or not. It reaffirms---

**Mr. Speaker:** Order! As I said earlier on, my previous rulings bind everybody in this House, including the Mover of this Motion and so do the resolutions of this House. I suppose the House takes cognisance of its resolutions. Therefore, as the Chair is concerned, a resolution of the House is taken to be valid all the time until a further resolution is made to rescind it. So, to that extent, we need not to worry or haggle about the validity or otherwise, of a resolution of the House. Proceed, Mr. Kombo.

**The Vice-President (Prof. Saitoti):** On a point of order, Mr. Speaker, Sir. In fact, it is out of order for any hon. Member to even lay documents of this on the Table of the House. They are assumed to be there. You can only refer to them.

*(Mr. Kombo laughed)*

Mr. Kombo, do not laugh because you are also in the same boat. You should not also be allowed to lay documents on the Table of this House in any way or by incorporating previous documents of this House, either in your speech or in your report because it is tedious repetition. So, proceed.

**Mr. Kombo:** Mr. Speaker, Sir, sometimes it is quite interesting to watch people perform because the resolutions---

**Mr. Speaker:** Order! Mr. Kombo, proceed with your speech.

**Mr. Kombo:** Mr. Speaker, Sir, as I said, I was purely talking about the principles on how the gravy train was set into motion. I have talked about the pre-shipment and export compensation. Sometimes in 1992, the

Government introduced Foreign Exchange Certificates which were popularly known as forexcs. All these were part of the gravy train. The same Minister then gave the sole exporting rights for those two precious commodities---

**Mr. Speaker:** Order! Are you by the way, Mr. Kombo, taking a whole afternoon to discuss the conduct of an hon. Member of this House without a substantive Motion?

**Mr. Kombo:** Mr. Speaker, Sir, I am discussing the Goldenberg Scam.

**Mr. Speaker:** Will you desist from discussing an hon. Member and proceed?

**Mr. Kombo:** Mr. Speaker, Sir, I will simply summarise on the Goldenberg scam and say the following.

**Hon. Members:** Do not be intimidated. There is no hurry. Take your time.

**Mr. Kombo:** Mr. Speaker, Sir, I think I have demonstrated that the gravy train was put into motion by the participation of the Central Bank and all other bodies that I have mentioned, in ensuring that this Goldenberg saga went on. I think there are very pertinent questions now that one would want to ask on Goldenberg. First, to sanction the export compensation in itself, as far as the Committee was concerned, and the documents we have seen, was an illegal act because gold did not---

**The Vice-President (Prof. Saitoti):** On a point of order, Mr. Speaker, Sir. I think you have just made a ruling that a resolution of this House remains in force all the time. Here is the resolution of this House which was adopted without amendment: That the policy of the Government for paying export compensation was done procedurally and it was lawful. Is the hon. Member in order to start questioning this resolution without a specific substantive Motion to reverse it?

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. We have noted with great concern, the fact that hon. Prof. Saitoti has been given a lot of opportunities to make personal statements regarding this matter, including the matters which are in court. Our terms of reference, as a Committee, were to investigate the root causes of corruption and to identify the key perpetrators of corruption. So, even if by going behind the resolutions of the House we were able to identify the key perpetrators of corruption, then we were perfectly within our terms of reference. So, a resolution of the House, passed by another Parliament, should not be used to obstruct the work and the Report of this Committee.

**Mr. Speaker:** Order, Mr. Murungi! You are wrong on both scores and you know it. You know it deep in your heart that when Parliament has come up with a resolution or passed an Act of Parliament, that Act does not cease to exist because that Parliament has been dissolved. You also know that you cannot bring an illegality because it is either politically or socially convenient and say that then it does not matter what the rules say. That is wrong. Can we please rise above both possibilities and stick to the rules and give Mr. Kombo a chance because he is capable of putting his case straight.

Proceed.

**Mr. Kombo:** Mr. Speaker, Sir, as I said yesterday, it is important that the issue of Goldenberg really be understood well by Kenyans. This issue has nearly destroyed this country. In fact, sometimes in my dreams, I wish there was no *sub-judice* rule and collective responsibility so that people speak as individuals so that those who know about the Goldenberg can come out and speak and then Kenyans can know what is going on. I think that principle is absolutely important.

For the purpose of the law, export compensation was based on the remittance of duty paid on imported raw materials. In order to qualify for export compensation at that time---

**Mr. Speaker:** What paragraph of the Report is that?

**Mr. Kombo:** It is on Goldenberg, Mr. Speaker, Sir.

**Mr. Speaker:** No, you will have to be relevant to the Report. What paragraph of the Report is this? Can I have a look at it? What page is it? I am waiting for you, Mr. Kombo.

**Mr. Kombo:** I am looking for it. Let me take my time. In volume No.1 it is in schedule No.28.

*(Mr. Kombo perused the Report)*

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

**Mr. Kombo:** On page 89 and also page 191.

**Mr. Speaker:** I thought from No.28 it says 9 to 17?

**Mr. Kombo:** It is in volume one.

**Mr. Speaker:** That is the one I have.

**Mr. Kombo:** It is on page 89. It is No.28 which refers to "Goldenberg scandal and unsupported expenditure".

**Mr. Speaker:** Before you continue just get me right, whether I am right or wrong. On page 89, the first

column there is a certain list of persons and the second column which refers to paragraphs 29-31 of PAC 1994/96 Report and paragraphs 36-41 of PAC 1994/95 Report. On the third column it talks about "Goldenberg unsupported expenditure" It also talks about Kshs51.1 billion; KACA takes up the case with a view to prosecuting suspects and recover public funds. Is that the position?

**Mr. Kombo:** Yes.

**Mr. Speaker:** Then as I understand, this is just a schedule. All of them as the Report says are taken from PAC Reports for the years stated and which have already been dealt with by this House. Are you not engaging this House in unnecessary repetition?

*(Loud consultations)*

Order! It is not you who are asking. It is me. I am the one with the rules. The Standing Orders state that no Member shall repeat his own argument or the arguments of others. That is the rule and so can you convince me that you are right?

**Mr. Kombo:** Mr. Speaker, Sir, you also need to read page 191 of the third volume to be able to understand that I am not repeating what was in the PAC Reports.

**Mr. Maundu:** On a point of information, Mr. Speaker, Sir. The mandate of the Committee is quite clear and one of the items as far as that particular mandate is concerned is that PIC/PAC Reports are relevant for the purposes and the work of the Committee. That is why the Report has two particular paragraphs on the matter.

**Mr. Speaker:** Actually, you are not informing him. You are trying to overrule me.

Proceed, Mr. Kombo.

**Mr. Kombo:** Mr. Speaker, Sir, I am not repeating what was in the PAC/PIC Reports. I just wanted to ask the relevant questions so that Kenyans can understand the problem. That is all I am asking. For the purpose of the law export compensation is the remittance of the duty paid and that the following must apply: Incoming raw materials should attract duty provided that the value added locally should be less than 30 per cent; and that the proceeds from the sale must be in foreign currency and so on. The questions that now beg to be answered are: In the case of the phantom gold and diamonds where was the raw materials sourced from? If it was sourced locally, does it qualify for export compensation? The answer is no. If the raw material was sourced from abroad, what was the duty element on the incoming raw materials? It was not paid. Did the Value Added paid locally exceed 30 per cent, and who valued it? Did the phantom consignees - some of that gold, as per the PIC Report, were phantom companies - pay for the phantom exports, and when did the exporters' bank received the earnings? Who paid that money, and in which foreign currency were the receipts designated? All those are questions which have to be answered so that Kenyans can understand the problem of the Goldenberg saga. How much was actually received in the end, and when was the Central Bank of Kenya notified of those receipts?

Mr. Speaker, Sir, you know, there are so many questions that one can go on asking forever. Then, at that time, because the Committee had checked all those facts, the Minister for Finance was only authorised to reduce the level of Export Compensation, because he had no authority to increase it. Any increase in the relevant Export Compensation had to be done by Parliament, and when was the increase in compensation approved by Parliament, and not by the Executive, or by the Cabinet? Was it gazetted?

**The Vice-President** (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. I think the hon. Member is still basically going on to ask the question as to whether the 15 per cent special subsidy was legitimate or not. I have laid a resolution---

**Hon. Members:** No!

**The Vice-President** (Prof. Saitoti): Mr. Speaker, Sir, I think that is important.

**Mr. Speaker:** Yes. Proceed.

**The Vice-President** (Prof. Saitoti): Mr. Speaker, Sir, I want to say that the 15 per cent expenditure was duly approved by this Parliament and appropriated through the Appropriation Act.

**Mr. Speaker:** Order! Mr. Kombo, you are actually not telling the House anything new. You are quoting the past PAC Reports.

**Mr. Kombo:** I am not, Mr. Speaker, Sir.

**Mr. Speaker:** In fact, you are not quoting the Reports, but asking questions out of that, and as discussed by this House. So, can you go to something fresh?

**Mrs. Ngilu:** On a point of order, Mr. Speaker, Sir. I want to raise something fresh. Regarding the issue of Goldenberg, maybe, I agree that it should not be brought to this House, although Kenyans have been very anxious to know about it. Although it is in court, I think I have heard many times the Vice-President saying: Let every

Kenyan carry his or her own cross. We have also heard in this House that there was an Inter-Ministerial meeting that approved that transaction of Goldenberg, and there is a Chairman of that meeting that took place, and he is not amongst us here, and so he is not even here to discuss that issue. I think we need to go down to that issue, and the Vice-President is always defending the Goldenberg issue, and we have reasons to believe that he is---

**Mr. Speaker:** Order! What is your point of order now?

**Mrs. Ngilu:** Mr. Speaker, Sir, the Vice-President is always defending somebody who is not with us here, and that is a public issue as it concerns them, and let us know exactly who is behind the Goldenberg saga. It has been said many times and we tend to know the person, but we hide behind all these books and meetings that are taking place in places. Let us go into the depth of that matter.

**Mr. Speaker:** Order! I do not know why the hon. Member asked me that question. The Chairman of the Anti-Corruption Select Committee is Mr. Musikari Kombo, and not the Speaker. The body charged with the responsibility of finding out the perpetrators of corruption is not the Chair, and so, why are you asking me that question?

Proceed, Mr. Kombo.

*(Laughter)*

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir. I did come here to listen to what this Committee is telling us about their investigations, but there have been so many interruptions which raise questions. I am seeking your guidance, and I am not understanding the issues that were raised during the interruption. The law that deals with compensation for exports allows the Commissioner to pay compensation from the revenue he or she is collecting. It has never been the function of this Parliament to authorise because it authorised through the Act. Although, indeed, as the Vice-President says the 15 per cent payment was approved here, it was not brought here properly because it is the law that allows the Commissioner that ought to have been amended, and, therefore, there was something being hidden about what had happened. Unless we hear the investigations, we would not be able to unravel all those things because this confusion started long time ago.

**Mr. Speaker:** Order, Mr. Michuki! Instead of raising all those fundamental issues and directing them to the wrong path, if that be the position and we had set up a Committee, have they investigated that and brought the answer?

**Hon. Members:** That is what Mr. Kombo is telling us!

**Mr. Kombo:** Mr. Speaker, Sir, in fact, I was going to say that a resolution of the House does not change the Act that is in place. In fact, today as we talk, that Act still remains in place despite that resolution. So, those are facts, and Kenyans have got to accept that, and talk about them.

**The Vice-President** (Prof. Saitoti): On a point of order, Mr. Speaker, Sir. I have got to set matters right, and I have been the Minister for Finance and I know that the Constitution is clear. The most important thing in any expenditure cannot be appropriated from the Consolidated Fund without an Act of Parliament and the Appropriation Act. I read out clearly that the decision of the Inter-Ministerial Committee was not supposed to cover Export Compensation, but the Extra Bonus Subsidy. However, the way it was handled we had to put it into the Budget. Let me also say here that we were advised by Mr. Bulama---

**Hon. Members:** No! No!

**Mr. Speaker:** Order! There is really nothing new in this issue. If Mr. Kombo is referring to a Report of the PAC that was discussed by this House, it is not new, and we should not revisit it. The Vice-President and everybody, I hope all of you will not treat that issue as a personalised debate. I hope that this debate and the Report were not brought for personal reasons and we will concentrate on the thrust of the whole thing. So please all sides should, keep personal things out.

**Ms Karua:** On a point of order, Mr. Speaker, Sir. I once again rise on the Standing Order No.88 (3), because the Vice-President and the Leader of Government Business has stood on several points of order this afternoon, which have turned out to be points of arguments and which he can very well raise when he catches the Speaker's eye so that it does not appear that this House has double-standards. Several hon. Members have been expelled for less than what the Leader of Government of Business has done today, and I am proposing that you do kindly consider naming him so that it may serve as an example to other Members and also for this debate to proceed without undue interruption.

*(Applause)*

**Mr. Speaker:** Order! As I said, can we leave personalities out of this.

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

**Mr. Speaker:** Order! Hon. Ms. Karua, were you an hon. Member of this Committee?

**Ms. Karua:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Very well. Many hon. Members here are adversely mentioned in that

**[Mr. Speaker]**

Report and a lot of them are saying that they were not given a chance to be heard. Now, you are asking even me, from the Floor of this House, to assist you also to get them out of the House, so that they cannot even answer you here. I am not willing to oblige.

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

**Mr. Speaker:** All of you are overruled! Mr. Kombo, proceed!

**Mr. Kombo:** Mr. Speaker, Sir, I have made my point in that area and we have made our recommendation. I was trying to show the gravy trend.

At this juncture then, without even debating, I want to table an audit document by Messrs. Price Waterhouse that puts in place all these activities. It will show Kenyans how the country was ripped apart, by simply setting that gravy trend into motion. I ask all Kenyans to read this document carefully. It is voluminous and I will not go through it, but I will table it anyway.

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

I want to wide up. As I have said, I have made my points and I hope that when the Vice-President makes his contribution, he will not talk about Goldenberg at all.

Mr. Speaker, Sir, in the process of the Committee's work, we had many problems. Hon. Members were stalked as you know, particularly, Prof. Anyang'-Nyong'o, for quite a time and lives of hon. Members were threatened. My home has been broken into three times from the time I laid the Report on the Table of the House on 9th May, 2000. At the time of operating, the Committee had funds problems and so on. We went through tremendous problems, but I am glad that in spite of all these difficulties, we succeeded in coming up with the Report.

**Mr. Speaker:** Order! Before you continue, Mr. Kombo, could you show me a signatory to that paper that you have produced? This is because any document must be executed. So, can you see whether this one is executed for the purpose of our admission of it?

**Mr. Kombo:** Mr. Speaker, Sir, there is a letter dated 15th May, 2000. When companies write letters they do not actually put signatures, but company officers just write on behalf of the company.

**Mr. Speaker:** Is there a signatory of the maker of that document?

**Mr. Kombo:** Mr. Speaker, Sir, yes, it is signed by the company.

**Mr. Speaker:** Where?

**Mr. Kombo:** Mr. Speaker, Sir, and you can check this, companies do not have to put their signatures on their documents.

**Mr. Speaker:** Order, Mr. Kombo! Let us get the position right. No paper is a document unless it is signed. Is this document signed?

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. We have read the Standing Orders and we are not aware of any Standing Order which requires a document to be signed before it is tabled in this House. We would be very happy if our attention is drawn to that Standing Order.

**Mr. Speaker:** Order! Fortunately, Mr. Murungi is a lawyer. What does the term document mean? Does it, for example, mean any piece of paper that you collect on the road? Does it mean a pamphlet? A document, by its very connotation means a paper written upon with authentication by the maker. That is what a document is. So, as long as you have a document, you can table it before the House, but you cannot table a non-document.

**Mr. Nyanja:** On a point of order, Mr. Speaker, Sir. I have listened to this Report very carefully. You have asked hon. Kombo a specific question: Is the document signed? He said yes. Then you asked him where it is signed. I still want to hear the answer to that question. We are here to discuss a very serious business and we want to know where it is signed.

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. There is a serious problem of procedure in this matter. As I understand it under the Standing Orders and the National Assembly Powers and Privileges Act, a Committee of Parliament operates on the rule of evidence. Evidence is given orally, on a piece of paper, a document or in whatever form. I would have thought that even in the case of these other letters, there would be a

source in the minutes showing as to who produced them as evidence. If that is not there, then I do not know what we are talking about.

**Mr. Speaker:** Order! It is true that the rules of the House apply to Committees with equal force. A Committee cannot operate outside the rules of the House. If the rules of the House, are unclear, the person mandated to interpret them is the Speaker. I do not know whether this so-called document was part of the proceedings. But even if it was, and it is not executed, then it was wrongly admitted by the Committee and will not form part of the records of this House. It is so ruled!

**Mr. Murungi:** On a point of order, Mr. Speaker, Sir. We are lucky because you are a lawyer. You know that there is a rule of law which states that the law should not be used as an agent for fraud. This document is a Report which was commissioned by the Central Bank of Kenya on 13th May, 1993. Many documents have been laid on the table of this House without the requirement that they be executed strictly in the legal manner that conveyancing documents are normally executed. In view of the public interest that this whole issue of Goldenberg has generated, and bearing in mind the fact that this is the only comprehensive document on Goldenberg in this country and has not been available to the public before, we are pleading with you for the just welfare of society and just Government of men, to allow this document to be admitted.

**Mr. Speaker:** Order! You cannot plead to me in vain. Yes, the law does not agree to a perpetration of a fraud, but you must prove your case first. You must prove the existence of a fraud. The honourable Mover of this Motion, Mr. Kombo, himself tabled the document which is the Report and for me to accept it, he had to sign it, and it is duly signed. Mr. Murungi here tells me that the Central Bank of Kenya commissioned a company to produce that Report, and a Report was produced. How do I know? How does this House know? How do we know that that paper is commissioned by what it says is commissioned without authenticity? I am afraid, for me to accept your proposition is completely to ruin the whole idea of respect of tabled documents. A document must be something reliable and it is reliable because it bears the names of the maker. If it is not executed, I am afraid, I have no latitude in the matter. I will not accept it. Proceed!

**Mr. Gatabaki:** On a point of order, Mr. Speaker, Sir. Is the Chair aware of the general perceptions of the House that Mr. Speaker has been deliberately oppressive, depressive, intimidatory and subversive to the general interests of this House?

**The Assistant Minister for Tourism, Trade and Industry (Mr. Sankori):** On a point of order, Mr. Speaker, Sir. It seems that there are some people who are targeted in this particular Motion. I am sorry to say, the Speaker is the first one, followed by hon. Biwott and lastly hon. Prof. Saitoti. As you said earlier, we should not personalise issues. Let us debate what is in front of the House and we leave names alone. We will not accept people to intimidate others.

**Mr. Speaker:** Order! As I said from yesterday, certain Members, in fact, are taking this issue directly to the Chair and, in fact, almost on a personal level. For some very strange reasons, I wish to believe that I do not agree with you. It is not targeted on the Speaker because first of all, if I look at that Report and the so-called "List of Shame", at least, the name of the person occupying the Chair is not there. However, if for some other reason, some Members want to intimidate the Speaker by all these, can I say this: If you are looking for somebody to intimidate, go and look for that person elsewhere because he is not sitting on this Chair.

*(Applause)*

By the way, it will not do this whole debate any good if it is so diverted as to be made an instrument of general injury to innocent people, including the Chair. I think it is diverting the whole attention. Please, all of you, now leave the Chair out of this. Proceed with your debate. Hopefully, you will get the votes. I am sure you will not force anybody, and you will not be forced either to stop. I have already assured you. So, Mr. Gatabaki, I can assure you that I hope the House does not agree with you and you can hold your opinions.

**Mr. Anyona:** On a point of order, Mr. Speaker, Sir. I think there are two issues involved here in order to safeguard and protect the debate which is an important one. One issue is that I am afraid that because of the nature of this debate and the Report, that even the Chair has had to restrain itself even in the face of actual breach of the rules. I am saying this because if we do not protect the Chair and the House, then we cannot have a Report and a debate. We will be back in the jungle. So, I notice that with a lot of courage and fortitude, you have not responded to these affronts. That is one issue, but I do not know how far we can carry that.

Mr. Speaker, Sir, the second point that I want to make is this: I really think it is important for you to help the House to be able to steer the debate. This is because as far as I am concerned, in accordance with the rules, the Report before the House is contained in these two volumes, the HANSARD plus any papers and documents that



might have been admitted in evidence, all of which are in the custody of the Clerk. If we are going to allow evidence to be adduced now before the House, on what basis will that be done? This is what it amounts to because if I bring a paper and place it on the table, I am adducing evidence. On what basis is that?

Mr. Speaker, Sir, I think you need to make a very clear guidance on this so that we do not have the debate changing.

**Mr. Speaker:** Order! Can I say this: Hon. Members, I warned you from yesterday that it does not pay for you to trivialise this debate, make it personal and vindictive. Apparently, Members are not listening to the Chair and they are flouting the rules with impunity. I do hope that the personalised attacks on the Chair will cease. However, let me say this: It does appear to me that somehow there is an attempt to put the Chair in the corner so that it will not discharge its duties to the House and to Kenya. May I say this: That attempt will fail. I will discharge my duties to Kenya and to this House to the very last moment this House allows me to sit on the seat, or to the very last moment that you allow me to sit here. I hope that we now concentrate.

There is one other issue Mr. Anyona has raised which I think I must address. The report of a Committee is a report of the totality of the committee derived from evidence, either oral or documentary, authenticated by minutes and ultimately the report signed by the chairman of the committee and tabled before this House. Now, that is the report of the House. That is the report itself, minutes, verbatim records, documents produced before the committee, properly admissible before the committee. That is the report of the House and that is what the chairman of the committee is mandated to come and present to the House. The chairman of the committee is not allowed by law to turn himself witness and produce further evidence before the House. I do not even think a chairman of any committee or a member thereof can turn himself into committee and become witness. It must be evidence collected on behalf of the House. So, this is not Mr. Kombo's Report. It is not Mr. Kombo's Committee. It is the Committee of this House. He is presenting this Report to the House.

Mr. Kombo must do so on behalf of the House and not on his own behalf. So, please, can we now proceed? Everybody must respect the Chair! Can we leave the points of order and give Mr. Kombo a chance?

**Mr. Murathe:** On a point of order, Mr. Speaker, Sir. I think we are getting lost! We have not seen the whole essence of this debate on corruption.

Mr. Speaker, Sir, the precedent you are setting, by not allowing this document, is wrong. It is like saying that the Committee, on its own admission, when it said that, part of its Report was compiled after receiving memoranda which could not be authenticated and was not part of the Report which was tabled before the House, was wrong. Probably, you can allow the Committee to go and try to authenticate this document and bring it later. If that does not happen, then all that was contained in the memoranda should also be thrown out! I know of an hon. Member who was named in this Report based on the memoranda! We do not know whether the memoranda was from his political enemies or a focus on somebody. We must be very clear on the way we proceed.

**Mr. Speaker:** Mr. Murathe, I am very clear in my mind! If I refused those papers, and if somebody lays his or her hands on an authenticated one, it is open! But I cannot anticipate what is not there! Can we now proceed? I think we are diverting the issue!

**Mr. Kombo:** Thank you, Mr. Speaker, Sir. I am actually concluding by reiterating that, all the recommendations in the Report were basically to say: "Let us take a step forward! Let us move on!" The Kenya Anti-Corruption Authority (KACA) will be armed with more teeth, and will take over from there. It will do the work that the Committee has recommended. Those people who are afraid of the Report should welcome it. They should welcome the opportunity to speak to the KACA. Only the guilty can be afraid. The innocent remain innocent!

**The Minister for Public Health (Prof. Onger):** On a point of order, Mr. Speaker, Sir. I need the Chair's guidance. Yesterday, I heard hon. Kombo tacitly put before this House that those are alleged perpetrators. I stand to be corrected. He is now making a statement that those who have been named, if they so wish, can go to the KACA; implicitly saying that they are guilty! Is he in order to be a prosecutor and a judge at the same time in this House?

**Mr. Kombo:** Mr. Speaker, Sir, I am sure he did not hear me. I did not make those comments at all! I do not know how he listened!

*(Loud consultations)*

**Mr. Speaker:** Order, everybody! If this Report will be discussed in this House only two Members, it will be so! Proceed!

**Mr. Kombo:** Thank you, Mr. Speaker, Sir. I just want to say this: I hail from the slopes of Mt. Elgon,

where a sub-clan of Luhya called the Babukusu resides. They believe in this: I will say it in the Kibukusu language first and then translate. They say: *"Embwa enchifwi, osuta phusa lusala na eng'ene yelila."*

**The Assistant Minister, Office of the President** (Mr. Haji): On a point of order, Mr. Speaker, Sir. Now that the hon. Member has declared that he is a Bukusu, could he tell us whether there are any Bukus in the Report?

**Mr. Speaker:** Order! As you respond to that, I think those sentiments are very serious! By the way, it is not a joke! As you respond to the serious sentiments raised by hon. Haji, this House only knows two languages; English and Swahili, for very good reasons we must understand what you are saying! Proceed!

**Mr. Kombo:** Mr. Haji, Mr. Speaker, Sir, the answer is an emphatic yes! Mr. Elijah Mwangale comes from that same sub-clan! So, it is an emphatic yes!

Mr. Speaker, Sir, what I was basically saying is a philosophy that, for a thieving dog, all you have to do is lift a stick and it will be on its way yapping away afraid! So, all that the Committee did was to lift the proverbial Bukusu stick, and I hope those who are innocent will always be innocent. The guilty ones will be yapping!

With those few remarks, I beg to move and request hon. Suleiman Mwalonga Kamolleh, the Vice-Chairman and Member of Parliament for Matuga to second the Motion!

**Mr. Kamolleh:** Thank you, Mr. Speaker, Sir. I hope you will allow me to use both English and Kiswahili---

**Mr. Speaker:** Order! Order! Mr. Kamolleh, you know the rules. You have a choice; you can opt to speak in English, and once you make that option, you are stuck with it. You can also opt to speak in Kiswahili, and once you have made that option, you are stuck with it. You cannot have it both ways.

**Mr. Kamolleh:** Asante sana, Bw. Spika. Nitazungumza kwa Kiswahili. Kwa sababu hiyo, ninataka kuanza kwa kusema kwamba wakati wangu si kama wa mwenzangu, Bw. Mwenyekiti. Kwa hivyo, singependa matatizo ya hapa na pale, ili nitoe maoni yangu juu ya Hoja hii.

*(Applause)*

Bw. Spika, Kamati hii ilichaguliwa na Bunge hili kwa nasaba ya kuchunguza ufisadi ambao ulitokea. Bunge hili lilijadili Hoja iliyowasilishwa hapa tarehe 8, mwezi wa saba, mwaka juu, na kuunda Kamati hii. Kamati hii iliundwa kuchunguza kiini cha ufisadi na athari zake katika Jamhuri ya Kenya. Kamati hii ilikaa na kujadili kiini, athari na kiwango cha ufisadi katika Jamhuri hii, na ndivyo hasa, Kamati hii ilivyojadili. Pia, iliingilia katikati kuona kama tunaweza kutatua jambo hili kwa kutafuta ni kina nani waliopata nini, na waliofanya nini katika ufisadi huo. Kamati liliwaalika watu ambao waliandika taarifa mbalimbali ambazo zilikuwa na sahihi. Pia walilishwa kiapo kabla ya kuzungumza mbele ya Kamati. Kila mtu aliyekuja kutoa maoni yake mbele ya Kamati aliapishwa kulingana na sheria za Bunge hili. Hata taarifa ambayo tulipata kutoka kwa kila mtu ilikuwa inaletwa kwetu baada ya mtu yule kuapishwa na kutupatia anwani yake, jina lake, kazi yake na pahali anaishi. Vile vile, katika majadiliano yetu, hatukumruhusu mtu yeyote kuzungumza mambo ambayo hayakulingana na kiini cha Kamati yetu.

Kwa hivyo, Bw. Spika, tulikaa kwa miaka miwili na tukajadiliana kinaganaga bila kuingilia mambo haya kibinafsi. Kukuonyesha tu kwa muhtasari, Kamati hii iliundwa na watu wa kila aina katika Kenya hii. Kwa mfano, Mkoa wa Nyanza uliwakilishwa na waheshimiwa. Obwocha, George Awino-Achola na Ayoki; Mkoa wa Mashariki - waheshimiwa. Maundu na Kiraitu Murungi; Mkoa wa Pwani - waheshimiwa. Kamolleh na Mohamed Galgalo; Mkoa wa Kati -waheshimiwa. Karua, Wanyiri Kihoro na Ngenye Kariuki; Mkoa wa Kaskazini Mashariki - mheshimiwa. Weyra; Mkoa wa Magharibi - waheshimiwa. Osundwa na Kombo, na Mkoa wa Bonde la Ufa uliwakilishwa na mhe. Sammy Leshore. Kwa hivyo, kila mkoa uliwakilishwa. Kamati hii haikuwa ya kikabila, ilikuwa ni Kamati ya Bunge na Kenya nzima. Katika Kamati hii---

*(Applause)*

**Mr. Mwenje:** Jambo la nidhamu, Bw. Spika. Mhe. Mbunge anasema kwamba kila mkoa uliwakilishwa; je, Mkoa wa Nairobi uliwakilishwa na nani?

**Hon. Members:** Sisi Sote!

*(Mr. Mwenje was heckled by other Members)*

**Mr. Speaker:** Order! Order, Members! Order! Do you know what the Press will say tomorrow? I just

want you to put it in your mind that, when hon. Mwenje stood up on a point of order, there was massive heckling by hon. Members. What an epithet? Can we deny that epithet ever to be attached to us?

Proceed.

**Mr. Kamolleh:** Bw. Spika, kila mtu anakaa Nairobi na hata Bunge liko Nairobi. Hakukuwa na haja kwa maana Wabunge wote ni watu wa Nairobi.

*(Applause)*

Bw. Spika, sisi tuliweza kuwatafuta watu ili tuweze kujua ni kina nani walioanza kuhusika na ufisadi; aidha, walichukua au walipewa. Si jambo rahisi katika Kamati, jinsi tulivyojadiliana kwamba unaweza kumtafuta mtu kama huyo mahali kuliko na jua linaloangaza; haiwezekani kwa maana mambo haya yako kwa siri. Kuna maswali yameulizwa; Kwamba, mbona huyu yupo na yule hayupo? Ikiwa watu hawakujitokeza kutoa taarifa zao, sisi tungejuaje? Katika zile haba tulizopata, ndizo tumeliambia Bunge hili kwenye Ripoti yetu. Tulijaribu kwa miaka miwili, lakini hawa ndio tulipata. Kuna wengi hawajawaingia katika Ripoti yetu, lakini wako. Haiwezekani kwamba ufisadi kutoka miaka yote hiyo mpaka leo ni watu wale peke yao. Tunakubali kwamba sisi si malaika na tunaweza kuwa tumefanya makosa, lakini binadamu anayefanya makosa si paka.

*(Laughter)*

Kwa hivyo, Bw. Spika, ninataka Bunge hili lituangalie kitaarifa ili na sisi ambao tulikuwa wanakamati tuonekane kama watu ambao walipewa jukumu gumu; jukumu ambalo tuliendesha kidini bila dhambi, ukabila wala chochote. Tulijaribu tuwezavyo kuona kwamba Kenya inatutua jambo hili la ufisadi ambalo limepenya kila sekta, kutoka uchumi, kilimo, usafiri na siasa. Tulisema kwamba wakati umefika, ikiwa Bunge limetupatia jukumu la kutatua jambo hili, ambapo ni lazima tuchunguze zaidi kuona kwamba mambo hayo hayatendeki. Inawezekana kwamba kuna wengine walikuwa wameelekeza kidole mtu fulani na hayumo katika Ripoti yetu; hilo si kosa letu. Wangukuja kwetu na kutuliza kwa nini fulani hayumo na tungemwita na kumwapisha, ili atupe maoni yake, lakini hawakuja. Kwa hivyo, wale ambao walikuja ndio tuliweza kuwahoji.

Pili, Bw. Spika, kuna wengine walikuja kwetu, ambao walikuwa wameelekezwa vidole kutoka hapo kando, lakini walikuja kama marafiki wa Kamati. Hawakuja kusema wameiba; walikuja kusema kwamba ilikuwa hivi na vile kwa watu wengine. Kuna watu wa namna hiyo. Kwa mfano, Kamati ilipotembelea Mkoa wa Magharibi, mhe. Jirongo alijileta kwa Kamati na hakuzungumza upande wa kwamba wale wengine wanataka sisi tusikie; alizungunza upande ule aliotaka yeye. Mambo hayo yapo kwenye taarifa yetu. Wengine wanasema: "Ninyi, mmeandika taarifa ambayo haina fulani na fulani", Je, ulikuja wewe ukatambia kuna mtu fulani ninataka kutoa taarifa juu yake, tukakataa?

*(Applause)*

Bw. Spika, ni lazima tuyatatie maneno hayo pole pole na sawa sawa. Tusianze tu kulalamika bila kutoa maoni mwafaka kwamba sisi tumejaribu na hatukuweka kwa taarifa. Kama hatungeweka kwenye taarifa, ni mambo mengine, lakini yaliyopo kwenye taarifa ni yale yale yaliyoletwa kwetu.

**The Assistant Minister, Office of the President (Mr. Haji):** Jambo la nidhamu, Bw. Spika.

**Hon. Members:** Ah! Ah!

**Mr. Speaker:** Order! Mr. Haji should be heard!

**The Assistant Minister, Office of the President (Mr. Haji):** Bw. Spika---

*(Mr. Haji was heckled by other Members)*

Kabla sijauliza swali la nidhamu, ningetaka kuwaambia Wabunge wenzangu wakome kutisha na kuwatusi Wabunge wengine. Sisi ni wazee---

**Hon. Members:** No! No!

**The Assistant Minister, Office of the President (Mr. Haji):** Tafadhali, nisikizeni kwa hisani yenu. Kama mwenendo huu hauwezi kukomeshwa, siku moja damu itamwagika ndani ya Bunge hili. Ni lazima mtusikize. Swali langu la nidhamu ni hili--- Damu itamwagika katika Bunge hili.

*(Several Members stood up in their places)*

**Mr. Speaker:** Order! Order, Members! There must be order here, and make sure that all of you are orderly. Also, we should make sure that all of us maintain the integrity of the House, and make sure that nothing unworthy shall happen in this House. I will make sure it would not happen. Please, Mr. Haji, cool down.

Proceed.

**Mr. Maundu:** On a point of order, Mr. Speaker, Sir. Hon. Haji made a serious allegation about blood. But, in any case, he is one of those Members who were given a chance to explain about 12 plots and he has spoken so many times and the Committee was silent enough to hear him! He should not be talking about blood! Is he in order to talk about blood?

**Mr. Speaker:** Order! Order, Mr. Maundu! Mr. Maundu, you are standing there, behind Mr. Haji, suffocating from emotions of unknown nature. Supposing he, in turn, gets as emotional as are you; are you not going to spoil the House?

**Mr. Gitonga:** Let him be rescued by his tribesmen!

**Mr. Speaker:** Order! Mr. Gitonga, I hope this House and this debate are not going to be tribalised. I hope we are dealing with matters of a national nature.

By the way, Mr. Gitonga, what happens to Members whose communities probably have one representative here? If we are going to go according to you, you must be defended by your community. What happens to those? It must be the law that will defend every Member here!

Proceed!

**The Assistant Minister for Local Government (Mr. Hashim):** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Overruled! What is wrong with you?

**Mr. Kamolleh:** Mwache azungumze!

**The Assistant Minister for Local Government (Mr. Hashim):** Bw. Spika, kwakuwa mheshimiwa. Kamolleh anazungumza kwa lugha tamu ambayo inawafurahisha watu wengi, ningekuomba wewe, Bw. Spika, unapozungumza, utumie lugha ya Kiswahili pia!

*(Laughter)*

**Mr. Kamolleh:** Umesikia, Bw. Spika. Niache niendelee!

**Mr. Speaker:** Order! Order! I will speak in a language I please. For the information of the hon. Member, if he thinks Kiswahili intimidates the Chair, let him know that the Chair went to a very reputable school in the Coast called Shimo la Tewa.

Proceed!

*(Laughter)*

**Mr. Kamolleh:** Asante sana, Bw. Spika.

Kamati iliendesha shughuli zake kwa kutafiki kwanza Miswada na hata mambo ambayo yalikuwa yamejadiliwa, kwa mfano, katika nchi kama vile Nigeria, Australia, Hong Kong na Botswana. Huko kote tulichukua mawaidha na mawazo mbali mbali, ili kuona kwamba mambo yetu yamekuwa mazuri.

Bw. Spika, pia, tulichagua watu kutoka ofisi ya Mkuu wa Sheria ili waweze kutusaidia kisheria. Ninahakikishia kwamba, tulichagua pia watu kutoka ofisi ya Mhasibu Mkuu wa Serikali, the Controller and Auditor-General, ili waweze kutusaidia. Tulichukua watu kutoka kila upande; wanasheria, watu wa uchumi na wahandisi, ili kuhakikisha kwamba Kamati ina mfano mwema, baada ya kutoa Ripoti yake, kama vile tunavyojadili Ripoti hii leo.

Bw. Spika, nataka kueleza kwamba kuna watu ambao wanataka kutia fitina na wadudu katika embe hili la Ripoti hii. Lakini ni wazi kwamba sisi hatukutaka kumwingilia mtu yeyote kibinafsi, na hatukutaka kuandika Ripoti hii kumtukana wala kumpaka matope mtu yeyote yule, isipokuwa kuona kwamba, tunaweza kusahihisha yale ambayo yaliyofanywa huko nyuma, ili Kenya iweze kuendelea mbele bila ufasidi ambao umetandaa namna hii.

Bw. Spika, ni wazi kwamba, popote pale panapopigwa ngoma, lazima watu wacheze!

*[Mr. Speaker left the Chair]*

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

**Mr. Maundu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am being threatened by hon. Haji. He is pointing at me and asking me where I got the information from. I do not need to be threatened. I did not think that, that is a matter for threats! We are debating a national matter on which all of us are making a contribution.

**An hon. Member:** Achana na mzee!

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Maundu, I did not see that, and I am sure Mr. Haji did not intimidate you.

Proceed!

**Mr. Kamolleh:** Bw. Naibu Spika wa Muda, naona wakati wangu unayoyoma na hali huku na huku, ninaingiliwa. Ninaomba uniongezee wakati, sababu nina mengi ya kuliambia Bunge hili kutokana na Ripoti hii. Asante.

Bw. Naibu Spika wa Muda, kama vile nilivyosema hapo awali, tumechukua taarifa mbali mbali kutoka nchi mbali mbali ili kuweza kuweka mbolea katika Ripoti yetu, ili iweze kuwa na mambo ya kisasa.

Vile vile, tulifahamu kwamba, hili ni jambo linalohusu taifa zima, na wala si jambo la mtu mmoja binafsi. Kwa hivyo, ikawa ni lazima tuangalie kwa makini na kutengeneza Ripoti hii iwe bila vidoadoa ndani yake. Ingawa tumefanya hivyo, kama vile nilivyosema awali, lazima binadamu wafanye makosa. Hii ni kwa sababu hakuna binadamu ambaye ni kamili isipokuwa Mungu peke yake. Basi, ikiwa kuna makosa katika Ripoti yetu, ni makosa ya kibinadamu, wala si makosa ambayo yalikusudiwa kuwemo ndani. Tulifanya juhudi iwezekanavyo kuona kwamba Ripoti ile inatoka ikiwa safi, ili kuonyesha kwamba, katika Kenya hii, tumefikia wakati wa kusahihisha kila kitu ili tupige hatua kama Jamhuri.

Bw. Naibu Spika wa Muda, tuliwasilisha Ripoti katika Bunge hili na imetuonyesha kiini cha ufasidi; kiini cha ufasidi wa hali ya chini, kama vile ufasidi katika kikosi cha polisi na wengineo; wanafanya hivyo kwa sababu mishahara yao ni duni. Kwa vile mishahara yao ni ya chini, na ni lazima waendeleze maisha yao, wanajiingiza katika mambo haya ya ufasidi. Pia, kuna aina nyingine ya ufasidi wa katikati. Ufasidi wa aina ya katikati unaletwa na wale watu ambao wana hari ya kufanya mambo ambayo si ya kiwango chao. Kwa mfano, wengi wetu hapa na kule nje, na kwingineko, kwa mfano, wanapata mishahara wa Kshs10,000, na wanataka kuishi kama watu wa mishahara wa Kshs20,000 au Kshs30,000. Haiwezekani! Hapo hapo, jamii pia inamtegemea mtu kama huyo. Sasa, mishahara wake hautoshi tena kwa sababu amejitia katika mambo mengine, na kwa hivyo anaingilia mambo ya ufasidi.

Bw. Naibu Spika wa Muda, kuna aina nyingine ya ufasidi, nayo ni ile ya wale wanaouza upepo. Watu wanauza upepo kwa kusema kwamba, watajenga barabara, kisha wanasema kwamba "barabara imejengwa ikakamilika." Kwa mfano, barabara ya kutoka Kwale kwenda Kinango, tunaambiwa kwamba imewekwa lami leo, lakini bado ina vumbi, lakini pesa zimechukuliwa. Hao ni wauza hewa! Pia kuna wengine ambao wakati watu wanataka maji yawekwe dawa ili yaweze kuwa safi kwa kunywa, wanasema "ndio tuna dawa hiyo", kisha wanaleta chokaa na kuiweka ndani ya maji; wadudu hawafi, na pesa zinachukuliwa. Hao pia ni wafisadi wa kuza hewa!

Bw. Naibu Spika wa Muda, katika Kamati yetu tulizingatia kwa makini kwamba kuna aina hizi zote za ufasidi. Je, tutafanya nini? Ndiyo sababu katika majadiliano yetu tulipendekeza kwamba, mishahara iongezwe, au sheria ziwekwe ili kuonyesha uadilifu na mambo kama hayo. Kwa sababu hiyo, ninaliomba Bunge hili lisome Ripoti hiyo sawasawa bila kusikiliza mambo ya watu binafsi hapa; lisome Ripoti ile sawasawa na kuangalia uadilifu uliomo ndani na kujua kwa nini sisi, katika majadiliano yetu, tulisema kwamba, yafaa tuangalie Kenya, tusingalie mtu binafsi! Hii ni kwa sababu la muhimu sasa ni ustawi wa nchi hii, si maslahi ya mtu mmoja wala wawili katika Bunge hili.

Bw. Naibu Spika wa Muda, tumesema ya kwamba tabia ya watu fulani - walio na ari ya kupata pesa haraka - ya kuza "hewa" ni lazima ikomeshe, na kwamba tabia ya kuwalipa wafanyikazi wa umma mishahara midogo ikome. Ndio maana tumependekeza Bunge hili lijadili na kuipitisha Mswada tulioutaja katika taarifa hii, unaonuiwa kupambana na ufasidi na uhalifu wa kiuchumi. Tumependekeza Mswada huu ili kuwakomesha watu hawa, ama kuwalazimisha wakome kufanya mambo haya. Kwa hivyo, ningependa kuwaomba Wabunge wote kutoka upande wa Serikali na ule wa Upinzani wayaangalie mambo haya kwa uangalifu, ili tuweze kuipitisha Hoja hii, ndio tukomeshe ufasidi katika nchi hii. Hatuko hapa kumwingilia mtu ama kumwingiza mtu yeyeto jela; tuko hapa kusahihisha makosa yanayoiathiri nchi hii. Hatuko hapa kuivunja nchi hii vipande vipande.

Bw. Naibu Spika wa Muda, ukiiangalia taarifa yetu kwa makini, utaona ya kwamba tumeongea juu ya watuhumiwa, na si juu ya "wahalifu". Tumesema ya kwamba "watuhumiwa" ambao tulipata taarifa zao, tumewaripoti katika taarifa yetu. Tumependekeza ya kwamba watuhumiwa hawa wafanyiwe uchunguzi zaidi na Kenya Anti-Corruption Authority (KACA); hatukupendekeza eti wapelekwe Jela ya Kamiti ama Shimo la Tewa.

Hii ni kwa sababu, Kamati hii haikuwa na uwezo wa kuamua iwapo mtuhumiwa yeyote ni mhalifu ama la. Kamati hii ilikuwa tu na uwezo wa kuwaingiza watuhumiwa katika taarifa yake, na hivyo ndivyo tulivyofanya.

Ni wazi kwa Wabunge na Wakenya wote kwamba kuna ufisadi katika nchi hii. Lakini tatizo ni kwamba sisi sote tumegopeshwa, ama kuogopeshwa, kujikanya ama kuwakanya watu wengine wasifanye maovu. Tukiijadili Hoja hii, wengine wetu wanataka kuwapaka watu wengine matope, na wengine wetu wanataka kuwaogofya watu wengine, na mambo kama hayo. Ninaomba hii isiwe siku yangu ya huzuni; juma hili lisiwe la huzuni kwa Jamhuri ya Kenya, kwa kupinga jambo lililo zuri kwa sababu watu wawili ama watatu hawaitakii nchi hii mazuri.

*(Applause)*

Bw. Naibu Spika wa Muda, kama unavyojua, imesemekana eti Kamati hii inawinda watu fulani, yaani, kwa kimombo, "witch-hunting". Ningependa kuuliza hivi: Uchawi huo, tunaufanya na tunguri gani tukiwa watu wa makabila yote katika Kamati hii? Uchawi huu umetoka sehemu gani nchini, kama sote tulikuwa tukizungumza Kiingereza pekee katika mikutano yetu? Ni uchawi wa aina gani tunaotumia kama watu wote tuliowataja katika taarifa hii wanatoka pembe zote za Jamhuri hii? Haiwezekani mtu kumroga kaka ama binamu yake. Katika shughuli zetu, hatukuzingatia uchawi; tulizingatia uadilifu wa Bunge hili, na lile jukumu tulilopewa la kuendeleza majadiliano kati yetu, ambayo yalituwezesha kupata taarifa hii. Kwa hivyo, hakukuwa na uchawi wa aina yoyote katika majadiliano yetu. Hivyo, pasiwe na fikira zozote katika akili ya mtu yeyote kwamba wanachama wa Kamati hii waliafikiana kumfanyia mtu yeyote ubaya. Katika shughuli zetu, tulifikiria jinsi ya kuisaidia nchi hii iwe bora kuliko vile ilivyo sasa.

Kwa sababu ya ufisadi, nchi hii leo haina barabara. Tumeshindwa na wafugaji ng'ombe wa Botswana. Kwa sababu ya ufisadi, nchi hii imeshindwa kiuchumi na nchi zilizokuwa na chumi dhaifu kama vile Tanzania. Hii ni kwa sababu tumefuja pesa za umma badala ya kuzitumia kwa ujenzi wa nchi hii. Nyingi ya pesa zilizofujwa haziko humu nchini. Hivyo basi, hatuwezi kuzirudisha katika uchumi wetu. Singependa kuyaingilia mambo fulani kwa sababu nikifanya hivyo, kutakuwa na mzozo kama ule uliotangulia. Bw. Naibu Spika wa Muda, sitazungumza juu ya swala la Goldenberg na uingizaji sukari na mahindi nchini. Mambo haya tumeyagusia katika taarifa yetu. Lakini, wewe na waheshimiwa. Wabunge wote walioko hapa mnaifahamu jinsi tulivyoifanya nchi hii kuwa maskini kwa kuingiza nchini bidhaa kama vile mahindi na sukari na kuziua kwa bei ambazo zilitatiza uuzaji wa bidhaa kama hizo ambazo huzalishwa humu nchini. Sukari kutoka nchi za nje iliuzwa kwa bei ya nchini zaidi na hivyo basi kukatiza uuzaji wa sukari iliyozalishwa nchini. Ninamshukuru Mwenyezi Mungu kwa sababu, sasa tumeanza kufikiria juu ya mambo hayo, na sukari inayozalishwa nchini inaendelea kununuliwa; mahindi yaliyozalishwa humu nchini yameuzwa yakamalizika. Tukiendelea hivi, na tukizingatia mengi ya yale tuliyopendekeza katika taarifa yetu, Kenya itaendelea kupata ufanisi.

Bw. Naibu Spika wa Muda, alipokuwa akiwasilisha Hoja hii, Mwenyekiti wa Kamati hii aligusia mambo kadhaa ambayo, nilivyoona mimi, yalileta chuki miongoni mwa waheshimiwa. Wabunge kutoka pande zote mbili za Bunge hili, lakini ningependa kulikumbusha Bunge kwamba, katika ule Mswada unaonuiwa kupambana na ufisadi na uhalifu wa kiuchumi, tumependekeza kwamba watu wapewe nafasi ili wajitokeze na kukiri makosa waliyofanya, halafu wauombe umma msamaha. Nina hakika ya kwamba, tukifanya hivyo, Wakenya watawasamehe watu hao. Hali ilivyo sasa, Wakenya wengine wanaishi katika sehemu mbaya kama vile mtaa wa Kayole hapa Nairobi, ambako hakuna maji ama stima, na ambako unga wa ugali huuzwa kwa bei ya juu sana, hali Wakenya wengine wanaishi katika sehemu nzuri kama vile Muthaiga, ambako hakukosekani chochote. Siyo kwamba wale wanaoishi Muthaiga walifanyia kazi pesa wanazostarehea; walizipata kwa njia ya ufisadi. Sisi Wabunge husema ya kwamba tunapigania haki za wananchi. Ningependa kuuliza hivi: Je, tunapigania haki za matajiri ama zile za maskini? Ndio maana nikasema ya kwamba, kama kweli sisi Wabunge tuliomo humu leo tunazingatia maslahi ya nchi hii, basi tuiptishe Hoja hii juu ya taarifa hii bila ya kusita.

*(Applause)*

Bw. Naibu Spika wa Muda, Wakenya wametuteua kuja hapa kuwakilisha. Leo umeketi katika Kiti hicho ukituoongoza katika shughuli za Bunge hili. Shughuli zote tunazozifanya hapa, tunazifanya kwa niaba ya Wakenya na Jamhuri hii. Leo, tunaingiliana hapa kwa njia isiyofaa. Sisi hatukuja hapa kuingiliana; tumekuja kuwahudumia Wakenya na nchi hii kwa jumla. Mswada tuliopendekeza katika taarifa hii, umetokana na jukumu tulilopewa na Bunge hili - kuchungunza chanzo cha ufisadi, na kuwatambua wahusika wakuu wa janga hili, na kupendeza hatua mwafaka zitakazowezesha kukomesha uhalifu huu. Tumejaribu tuwezavyo kutekeleza jukumu hili hadi tukafikia hapa tulipo leo, lakini baadhi yetu tunakosoa tu jitihada za Kamati hii. Kama nilivyo sema,

makosa hufanywa na binadamu; hayafanywi na paka au mbuzi.

Kama tumekosea, ni sawa tumekubali; sisi si malaika. Lakini ningependa kuwaomba waheshimiwa. Wabunge wayaangalie kwa uangalifu mapendekezo yote yaliyomo katika taarifa hii na waipitishhe Hoja hii mara moja. Ninavyoona, baadhi yetu tunaenda hapa na pale tukitafuta makosa katika taarifa hii. Ni kweli kwamba kuna makosa fulani yaliyofanyika wakati wa shughuli yetu, Lakini, je, ufanisi wa Jamhuri hii ni sawa na yale makosa machache yaliyoko katika taarifa hii? Haiwezekani kamwe. Hivi sasa, tuko katika njia panda; tutachagua kuimarisha uchumi wetu, kudumisha utawala bora, au kuangamia kama taifa?

*(Applause)*

Ningependa kusema kwamba hatutaangamia ikiwa tutaipitisha Hoja na taarifa hii kwa sababu uchumi wetu utaanza kuinuka, na tutajitawala vyema kuliko zamani. Hivi sasa kuna mabwanyenye ambao wanaweza kutoa pesa mifukoni mwao bila wasiwasi. Ningependa kusema kwamba watu hao wameanza kutununua sisi Wabunge wengine ili tukatae mambo ambayo yanahusu Jamhuri yetu ya Kenya. Ningependa kuwahimiza Wabunge kukataa mambo haya. Hata ukipewa pesa kiasi gani, ukumbuke kwamba hili ni jambo linalohusu Kenya nzima, na si jambo la mtu mmoja.

*(Applause)*

Mambo haya hayatawezekana! Ningependa kusema kwamba watoto na wajukuu wetu watatucheka kama tutaacha taarifa hii iende kwenye pipa. Ni lazima tuipitishhe Hoja hii ili tuanze kujitawala vyema kuliko hapo zamani.

**Mr. Murungi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I have not heard what my friend on the other side of the House is saying, because he is speaking in very fast Kiswahili, but did I hear him say that some hon. Members are being "bought" so that they can kill this Report? Is this what he is saying?

**Mr. Kamolleh:** Bw. Naibu Spika wa Muda, sijasema hivyo, lakini nimesema kwamba ikiwa kuna watu ambao watapewa pesa na mabwanyenye ambao wako hapa, kwa sababu wanafikiria kwamba wataulizwa, basi wakatae pesa hizo au "wale" lakini wapitishhe Hoja hii.

*(Applause)*

Ninakushukuru, Bw. Naibu Spika wa Muda, na ninaunga mkono Hoja hii.

*(Question proposed)*

**Ms. Karua:** Thank you, Mr. Temporary Deputy Speaker, Sir. It is clear from the contribution of the Chairman of the Committee, of which I was a Member, that the Report before this House is not about individuals; the Report before this House is about this country. This Report is about getting this country together, on the right track, and it is about fighting corruption.

In the recently concluded Budget Speech, the Government re-affirmed its commitment to fight corruption. It will be a show of commitment by the Government to support this Report, which is giving measures of combating corruption. Anything short of that will convince Kenyans that the Government is only paying lip service to the issue of corruption.

It is quite clear now that the Report does not condemn anybody. It simply says:

"For the alleged perpetrators, it helps the Kenya Anti-Corruption Authority (KACA); over to you for investigation."

If we all believe in the rule of law, can an hon. Member rise here to say: "I oppose my being investigated?" What is this that anyone can oppose in this Report? Is it that you do not want to be investigated? Is it that you are going to place yourself above the law? The Report has not condemned anyone. It is merely saying that here is a set of allegations against this and that person. The Report gives minutes to show who made those allegations. It is merely telling the investigative body in Kenya, namely, the KACA, to take over and investigate. Surely, whoever has been named will have a chance to present evidence in reversal to trained investigators, and if they are prosecuted, to the courts.

Mr. Temporary Deputy Speaker, Sir, there has been a great misunderstanding of what the Report is all about and it is going to disillusion Kenyans. If those people who are charged with the responsibility of leadership; if those people who oversee governance in this country are opposing a simple statement that "here is a list of people we would like investigated", it will suggest to Kenyans that the law only applies to the poor and not to the

mighty, and certainly not to hon. Members of Parliament or Cabinet Ministers.

*(Applause)*

What other measures does the Government hope to implement to combat corruption, if the first step is not the adoption of this Report in its totality? The Report is not saying that those named are the only ones who need investigations. When we empower the KACA through the Act proposed in this Report, we will empower the Authority to look into everything. The KACA will be free to look into each one of us and see whether we have conducted ourselves above board. Then why should we be afraid? I would like to urge all hon. Members of this House, including those who are named in the Report, to support it because it will give them an opportunity to provide evidence in reversal to the KACA, and for the few who may end up being prosecuted, to the courts. This House and the Committee have no powers over the courts. We also have no powers over the KACA. Therefore, we are not the ones who are going to investigate the people who are named in this Report. If at all you thought the naming was vendetta, then the KACA has probably no vendetta against you; the courts will have nothing against you. If you believe in the rule of law and you are a Member of this House or a Kenyan, why then would you fear the law enforcement agencies working to their fullest capacity? We are voting money in this House to uphold the rule of law. If we do not support the rule of law, then even, this Parliament cannot function. We cannot function where the rule of jungle obtains. It is on this basis that I am urging this House that we support this Report.

Coming to the specifics, it is quite clear that we interviewed a cross section of Kenyans and that can be seen in Volume II, which forms the Minutes of the Committee. If you look at page 40 of Volume I, you will see that the Committee only talks of alleged perpetrators. It never went ahead to conclusively claim that anybody is guilty of any act. On page 40, paragraph two expresses disappointment with Kenyans in coming forward to give evidence. Why are Kenyans afraid of giving evidence of corruption? It is simple. They fear the reaction of the mighty who may be named. What is happening in this House demonstrates what happens in this country; that one can be crucified for merely asking a question. This Committee has been crucified for only asking that certain individuals be investigated. This clearly demonstrates how badly the culture of impunity has taken root in this society; that a person can use his or her position to even block investigations. If members of the Government can actually block investigations, the message we are giving to Kenyans is: "Buy your way out if you commit a crime." Money and influence will get you out of it. At the last moment, if we do not adopt this Report, the message we are sending to Kenyans is that corruption pays, when the message we should be preaching; the message the Government should be championing, is that corruption does not pay. Today, we are behaving as though corruption is the order of the day. I would like to urge this House to rise above partisan and selfish interests and vote for Kenyans.

People are dying in our constituencies because of lack of medicine due to corruption. The money we vote here is enough, but it is not buying medicine. Instead, it is going into peoples' pockets. Our roads are bad. Why are our roads bad? We vote money which ends up in the contractors' and officials' pockets. That is why a contractor can boast that he can get a Cabinet Minister sacked. What I am saying is that we will be working against our constituents if we were to vote against this Report. A vote against this Report is a vote against your constituency because people will continue to die due to lack of medicine. They will continue to have bad roads which are causing accidents, and there will be no education for them. I ask Kenyans to watch very closely how their hon. Members of Parliament respond to this report.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, this is a report which is merely calling for investigation and tightening of our laws. Who does not want the laws tightened? Do you intend to get corrupt? Do you intend to perpetuate corruption? Why do you not want the law tightened? I ask our constituents to watch and judge us, especially, those charged with the responsibility in Government who are always telling us they are fighting corruption. Today is your day to fight corruption. Today is your day to get on the first gear and show us the way to fight corruption. Here is a report to help the Government curb corruption; a report made on behalf of this House which simply says: "Please, investigate." We would urge all hon. Members named: Even if you were not named because you did it or you were named because someone made an allegation against you, go to KACA and get cleared if indeed, you are clean. But do not fight this Report, otherwise, you will be voting for corruption and the deaths of Kenyans. Right now, we are facing famine and there is scarcity of food as well as resources to buy food. Who will vote for death through famine when our money has been misused through corrupt means? Kenyans are watching to see the merchants of death and those who will continue to waste our hard-earned and



very scarce resources.

Mr. Temporary Deputy Speaker, Sir, the previous Committees of this House have actually listed parastatals and individuals who have illegally misused resources of this country. Some of those reports have had the benefit of the report of the Controller and Auditor-General. I have been told that those reports no longer hold good. On the resolutions of this House calling for certain individuals not to hold public office and for their prosecution, I have been told that this House was wrong in passing those resolutions. Apart from recommending for investigation and tightening of the laws, this Report is also recommending for implementation of the previous Committee reports of this House. Which hon. Member is against the implementation of the recommendations of this House? Otherwise, we would all go home. We are here to transact business and we expect our resolutions to be implemented. So, all we are saying is that we want the Government to implement resolutions of this House. This House should be taken seriously.

Mr. Temporary Deputy Speaker, Sir, I am glad to note that in the 1983 Report of PIC, hon. Anyona, while chairing that Committee, recommended that the Attorney-General should institute criminal proceedings against a Mr. Lawi Kiplagat. We know to date, the Attorney-General has not acted. Are we, therefore, wrong to say in this report that along with that recommendation and many others, they should be implemented? For goodness' sake, take this House seriously and implement those recommendations. Why is this Committee being crucified for a job well done on behalf of the hon. Members of this House, the Republic of Kenya and its citizens?

Mr. Temporary Deputy Speaker, Sir, if we all want a brighter tomorrow or a nation tomorrow, we have to stand up against corruption. We have to agree to subject ourselves to the rule of the law. If an investigator knocks at my door, I will be willing to open.

*(Applause)*

This Report is not saying crucify "a", "b", "c", and "d". It is even proposing conciliatory measures. It is saying that, perhaps, the law should recommend that where somebody co-operates and pays the difference between the market value and the value of the Government or public property grabbed, you can retain the property. What a beautiful Report? It is looking for reconciliation. Let hon. Members not wage war when a Report is proposing reconciliation. I will once again appeal to Kenyans to watch each one of us to see who will support corruption and cannot support investigation. This is because if one of us believes that he should be protected against criminal elements in Kenya, then Kenyans must also be protected against you, should you show those tendencies. If you are clean, the investigators and the court will clear you. Let us all be above board. Mr. Temporary Deputy Speaker, Sir, we have seen the misuse of public funds, not only through corruption or siphoning of money, but also abuse of office. When you use Government property to commit a criminal act, that is corruption; even taking the official car on a private escapade. Perhaps, we should have a code of conduct. We should quickly pass this Report and its recommendations, so that we can have a code of conduct that actually defines official duties. So, when we give you the official car, taking children from school is not official duty, and even going to court to answer private charges is not public duty. Going to your constituency, perhaps, there is a question mark. We need to debate, so that tomorrow, if I am a Minister, I do not use my official car to take my mother from a bus stop to my house. I am afraid, I am required to have a personal car that will do that. If not, the bus will do it for us.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, when we visited Botswana, we saw an African country which is doing so well in terms of fighting corruption. I was shocked to learn from the head of the crime unit there that a public servant cannot take his children to school in an official car. Here, we, Kenyans, if we mean well on tightening our belts to save that woman and child who are dying of hunger, or a citizen who is dying due to lack of medicine, must curb our own expenses. Let us develop a code of conduct that will not only curb public spending, but which will eradicate the culture of impunity that is being demonstrated before our very eyes in this country. Let us come up with a code and say: "Sorry, yesterday, we did not know that taking an official car on unofficial duty is corruption". Today, we are saying it is corruption. Using a Government telephone to transact your personal business is corruption. Using your office to ask people to donate money for Harambee is corruption. Please, let us come together and reason. What do we do about our current state of economy? Which card do we play? I believe, even using a Government carpet for unofficial duty, is corruption.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, there is a very serious business before us. What we are saying is that the time has come when, as a nation, we must sit together and ask ourselves: Which way do we want to go? What kind of nation do we want to bequeath to our children? Let us come up with a code of conduct that will enable this nation to go forward. Let us also have laws that allow us to vet persons appointed to certain positions so that if it is the head of KACA, we all feel we have confidence in him. Nobody will claim they are being witch-hunted because the mechanism is so reassuring that you will know yourself.

If Botswana can do it, Kenya can also do it. One question was asked when we were in Botswana: What will happen if your investigating body finds that the Head of State's son or a Minister has committed an offence? They said it is simple. The law will take its course. We are saying, so be it in Kenya. Any abuse of power amounts to corruption. Let us reason together. Let us not fear this Report. It even provides for forgiveness and not retributive measures only. Let us build our nation and show the way forward. I implore you, hon. Members, let us be the dream Parliament that legislated to save this country. We have very serious issues at hand, and we should not go to personal issues like: "Because I have been named, I will be blind to the good things in this Report and the tough measures in the Act". The Act puts personal responsibility on every officer. Accounting officers will never be able to say "higher authority" like it was said in the Goldenberg scandal. There is personal criminal responsibility. When this Act is passed by this Parliament, nobody will say: "I was told by higher authorities." Everybody will carry their own cross. What a beautiful day will that be for Kenyans! This House can only give Kenyans a gift of a law that protects their national resources and interests, and one that will promise them better health, education and food reserves, so that we do not panic when we miss rain for only one season. It will give us preparedness to walk into today's millennium among the community of nations.

We cannot talk of debt relief if we cannot even take measures to protect the little we have. How do we expect debt relief and aid when we cannot even safeguard what we have? This Report is calling upon this House to take responsibility; take up leadership; and strengthen law enforcement agencies and anti-corruption measures. For those of you who may have thought that this Report is bad because you never read it, I invite you to read it. Once you read it, you will love it on behalf of yourself and your constituents and the future generations. You will agree with us that this Report needs to be supported by all, especially those in the Government who have committed themselves once and again that they are up against corruption. I am reminding you, once again, that the Budget we just passed had a commitment to fight corruption.

Right now, the Bretton Woods institutions are waiting to see the Government's commitment. The money we so badly need, which is hanging in the balance may not be there if we show that we can continue to support corruption, and actually, with impunity, prevent the law enforcement agencies from doing their work. In the name of Kenyans, let us pass this Report so that we can have a prosperous country. I urge you to remember the good old days when Kenya was a nation where services worked. That was when we never heard of a Harambee for sickness because Government hospitals were just about the best. That was when the middle class citizens never took their children to private schools. They took them to public schools because they were simply the best. This was a time when people never relied on private universities because our universities could deliver; they were simply the best, and I am proud to have gone there. Let us strengthen our institutions. With those few words, I beg to support.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to air my views about the report before this House. I want to say, from the outset, that what the Speaker said this afternoon is very important; that those people who were mentioned in this report should get an opportunity to defend themselves. They should get an opportunity to be heard; that is, the Committee should hear the other side of the story. I think that is important, and probably, that is how we will be able to judge whether to vote against the Report or not.

Mr. Temporary Deputy Speaker, Sir, I want to say that there is a very important matter which is before us in that it is a Select Committee of Parliament that has compiled the Report. To me, a Select Committee of Parliament is a very important Committee because it is an institution that will enhance the independence, authority and honour of this House; that is, if we will not ignore the Report. But if the institution of Parliament is to be the third most important constitutional arm of State, then, it is important---

**Hon. Members:** Parliament is the first one!

**The Minister of State, Office of the President** (Mr. ole Ntimama): Hon. Members, I beg your pardon and apologise. It is one of the three most important arms of State, and you can say that it is a very important constitutional arm of the Government, although according to the Constitution, they normally all inter-relate, inter-link and should be able to consult as we move to establish the liberty and freedom of members of our Kenyan society. So, it is important that the Report is, definitely, truthful and authentic because I would like to believe that the investigations by the Members of the Committee have been done diligently, in detail and accurately, so that

whatever is mentioned in the Report could, at least, have 90 per cent of truth, because human beings can err. But if any of us, and I am one of those who have been mentioned in the Report, has been mentioned falsely, or some of us have been mentioned just because some people wanted to haste it up and go on a witch-hunting spree---

**Mr. Kamolleh:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We have said, and I will continue to say--- Is the Minister in order to say that there was witch-hunting when we are saying that we just deliberated on whatever we were given?

**The Minister of State, Office of the President (Mr. ole Ntimama):** Mr. Temporary Deputy Speaker, Sir, I hope Mr. Kamolleh is listening, and that he understands English because he talked all the way--- I said that I would like to believe that whatever is written in the Report, although we agree that there is always a human error, is, at least, 95 per cent truth. If it is not, then there is always a situation where people will start suspecting malice, witch-hunting, jealousy, and that even a Committee of Parliament cannot be trusted to bring out the truth.

Although I have got more time, I want to turn, before we close the business of the House, to page 116 of the Report. I am mentioned as ole Ntimama, and there are no initials before my name, and it is said that I had grabbed and allocated myself 16 houses at Milimani. I have no house at Milimani, or a house around there, and it is, definitely, not the truth. I would like the Chairman of the Committee, when he replies, to bring to the House documentation to show how ole Ntimama--- Mind you, there are many Ntimama's in this country. If you go to Tanzania, on the other side of the border, there could be hundreds, but what about the initials? Why did they not put the initials of my name? This shows that, definitely, there was malice in this thing. If you look at page 154, you will see that I am said to have been allocated and to have grabbed the Southern Cemetery. I have got a lot of respect for myself, and I do not go scavenging around for cemeteries.

#### ADJOURNMENT

**The Temporary Deputy Speaker (Mr. Imanyara):** Hon. Ntimama, you will have your remaining 25 minutes next week. There being no business under Zero Hour, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 11th July, 2000, at 2.30 p.m.

The House rose at 6.30 p.m.

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